



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, July 20, 2022 at 6:30 PM

Via ZOOM

MINUTES

Approved 10-05-2022

Stephanie Danielson called the July 20, 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, Joyce Voorhis, Laura Biechler, and Ruby Clay. Conservation Agent Megan Shave and Admins Pam Gurley and Rhode Germain were also in attendance

1. Commission Matter: Approval of Meeting Minutes – 05-18-22 & 6-15-22

Stephanie Danielson asked if the Commission has reviewed the minutes. Joyce Voorhis suggested a revision: on page 3 of the 5-18 minutes, the Thatcher St request for minor change, the second reference to "property" should be changed to "water."

Joyce Voorhis made a motion to accept the minutes with the suggested revision; Laura Biechler seconded; approved by unanimous vote.

2. Enforcement Matter: 58 Trout Street

Stephanie Danielson noted that no new information has been provided.

The Agent said the Commission needs to consider issuing a formal enforcement order; she has had no contact with the owner for the past two months; the Commission should require an NOI for the work in jurisdictional areas and include a restoration plan if alterations were made to BVW and 25' buffer zone.

Joyce Voorhis asked if the enforcement will be specific; the Agent said the Enforcement Order will detail the violation and action needed as outlined in the original letter sent to the owner. Joyce Voorhis asked what happens if enforcement order is ignored; the Agent said the Commission can request that the city solicitor take action.

Stephanie Danielson noted that the Enforcement Order is also filed with MassDEP.

Stephanie Danielson asked the Agent if she has been back to the site; the Agent said no, the expectation is that once the fence was up that established the area; it looked like all the work was already done.

Ruby Clay said they should issue the Enforcement Order tonight because they have heard no response from the owner; Laura Biechler said they need to move this forward.

Joyce Voorhis made a motion to issue the Enforcement Order as discussed; seconded by Laura Biechler; approved by unanimous vote.

3. Enforcement Matter: 53 Spark Street

The Agent said the most recent update from the Trustee Mr. Ricci provided some supplemental information in support of the argument that property qualifies as historic mill complex; footprint of the complex includes some of area outside of the current paved parking area; historically there was another building that was demolished before 1995; there are also stone bollards lining the brook; the Agent said the bollards in her opinion do not define the footprint but demolished building might; the historical mill complex is included in the Regulations in reference to the riverfront area; the exemption is for riverfront only.

The Agent said some of vehicles have been removed following action by other City departments; the intention according to the Trustee appears to be to maintain some of the shipping containers on the site; the Commission should determine their jurisdiction and what they may exempt.

Stephanie Danielson said there are no plans or survey showing resource areas; the Agent said the last surveyed plan was done in 2019 for a Site Plan Review application; the bank was flagged in 2019. Stephanie Danielson said the line was not confirmed by Commission.

Stephanie Danielson asked what the options are at this point; the Agent said they do not know what the use of the site is; she said the intention according to the Trustee is to store some containers on site, but does not know about vehicles.

Joyce Voorhis said most of the time has been spent to show they are exempt from riverfront, but they are not exempt from those other areas, so why not issue an Enforcement Order.

Trustee Phil Ricci said they are not filling dredging or doing anything to the bank, and the documents show that the site is a historic mill complex.

Stephanie Danielson said they are not disputing the historic mill complex; they are speaking about the buffer zone to bank, not the riverfront area; the bank has its own buffer zone.

Phil Ricci said they have not done anything to that area; Stephanie Danielson asked if anything is being stored there; Phil Ricci said yes and that the plan that the Agent noted has not changed; Stephanie Danielson said that plan was not submitted to the Conservation Commission.

Stephanie Danielson said there is activity in the buffer zone to the bank that should not be allowed.

Phil Ricci said there is a drainage easement by COB; the mill is not abandoned; it is an active site with trailers and shipping containers; 310cmr section 8 applies.

Stephanie Danielson said this is an Enforcement Order discussion and not a hearing.

The Agent said they should make the Enforcement Order specific to protect the buffer zone and bank.

Joyce Voorhis made a motion to issue an Enforcement Order to disallow storage of vehicles and equipment in the 25-ft buffer zone to bank, and any existing vehicles and equipment should be removed; seconded by Ruby Clay; approved by unanimous vote.

4. Enforcement Order Update: Map 181-042 Claremount Ave

The Agent said the Commission has received a written update from the legal representative of the property owner including a request to continue the discussion to the next meeting.

Stephanie Danielson asked when this came to the Commission's attention; the Agent said at the May 18th meeting; the owner's representative was at the June meeting but had logged off prior to being acknowledged at the end of the meeting.

Stephanie Danielson this update should be from the representative.

Laura Biechler said enough time has passed for someone to be present and come forward.

Joyce Voorhis said that based on the written communication there is a clear understanding as to what is expected by this party.

Ruby Clay agreed with Joyce Voorhis.

Stephanie Danielson said that they should respond back that there is to be a representative at the next meeting with a clearly outlined plan or an NOI.

Stephanie Danielson asked if they will need the NOI for the restoration; the Agent said they can approve a restoration plan under the Enforcement Order; they should first see the information they requested under the Enforcement Order; they need to understand the scope of the impacts and what will be done; the Commission may then want to see this work done under a NOI.

Stephanie Danielson noted that Enforcement Orders do not get recorded at the registry of deeds; the work can be conditioned under an OOC that it is being done as a result of an Enforcement Order.

The Agent said the Enforcement Order was clearly worded to require a restoration plan; once restoration plan and other documentation is received they may determine that an NOI is required.

Joyce Voorhis made a motion to continue to the August 17th meeting; seconded by Laura Biechler; approved by unanimous vote.

5. Project/Enforcement Update: 93 Tilton Ave

The Agent said she has had the pre-construction meeting with the owner, contractor for the septic work, landscaper, and wetland scientist. She advised the wetland scientist to assist with the plantings; the restoration area will need extra monitoring if they plan to plant during the summer.

6. Request for Certificate of Compliance

Property: Dunbar St – Davis Commons

Project: Maintenance building

Applicant/Representative: NAHF Brockton Limited Partnership / JK Holmgren

The Agent said they received a written request this afternoon for a continuance to the August 17th meeting. The contractor is still working on the site revisions.

Joyce Voorhis made a motion to continue to the August 17th meeting; seconded by Laura Biechler; approved by unanimous vote.

7. Notice of Intent

Property: Map 021-054,055,056 & 059 W Chestnut St & Map 021-007 & 058 Knapp Ctr

Project: Towing facility

Applicant/Representative: Lynch's Towing / JK Holmgren Engineering

The Agent said they received a written request this afternoon for a continuance to the August 17th meeting to address peer review comments.

The Agent noted that BETA reviewed the initial plan set; they also requested LSP site assessment documents, but the BETA review is strictly for stormwater design with no review of waste site documentation and any applications before MassDEP; it is not clear if a closure report will be needed; LSP is asserting that landfill is closed as there is a layer of clean fill over the debris; it appears the site assessment and post-closure plan was submitted by LSP to MassDEP simultaneously

Stephanie Danielson said they cannot discuss the project but should note these details for further discussion.

Joyce Voorhis made a motion to continue the hearing to the August 17th meeting; seconded by Laura Biechler; approved by unanimous vote.

8. Notice of Intent

Property: 0 Westgate Drive

Project: New hotel development

Applicant/Representative: Karm Hospitality, LLC / Strong Point Engineering

Stephanie Danielson confirmed that this project is being peer reviewed by BETA and that they have proof of abutter notification.

Eric Dias of StrongPoint Engineering presented the proposal for a new hotel off of Westgate Drive. They have already received a Zoning variance for the distance to D.W. Field Park.

Stephanie Danielson said the Commission charged with upholding the Wetlands Protection Act; their jurisdiction is limited.

Stephanie Danielson asked why they needed to seek relief from zoning setbacks from the park.

Eric Dias said there is a 100' setback requirement between park and development in the City Zoning Ordinances; this setback can be reduced to 50' if there is a dense planting; they reached an agreement with Parks Commission; they will provide a 10' densely vegetation buffer; they will provide a retaining wall with micromesh screening; they received a variance from the Zoning Board of Appeals

Stephanie Danielson asked if there is a natural buffer today; Eric Dias said most of the buffer is on park property; there is 100' of vegetation between property line and park drive.

Stephanie Danielson said the arborvitae get eaten by deer; Eric Dias said that is the agreement with ZBA.

The Agent said they filed as an NOI as there is some clearing of the buffer zone; the project is subject to the MassDEP Stormwater Management Standards and is therefore being peer reviewed by BETA Group. BETA is currently reviewing the follow-up revisions; assuming it will be forthcoming before the

next meeting; BETA is requesting 2 test pits prior to approval; StrongPoint is requesting that be a condition of approval.

The Agent said the existing ridge provides a natural buffer to the BVW; erosion controls are proposed at the limit of work also.

Stephanie Danielson noted that most projects are subject to stormwater review.

Stephanie Danielson asked what plant material is in the abutting area; Eric Dias said pine; Stephanie Danielson asked why not a buffer of natural plantings that exist in the park.

Ruby Clay said they are still waiting for BETA to finish their review; she asked if they should wait for that information; Stephanie Danielson strongly suggested that the Commission uphold BETA's request that the test pits are done now.

Stephanie Danielson took public comment and noted that the Commission cannot address zoning matters.

Michelle Henson was recognized, but did not speak.

Joyce Voorhis made a motion to continue to the August 17th meeting; seconded by Laura Biechler; approved by unanimous vote.

Stephanie Danielson announced that she is stepping down from the Commission effective tonight; she nominated Joyce Voorhis as the new Chair. Motion seconded by Ruby Clay; approved by unanimous vote.

9. Notice of Intent

Property: Map 003-049 Pleasant Street

Project: 40B apartment complex with stormwater infrastructure in Brockton

Applicant/Representative: Blackledge, LLC / Coneco

Michael Toohill of Coneco said this is a new NOI; the previous NOI was withdrawn to address issue with filing before the Comprehensive Permit was issued by Easton Zoning Board.

That Agent confirmed that MassDEP has issued the new file number; abutters were notified as required by the Regulations; but the Assessor's Office still has Wildland Trust's old address, and they assume the new owner of 1382 Pleasant St was also not notified because the notification would have been addressed to the old owner; the Commission should determine if notification was made.

Joyce Voorhis asked the number of total abutters and was told four: one went to the correct address but wrong name, and one went to the correct name but wrong address. The Agent said the applicant did what the Wetland Protection Act requires; for the first NOI, the Commission requested that Wildlands Trust be notified to the correct address; she assumes that Wildlands Trust knows about the project at this point, but the new owner at 1382 Pleasant Street may not. Joyce Voorhis asked if abutters are notified about continuances; the Agent said it is not a requirement to renotify once receiving the original meeting notification as long as each continuance is to a date certain.

Ruby Clay said they need to make sure the abutters have a voice in the process; Laura Biechler asked for renotification to those not notified.

Joyce Voorhis said she understands that this is not the fault of the applicant, but this is a large project to have two abutters not receive the notification.

Michael Toohill said he has no issue with a continuance and no issue with re-notifying the two abutters, but he would like to see the hearing opened. The Agent said they are not discussing the

project if they open the hearing and immediately continue; abutter notification was completed according to the Regulations, and the re-notified abutters will have the opportunity to fully engage with the discussion.

Joyce Voorhis asked what is the benefit of opening versus not opening; the Agent said the legal notice posted in the Enterprise said the hearing was tonight; opening and continuing would save the cost of running the legal notice again.

Laura Biechler made a motion to open the hearing and immediately continue to the August 17th meeting; seconded by Ruby Clay; approved by unanimous vote.

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.