

**BROCKTON CONSERVATION COMMISSION
OCTOBER 6, 2022 - 6:00 PM MINUTES**

The Chair, Joyce Voorhis called the October 6th, 2022 meeting of the Brockton Conservation Commission to order and read the following statement: “It being 6:00 PM on October 6th, 2022, I call this meeting of the Brockton Conservation Commission to order. This meeting is being conducted remotely in accordance with the extension of the Governor’s Order suspending certain provisions of the Open Meeting Law, Mass 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. If you wish to comment during a public input portion of a hearing, please use the “raise your hand” function to be addressed at the appropriate time. For those of you joining by phone only, please press star (*) nine to raise your hand. A copy of this recording will be posted on the City’s web pages. All votes will be done via roll call to ensure count accuracy.”

The following members were confirmed to be in attendance: Joyce Voorhis, Chair, Laura Biechler, and Peggy Curtis. Conservation Agent Megan Shave, Director Rob May and Admin Rhode Germain were also in attendance.

Request for continuances:

Per the Chair Joyce Voorhis, the following items have requested continuances to the October 19th meeting.

1. Notice of Intent

Property: Map 003-049 Pleasant Street
Project: 40B apartment complex with stormwater infrastructure in Brockton
Applicant / Representative: Blackledge, LLC / Coneco

A motion to continue to the October 19th, 2022 was properly made by Peggy Curtis, seconded by Laura Biechler and unanimously approved.

2. Notice of Intent

Property: Map 174 Lots 394, 406-410 & Map 177 Lots 34-38 (Heritage Court)
Project: Residential subdivision
Applicant / Representative: QS Lending Trust / Civil & Environmental Consultants

Per Steven Gioiosa, the Heritage Court project was previously approved under earlier filing through Brophy and Phillips; however QS Lending has now taken over the remaining portion of the project which is the partially constructed cul-de-sac. At the last meeting, the Commission members asked that the lower Lots be evaluated to see if there’s a possibility of eliminating some of the activity in the Buffer Zone. Steven spoke with the owners and revised the grading, which greatly limits the amount of fill that would be placed, and the amount of activity behind the dwellings which allowed them to pull the limit of work further from the resource area. Since the

original approved limit of work was much closer to the resource area they added a notation to the plan as requested by the Agent Megan.

Steven confirmed that he went through BETA'S October 4th comment letter, however many items that need to be addressed would have to be addressed in the future because they do not have a valid order of Conditions to operate under right now.

They are now asking for a reapproval of the subdivision road construction work so they can complete the house and road construction.

Chair Joyce Voorhis questioned when the last Order of Conditions was granted to which Steven responded that it probably dates back 10 years. He also mentions that the Order was extended a couple of times throughout the years and remained dormant until Brophy and Phillips sold the project to another developer. That developer started working on the houses located on Lots 22 through Lots 24.

The Chair questioned if houses 22 to 24 were completed to which Steven replied affirmatively. He also mentioned that 25 was partially completed, however 26 through 33 have yet to be initiated. He stated that although 26 to 28 are closely abutting the wetland resource area, 29 through 33 are actually outside of the Buffer Zone. However, there's a small corner of the cul-de-sac, sidewalk and drainage basin that's in the Buffer Zone.

Peggy Curtis questioned if the Buffer Zones were marked to which Steven replied that they were. She also questioned if the properties would be fenced, but according to Steven, there was no fencing proposed at this time; however, they would be open to a demarcation or even posting of signs that a resource area exists beyond the fence line if that's what the Commission wanted.

Peggy Curtis wondered if the Lots were already sold but Steven does not believe that they are already sold.

She also questioned if the owners of the properties recognize that they're bordering on vegetated wetlands and whether they would be made aware of this as part of their bill of sale or purchase and sales agreement, to which Peter Venuto replied that the Order of Conditions would be included in the deeds and become the end users responsibility.

Agent's report

The limit of work and the work on lot 28 has been revised. Some additional special conditions have been recommended:

1. The new silt sock and erosion control barrier is going to need to be staked out along the new limit of work.
2. The tires on site and any other instances of dumping shall be removed from the site prior to the pre-construction meeting, and any approval of building permits. Similarly any existing fill with construction debris needs to be removed prior to the start of new construction and issuance building permits. Given the amount of grading that is proposed on the jurisdictional lots of 25 through 28, the applicant should employ an Environmental Monitor who has certifications or qualifications to monitor the limit of work and also to monitor the grading to make sure that it ends up in compliance with the approved plan.

3. The Agent recommended conditions regarding the issuance of various completion documents, suggesting that, at a minimum, a Partial Certificate of Compliance be issued prior to the Certificate of Occupancy for specifically house Lots 25, 26, 27 and 28, which are the ones in Conservation jurisdiction. This could be achieved either by individual Partial Certificates of Compliance for each lot or a Partial Certificate that covers all of those or some of those lots. Minimum requirements for a Partial Certificate should include:
 - a. With any request for a Certificate of Compliance, an As-Built plan showing the grading on the site to confirm that each lot and the basins are graded according to the plan of record would be necessary.
 - b. Permanent labeled limit of work markers every 15 feet along what will be the new limit, making sure if there's any area of disturbance between the two limits of work that that area is seeded prior to a Certificate of Compliance.

BETA did point out that there are other discrepancies in the other basins between the current site conditions and what was approved in 2014, which carries over to the grading plan that is shown as part of this new plan set. BETA's comment letter did suggest providing updated storm water calculations based on these changes. Because the basins aren't currently graded exactly as they should be, the options are either to redo the stormwater calculations based on how they are graded or re-grade them to what was originally approved, which sounds like the intention.

Agent Shave would add that if there should also be a special condition that the work on the basins takes priority and it be completed prior to the start of or the continuance of the house construction. In regards to Basin 3, during his site visit, Phil from BETA noted that Basin 3 had significant Wetland plant growth in the western end, covering about a third of the Basin, and he specifically stated that the Commission should seek an answer for why Wetland vegetative growth is in that Basin. The assumption with any infiltration Basin is that there is a minimum of a two foot separation between the bottom of the Basin and the groundwater. Based on the outstanding comment on Basin 3, BETA is recommending that we clarify that issue prior to moving forward.

The Chair asked how long it would take to evaluate the areas, Steven Giosia replied as soon as possible, and suggested looking at record data, in the meantime.

Commissioner Curtis asked if the site plan discrepancy would be addressed, Agent Shave replied that it has been addressed. The only outstanding discrepancy is related to the grading portions of the basins, which will be satisfied with continuation of the work.

Public Comment

Jamal Braithwaite

Jamal lives in the Woodland Park development and is one of the trustees in the HOA; he wanted to offer his support and looks forward to the completion of Heritage Court. He asked Megan if there is any way to get the requirements in writing as it would be much easier to satisfy the order of conditions renewal. Megan responded that all recommended requirements are in her report to the Commission, which is posted in the public drive.

A motion to continue to the October 19th, 2022 meeting was properly made by Peggy Curtis, seconded by Laura Biechler and unanimously approved.

3. Notice of Intent

Property: Map 172, Lots 1, 3 & 557 Arthur Street

Project: Roadway extension for subdivision

Applicant / Representative: Rockwood Realty Trust / Jacobs Driscoll Engineering

Rockwood Realty trust is looking to extend the existing roadway of Arthur Street approximately 160 feet in order to create frontage for two proposed residential house lots to be built at the end of the cul-de-sac. The parcel is in the R1C zone, the extension will intersect with Ridge St.

Resource areas were delineated by Brad Holmes of Environmental Consulting and Restoration on 9.28/22; on 8/16/22 he met with Agent Shave and the lines were extended. Resource areas include vegetative wetlands, 25 foot no touch buffer, and 100-foot Buffer Zone.

There are no other resource areas. The site is the previous site of the Rocky Mountain Spring Company. There is an existing well building, cistern at the floor of the structure, and a pump house. As part of decommissioning the pump house will come down; the existing well building will remain.

Peggy Curtis asked how the two proposed homes will be getting their utilities: public or private gas and water.

The existing water line and sewer will be extended up the street to serve both properties. There will be an additional fire hydrant placed at the end of the street. Ed Jacobs says that there will never be any development on Ridge Street as it's not a feasible build. Also he assured that there aren't any plans that lot 2 can be built at the other end of the cul-de-sac

Agent's report

Agent Shave walked the site with the owner and applicant to confirm and clarify which structures and buildings will be removed. They confirmed that the well building will be left in place along with the well cistern. One of the only alterations will be the pumping equipment. The cistern will be covered with a cement cap and locked. In addition, once the property is re-subdivided the Buffer Zone restoration area will fall on lot 2. It is proposed that the cul-de-sac will be tied in with the existing gutter line. A small Berm was discovered at one of the site visits, it will be left in place to prevent runoff.

In her 9/26/22 report Agent Shave recommended that prior to the start of any work on this site, the Commission shall receive confirmation from MassDEP of the official declassification of the spring, so it can be declassified as a public water supply.

The Agent also recommended that special conditions regarding the restoration areas appear in both Orders of Condition, though Jacob Driscoll has requested that they only appear in one. The

Commission still needs to receive confirmation that restoration plantings and seeding are completed because the work areas overlap.

Public Comments

Michelle Dubois

Opposed to this project; the land should be conserved; the City shouldn't have to process more water. The proponents should decommission the water supply then re-discuss the proposal, as it is Zone I protected.

Ed Rose

In response to Representative Dubois, Ed says that the source has been closed for well over a year; there is no puddling of water. Agent Shave was brought to the site and saw the natural flow of the spring at 1-2 gallons per minute. Rose claims it's a "voluntary surrender of a public water supply."

David Doyle (56 Ridge St)

The site is used currently for habitation for wild animals. Also the basements in that area typically get flooded. Is objecting to the project. Wants the proponent to put in writing that they won't take down trees and leave a Buffer Zone.

Lisa Crowley (250 Howard St)

Inquired about why the water is no longer potable and how long was it potable prior? Will buyers be able to sink their own wells into the aquifer that is present? If the well is not tapped, can the project still be built?

Councillor Jack Lally

Wants to know what the developer will do for additional water mitigation, and the presence of a Buffer Zone. Lally wants to preserve the trees. He's speaking on behalf of his constituents.

Doug Wedge

Resident Doug questioned why the owner of the well wasn't willing to decommission the well before the houses were built. He claims that water will find its way into residents' basements.

Brad Holmes

He delineated the wetland and supports the proponent; he says the work is beyond 25 ft. Buffer Zone and doesn't have any Wetland issues. In response to Peggy Curtis, he said that new vegetation in the restoration area will soak up some excess water.

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

A motion to issue the Order of Conditions with the Special Conditions outlined in the Agent's report was properly made by Laura Biechler, seconded by Peggy Curtis and unanimously approved.

4. Notice of Intent

Property: Map 172, Lots 1 & 3 Arthur Street
Project: Single family house in subdivision
Applicant / Representative: Rockwood Realty Trust / Jacobs Driscoll Engineering

As previously mentioned in the last NOI, the roadway will be extended for a new proposed single family dwelling on Lot 2, along with a roof drain system, to infiltrate roof runoff.

Agent's Report

Agent Shave points out the limited clearance of about 10 ft between the limit of work and the corner of the proposed house, which presents encroachment risks, especially with the proposed basement excavation, which is more invasive than slab on grade. It would be suggested that they can mitigate these risks with Special Conditions.

1. Prior to any work on the site, the Commission needs official documentation that MassDEP has declassified the wellhead as a public water source.
2. The applicant should employ a qualified individual to serve as Environmental Monitor for all work within the 100 ft Buffer Zone, with confirmation of service prior to the pre-construction meeting.
 - a. They would inspect erosion controls on a weekly basis, especially after major storm events, modifying erosion controls to ensure the limit of work is respected and not encroached.
 - b. They shall report in writing via email to the Commission once per month while any earth moving activity is underway within the 100 ft Buffer Zone.
3. All Staging, Stockpiling, and Dewatering be conducted outside the 100 ft Buffer Zone
4. Qualified professional shall inspect the Buffer Zone restoration area after completion of plantings
5. At a minimum, following the completion of initial plantings and seeding documentation, confirming the number and species of plantings, including any substitutions and the specific seed mixes used shall be submitted to the Commission, and a request for a Certificate of Compliance be submitted.
6. Requirements before issuing a COC
7. Also proposed that a request for COC must be submitted to the Commission at least 10 business days before a scheduled meeting.

Continuing conditions are as follows:

1. Limit of work shall be defined by location of the erosion sedimentation barrier within the 100 ft Buffer Zone, with the exception being the Buffer Zone restoration area: that boundary is at the 50 ft Buffer Zone.

The Agent notes that there has been no groundwater information provided about the site, which affects the roof run-off infiltration unit. The soils will need to be observed during the excavation, before the unit is installed. Also no sump pump or basement dewatering system should be installed without Commission review and approval.

The Chair asked why can't the project be done with slab on grade, to prevent blasting. The proponent replied that the bedrock is 13 ft below; also a colonial design would be a better fit for the end user than a ranch.

Following discussion, Agent Shave amended the sump pump special condition at the proponent's request by not recommending that the sump pump language must be included in the deed. It will now just be recorded by way of the Order of Conditions, rather than being inserted into the deed.

Commissioner Curtis inquired if the house be moved closer to lot 1 to mitigate the proximity of the no touch zone. Attny Nessralla replied that the zoning requirements require the structure to be where it is due to frontage and setback criteria; moving would trigger a zoning issue.

Representative Michelle Dubois

Is completely opposed to the project and allowing developers to build on a wetland area. The area has much more water than anyone believes. Does not believe that the project will be a healthy outcome.

Councillor Jack Lally

Reiterates opposition to the project. Would like Commission to consider the requirement of a natural buffer to handle waterflow. Does not believe that the project should proceed. Is concerned about where the groundwater will go.

David Doyle

Opposed to the project; he believes that once the project is started, ledge will be destroyed. Inquired about the presence of a home on lot 1, but was told that is out of Commission jurisdiction.

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

A motion to issue the Order of Conditions with the Special Conditions outlined in the Agent's report was properly made by Laura Biechler, seconded by Peggy Curtis and unanimously approved.

Meeting adjourned at 8:51 PM.