

**BROCKTON CONSERVATION COMMISSION
DECEMBER 21st, 2022 - 6:30 PM MINUTES**

The Chair, Joyce Voorhis called the December 21st, 2022 meeting of the Brockton Conservation Commission to order and read the following statement: “It being 6:30 PM, 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 on the City’s web pages. All votes will be done via roll call to ensure count accuracy. Please note that discussion of all agenda items shall be limited to 15 minutes each to ensure timely progress through tonight’s agenda.”

The following members were confirmed to be in attendance: Joyce Voorhis, Chair, commissioners Laura Biechler, Ruby Clay, and Peggy Curtis. Quorum established. Conservation Agent Megan Shave, Director Rob May, and Admin Isaiah Thelwell were also in attendance.

1. Acceptance of Minutes

A motion to accept the October 19, 2022 meeting minutes was made by Laura Biechler, seconded by Ruby Clay, and approved by a unanimous vote.

Emergency Certification for 455 Oak St (Fuller Craft Museum)

Agent Megan Shave, on behalf of the Commission, granted an emergency certification for the Fuller Craft Museum to perform additional drainage work due to a flooding problem in their driveway presenting a possible slip and fall hazard. The emergency certification came with several stipulations, including filing a Request for an Amended Order of Conditions with a plan showing the additional work before the January meeting. No vote was required, and the Commission did not need to take any additional action.

- 2. Request for Certificate of Compliance**
Property: 93 Tilton Ave
Project: Septic system installation
Applicant / Representative: Peter Lyons

Peter Lyons of Collins Engineering represented the owner and applicant of a restoration project for an existing home on Tilton Avenue. The project involved installing a septic system, and earthwork, planting new trees and overseeding an area that was disturbed during the installation of the septic system. Mr. Lyons suggested that the overseeded area met the standards of the Conservation Commission.

Agent Shave confirmed that the markers were in the correct location at the site and reported that the requirements for a partial Certificate of Compliance have been met, but monitoring would be needed for a complete Certificate of Compliance. Special Conditions D4, D7, F1 and F2 are related to the monitoring and the prohibition of herbicides and pesticides on the site. Dr. Shave stated that there was some evidence of the persistence of a few Japanese knotweed shoots. She suggested that the Commission notify the future owner to let them know the requirements for a complete Certificate of Compliance and the issue with the diligence needed for Japanese knotweed removal. She suggested that the Commission ask the applicant to assist in the identification of the new owner for notification purposes.

A motion to issue a partial Certificate of Compliance with special conditions from the Agents report, which also included a Notice of Sale and Knotweed removal maintenance was properly made by Laura Biechler and seconded by Peggy Curtis, and approved by a unanimous vote.

3. Request for Determination of Applicability

Property: 1380 Main Street

Applicant / Representative: Brockton Housing Authority / Hughes Environmental Consulting

Mr. Tom Hughes from Hughes Environmental addressed the Commission regarding the Campello apartments, located between Main Street and the Salisbury Plain River. The site is mapped by FEMA as an AE flood zone and has an area with no determined elevation on the flood map. GM2 and Steve Sawyer used the distance between Transects to calculate the flood elevation and evaluated plans on record. to determine the elevation of the site and the surrounding areas.

Agent Shave had reviewed the plans and considered the estimate of the Bordering Land Subject to Flooding to be conservative. The calculated floodplain was close to the FEMA graphical determination in some areas but was a bit further out in others. Overall, the estimate was correct. Based on the elevation data on the site, Megan believed the Commission could issue a positive 2A Determination for Bordering Land Subject to Flooding, confirming that the boundary delineations described on the reference plans were accurate.

A motion to issue a positive 2A determination for Bordering Land Subject to Flooding bordering 1380 Main Street was properly made by Laura Biechler, seconded by Ruby Clay, and approved by a unanimous vote.

4. Enforcement Order Update / Notice of Intent

Property: 1330 Pleasant Street

Project: Single-family house site improvements

Applicant / Representative: Danielson Gomes / ET Engineering Enterprises

Azu Etoniru of ET Engineering summarized the project that was opened during the December 7, 2022 meeting, and Agent Shave provided an updated report with no adverse comments. Mr.

Etoniru stated that the recommendations were fair and that he would ensure proper construction and completion of the project. The applicant mentioned the appointment of an environmental monitor, Ken Thompson, who had been engaged to oversee physical construction.

Agent Shave explained that the revised plan addressed previous comments and she recommended that the Commission issue an Order of Conditions with standard conditions and 11 additional special conditions for monitoring and sequencing to avoid further enforcement issues as this was a post Enforcement Order filing.

A motion to close the hearing was made by Laura Biechler, seconded by Peggy Curtis and approved by a unanimous vote.

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

- 5. Enforcement Order Update/ Notice of Intent - Claremount Ave Map 181-042**
Property: Map 181-042 Claremount Ave
Project: Restoration, Grading, Drainage improvements
Applicant / Representative: New Heights Builders / South River Environmental & Grady Consulting

Kevin Grady represented the applicant for the Enforcement Order and the Notice of Intent. He discussed the processing and fill alteration that had been ongoing in the area next to the Bordering Vegetated Wetland. The Commission issued an Enforcement Order to protect the Resource Area and Mr. Grady had been working with the City of Brockton and the Commission to address their concerns through the preparation of a Notice of Intent to mitigate the impact of this activity on the Bordering Vegetated Wetland.

Mr. Grady stated that the site had a large basin that was compacted with gravel to control runoff. At various storm levels, the runoff would be managed through a series of weirs and outlet control structures, which lead to a riprap energy dissipator. Any water that passed through the basin will be reintroduced to the Resource Area, while the rest would be infiltrated back into the groundwater. They prepared a construction plan and sequence that included swales, sediment traps, and check dams to prevent mud and soil erosion during construction.

According to Mr. Grady, the height of the berm would be reduced by over 30 feet and the existing grade would be carved to 118 feet, creating a basin in the Resource Area. The area would become a re-graded naturalized area. Peggy Curtis asked about the vegetation that would be used for planting after the re-grading, and Kevin Grady stated that John Zimmer proposed planting native species within the buffer zone.

Kevin Grady and Wetland Scientist John Zimmer discussed the types of plants to be used in the Restoration Zone. Some of the existing plants were invasive species that had colonized the area since it was disturbed. Mr. Zimmer proposed a planting plan to improve wildlife habitat by introducing native species and increasing the functionality of the buffer. Kevin mentioned that the wetland had been expanding over time. Chair Voorhis asked about the potential impact of

grading on the expansion of the wetland. Kevin stated that the berm in place will prevent this from happening.

Agent Shave gave an update on the progress of her wetlands review. She visited the site on December 9th and made some recommendations for the plans. These included adding a note to the site plan specifying the removal of all existing fill from the 25-foot buffer zone and re-establishing the natural contours in accordance with the buffer zone restoration plan. Also, she indicated that a note should be added to the plan to remove all existing fill containing construction debris from the 100-foot buffer zone and that a soil testing protocol should be provided for any existing fill or material proposed to be retained within the 100-foot buffer zone to ensure it does not contain debris and had been tested for standard parameters. If the material could not be tested, then the more conservative measure would be to remove it.

Public Comments

Agent Shave mentioned that the Commission had received several comments via email from Lisa Crowley, Jamal Braithwaite, and Michelle Henson regarding the project. These comments included a list of recommended conditions. These emails have been added to the public record and are available to be reviewed.

Councilor Jack Lally

Councilor Lally expressed concern about the potential after-effects of the removal of gravel from the land and emphasized the need for caution and due diligence to ensure that the operation is done once and done right. He requested that the Commission keep a close eye on the situation and exercise caution. He also expressed trust in the judgment of the Conservation Agent.

Lisa Crowley

Lisa Crowley spoke to the attendees and expressed her concerns about the operations being carried out by the developer. She had submitted an email with recommendations regarding the operations, such as keeping a track of the trucks and equipment being used. She also clarified some comments made by Mr. Grady, stating that there was no operation carried out in the area until the proposal was made for a sports complex in 2016. She mentioned that the area was previously a park and open space, which was destroyed. She is glad that the debris has been cleared, allowing her neighbors to see the sun rise and set again.

Representative Michelle DuBois

Representative DuBois asked for information about the height of piles of debris near the site, behind Claremount. She wanted to know the current height of the piles and what it is expected to be when it is all finished. She asked Mr. Grady if he would be able to provide this information at the next meeting.

Commission members and Representative Dubois discussed the potential impacts of the project on the wetland area. Ms. DuBois inquired about elevations, operating hours, and heavy traffic.

Agent Shave stated that this Commission does not have jurisdiction over issues related to hours or traffic, and invited the public to review site plans for the project on the Commission's website for specific details.

A motion to continue the hearing to the January 18th meeting was properly made by Peggy Curtis, seconded by Laura Biechler, and approved by a unanimous vote.

6. Notice of Intent

Property: Map 003-049 Pleasant Street

Project: 40B apartment complex with stormwater infrastructure in Brockton

Applicant / Representative: Blackledge, LLC / Coneco

Chair Joyce Voorhis discussed the decision that the Brockton Conservation Commission had to make regarding the Blackledge project. During the previous hearing on December 7, a request was made by the applicant via Mr. Toohill for the Commission to take a vote, and as a result, the hearing was closed. As stated by the Chair, different professionals had provided varying opinions, but BETA Group had maintained that the project complied with the Massachusetts Stormwater Standards. The Chair acknowledged that the stormwater treatment system designed and proposed by Blackledge was considered an improvement over untreated stormwater found on the current disturbed site. The Chair voiced concern that additional water introduced from the wastewater treatment system near the Brockton side of the property combined with stormwater might negatively affect the Resource Area. Commissioner Clay also expressed concern about differing opinions and fluctuating values regarding groundwater levels.

Commissioner Curtis asked Agent Shave for her professional opinion on water usage and its impact on wetlands. Agent Shave stated that based on the information provided by BETA Group, Brockton's Stormwater consultant, she had not seen evidence of concern. She defers to BETA Group, who had repeatedly confirmed that the design meets the Massachusetts Stormwater Standards. Agent Shave added that if the Commission wanted to account for potential changes in water levels, they could consider additional measures as special conditions.

Commissioner Curtis asked what actions might be taken by Brockton if the stormwater system failed. Agent Shave explained that recourse for the Commission is through enforcement. An Enforcement Order would be needed if non-compliance with an Order of Conditions was demonstrated. Agent Shave stated that the Easton Conservation Commission had not yet permitted the Easton side of the project, and if site plans change as a result of their findings then Blackledge will have to bring a request for an Amended Order of Conditions to the Brockton Conservation Commission for further consideration.

Agent Shave reviewed the Special Conditions mentioned in her last report which included the following requirements: to provide an electronic copy of the mounding analysis and Massachusetts DEP Approval of the wastewater permit; to remove all surface concrete products and man-made objects in the Brockton Audubon preserve before construction starts; to obtain Commission approval for any building permits; to provide a completed and signed Stormwater Pollution and Prevention Plan (SWPPP) at the start of new work and SWPPP inspection reports during construction activities; and that snow is not to be pushed into Brockton from designated

storage areas. The chair asked to revisit the idea of a gate and fencing to prevent litter from entering the Resource Area, the previous discussion about a gate for the Conservation Area was revisited, but the applicant declined due to maintenance and public safety concerns. The current plan did not include a gate but did show signage for emergency use. Agent Shave stated that the Commission could add special conditions for the protection of the wetland Resource Areas.

After some discussion, the Commission requested and agreed unanimously that the following special conditions be added to complete the Order of Conditions:

1. To raise the height of the Stormwater Retention System on the Brockton parcel by 0.6 feet, to provide maximum separation between groundwater and the retention system, as suggested by BETA Group.
2. Since there is an SWPPP requirement for long-term monitoring and maintenance of stormwater systems, the Commission requested that a special condition be added that the Brockton Commission receive a copy of the quarterly and annual maintenance reports on an ongoing basis, even after construction is complete, as a way to assure the Brockton Commission that the system is being monitored, maintained, and is appropriately functioning.

A motion to issue an Order of Conditions with special conditions outlined that evening, along with those outlined in the existing Agents Report for Map 003-049 Pleasant Street, otherwise known as Blackledge, LLC. was properly made by Laura Biechler, seconded by Ruby Clay and approved by a unanimous vote. Peggy Curtis was exempt from voting.

A motion was made and seconded and approved to adjourn the meeting.