



Robert F. Sullivan
Mayor

CITY OF BROCKTON

DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT

Planning Board

Historical Commission

Conservation Commission

Robert May, CEcD
Director

MINUTES

OCTOBER 18, 2023 – 6:30 PM

SPECIAL MEETING

Joyce Voorhis called the October 18th, 2023 meeting of the Brockton Conservation Commission to order and read the following statement: “The meeting is being conducted remotely in accordance with Governor Healey’s Open Meeting changes updated in March of 2023 which extended certain Covid 19 provisions until March 31, 2025. Real-time public participation and comment can be addressed to the Conservation Commission utilizing the Zoom virtual meeting software. If you wish to comment during a public input portion of the 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 ‘*9’ raise your hand. All comments made are a matter of public record and should be conducted in a way that is respectful of others. Should personal or inflammatory remarks be made during the meeting, the host reserves the right to mute the speaker. A copy of this recording will be on the City’s webpage. All votes taken during this meeting will be done by a roll call vote to ensure count accuracy.”

The following members were confirmed to be in attendance by roll call: Laura Biechler, Peggy Curtis, Shareefah Mapp, Lily Green, and Joyce Voorhis – Chair. BETA Representative Elyse Tripp and Administrators Rhode Germain & Isaiah Thelwell and City Planner Rob May were also in attendance.

NOTE - Agenda Items **Continued to the **November 15th, 2023** Meeting:**

4. ANRAD

Property: 549 Copeland Street

Project: Resource Delineation

Representative: J.K. Holmgren Engineering

7. Notice of Intent

Property: 10 Peckham Avenue

Project: Residential construction

Representative: J.K. Holmgren Engineering

8. Notice of Intent

Property: 166 East Ashland Street

Project: Contractor building construction

Representative: J.K. Holmgren Engineering

9. ANRAD

Property: 339 Quincy Street (Parcel ID:156-477)

Project: Resource Delineation

Representative: J.K. Holmgren Engineering

12. Notice of Intent
Property: 511 Thatcher Street
Project: Solar Canopy Construction
Representative: Farland Corp.

COMMISSION MATTER

1. Acceptance of September 20th, 2023 Minutes

A motion was made (Biechler) and seconded (Curtis) to accept the September 20th, 2023 minutes. Motion passed by unanimous vote.

NEW FILINGS

2.RDA

Property: 82 Ames Street
Project: Determine WPA Jurisdiction
Representative: RiverHawk Environmental

Bob Rego, Engineer with RiverHawk Environmental presented the RDA application for 82 Ames Street. Mr. Rego stated that the resource area is a perennial stream, the applicant is in agreement that the stream comes down from the watershed of the Searles Brook, going through a significant drainage system. Mr. Rego believed that there are remnants of a man-made culvert from 1949 still on the property. Mr. Rego mentioned a WPA statement regarding a Culvert longer than 200 feet, there is no riverfront area if it stops and ends with the said culvert. The applicant's representative questioned if the stonelined channel, part of the culvert system, was in fact a culvert and thus exempt. The Chair stated that the current Agent Holden and the past Conservation Agent Shave had discussed specifications such as flow rate and identified the daylighted areas as riverfront, a resource area

BETA Representative Elyse Tripp cited Mr. Holden's Agent Report, stating that the agent report agrees on the subject of the Perennial Stream since the WPA cites that any bank that was previously constructed, despite being man-made is still considered a Riverfront area, and therefore is subject to the Wetland Protection Act permitting process. Mr. Rego mentioned that the applicant does plan to continue developing the lot, as it currently sits as a blighted property in the neighborhood.

Commissioner Curtis asked Mr. Rego if the applicant has any plans to apply for a Notice of Intent, to which Rego responded affirmatively. Ms. Tripp clarified that this hearing in particular is the definition of what is considered a resource area and clarified that for permitting purposes, only the daylighted section of the culvert will be considered a resource area. Bob May, Brockton City Planner stated that many permits have been issued for opened culverted areas in the City of Brockton. Prior to the vote, at the Chair's request, BETA representative Tripp clarified the difference between Positive 1 and Positive 2B determinations.

A motion was made (Biechler) and seconded (Curtis) to close the RDA hearing for 82 Ames Street. Motion passed by unanimous vote.

A motion was made (Biechler) and seconded (Curtis) to issue a Positive 1 & Positive 2B determination for the property at 82 Ames Street. Motion passed by unanimous vote.

CURRENT FILINGS

3. Amended Order of Conditions

Property: 455 Oak Street, Fuller Craft Museum

Project: Flood Prevention

Representative: PVI Site Design

Tim Power with PVI Site Design, presented an update on the Amended Order of Conditions for 455 Oak Street. According to Mr. Power, changes were made to the plan based on Agent Holden's recommendations, in coordination with a sitewalk and discussion with BETA group consultants. Noteworthy amendments included widening the trench between the two wetlands to 4 feet wide and adding a cape cod berm to prevent spillover into the parking lot if high water levels persist.

Ms. Tripp gave an overview of what was stated in the BETA report. She confirmed that the plans submitted comply with State and local Stormwater Standards. Ms. Tripp also outlined the 5 additional conditions BETA suggested for the record: a monitoring report shall be submitted to the Commission within 6 months of construction of stormwater management features, the need to refresh erosion controls onsite, long-term operation and maintenance plan be developed, new plantings should be inclusive of native species, and if any listed plants are unavailable, a substitute species list should be provided to the Commission to assure that the substitutions are appropriate. The applicant was in agreement with the recommendations made.

A motion was made (Biechler) and seconded (Curtis) to close the hearing for 455 Oak Street. The Motion was passed by unanimous vote.

A motion was made (Curtis) and seconded (Biechler) to issue an Order of Conditions with the special conditions outlined within Agent Holden's report in October, 2023 and OOC as stated in the October 16th, 2023 Report from BETA.

The Motion to issue the Order of Conditions was passed by unanimous vote.

5. Amended Order of Conditions

Property: 900 West Chestnut Street

Project: Solar Canopy Construction

Representative: Farland Corp.

Scott Daggett, Project Manager with Farland Corp, presented the Amended Order of Conditions application for 900 West Chestnut Street for the establishment of solar panels over a future Lynch's Towing yard. Mr. Daggett stated that the applicant has met the changes that were required by Agent Holden, the most substantial change being the redirected slope of proposed solar panels away from the resource area. Special conditions, including erosion controls and inclusion of dewatering details, were read from the Agents report. Mr. Daggett stated that he doesn't foresee any issue regarding the stated conditions in the revised OOC. There were no questions from the Commissioners.

A motion was made (Biechler) and seconded (Curtis) to close the hearing for 900 West Chestnut Street. The motion passed by unanimous vote.

A motion was made (Curtis) and seconded (Biechler) to issue the Amended Order of Conditions for 900 West Chestnut Street, upon receipt of the updated conditions from the October 3rd, 2023 Agent's Report. The motion passed by unanimous vote.

***6 . Amended Order of Conditions and Extension Request
Property: 0 Hammond Street (Parcel ID: 133-003 and 133-002)
Project: Revised Hope Garden Cemetery
Representative: JDE Civil***

Josh White from JDE Civil Engineering, along with Attorney James Burke, reviewed their presentation of a request for an Amended Order of Conditions and Extension Request for 0 Hammond Street, Mr. White began the hearing by reading from Agent Holden's Report, the report stating that there has been a change in the scope of the project. Agent Holden stated in his agent report that the preferred way to move forward is by submitting a new application and applying for a new Notice of Intent. Mr. White noted that since the last meeting, the botanist who assisted in the delineation for the initial plan returned and reflagged the site. A resultant impact study and plan modifications were not yet completed.

Ms. Tripp from BETA group clarified what an extension approval means, stating that the work originally approved could still be completed; however, without the AOOOC the new scope of work proposed wouldn't be feasible. The disagreement between Applicant and Agent pertains to the Amended Order of Conditions. The Chair read a section of the Agent's report, quoting a report from Andrew Poyant, circuit rider for the Massachusetts Department of Environmental Protection, stating that substantial changes in a plan should require the submission of a new Notice of Intent, and not an amended OOC.

Commissioner Curtis stated her support of Agent Holden's recommendation to deny the current proposal and apply for a new Notice of Intent, since the amended plan has significant changes proposed. Attorney Burke stated that he believes the way the Commission is going about the process of this hearing is not "user-friendly". Burke stated that a denial would incur significant, undue expenses to the applicant. He doesn't believe there is any difference between the status of the project at the expiration date of the OOC from the Commission's perspective, whether it is a new filing or an extension.

Ms. Tripp stated that the Commission is not obligated to issue either determination. Considering the numerous extensions and amendments already granted to the project, if the Commission is uncomfortable with issuing further extensions or approving another amendment they are not required to do so. Ms Tripp recommended that the Commission make a decision as there is no point to further continuing the same discussion from hearing to hearing. Both Commissioner Mapp and Commissioner Green agreed with Ms Tripp regarding the importance of moving forward. Ms Mapp also shares the sentiment of requiring a new Notice of Intent due to how many years have passed, and how much the plans have changed since the project was originally permitted. Agent Holden's report and Ms. Tripp's discussion explained that before a new Notice of Intent can be filed, a request for a Certificate of Compliance would be needed to indicate what work has been completed on the site, and the new NOI application shall reflect the updated plans.

A motion was made (Biechler) and seconded (Mapp) to close the hearing on 0 Hammond Street. The motion was passed by unanimous vote.

A motion was made (Curtis) and seconded (Mapp) to deny the extension request for 0 Hammond Street. The motion was passed with Biechler abstaining from the vote.

A motion was made (Curtis) and seconded (Mapp) to deny the Amended Order of Conditions for 0 Hammond Street. The motion was passed by majority, with Biechler abstaining from the vote.

10. Notice of Intent

Property: 115 Goldfinch Drive

Project: Inground Pool construction with associated patio / Buffer Zone & Floodplain Restoration

Representative: Merrill Engineers and Land Surveyors

Chris Anderson, Engineer from Merrill Engineers and Land Surveyors, presented plans for the Notice of Intent for 115 Goldfinch Drive. According to Mr. Anderson, since the last hearing the applicant has submitted follow-up plans to address Agent Holden's report. Agent Holden had recommended that the applicant split the project as proposed into 2 phases, Mr. Anderson stated that the restoration work will be done first, including moving a retaining wall and regrading, after stabilization of the area with plantings and documentation, the construction of the pool area will take place.. Agent Holden's filed report indicated that these changes were approved. Commissioners had no questions.

A Motion was made (Curtis) and seconded (Biechler) to close the hearing for 115 Goldfinch Drive . The motion passed by unanimous vote.

A motion was made (Curtis) and seconded (Beichler) to issue an Order of Conditions for 115 Goldfinch Drive, with the special conditions stated for Phase 1 & 2. The motion passed by unanimous vote.

11. Notice of Intent

Property: West Elm Street Extension (Parcel ID: 004-012R)

Project: Buffer Zone & Floodplain Restoration

Representative: Merrill Engineers and Land Surveyors

Chris Anderson, Engineer from Merrill Engineers and Land Surveyors, presented the Notice of Intent for West Elm Street Extension. According to Mr. Anderson, this application is part of the first phase of the work proposed at 115 Goldfinch Drive, the applicant has satisfied all concerns with Agent Holden. Commissioners all indicated that the agent report was clear and the motioned to Issue an Order of Conditions.

A Motion was made (Biechler) and seconded (Curtis) to close the hearing on West Elm Street Extension. The motion passed with unanimous vote.

A motion was made (Curtis) and seconded (Biechler) to issue an Order of Conditions for West Elm Street Extension, with special conditions from Agent Holden. The motion passed by unanimous vote.

ENFORCEMENT ORDER

13. 411 Warren Avenue

Helena Morales, appeared and addressed the commission. She is owner of the 4-family property at 411 Warren Avenue which was issued an enforcement order a month prior due to unpermitted building of a retaining wall along the Salisbury River which abuts her property. Morales stated that she was trying to create a path for her tenants as there was no way to park or to bring in appliances through her backyard. Morales stated that she had recently purchased the property, and had no knowledge of the Wetlands Protection Act . She noticed there were walls along her neighbors' properties and had no idea that this would be such an issue. Ms. Morales stated that she has already ceased the illegal building and stated that she is willing to do what she needs to fix the issue. The Chair expressed appreciation for her cooperation, and stated that Agent Holden would contact her and guide her through the next steps of the process.

A MOTION WAS MADE (Curtis) AND SECONDED (Biechler) TO CLOSE THE MEETING, THE MOTION PASSED BY UNANIMOUS VOTE.