

**Salem Conservation Commission
Minutes of Meeting**

Date and Time: Thursday, July 14, 2016, 6:30 p.m.
Meeting Location: Third Floor Conference Room, City Hall Annex, 120 Washington Street
Members Present: Chair Gregory St. Louis, Tom Campbell, Scott E. Sheehan, Dan Ricciarelli
Members Absent: Tyler Glode, Gail Kubik, Bart Hoskins
Others Present: Tom Devine, Conservation Agent
Recorder: Stacy Kilb

Chair St. Louis calls the meeting to order at 6:35PM.

Documents:

- Gateway Center PowerPoint Presentation, 7/14/16
- Draft Attachment to Order of Conditions (Revised), undated

1. Gateway Center Amendment—Public Hearing—Request to Amend Order of Conditions—DEP #64-498—High Rock Bridge Street LLC, 275 Grove Street, Suite 2-400, Newton, MA. The purpose of this hearing is to discuss proposed amendment to Order of Conditions permitting the redevelopment at 401 Bridge Street and 44 Boston Street (Gateway Center with Salem Community Life Center), located within an area subject to protection under the Wetlands Protection Act MGL c131§40 and Salem Wetlands Protection and Conservation Ordinance. Proposed changes include construction of 2 buildings (total footprint 52,300 sq. ft.) vs. the single previously approved building (total footprint 51,098 sq. ft.) and reconfigured parking, landscaping, drainage, and utilities.

Here for the applicant is Attorney Joseph Correnti of 63 Federal Street. He outlines the progress on the project so far. Planning Board approval on revised plans has been obtained. Richard (Chip) Nylen is counsel on permitting at the local and state levels, and Bill Bergeron is Site Engineer with Hayes Engineering. Tom McGarrigle of Commercial Construction Consulting is also present.

Mr. Nylen explains that they are amending a 2010 approval; an amendment was also sought in 2015 from this Commission. He describes the history of the project and changes it has undergone. The single, originally proposed building has been split into two, a Community Life Center and a residential structure. Mr. Nylen refreshes the Board members about their prior actions; an appeal was filed with Mass. DEP. The permitting process and lack of action at the higher levels is described. Two peer reviews have been completed in order to resolve concerns about drainage. Mr. Nylen further elaborates on the procedures and why he is in front of this local Commission rather than the DEP.

After these amendments to the project are approved, the appeal at the DEP level will be withdrawn as it will be a different project. He feels this project should meet all performance standards required after this amendment. Mr. Sheehan asks about the DEP appeal and Mr. Nylen elaborates.

Chair St. Louis also asks about the appeal going away; the applicant will withdraw the request for that project from the DEP; this will cause the appeal to disappear.

Mr. Bergeron presents the changes to the project. This project requires a Chapter 91 License and a MEPA filing. It has been filed and was received; a list of items to address in the final EIR was obtained. One issue was the changes to the FEMA maps and flood zones. Elevations to accommodate sea level rise were also considered.

Mr. Bergeron presents a PowerPoint describing the proposed amendment.

Chair St. Louis asks about tidally influenced vs. tidally dominant flooding. The applicant claims their site is the latter. Mr. Bergeron reiterates that flooding will occur on both sides of North Street and elaborates on the capacity of the area. DEP

agrees that it is coastal storm flowage.

Chair St. Louis opens to the public.

Jane Arlander of 93 Federal St. asks if the developers have a management plan in the case of flooding of the parking lot; Chair St. Louis comments on the raising of the grade and Mr. Bergeron feels the parking is adequate and spaces that would be partially inundated would still be park-able. In an emergency condition, there is also an alternate access that could be staffed by an officer. However, Bridge St. would be closed in such an event as well, as would the Community Life Center.

Tom Devine has coordinated with Mr. Bergeron and reviewed the Conditions from the prior amendment; he hands out a document outlining the changes. St. Louis asks about sewer utilities in the flooded areas and Mr. Bergeron outlines.

Devine distributes a draft amended Attachment to Order of Conditions that he prepared in consultation with Mr. Bergeron. He reads through the proposed revisions since the 2015 amendment.

A motion to close the public hearing is made by Ricciarelli, seconded by Sheehan and passes 4-0.

A motion to amend the Order of Conditions as discussed is made by Ricciarelli, seconded by Campbell and passes 4-0.

2. Old/New Business

- **120 Swampscott Road headwall, DEP #64-603: Request for Certificate of Compliance.**

Bill Manuel of Wetlands & Land Management presents, summarizing the project. Devine has completed a site visit distributes photos. Less work than was permitted was actually completed.

Devine feels that the work is acceptable. One standard condition was for an as-built but the applicant is requesting it be waived for this small project. There are no comments from the public.

A motion to issue a Certificate of Compliance is made by Ricciarelli, seconded by Campbell, and passes 4-0.

Mr. Manuel will later request a Certificate of Compliance for the old Order of Conditions as work was never completed.

2. 27 Osborne Hill Drive—Public Hearing—Request for Determination of Applicability—Chester H. Kusek, 27 Osborne Hill Drive, Salem, MA. The purpose of this hearing is to discuss proposed landscaping, fencing, patio and associated improvements at 27 Osborne Hill Drive within an area subject to protection under the Wetlands Protection Act MGL c.131§40 and Salem Wetlands Protection & Conservation Ordinance.

The applicant, Mr. Chester H. Kusek, presents on his own behalf. This is in the Strongwater Crossing subdivision. He describes his project. There is also one additional request to add some ivy to the wall behind the property to enhance its appearance. The Chair comments that the wall may actually be off-site but the owner should contact the developer to make sure this is allowable. Mr. Kusek has contacted the developer who is in favor of this. He is not sure if he will be using fencing, evergreens or a mix yet. Also, nothing is growing in a conservation area and he wonders if he can install some evergreens to enhance the appearance there. That area is outside the applicant's property, but plantings are exempt, so if the developer chooses, and it is not prohibited by the Order of Conditions on that area, it would be acceptable.

Chair St. Louis asks about a the subdivisions open space, stating no disturbance should have occurred in the past, and is unsure if it should be formally reestablished as buffer zone, as it is technically beyond the subdivision's limit of work. They may want to speak to the developer about this. The chair says that in general, plantings are exempt from the WPA as long as there is no filling or revising of grades, but the Commission would like a more formal planting plan for that conservation area. Fencing on Mr. Kusek's lot would not be a habitat barrier, and plantings and a patio are also considered de de-minimis. Ricciarelli concurs. Sheehan asks about the purpose of a patio photo included in the application. The applicants says it is just an example. The Commission may require a pervious material but does not have to specify materials. Mr. Kusek is not certain what materials he plans on using. Ricciarelli would prefer composite wood or pavers for permeability and Mr. Kusek agrees.

Chair St. Louis opens to the public and there are no comments.

A motion to close the public hearing is made by Sheehan, seconded by Ricciarelli and all are in favor.

A motion to issue a negative 2 and negative 6 Determination of Applicability is made by Ricciarelli, seconded by Campbell, and passes unanimously. This Determination does not account for any work done outside the property.

3. 30 Cloverdale Ave. Pool—Public Hearing—Request for Determination of Applicability—Angelo Meimeteas, 30 Cloverdale Avenue, Salem, MA. The purpose of this hearing is to discuss proposed construction of an in-ground pool and appurtenances at 30 Cloverdale Avenue within an area subject to protection under the Wetlands Protection Act MGL c131§40 and Salem Wetlands Protection & Conservation Ordinance.

Mr. Meimeteas presents his project. It is uncertain whether the pool will be parallel or perpendicular to the building, but it will be in the same area of the yard. Devine comments that this house and two others came before the Commission a few years ago, and work was completed and a Certificate of Compliance issued. Ricciarelli asks about the pool deck and Mr. Meimeteas elaborates. Work will only take four or five days. Ricciarelli asks about pool filtration and dumping. There is no backwash. Mr. Meimeteas presents more information about the pool itself. Ricciarelli asks about erosion controls and Mr. Meimeteas replies that it is within the fenced area, but he can put something in place if the Commission wishes.

Chair St. Louis comments that aside from silt fencing around the stockpiled material or immediately removing it, he has no concerns. Devine comments that to dechlorinate water, it can just be allowed to sit a few days. Mr. Meimeteas comments that he is considering a saltwater system, and it is conservation-friendly. Pool closure protocols are discussed. The pool will be covered, not drained.

There are no comments from the public.

A motion to close the public hearing is made by Ricciarelli, seconded by Sheehan, and passes 4-0.

A motion to issue a negative 3 and negative 6 condition, with the condition that any stockpiled excavated material be surrounded by silt fencing or straw bales is made by Ricciarelli, seconded by Sheehan and passes 4-0.

4. Circle Hill Subdivision—Public Hearing—Notice of Intent—DEP #64-621—Kenneth Steadman, 67R Village Street, Marblehead, MA. The purpose of this hearing is to discuss proposed construction of a 3-lot residential subdivision at 40 Circle Hill Road within an area subject to protection under the Wetlands Protection Act MGL c.131§40 and Salem Wetlands Protection & Conservation Ordinance.

Mr. Steadman presents this project. He provides a history of the land and the project. The Order of Conditions for this project expired in June of 2016. He describes progress on the project so far. Sidewalk, curbing, and a short wooden guardrail are all that remain to be completed. The only minor change he is requesting is for a change in lot 3, which has a 25' no disturbance area; he would like it to be shortened to 10' given the configuration and location of the proposed house. A rock wall would be installed. No houses have been built yet.

More discussion of the logistics of placement of the house in question occurs. The surrounding roads are all paper roads through wetland areas where development is very unlikely to ever be proposed. This Commission has always looked at no-disturb areas on a case-by-case basis; Devine comments that the Commission must have thought 25' was appropriate in this case. Chair St. Louis asks about a retaining wall on lot 3; it is not constructed yet. Options for configuration of the wall and the house are discussed.

Devine has been to the site but can't specifically speak for this area of buffer zone. The original Order of Conditions specifies the 25' limit of work but is no more detailed than that. Chair St. Louis asks if cedar posts are required to mark the wetland; the applicant would be happy to install them. The wall may also deter dumping in the resource area. Ricciarelli wonders about how grading would change if the no-disturb zone is decreased. Devine asks about a fence to delineate the edge of the disturbed area and logistics and options are further discussed.

Ricciarelli asks about replication and elevations, and further discussion ensues. Mr. Steadman will also appear before the Planning Board next week. Devine will write the narrative but the Chair summarizes:

- 10' no disturb zone
- Relocation of stone wall, which shall include boulders sized between 2' and 3'
- 3 or 4 markers on cedar posts or metal garden stakes marking resource area
- The house may be moved forward/re-oriented as discussed as long as building envelope is no larger than shown on plan

Richard Sakowich of 36 Circle Hill Rd. comments that the 25' zone was put in place with the prior owner. He wonders if more fill will need to be brought in if that zone is reduced. Mr. Steadman describes it as only a 2' or 3' grade difference but Mr. Sakowich is referring to a different area. Elevations are discussed.

Devine notes that the expired order can be cleared from the property deed with a Request for Certificate of Compliance for an invalid order, when the new Order goes into effect.

A motion to close the public hearing is made by Ricciarelli, seconded by Sheehan and passes 4-0.

A motion to issue an Order of Conditions subject to standard and special conditions as discussed is made by Sheehan, seconded by Ricciarelli, and passes unanimously 4-0.

5. Ayube Drive Gas Connection—Public Hearing—Request for Determination of Applicability—Boston Gas Company (National Grid), 170 Medford Street, Malden, MA. This purpose of this hearing is to discuss proposed installation of an approximately 100' natural gas service connection within Sergeant James Ayube Drive/Bridge Street Bypass (near Northey Street) within an area subject to protection under the Wetlands Protection Act MGL c.131§40 and Salem Wetlands Protection & Conservation Ordinance.

Here for the applicant is Amanda Neville with Conico Environmental consultants. She describes the project, which will service a track switch heater for the MBTA. She describes the location of the gas main, which is not in the roadway. A 1" gas pipe, much smaller than a usual gas main, will be installed. Disturbance will be minimal. Straw wattle will be in place as erosion control. Soil will be reused and removed offsite daily. The road will be cut and plates placed over unfinished excavating.

This is not far from the drainage basin being upgraded to an infiltration basin reviewed at a recent meeting. The work schedule is not yet determined, but most likely it will occur before winter. Chair St. Louis comments that they should not do the work during the track outage coming up as Keolis will not have the staff.

The Chair opens to the public but there are no comments.

A motion to close the public hearing is made by Ricciarelli, seconded by Sheehan, and passes with all in favor.

Devine comments that the Commission allows the replacement of utilities as exempt work, and that many projects of that nature have more impact than this, but a new line is not exempt.

A motion to issue a negative 2 and negative 6 determination is made by Ricciarelli, seconded by Campbell and passes 4-0.

6. Old/New Business, continued

- **Possible Wetlands violation.**

Devine outlines the situation. Filling within the 100' wetlands buffer zone has occurred behind 46 Clark St. Iovani Yoc, the homeowner, is present. He describes the work in an area that was already disturbed; they took down some trees, leveled the yard, and added loam in order to improve it; what was there before was mulch with small bushes and a sprinkler system. Mr. Yach wishes to lay sod. No new area was disturbed.

It appears that Mr. Yach may simply have gone over some previously unpermitted work. However, it is unclear where the wetlands are and this is not indicated by the plans for an adjacent subdivision. Devine recommends filing an after-the-fact RDA. Devine and several Commissioners comment that it would be a good idea to put sod down in order to stabilize the area.

The commission decides to have Devine confirm whether or not work was within 100' of wetlands on GIS. If past filings or GIS data show work is within the 100' buffer, it would require an RDA; if not, no further action is required. Devine will contact Mr. Yoc detailing the results of his review of the files and indicating the next actions to take, if needed. Installation of sod is discussed; the owner may put sod in at his own risk whenever he wants. If sod is not installed, silt fencing should be installed.

To summarize: if work occurred in buffer zone, the homeowner must file an RDA and must have either erosion controls or sod in place. The Chair comments that he would put the sod down if he were in this situation. The Board recommends that he put the sod in.

- **Request for funding for annual GIS software subscription fee.**

\$400 is requested for this fee. Devine uses GIS for Conservation Commission related items.

A motion to approve is made by Sheehan, seconded by Ricciarelli and passes with all in favor.

- **Meeting minutes—May 26, 2016**

A motion to approve is made by Campbell, seconded by Sheehan, and passes with all in favor.

- **Forest River Conservation Area walk update**

Stacy Kilb states that as 27 people have thus far registered for the walk, so the group is too large. She recommends running a second walk following the first one, requesting that anyone who signed up for the 2PM walk transfer to the 4PM walk if possible.

A motion to approve \$150 for a second walk is made by Sheehan, seconded by Campbell, and passes with all in favor.

Devine outlines funding obtained for projects for the Forest River Conservation area. No CPA funding was awarded, but the City Council approved Capital Improvement Program funding, and the Conservation Commission committed matching funds for a pending state grant application.

As this Commission now meets only monthly, there will be no August recess, and the meeting for the month will be held at the usual time and place on the second Thursday, August 11.

A motion to adjourn is made by Ricciarelli, seconded by Campbell, and passes unanimously.

The meeting ends at 8:44 PM.

Respectfully submitted,
Stacy Kilb
Clerk, Salem Conservation Commission

Approved by the Conservation Commission on August 11, 2016