

**Salem Conservation Commission  
Minutes of Meeting**

**Date and Time:** Thursday, March 14, 2019, 6:30 p.m.  
**Meeting Location:** Large Conference Room, City Hall Annex, 98 Washington Street  
**Members Present:** Vice Chair Bart Hoskins, Tom Campbell, Tyler Glode, Dan Ricciarelli, Scott Sheehan (5)  
**Members Absent:** Chair Gregory St. Louis (1)  
**Others Present:** Darya Mattes, Conservation Agent  
**Recorder:** Stacy Kilb

Vice Chair Hoskins calls the meeting to order at 6:35PM.

**I. ROLL CALL**

**II. OLD/NEW BUSINESS**

- A. 81 Highland Ave (North Shore Medical Center) – DEP #64-620** -- Request for Extension of Order of Conditions

*A motion to extend the Order of Conditions for three (3) years is made by Tom Campbell, seconded by Dan Ricciarelli, and passes 5-0.*

**III. REGULAR AGENDA**

- A. 61 Memorial Drive** – Public Hearing -- Notice of Intent for Theresa Kennedy, 61 Memorial Drive, Salem, MA 01970. Purpose of hearing is to discuss proposed two-story addition to single-family home, as well work on driveways, landscaping, decking, steps, and walkway at 61 Memorial Drive (Map 42, Lot 14) within an area subject to protection under the Wetlands Protection Act MGL c.131§40 and Salem Wetlands Protection & Conservation Ordinance.

Resource areas and work are outlined. The steps are in disrepair but no changes are currently proposed. There will be no change in impervious surface and no stockpiling of demolition materials onsite.

Vice Chair Hoskins opens to the public, but there are no comments.

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

*A motion to issue an Order of Conditions, with standard conditions and the condition that all demolished materials will be hauled away or stockpiled to the front or side, is made by Scott Sheehan, second by Dan Ricciarelli, and passes 5-0.*

- B. Osborne Hills Subdivision Lots: 36, 38, 40, 42, 44, 46, 48, 50, 52, and 54 Osborne Hill Drive and 7 and 9 Chanelle Circle** Public Hearing -- Notice of Intent for Osborne Hills Realty Trust, P.O Box 780, Lynnfield, MA 01940. Purpose of hearing is to discuss proposed construction of single family dwelling, driveway, walks, utilities, and grading with wall and slope at (*addresses as listed above*) within an area subject to protection under the Wetlands Protection Act MGL c.131§40 and Salem Wetlands Protection & Conservation Ordinance.

Chris Mello of Eastern Land Survey represents Osborne Hills Realty Trust and Paul DiBiase, Trustee. Originally the Applicant came before the Commission for all roads in the development, but is coming

in for the houses in phases. Completed and currently requested phases are outlined; 12 houses in Phase 4 and two in Phase 5 are upcoming. Lots are shown and resource areas, the jurisdictional outline, and the limits of lawn area and houses are highlighted. Most jurisdictional areas are buffer zone for lawns and driveways, as are several of the houses or portions thereof. Roof recharge systems put in place in 45 of 131 lots that would have 3,000 cubic foot roof recharge systems, and some are in jurisdictional areas. This was standard in 2004; 10 have been built and are 7 planned for these upcoming two phases. Lots were mostly graded during roadway construction. Final grading would take place under this Order.

Ricciarelli asks about the original Order of Conditions for the road; grading is described. Construction of a stone slope and lawns would happen as finish grading. Street trees are proposed and landscaping will be done as houses are constructed.

Darya Mattes comments that she got a call from Mass DEP with some questions; they wanted to see a stormwater report, so the applicant sent to her, and she passed it on to the DEP. They were confused as to lot numbers on the Plans, so while they appear to match those on the application, the DEP has not issued file numbers for these yet. This means the Commission can't vote on this item today as they do not have file numbers. Mr. Mello notes that Orders Of conditions can be issued pending receipt of the file numbers. The DEP may have been confused between lots on the internal plan vs. parcel numbers. The stormwater management report was from 2005. This was all done under regulations in place in 2005, hence the recharge systems, which work well. The only open Order of Conditions is described. Stormwater management and completed lots are closed out.

Vice Chair Hoskins opens to public. Gary Gill of the Ward 3 area asks about the location of the project. The Applicant clarifies that it is across from McGrath Park and describes the exact location of the development.

*A motion to close the public hearing is made by Dan Ricciarelli, Seconded by Scott Campbell, and passes 5-0.*

*Motions, seconds, and approvals to issue an Order of Conditions for each lot number, conditional upon the receipt of Mass DEP numbers and with standard conditions, are as noted below. All were unanimously approved by all 5 Commissioners present.*

<b><u>Lot #:</u></b>	<b><u>Motion,</u></b>	<b><u>Second</u></b>	<b><u>In favor</u></b>
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Lot 39:	Scott Sheehan, Dan Ricciarelli,	5-0	
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Lot 40:	Scott Sheehan, Tyler Glode,	5-0	
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Lot 41:	Scott Sheehan, Tyler Glode,	5-0	
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Lot 42:	Scott Sheehan, Tyler Glode,	5-0	
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Lot 43:	Tyler Glode, Dan Ricciarelli,	5-0	
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Lot 44:	Tyler Glode, Tom Campbell,	5-0	
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Lot 45:	Tyler Glode, Dan Ricciarelli,	5-0	
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Lot 46:	Scott Sheehan, Dan Ricciarelli,	5-0	
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Lot 47:	Tyler Glode, Dan Ricciarelli,	5-0	
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Lot 48:	Tyler Glode, Dan Ricciarelli,	5-0	
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Lot 72:	Tyler Glode, Tom Campbell,	5-0	
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Lot 71:	Tyler Glode, Tom Campbell,	5-0	
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- C. Congress Street Sculpture Park and Parklet – Public Hearing -- Request for Determination of Applicability for City of Salem and North Shore Community Development Corporation, 96 Lafayette Street, Salem, MA. Purpose of hearing is to discuss proposed landscaping, tree removal, and installation of sculptures and shipping container structure at Congress Street and Peabody Street and**

installation of temporary park structures at Congress Street and Palmer Street within an area subject to protection under the Wetlands Protection Act MGL c131§40 and the Salem Wetlands Protection & Conservation Ordinance.

Scott Sheehan is recused for this item.

Present for the Applicant in this joint project are:

- David Valecillos, Director of Design for the North Shore Community Development Coalition (NS CDC)
- Ruben Ceron, Design and Placemaking Project Manager, NS CDC
- Brennan Corrison, Planner, City of Salem

Mr. Valecillos reviews the project and partnership between the NS CDC and City of Salem. The intent is to make Congress St. more pedestrian friendly via interventions such as the sculpture park and urban art museum proposed. Temporary interventions with shipping containers, paint, and one sculpture (most likely, due to budget constraints) are proposed. The final product is not yet prepared but container design is finalized. Positioning will be determined in collaboration with the Tree Commission. All 9 trees were originally slated for relocation, however only the five small ones on the front row can be replanted, so those are all that will be moved. The installation is meant to be in place for 2-3 years, during which time a master plan taking into account public input can be formulated.

The purpose of the containers is to provide a canvas for artists, however the ground level one will also be used to store the parklet materials in the winter. They will be on the ground, with no need for a foundation. The Applicant has met with the Department of Public Works (DPW); the containers will cover some pervious areas, which will be left as grass due to the temporary nature of their placement. Any materials that did need to be placed under the containers would be pervious.

Discussion then centers upon the “rehoming” of the trees. Ideally the NS CDC would relocate them in the neighborhood but will have to work with the DPW and Tree Commission to determine the best location for them. The containers and sculptures will remain for 2-3 years, year round, but the parklets will be seasonal. If the project is not successful, discussion will be reopened if the community feels it is appropriate. Whether or not the white bollards will be installed is up to the Traffic Commission. Drivers use Peabody St. as a cut through, so if the left turn there can be eliminated, it will be more pedestrian friendly, but ultimately this is up to the Traffic Commission.

This area plus one parklet are in the flood plain. The parklet in question is at 105 Congress St, and the idea is to re-envision the function of two parking spaces. The parklet is temporary and already on a paved space, so there is no need to discuss it further.

Vice Chair Hoskins opens to the public.

Comments from an email received from Mary Wilbert, of 7 Cedar St. are read into the record. She is against the request to remove trees, citing work by the Lorax Commission. She notes that removal of trees requires a public hearing. Vice Chair Hoskins notes that he also received a call from another citizen regarding this matter. It is uncertain whether the presentation to the Conservation Commission constitutes the public hearing or whether a separate one is required. Mr. Corrison notes that the tree ordinance comes into effect July 1<sup>st</sup>, so the Tree Commission that would need to conduct the hearing has not been established. In lieu of that, the Applicants are meeting with the Tree Warden to ensure that the intent of the LORAX ordinance is met.

Vice Chair Hoskins feels that a Condition should be included, requiring that trees be monitored and

replaced if they fail. The intent is to have the containers in place by the end of June. It is reiterated that the goal is to replace the trees within the Point Neighborhood; however this will ultimately be up to the DPW.

Darlene Mellis, of 115 Federal St., comments that the law is in effect so if trees are removed they must be replaced or paid for. Potential locations are outlined again but it is again noted that the Applicant must work with DPW who will ultimately decide their final location, as this is a joint project with the City of Salem.

Darya Mattes notes that the dates on the renderings were 2017; this was a typo.

A motion to close the public hearing is made by Tyler Glode, seconded by Tom Campbell, and passes 4-0 with Scott Sheehan recused.

A motion to issue a Negative 2 and Negative 6 Determination, with conditions as noted below, is made by Tyler Glode, seconded by Tom Campbell, and passes 4-0 with Scott Sheehan recused.

Conditions:

- The Applicant shall work with the Tree Warden to ensure that trees removed are replaced in the flood plain; the Tree Warden can confirm the condition of the trees with the Agent
- Work (trees replanted) is to be guaranteed for the period of time as stipulated by the LORAX ordinance

Darlene Mellis requests that the Applicant check tree ordinance, as she thinks that two year survival of the trees must be guaranteed.

- D. 84 Congress Street** – Public Hearing -- Request for Determination of Applicability for Gregory Investment Group, 3 Bertuccio Avenue, Salem, MA 01970. Purpose of hearing is to discuss proposed demolition of existing auto garage and construction of a 4-story apartment complex at 84 Congress Street (Map 34, Lot 218) within an area subject to protection under the Salem Wetlands Protection & Conservation Ordinance.

Greg Hochmuth of Williams & Sparages presents the proposal.

The location of the parcel is described; it is the former site of a gas station and the entire site is paved. The existing garage will be removed and a four story residential structure built, with parking beneath. There will be a slight decrease in the peak rate of runoff; currently all stormwater is untreated, but it will now be clean roof runoff. MBC gas traps will drain from garage. Trees and a grass strip are proposed.

One corner of the parcel is in the 100' buffer to Land Subject to Coastal Storm Flowage (LSCSF). Grades will be raised a few inches, but there will be no foundation; all grades are outside of LSCSF (for now). Nothing in the Ordinance or Code requires it, but the Conservation Commission has requested a manual check valve on floor drains, in anticipation of future flood issues so as not to overload the Salem Essex Sewerage District (SESD) in a major storm event. There is an existing oil/water separator but it will be removed. Environmental issues regarding the previous use are explored. There may be an LSP and a Geotechnical engineer did some work on the site. This letter is read into the record. City Engineering asked if could the Applicant could provide infiltration, but Luke Fabbri advised against it as the soil is 5' of urban fill down to water the table, sand and clay, and the fill contains polyaromatic hydrocarbons (PAH) and lead above the Mass Contingency Plan Reporting Cleanup Standards. No removal of existing materials will occur. Geopiers will be used. There is no need for an Activities and Use Limitation (AUL), as the Applicant will just built on top and leave what is below undisturbed. Two underground storage tanks were removed when the gas station left and it became a garage in the 90's.

All other permits needed are in place. 6 new trees are proposed; there are no trees on site currently.

Vice Chair Hoskins open to the public but there are no comments

A motion to close the public hearing is made by Tyler Glode, seconded by Tom Campbell and passes 4-0 with Dan Ricciarelli recused.

A motion to issue a Negative 6 Determination is made by Scott Sheehan, seconded by Tom Campbell, and passes 4-0 with Dan Ricciarelli recused.

- E. 331 Bridge Street** – Public Hearing -- Request for Determination of Applicability for Castle Hill Group, LLC, 14 Story Street, Salem, MA 01970. Purpose of hearing is to discuss proposed demolition of an existing building and construction of four new residential units in two new buildings at 331-333 Bridge Street, Salem, MA 01970 (Map 22 Lot 0583) within an area subject to protection under the Salem Wetlands Protection & Conservation Ordinance.

This project is subject to the local Ordinance only, but the Applicant is not present this time nor were they present at the last meeting. The item was opened then, but Darya Mattes is unsure what to do procedurally to ensure that the Applicant doesn't have to re-file a notice.

Procedures are discussed. If the item is continued the Applicant will not need to re-advertise. Last month this item was opened and continued.

A motion to continue to the April 11, 2019 meeting is made by Tom Campbell, seconded by Dan Ricciarelli, and the motion carries.

- F. 24 Fort Avenue (Footprint Power Salem Harbor)** – Public Hearing -- Request to Amend Order of Conditions (DEP #64-552) for Footprint Power Salem Harbor Development LP, 1140 Route 22 East, Suite 303, Bridgewater, NJ. Purpose of hearing is to discuss proposed amendment to Order of Conditions (DEP #64-552) permitting the redevelopment of the Salem Harbor Station, including demolition of existing power station and construction of a new power plant at 24 Fort Avenue (Map 41, Lots 271 and 273) within an area subject to the Wetlands Protection Act, MGL c.131§40 and Salem Wetlands Protection & Conservation Ordinance. Proposed changes include relocation of one of the currently approved stormwater discharges and modification of approved stormwater management system.

Mr. Mark Hobart (sp??) of Tetrattech presents for the Applicant. Changes to the drainage system are limited to Lot 1, the Power Plant parcel; lot two is whatever else will be built in the future. This is the large berm around lot 1; the system is separated by it. Everything inside the berm will be moved depending on other underground structures and utilities. The catchment area remains the same, and catch basins outside will remain.

The main change is to the discharge channel; a connection could not be made due to ledge, so a 48" line is currently being moved to the location of the 12" line, which it will replace. This is land subject to tidal action, and impacts are limited to the embankment. Army Corps permitting was done. The location of the outfall is described. Ch. 91 requested no fill in the channel, and the makeup of the outfall is described. Existing material in the channel is large riprap. There is no change to stormwater treatment.

Tyler Glode asks about backwater and mean high water; the channel has always flowed well. The pipe submerges but water still flows; this has been reviewed by engineers. It will not back up into the system

and clog the Storm Scepters; there is also a tidegate at the end. Dan Ricciarelli asks about Chapter 91; this has been approved by them, and the conversation with the DEP is outlined. Berms and gabion walls are not yet constructed; drainage will also be one of the last steps.

Shane Bournier of 57 Ocean Ave. asks about the drain line. There was one running down the internal driveway, plus a large City drain line which will be relocated.

The stormwater system will serve the power plant, but the City line will be maintained and would require a separate filing if repairs are needed.

The current Order of Conditions expires July 13, 2019 so they will need to request an extension. Typically a letter is required for such a request. Procedures are discussed as this was not on the agenda.

*A motion to close the public hearing is made by Scott Sheehan, seconded by Dan Ricciarelli, and the motion carries.*

*A motion to amend the Order of Conditions is made by Scott Sheehan, seconded by Dan Ricciarelli and the motion carries.*

#### **IV. OLD/NEW BUSINESS, CONTINUED**

##### **B. 50 Fort Avenue, South Essex Sewerage District (SESD) Combined Heat and Power (CHP) facility – DEP #64-576 – Request for Extension of Order of Conditions**

*A motion to issue the extension of the Order of Conditions to March 14, 2022, is made by Scott Sheehan, seconded by Tyler Glode, and the motion carries.*

##### **C. Discussion and vote on board positions (Chair and Vice Chair)**

Chair Gregory St. Louis is not present, so this item is tabled to the next meeting.

##### **D. Update on filling the vacancy on the Commission**

One application has been received. The person is out of town but will meet upon her return. Assuming it is a good fit, the City Council needs to vote, and the process takes two Council meetings before she can join formally join the Commission for its May meeting. The Applicant is a retired geology professor from Salem State.

##### **E. Report from MACC Annual Environmental Conference**

##### **F. Discussion of possible revisions to local wetlands ordinance**

Darya Mattes outlines the “Fundamentals of Erosion Controls” workshop she attended. She also attended a session lead by two Commissioners from Arlington, which reviewed the processes followed by Arlington and other municipalities in amending their bylaws and regulations to take into account climate change. In Arlington, the regulations were modified rather than the bylaws, as it is a simpler process that does not require changes to be approved at the state level. Salem has a City Ordinance and zoning bylaws, but the Ordinance is part of the bylaws and is very brief.

Changes drafted by Boston and other coastal communities were discussed. The City of Boston has extended its Conservation Commission jurisdiction to the 500 year flood plain, in order to take into

account sea level rise and increased precipitation. One Commissioner quips that this means the entire City will be jurisdictional.

Arlington changed its inland volume for flood storage loss to 2:1, i.e. loss of flood storage must be replaced with double the amount. Their upland buffer is now its own resource area with its own performance standards. This also changes what is considered LSCSF as they are not just using FEMA's map, but the surge or flood of record, whichever is greater.

Options other municipalities have used are described. There is a question as to implementation and how these changes were communicated to applicants. There were simply more conversations with Applicants. It is unknown how plans already under review were handled, but normally there is a 6 month grace period on either side of a regulation change.

Salem may want to write new regulations to include, or revise its bylaw. Arlington thought the bylaw should be general, stating a purpose, then have the regulations be more specific, as they are easily changed. The Planning Department has not yet considered this, but the Commission would like to explore the issue. The Conservation Agent will look into this.

She will also reach out to City Councilor Steve Dibble to explore the potential purchase of conservation land that he had mentioned.

## **V. APPROVAL OF MINUTES**

### **A. Meeting minutes: 2/14/19**

*A motion to approve the February 14, 2019 minutes, with minor corrections, is made by Tom Campbell, seconded by Tyler Glode, and the motion carries.*

## **ADJOURNMENT**

*A motion to adjourn is made by Scott Sheehan, seconded by Tom Campbell, and passes unanimously.*

The meeting ends at 8:35 PM.

*Know your rights under the Open Meeting Law M.G.L. c. 30A §18-25 and City Ordinance Sections 2-2028 through 2-2033.*

Respectfully submitted,  
Stacy Kilb  
Clerk, Salem Conservation Commission