

**Salem Conservation Commission  
Minutes of Meeting**

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

Chair St. Louis calls the meeting to order at 6:36PM.

Gail Kubik was present for items 1 and 5 only.

**1. Old/New Business**

- **13 Planters St. & 41 Bridge St., Lots 1, 2, 3—DEP #64-592—Request for Certificates of Compliance**

Ricciarelli recuses himself from this item. Devine presents the request and photos. There are three Orders of Condition, one in the Wetlands Protection Act jurisdiction and two under only the local ordinance. Devine comments that he inspected the site and saw the minor deviations as noted. Grass has not yet been planted due to the season; the Commission can choose whether or not to issue the Certificate.

There are no comments from the public.

A motion to issue the Certificate of Compliance for all lots is made by Campbell, seconded by Glode, and passes unanimously, 4-0.

**2. Notch Brewing Biergarten—Public Hearing—Request for Determination of Applicability for Notch Tap Room LLC, 19 Carlton St., Salem, MA. The purpose of this hearing is to discuss a proposed outdoor cafe/biergarten at 283R Derby St. within an area subject to protection under the Wetlands Protection Act MGL c131§40 and Salem Wetlands Protection & Conservation Ordinance.**

Here for the applicant is Mr. Mark Meche, owner, and Mr. Chris Lohring, Brewmaster. Mr. Meche describes the site; they have also presented to the Salem Redevelopment Authority and Design Review Board. Mr. Loring describes the facility and the biergarten. The outdoor café/biergarten will be right along the South River. Traditional biergartens have packed stone dust as flooring. A wooden fence with climbing hops will surround the area for security.

Ricciarelli asks about pavement; pavement will be removed. The surface can be made permeable if the Commission wishes. Ricciarelli asks about the granite and Mr. Meche describes.

Chair St. Louis opens to the public but there are no comments. Construction of the outdoor seating area will begin in the spring. The Commission feels this is an improvement to the area.

Devine recommends negative 2 and negative 6 determinations.

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

A motion to issue a negative 2 and negative 6 determination is made by Ricciarelli, seconded by Glode, and passes 4-0 with all in favor.

**3. 59 Memorial Drive Deck & House Addition—Public Hearing—Request for Determination of Applicability for Melissa Vacon, 59 Memorial Dr., Salem, MA. The purpose of this hearing is to discuss a proposed house addition and new deck at 59 Memorial Dr. within an area subject to protection under the Wetlands Protection Act MGL c131§40 and Salem Wetlands Protection & Conservation Ordinance.**

Here for the applicant is Mr. Peter Ogren with Hayes Engineering. He presents the project plan. Ms. Vacon is also present. Mr. Ogren describes the resource area; the entire area is jurisdictional but the proposed changes are small, including a deck over an existing pool patio and landscaped area, and the addition is on the second floor but not on the ground.

The deck can be placed on sonotubes but could also be built directly on the existing patio. There will be no work on the dock.

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

Ricciarelli asks about the deck; it will not be solid.

A motion to close the public hearing is made by Glode, seconded by Ricciarelli, and passes unanimously.

A motion to issue a negative 3 and a negative 6 determination is made by Ricciarelli, seconded by Glode, and passes unanimously.

**4. Washington & Dodge Street Redevelopment—Public Hearing—Notice of Intent for Dodge Area LLC c/o RCG LLC, 17 Ivaloo St., Suite 100, Somerville, MA. The purpose of this hearing is to discuss a proposed mixed-use redevelopment and associated improvements at 9-11 Dodge St. and 217-219 & 231-251 Washington St. within an area subject to protection under the Wetlands Protection Act MGL c131§40 and Salem Wetlands Protection & Conservation Ordinance.**

Presenting is Mr. Matthew Picarsic of RCG. Chris Ryan of Design Consultants, Inc., is also present. Mr. Picarsic describes the land and the project. Approval has already been obtained from the Planning Board. A hotel is planned in the flood zone in question.

Chair St. Louis asks about a summary of storm events and Mr. Ryan points it out and elaborates. The resource area is land subject to coastal storm flowage. No comments have been received from the DEP but it has been assigned a number. Chair St. Louis comments on discharge rates and Mr. Ryan outlines. Chair St. Louis also asks about TSS thresholds and Mr. Ryan describes those.

Ricciarelli asks about retail in the area and Mr. Picarsic elaborates on the proposed usage and the elevations.

Chair St. Louis clarifies that even though the drainage attenuation is on top of the building, cumulative storage still must be maintained per Conservation Commission approval. Campbell asks about dewatering; some will occur but it is uncertain when and where. Locations of the temporary settling basins are discussed.

Chair St. Louis asks about the buoyancy calculations not being required and the applicant describes their reasoning. Chair St. Louis suggests that a special condition that any structures below flood plain elevation must be checked for buoyancy calculations; however there is a note to that effect, which will suffice, so no condition is actually needed.

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

A motion to close the public hearing is made by Glode, seconded by Campbell, and passes unanimously.

Chair St. Louis notes a curb height issue and a downspout issue. Devine has no comments.

Special Condition: Structures below the FEMA base flood elevation shall be checked for buoyancy prior to construction and any issues found shall be addressed and submitted to the Agent.

A motion to issue the Order of Conditions with standard conditions and the above special condition is made by Ricciarelli, seconded by Campbell, and passes unanimously.

**5. Riverview Place (Salem Suede Redevelopment)—Continuation of Public Hearing—Notice of Intent—Riverview Place, LLC, 5 Broadmoor Lane, Peabody, MA. The purpose of this hearing is to discuss the proposed mixed-use redevelopment of 72 Flint Street, and 67 & 71 Mason Street (former Salem Suede) consisting of 3 buildings and appurtenances within an area subject to the Wetlands Protection Act MGL c131§40 and Salem’s Wetlands Protection & Conservation Ordinance.**

This item is taken second. Dan Ricciarelli recuses himself. Here for the applicant is Mr. Rich Williams and Mr. Steve Feinstein. Mr. Williams presents. This is a re-filing of an application that was previously before this Commission but had been stalled due to the Mass. Environmental Policy Act (MEPA) process. The MEPA certificate has now been obtained and the project changes due to that are outlined. The DEP has issued a new file number but no comments have been received yet, though they did weigh in heavily during the MEPA process.

The same improvements of three new buildings are planned. The work is within several jurisdictional areas, which are described. A Chapter 91 license is being sought.

Mr. Williams outlines the flood zone. There was some pushback from the DEP on this issue; for this project it does not matter as compensatory flood storage onsite, in excess of what is required, is being provided. However, he does not agree with DEP that this is a coastal resource, but is filing in this manner (as an inland resource) in order to be able to move forward with the project.

Another change is the qualification of the site as a Land Use of Higher Potential Pollutant Load. Certain areas will be capped with a fabric and fill; other areas not capped will be treated with proprietary treatment devices. They will only take runoff from landscaped areas, so they will not be heavily stressed. There is an Operation & Maintenance plan for those.

A Chapter 91 filing has been completed and comments received from this Commission, to which they are responding. State and local fees have been paid as of this refiling, but a waiver of the local fee was requested as it has been paid previously. The Commission agrees to waive the local fee.

Chair St. Louis has made several comments to which the applicant responded. There are no AULs (Activities and Use Limitations) in the capped areas. Designation as a Land Use of Higher Pollutant Load is further discussed. Campbell asks about the permanent solution for the contamination and Mr. Feinstein elaborates. Mr. Williams describes some of the contaminants in general. Chair St. Louis asks about an ADA ramp and Mr. Williams elaborates. Buoyancy is described.

Mr. Williams states that the issue of the City drain line from Mason Street is one that should be noted. The pipe heads toward the applicant's property line but it is unknown where it goes. They have committed to the Planning Board to direct the flow to its ultimate discharge point, or to build one adjacent to theirs, but do not want to link it to their drainage since it treats water from the street. The DEP and MEPA are also aware of this. He would like a condition that allows this. The condition imposed by the Planning Board was that they will dig it, provide a plan to that Board, and will share it with this Commission. They may build a parallel drain as one option.

Chair St. Louis opens to the public.

Meg Twohey of 122 Federal St. states that she requested information to review in advance of the meeting, and the applicant provides her with additional plans. She asks about a pad left from the old construction that was not to be touched until this review. Mr. Williams states that the pad cannot be removed until they obtain this permit, to be addressed in the Order of Conditions. Ms. Twohey is wondering if the conditions to be placed upon its removal have been met and Mr. Williams elaborates. To take it out would disturb contaminated soil; the conditions to deal with that will be placed on this Order of Conditions. Chair St. Louis asks what will be done with contaminated materials from that area. Some will remain, some will be redistributed, and some will be removed offsite. Mr. Williams outlines the locations of the pads.

Standard conditions have been reviewed by the applicant and Chair St. Louis outlines proposed Special Conditions:

- Any work related to the Mason Street City drain line must meet the requirements of the City Engineer.
- A trail connection between the project site and Leslie's Retreat Park may be constructed.

Jane Arlander of 93 Federal St. asks about the path. It will be paved.

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

A motion to issue the Order of Conditions with standard conditions and the above special conditions is made by Campbell, seconded by Glode, and passes 4-0.

**6. Clark Ave. Subdivision—Continuation of Public Hearing—Notice of Intent—NSD Realty Trust, 76 Oakville Street, Lynn, MA. The purpose of this hearing is to discuss a proposed residential subdivision and associated improvements on Clark Avenue (Lots 7, 8 & 9 on Assessor Map 6) within an area subject to the Wetlands Protection Act MGL c.131§40 and Salem**

## **Wetlands Protection & Conservation Ordinance.**

Presenting is Mr. Rich Williams and Tom Pescuccio from development. St. Louis's comments have been discussed verbally but the applicant is waiting to submit revised plans since changes will be made after the receipt of written comments. Ricciarelli states that many comments appear to be Planning Board issues and asks the applicant to narrow the focus to only those pertaining to this Commission.

Mr. Williams outlines the path that will connect conservation land to the open space. This will have the most impact in the buffer zone. Originally a stone base was planned but mulch from the path clearing work will now be used. The area does not have to be leveled. Grading is required, however, adjacent to the road on the north side and also in one other non-jurisdictional area. The path in open space two is also flat. Responses have also been provided to the DEP comments.

Chair St. Louis comments on the diameter of the outlet control structure orifice; an inlet "t" could be used instead to address clogging. Chair St. Louis also asks about the path being accessible to all or most lots; the opening at the southern end is 20' wide and the only proposed access, but people can enter at other places. The Planning Board was concerned, and did not want to create paths to adjacent properties, as the path has a history of "inappropriate use." Abutters can access Lot 27 via a 50' access way, and while the applicant is not transferring rights to homeowner's association, they will have an easement to the path. This is described as being across lot 27, and if development will occur, could be relocated but there are no plans to redevelop that area as it is zoned industrial.

Devine comments that if it does get developed and the path needs to be re-routed, it could go through adjacent Conservation Commission land. There may also be a Conservation Restriction on Aggregate's land to South, so connections through that parcel might be possible too.

Chair St. Louis asks about discharge from pond 2 and Mr. Williams elaborates. The applicant must go before the Planning Board again and must continue tonight pending a final set of plans that will satisfy both boards.

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

A motion to continue to the February 11, 2016 meeting is made by Ricciarelli, seconded by Campbell, and passes unanimously.

### **7. Palmer's Cove Yacht Club Dredging—Continuation of Public Hearing—Notice of Intent—Robert Strasnick of Palmer's Cove Yacht Club, Inc., 78 Leavitt Street, Salem, MA. The purpose of this hearing is to discuss proposed maintenance dredging at Palmer's Cove Yacht Club at 78 Leavitt Street within an area subject to the Wetlands Protection Act, MGL c.131§40 and Salem Wetlands Protection & Conservation Ordinance.**

Here for the applicant is Mr. Luke Fabbri. He describes the discussion of the previous meeting. The Commission made a site visit and comments from the Division of Marine Fisheries (DMF) have been addressed. Photos of dead low tide are provided.

A list of DMF comments, and an outline of how each has been addressed, is reviewed.

- "Mean low low water" is now outlined on the site plan.

- Re maintenance vs. reconfiguration zone: Relocation can be done by submitting a letter to the Agency outlining the reconfiguration; the applicant is moving components within a footprint rather than altering the dredge footprint.
- The size of the dredge footprint is being reduced in two areas. The southwest corner is critical to the marina and so dredging that area cannot be reduced. Some mud is sitting on top of a seawall and thus is not actually tidal flats. A shellfish evaluation will be completed but Mr. Fabbri does not feel that area will change as it is an access point.
- The northwest corner dredging can be cut by 30', saving 800 square feet of the tidal zone. No formal response has been submitted to the DMF yet but dialogue has been ongoing. Chair St. Louis asks about a slope; 3:1 to 2:1 is typical. This is further discussed. The mud will slump in certain areas but not in others that have underlying stone. The City's previous dredge extended well beyond the current proposed dredging, and there was no mud on the wall.
- The history of the filled area is described. Habitat and maintenance dredging are further discussed. Three locations will be sampled for shellfish.
- Additional data that has been added as requested is described.
- An environmental bucket will be used as originally proposed; the DMF request for one was redundant as its use is a requirement of Chapter 91 and the Army Corps of Engineers as well.
- A 401 Water Quality Certification from the DEP must be obtained.
- The DMF was provided more accurate data to alleviate its concern about the unpermitted structures.
- More information was also provided about the dinghy dock array as well. It can be rotated so it will not touch the mud. This will be further discussed with the DMF and the Army Corps.
- The DMF had a question about the seasonal structures being made permanent; Mr. Fabbri had thought this was clear from the proposal that they are being made permanent and that the number of piles would be increased.
- Shellfish surveys will be done as requested.
- Time of year restrictions will be in place. The dredge window is from Oct. 1- May 15 as required by both Chapter 91 and the Army Corps.
- An eel grass survey was done in 1995, but the habitat has been reduced now. Eel grass beds will not be disturbed. Mr. Fabbri feels that another survey is not necessary as they already meet setback requirement for the project. He will clarify for DMF on the plan. It is important to maintain the dredge footprint. Historical dredges are outlined.
- An NOI has been provided to the Army Corps for their pre-permit application meeting; they are reviewing it and had requested some additional, minor information. They also requested his responses to DMF but they are ready to review the project and issue a sampling plan for characterizing the mud to go out to sea for disposal. No further action has been taken yet but they are ready to proceed.
- The DEP did not get the NOI that was submitted to them but they did deposit the check. Two weeks ago it was provided again and they did issue a file number but no comments have been provided.

Chair St. Louis comments that Mr. Fabbri is trying to meet all of DMF's requests; while DMF would prefer he not dredge any intertidal zone, previously dredged area must be maintained.

Mr. Fabbri comments that the entire basin is 289,000 square feet. He feels that 600 square feet will not make much of a difference. The Corps stated as a maintenance dredge, the applicant has the right to do it. Mr. Fabbri feels that most if not all deposition is coming from land based sources. A little bit is from wave action, but mostly deposition is along sea walls and is washing in from there. There are no plans by Shetland Park to maintain the sea walls that are eroding.

Devine says that issues will be worked through with DMF and the Army Corps. It is up to this Commission if the process is allowed to proceed with other authorities or to continue it until more items are resolved. Mr. Fabbri does not expect major changes except for trimming back the one northwest corner.

Campbell asks about eel grass beds and Mr. Fabbri elaborates again. He does not think a survey is necessary but if DMF thinks so, he will notify the Corps, who will require him to do it. However, he has stated that this a maintenance dredge so the applicant has the right to do this. Showing the entire maintenance area preserves the right to maintain it in the future. The latest footprint is from 1980.

A continuance at this point means that Mr. Fabbri stops until the Commission is satisfied, then he goes to the Corps, who could make him change the Order of Conditions. Typically an Order of Conditions is issued with the condition that the applicant follows the conditions of other permitting agencies. Mr. Fabbri outlines costs and maintenance vs. improvement dredge footprints, plus slopes again. Chair St. Louis asks about slope and the limit of dredging and Mr. Fabbri outlines. He describes the slump expected but states that it does not increase the footprint. The slump will not appreciably change the slope. He also describes the materials: soft mud will be removed but when marinas are built, and they are cut into hard material.

Chair St. Louis references another dredging project where a turbidity curtain and seasonal construction were required; they are always requirements. If required by this Commission, they will be redundant. Work can only go beyond the Feb. 15<sup>th</sup> date with special permission.

Turbidity monitoring with action levels is required. The process is described. Dredging will probably occur on 40 days over a four to five-month period.

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

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

The Commission determines that the Order of conditions should reference Mr. Fabbri's letter responding to DMF so that all of the letter's commitments are binding.

A motion to issue the Order of Conditions with standard conditions and the above special condition is made by Ricciarelli, seconded by Campbell, and all are in favor.

### **Old/New Business, Continued**

Ms. Joyce Kenney of 285 Lafayette St. states that a red tailed hawk and the state tree are on Lafayette St. and West Ave., a property to be developed. Devine clarifies that that project is outside the this Commission's jurisdiction. The Planning Board will do a site plan review including which trees will be removed and replaced. Ms. Kenney also states that there may be an old burial ground.

#### **• Lafayette Street Gas Main—DEP #64-521—Request for Certificate of Compliance**

Devine outlines the as-built plan that the Commission requested. A contractor had dug through the remedial cap at the Lead Mills, and area with an Activities and Use Limitation (AUL), and an LSP had to supervise the restoration of the cap. Chair St. Louis asks if the as-built shows the AUL; it does not but

Devine outlines. Devine is satisfied with the restoration. Chair St. Louis would like the as-built attached to the AUL so it does not get dug through again. It should be submitted to the LSP or the DEP.

A motion to issue the Certificate of Compliance is made by Ricciarelli, seconded by Glode, and all are in favor.

- **Meeting Minutes—November 12, 2015 and December 10, 2015**

A motion to approve both sets of minutes is made by Glode, seconded by Ricciarelli, and passes unanimously.

- **Funding requests for matching grants**

Devine proposes that the Commission commit \$12,500 as a match for a Recreational Trails Program grant to implement a first phase of the trails assessment's recommendations. This would upgrade the main trail from Salem State to the foot of Volunteer Bridge to be more robust and ADA accessible. It would include the replacement of the small footbridge. Additional CPA and CIP money may be sought for additional improvements.

Ricciarelli motions to authorize the funding, Glode seconds, and all are in favor.

A motion to adjourn is made by Ricciarelli, seconded by Glode, and all are in favor.

The meeting ends at 9:17PM.

Respectfully submitted,  
Stacy Kilb  
Clerk, Salem Conservation Commission

Approved by the Conservation Commission on February 11, 2016