



City of Peabody Conservation Commission

City Hall • 24 Lowell Street • Peabody, Massachusetts 01960 • Tel. 978-538-5782

MINUTES

April 21, 2021

Via Zoom ID 878 1855 4605

Pursuant to Governor Baker's March 12, 2020 Order suspending certain provisions of the Open Meeting Law, G.L. c. 30A § 18, and the Governor's March 15, 2020 Order imposing strict limitation on the number of people that may gather in one place, this meeting of the Peabody Conservation Commission was conducted via remote participation to the greatest extent possible.

MEMBERS PRESENT

Chairman Michael Rizzo
Vice Chairman Bruce Comak
Secretary Stewart Lazares
Michael Vivaldi
Melissa Cantin
Amanda Green (Alt.)
RitaMarie Cavicchio (Alt.)

MEMBERS ABSENT

Arthur Athas
Travis Wojcik

Commissioner Green lost Wi-Fi from approximately 10:30-10:45. No public hearings were missed.

Also Present: Lucia DelNegro, Conservation Agent; Brendan Callahan, Assistant Director of Planning;

CHAIRMAN RIZZO CALLED THE MEETING TO ORDER at 7:00 pm

Alternate Commissioner Amanda Green and RitaMarie were given voting rights in the absence of two commissioners.

NOTICES OF INTENT

1. A continued Public Hearing on a Notice of Intent submitted by Attorney John R. Keilty for Joseph Ruggiero (applicant) and Todisco Properties LLC (owner). The proposed project is the renovation of existing professional office building to a funeral home with access-egress alteration upgrade in riverfront and FEMA Flood zone. This is an after-the-fact-filing. Work has commenced but has been halted by the building department. The property is known as 10 Chestnut Street, Map 85, Lot 187, Peabody MA.

Present: Attorney John R Keilty (legal counsel), Joseph Ruggiero (applicant) and Darren Grady (Grady Consulting)

Documents:

- ▶ Site Plan – 10 Chestnut Street, Peabody MA prepared by Grady Consulting, L.L.C. sheet 1 of 1. Final revision date of April 8, 2021. Scale: 1"=10' stamped by Darren M. Grady.
- ▶ Stormwater Report dated April 8, 2021 drafted by Grady Consulting, LLC.
- ▶ Operation and Maintenance Plans (During Construction and Post Construction) as submitted after original NOI both dated 4.8.21 and part of the SWR as listed above.

Summary: The applicant has changed engineers and submitted revised plans to the commission. The commission felt they could vote favorably on the project adding special conditions. No members of the public wished to speak for or against the project.

Motion to close the public hearing as made by Mr. Lazares. Seconded by Mr. Comak. Adopted unanimously.

Motion to issue an Order of Conditions 1-50 adding the following **51)** Operation and Maintenance Plan listed above is in PERPETUITY; **52)** Snow stockpiling MUST be at least 10 feet minimum away from the fence line. Snow shall NEVER be placed directly into the river or immediately along the river wall; **53)** Four (4) signs shall be installed along the fence. One (1) on the driveway side of the building. Three (3) on the fence in the parking lot area. The wording must read as follows or similar wording: "Conservation Area-No Snow Storage-No Disturb Zone". The sign shall be made of reflective material so it is easily seen and read at night by plow trucks. Minimum size 1'x1' or larger as made by Mr. Lazares. Seconded by Mr. Vivaldi. Adopted unanimously.

2. A Public Hearing on a Notice of Intent submitted by Jose Vazquez (Ambassador Pools) for Tom and Lisa Clarke (owners). The proposed project is the installation of an above ground pool at a single-family residence. The property is known as 21 Tsitsinos Drive, Map 114, Lot 139, Peabody MA.

Present: Jose Vazquez (Ambassador Pools) and Tom and Lisa Clarke (owners)

Documents:

- ▶ Mortgage Inspection Plan dated 11/21/2019 prepared by New England Land Survey- stamped by George Edward Smith III Scale: 1" = 50' no wetland shown. SEE As Built plan for wetlands location.
- ▶ For reference only: As Built Plan/Certificate of Compliance 15-23 Tsitsinos Drive prepared by Eastern Land Survey Associates Inc. final revision February 24, 2020.

Summary: The NOI is for an above ground kayak pool. The agent told the applicant they could file an RDA, but they felt an NOI was more prudent. There were no members of the public that wished to speak for or against the project. The commission felt they could vote favorably for the

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project. The agent reminded the owners of the “pool” drawdown condition. They understood it would remain in perpetuity as long as a pool was on the parcel.

Motion to close the public hearing as made by Mr. Lazares. Seconded by Mr. Comak. Adopted unanimously.

Motion to issue a Standard Order of Conditions 1-50 (reminding the owners of the pool drawdown requirement) as made by Mr. Lazares. Seconded by Mr. Vivaldi. Adopted unanimously.

3. A Public Hearing on a Notice of Intent submitted by William Manuell (Wetlands & Land Management, Inc.) for Regency Realty Trust-Alfred Dimambro (Trustee). The proposed project is the construction of two buildings and site improvements paving, utilities etc. in riverfront to the North River. The property is known as 11-13 Wallis Street, Map 85, Lot 41A, Peabody MA

Motion to continue the item as made by Mrs. Cantin. Seconded by Ms. Green. The item passed 6-1 with Mr. Comak not voting.

AMENDMENT TO ORDER OF CONDITIONS

4. A Public Hearing on an Amendment Request for an Existing Order of Conditions DEP File. No 55-861 submitted by Peter Ogren (Hayes Engineering, Inc). The proposed work is 180-unit apartment building with changes to the original plan. The applicant is requesting confirmation if a new NOI is required or if the work can be approved under an Amendment Request per DEP’s policy. The property is known as 7 Dearborn Ave, Map 78, Lot 019, Peabody MA.

Present: Peter Ogren (Hayes Engineering), John R Keilty (legal counsel) and John Shipe (Shipe Consulting-representative for prospective buyers)

Documents:

► Plans drafted by Hayes Engineering, Inc. stamped by Peter Ogren. Scale 1” = 40’ or as shown on sheets 1-7

SHEET C1 – Existing Conditions final revision date 2.25.21

SHEET C2 – Site Plan- Amended plan dated 2.25.21 final revision date 5.6.21

SHEET C3 - Grading Plan- Amended plan dated 2.25.21 final revision date 5.6.21

SHEET C4 – Utility Plan- Amended plan dated 2.25.21 final revision date 5.6.21

SHEET C5 – Layout Plan-Amended plan dated 2.25.21 final revision 5.6.21 (labeled no changes to sheet)

SHEET C6- Detail- Amended plan dated 2.25.21 final revision 5.6.21

SHEET C7- Detail- amended plan dated 2.25.21 final revision 5.6.21

Existing Watershed Map and Proposed Watershed Map both dated 9.28.2018 NO CHANGES

Stormwater Management Report drafted by Hayes Engineering, Inc.

Checklist for Stormwater Report- NEW PROPOSED CONDITION RUNOFF CALCULATIONS DATED 2.25.21 stamped by Peter Ogren.

Construction Period Pollution Prevention and Erosion and Sedimentation Control Plan as submitted with original NOI filing 9.12.2018. NO CHANGES

Long Term Operation and Maintenance Plan as submitted with the original NOI filing 9.12.2018. NO CHANGES- O&M Plan is in perpetuity.

Summary: A discussion regarding the changes shown in the Amendment. There were no members of the public that wished to speak.

Motion to close the public hearing as made by Ms. Green. Seconded by Mr. Comak. Adopted unanimously.

Motion to issue an Amended Order of Conditions for DEP File No. 55-861 approving all revised plans and previously approved plans as noted above. Changing condition #43 to read sign placement every twenty-five (25); Striking Condition #44 from the permit; Memo from City engineer dated 10.16.2019 is still required as made by Mr. Vivaldi. Seconded by Mr. Lazares. The motion passed **6-1** with Mr. Comak not voting.

REQUEST FOR DETERMINATION OF APPLICABILITY

5. A Public Hearing on a Request for Determination of Applicability submitted by William Manuell (Wetlands & Land Management, Inc.). The applicant is seeking confirmation that there are no areas of jurisdiction or buffer zones extending on the property. The property is known as Race Drive (unconstructed way), Map 57, Lots 74B through M, O, P, Peabody MA

Motion to continue as made by Mr. Lazares. Seconded by Mr. Vivaldi. The motion passes **6-1** with Mr. Comak not voting.

CERTIFICATES OF COMPLIANCE

6. A continued request for a FULL Certificate of Compliance as made by Peter Blaisdell, Jr. (Williams & Sparages) on behalf of AMConCorp (Patrick Coburn) for DEP File No. 55-865. The project was the construction of a commercial building and parking area (demo/rebuild, stormwater features and parking). The address is known as 3 Mount Pleasant Drive, Map 029, Lots 006, Peabody MA.

Motion to continue as made by Mr. Lazares. Seconded by Mrs. Cantin. The motion passes **6-1** with Mr. Comak not voting.

7. A continued request for a FULL Certificate of Compliance as made by Frederick Hostrop (Neptune Engineering) on behalf 160 Main Street Realty LLC (Nikolay Polinovskiy) for DEP File No. 55-793. The project was the redevelopment of a previously degraded site for commercial and residential use. The address is known as 166 Main Street, Map 086, Lot 150B, Peabody MA. Partial CC has been issued. Item will remain on agenda until a Full CC can be requested (TBD late 2021) ITEM CONTINUED UNTIL JUNE 2021

Item was continued until June 2021 at a previous meeting. No motion needed.

8. A request for a Full Certificate of Compliance as made by E.J. O' Sullivan (Haven Contracting Corp.) for DEP File No. 55-874. The project was the construction of a new parking area and a detention basin. The address is known as 22 Johnson Street, Map 34, Lot 12, Peabody MA.

Present: E.J. O'Sullivan (Haven Contracting) and Michael Douglas

Summary: Discussion ensued regarding the city engineer's memo. Presently an updated As Built Plan has not been submitted to the commission for review.

Motion to continue as made by Ms. Green. Seconded by Mr. Lazares. The motion passed **6-1** with Mr. Comak recusing himself.

9. A request for a Full Certificate of Compliance as made by Brendan Callahan (City of Peabody CommDev Department) for DEP File No. 55-730. The project was known as upgrades to the Welch School Parking lot. The address is known as 50 Swampscott Avenue, Map 104, Lot 109, Peabody MA.

Present: Brendan Callahan (Assistant Director of Planning)

Summary: The file is over 11 years old. Mr. Callahan reminded the commission of the Low Impact Development techniques that were installed at the school (two detention basins, 1 water quality swale and porous parking area). Maintenance reports and an As Built Plan were not submitted with the CoC request. Mr. Callahan stated a maintenance vac-truck will be on site tomorrow 4.22.21. Mr. Callahan was uncertain if the other stormwater features have been maintained since coming online. Secretary Lazares asked who was required to perform the maintenance (DPS or School Dept). City staff could not answer the question regarding Welch School. New stormwater water maintenance online is now normally divided between Parks & Recreation and DPS. **Discussion ensued.** Going forward the commission will require a project budget and assignment to a department responsible for maintenance. The commission felt they could vote on the Certificate of Compliance.

Motion to issues Full Certificate of Compliance stating the following condition in perpetuity: Stormwater Management O&M Plan dated 1.7.2010 pgs.1-8 in perpetuity unless a new ORDER with a new O&M is created and approved by the ConComm as made by Mrs. Green. Seconded by Mr. Comak. The motion passed 6-1 with Mr. Lazares voting NO.

ENFORCEMENT ORDER/VIOLATION ORDERS

10. Enforcement Order issued to Daniel Ruiz for the property known as 44 Bartholomew Street, Peabody MA. The alleged violation is bringing multiple truckloads of fill onto the site. Buffer zone and resource area was altered. A valid Order of Conditions has never been issued for said work.

CONTINUED UNTIL SUMMER 2021 WHEN VEGETATION HAS GROWN IN (continued at a previous meeting. No motion was made.)

11. Enforcement Order issued to the Trustees of 55 Pulaski St Realty Trust (Roadhouse Pub) c/o John R. Keilty Legal counsel of said Trustees for property located at 55 Pulaski Street. The extent of activity is uncertain at this time. However some possible alleged activity is altering, filling and changing the grade of either buffer zone or actual resource to expand a current parking lot or buildable area of the Roadhouse Pub property, possibly trespassing on an abutting lot and destruction of living trees and vegetation. A Valid Wetland permit has not been issued to date for any such work.

Present: John R. Keilty (legal counsel) and William Manuell (Wetlands & Land Management Inc.)

Summary: City staff has received numerous complaints regarding possible wetlands violations on the property. **The EO reads as follows:** *"The Conservation Commission has been on site in the past for enforcement in 2015, 2017 and 2020. Recently city staff has received numerous complaints about work on said site. The extent of the alleged activity is altering, filling and changing the grade of either buffer zone or actual resource to expand a current parking lot or buildable area of the Roadhouse Pub property, possibly trespassing on an abutting lot and destruction of living trees and vegetation. The Health Inspector Randy Suckney conducted a site visit in March 2021 after a recent complaint. Conservation staff pulled a historic plan dated 1989 and found that a resource (drainage ditch protected by the local ordinance chapter 32) was left off*

a plan submitted to the ConComm in 2015. Therefore, this Order is mandating a Wetland Report and an accompanying Wetland Delineation Plan be submitted to the Commission by April 16, 2021. The wetland report must explain why the resource "drainage ditch" was left off the plan dated 2015 drafted and submitted by Eastern Land Survey Associates Inc. and if said ditch has been altered by the property owner or if there is a historic reasons for the discrepancies."

Discussion ensued. A wetlands report and accompanying plans have not been drafted and submitted to the commission for review yet. The abutting lot has a city drainage easement located on it. Mr. Manuell states he did not observe a drainage ditch on site in 2015 and in April 2021. The feature was on site, but the wetlands scientist stated it did not lead to anywhere and is not connected to any other water features close by. Mr. Manuell also stated that he believes all work on said property is outside all buffer zones. The owners were advised to install erosion controls, but they could not confirm if they have been installed to date.

Motion to continue as made by Mrs. Green. Seconded by Mr. Lazares. Adopted unanimously.

12. Violation Order issued to Jack 8 Cobb Avenue- TBD property owner will appear at the hearing to obtain permission to continue with said "maintenance of ROW". More information to follow.

Motion to allow the property owner to continue work under "maintenance" as made by Mrs. Green. Seconded by Mrs. Cavicchio. Adopted unanimously.

13. Violation Order Railroad near Warren Street overpass/underpass. Trash will be removed by May 3, 2021 per recent correspondence with the MBTA.

The cleanup will be finished by May 3. No motion was necessary.

TREE REMOVAL REQUESTS

14. 1 Crane Avenue- Richard and Carol Bernazzani

The following work was approved by the commission:

- All staging (crane, chipping, stockpiling etc.) shall take place as far from the resource as practicable.
- Seven (7) trees as shown on the Tree Removal Request Application can be removed. The stumps must remain 2-3 feet tall as to not compromise the bank and to provide regrowth in the future. They cannot be grinded or grubbed.
- Branches and removed tree material shall not be placed in the resource area. All material must be placed on existing lawn/driveway or removed from site as soon as practicable. Wood chipping is NOT allowed along the resource area without permission from the Agent.
- All future and existing landscaping material shall be bagged and picked up appropriately for yard waste collection or stored as far from the brook as possible.
- If the property owner wishes to replant shrubs or saplings an approved list can be provided upon request.
- Once the trees are removed the Conservation Agent should be contacted immediately via email.

Motion to approve as made by Mr. Lazares. Seconded by Mrs. Cantin. Adopted unanimously.

15. 7 Bartholomew Terrace- Jeffrey Belleau

The following work was approved by the commission:

- All staging (crane, chipping, stockpiling etc.) shall take place as far from the resource as practicable.

- One (1) tree located by the shed in close proximity to the resource cannot be grinded or grubbed. The stump must remain 2-3 feet tall as to not compromise the bank.
- One (1) tree on the wetlands side of the fence that is hanging over said fence can be trimmed/vista pruned for safety purposes. The tree shall not be topped/grinded or grubbed. It can only be trimmed.
- One (1) tree located in the backyard fence line (not on the side of the resource area) can be removed and grinded (if that is the owner's preference).
- Branches and removed tree material shall not be placed in the resource area. All material must be placed on existing lawn or removed from site as soon as practicable. Wood chipping is NOT allowed along the resource area and beyond the backyard fence without permission from the Agent.
- The property owners shall cease and desist dumping landscaping debris in the resource area along the fence. All landscaping material shall be bagged and picked up appropriately for yard waste collection in the future.
- If the property owner wishes to replant shrubs or saplings an approved list can be provided upon request.
- Once the trees are removed the Conservation Agent should be contacted immediately via email.

Motion to approve as made by Mr. Lazares. Seconded by Mrs. Cantin. Adopted unanimously.

16. 94 Goodale Street- Charlotte Iapicca

The following work was approved by the commission:

- All staging (crane, chipping, stockpiling etc.) shall take place as far from the resource as practicable.
- Two (2) trees as shown on the Tree Removal Request Application can be removed. The stumps must remain 2-3 feet tall as to not compromise the bank. They cannot be grinded or grubbed.
- Branches and removed tree material shall not be placed in the resource area. All material must be placed on existing lawn/driveway or removed from site as soon as practicable. Wood chipping is NOT allowed along the resource area without permission from the Agent.
- All future and existing landscaping material shall be bagged and picked up appropriately for yard waste collection or stored as far from the brook as possible.
- If the property owner wishes to replant shrubs or saplings an approved list can be provided upon request.
- Once the trees are removed the Conservation Agent should be contacted immediately via email.

Motion to approve as made by Mrs. Cantin. Seconded by Ms. Green. Adopted unanimously.

Commissioner Cavicchio, Green and Cantin all volunteered to help conduct site visits on tree removal requests. Vice Chairman Comak stated he could help from August to February only.

OTHER

• MINUTES- NONE

• **Stewart Lazares- Secretary updates on CPC filing Peabody Lakes & Ponds-** brief update was given on status of CPC project and funds.

• Adjournment

Motion to adjourn as made by Mrs. Green. Seconded by Mrs. Cantin. The motion passed unanimously. **The hearing adjourned at 11:01 pm.**

Respectfully submitted, (To be signed electronically)

Chairman Michael Rizzo