

Department of Planning and Community Development

90 Pond Street
Braintree, MA 02184
781 794-8230



Mayor Joseph C. Sullivan

Braintree Conservation Commission

Patrick Flynn, Chair
Donald Murphy, Vice-Chair
Diane Francis
Matthew Hobin
Daniel J. McMorrow, Jr.
Gail Poliner-Feldman
Alan Weinberg

Staff Kelly Phelan

CONSERVATION COMMISSION MEETING MINUTES THURSDAY, JUNE 6, 2013

Present: Patrick Flynn, Chair; Diane Francis; Matthew Hobin; Alan Weinberg
& Kelly Phelan, Staff

Public Hearings

Notice of Intent 8-619 175 Campanelli Dr./Prologis

APPROVED

David Kelly of Kelly Engineering Group was present on behalf of Prologis. Mr. Flynn noted that the Commission had received the letter from Kelly Engineering dated June 3, 2013 outlining the changes to the plan since the last meeting.

Mr. Kelly reviewed the background of the project. Prologis is the owner of 175 Campanelli Dr. An Order of Conditions was issued in 1985 for construction of an office building on what is now 185 Campanelli Dr. AMB (predecessor of Prologis) purchased the property in the mid to late 1990s. Prologis recently discovered that there was an outstanding Order of Conditions on the site. The Order included a condition for pavement removal in the north and west areas of the site and an area to be converted to gravel. This pavement removal was not done and the tenant of the building will not be able to operate if it is removed. This Notice of Intent was filed to address these issues.

Mr. Kelly reviewed the two areas in which they are proposing improvements: the west and north. They propose a bioswale/rain garden in the west. They would excavate the swale and install biomaterial (compost and topsoil) and plant it to become a treatment area which would filter out pollutants before they reach the wetland. Since the last meeting, they provided a planting detail.

Mr. Flynn asked Mr. Kelly to discuss the items listed in the letter, specifically the use of jersey barriers to prevent runoff and snow from entering the river. Staff raised a concern about the floodplain and whether the barriers would block flood flows. Mr. Kelly said the flood flow would not be obstructed as

it would flow around the barriers. He said that the swale (3 feet wide by 3 inches deep) which they propose to excavate in front of the barriers would provide flood storage for the footprint of the barrier. The swale would ensure that runoff entered the proposed deep sump catch basins and proposed CDS unit for treatment.

Mr. Hobin asked for clarification that flood flows would go around the jersey barriers. Mr. Kelly said it would.

Mr. Flynn noted the comment in the June 3, 2013 letter about the oil/water separation performance of the proposed CDS unit. Staff said that at the last hearing, Mr. Flynn had asked staff to verify the oil removing performance of the CDS. Staff reviewed the Massachusetts Stormwater Technology Evaluation Project (MASTEP) database which ranks the test data for various proprietary stormwater devices. MASTEP found that there was not sufficient data to evaluate the oil removal performance of the CDS. Staff noted that this was the case for most of the proprietary separators. Mr. Kelly said that CDS is similar to the commonly used Stormceptor, but that they chose CDS because they provide a lot of design and construction support.

Staff noted the plantings proposed for the rain garden are facultative wetland plants and that with the high water table and no underdrain, it may be that only obligate wetland plants survive. She suggested that the survival of the plantings would be conditioned.

Mr. Flynn asked for public comment. There was none.

Motion by Ms. Francis, second by Mr. Hobin, to continue the July 11th meeting for draft conditions. Vote: 4-0.

**Notice of Intent 8-620
77 Common St./Muscente**

Benjamin Muscente, the owner of 77 Common St. was present. He said he recently purchased the house and proposes to capture some area behind the fence which was installed by the developer, Mento Enterprises. He hired a wetland scientist, Brad Holmes, to delineate the wetland. Mr. Muscente said that the staff came out and reviewed the delineation with Mr. Holmes. There was disagreement on the east side so the new delineation was not used on that side. On the west side, there was a manmade pond with a liner which the previous delineation included. The new delineation excludes that pond which creates more buffer. On the west side, Mr. Muscente proposes moving the fence to the new 25 foot buffer.

Mr. Muscente noted that the property was heavily landscaped in the past but that it has become overgrown and they would like to maintain what was there.

Mr. Flynn asked Mr. Muscente if they were requesting to use area within the 25 foot no-disturb buffer. Mr. Muscente said it was not that important to them said they want to eliminate the poison ivy. Staff clarified that the proposal originally included use of the 25 foot-buffer but that request had been eliminated, as shown on the revised plan. Staff said there were a few issues to resolve including the

location of the mitigation plantings done by Mento Enterprises and whether they would be relocated or incorporated into the backyard area.

Mr. Flynn suggested they could spray the poison ivy if it encroached into their yard (but not spray in the 25 foot buffer).

Mr. Flynn asked for public comment.

Mike Radigan, 61 Common St. said he was concerned that the construction debris, such as haybales, be removed. Staff said they generally did not require the haybales to be removed as they decompose in place. He said he supported the applicants request to move the fence.

Motion by Mr. Weinberg, second by Mr. Hobin, to continue the hearing to the July 11th meeting for draft conditions. Vote: 4-0.

Other Business

Request for Certificate of Compliance 8-602 Almquist Estates/Elmlawn, LLC

Staff recommended issuing the Certificate of Compliance with surviving conditions for this project and releasing the \$4000 as-built guarantee.

Motion by Mr. Weinberg, second by Ms. Francis, to issue the Certificate of Compliance with surviving conditions for 8-602 and release the as-built guarantee. Vote: 4-0.

Approval of Minutes

Tabled until the next meeting.

Executive Session (Minutes of the content filed separately until released by the Commission.)

Staff said that legal counsel for the Town had requested the Commission enter into executive session to discuss the appeal of DEP File # 8-618.

Mr. Flynn said that discussing the appeal in open meeting may have a detrimental effect on the Town's position.

Motion by Mr. Weinberg, second by Ms. Francis, to enter into Executive Session to discuss the appeal of DEP File # 8-618.

Adjourn

After closing the executive session, the meeting was adjourned.

Motion by Mr. Weinberg, second by Ms. Francis, to adjourn the meeting at 8pm. Vote: 4-0.

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Released by the vote of the Conservation Commission on July 11, 2013

CONSERVATION COMMISSION EXECUTIVE SESSION MINUTES THURSDAY, JUNE 6, 2013

APPROVED

Present: Patrick Flynn, Chair; Diane Francis; Matthew Hobin; Alan Weinberg
& Kelly Phelan, Staff

Executive Session to Discuss Appeal of DEP File # 8-618

After entering into executive session (see June 6 minutes), the Commission discussed the appeal of DEP File # 8-618.

Staff reviewed the background of the issue. Only one unit in the 301 Washington St. condominium building adjacent to this project was included on the abutters list generated by the Assessors' office. Therefore, only that one unit received notice of the hearing. The remaining four units learned of the project when they saw site clearing occurring. They appealed to DEP and DEP ruled that the applicant had complied with the abutter notice regulations. The abutters then appealed the DEP decision to the next level of DEP for adjudicatory appeal.

Carolyn Murray, Town Solicitor, requested that an attorney from Kopelman & Paige represent the Town in this appeal. The attorney from Kopelman & Paige, John Goldrosen, recommended the Commission enter into executive session to discuss their position. The attorney is interested to know if the Commission would like the case to be remanded back to the Commission so that a new public hearing may be held or if they would prefer DEP resolve the case.

Mr. Weinberg discussed the process for a new hearing, noting that it would have to be re-advertised and abutters re-notified. Staff agreed but noted that it would have to be remanded to the Commission for this action to occur, unless the applicant voluntarily agreed to re-open the hearing.

Mr. Weinberg also discussed the possibility of having an informal discussion with the abutters and giving them a copy of the Order of Conditions. Staff said the abutters had received the Order, the minutes, the tapes of the hearings and they had met on site with herself, the property owner and the builder to discuss the project.

Mr. Flynn suggested letting the case play out with DEP. Members agreed that they are not opposed to having the case remanded to them but that it is up to DEP to decide the course of action.

Motion by Mr. Weinberg, second by Mr. Hobin, to conclude the executive session. Vote: 4-0.