

Department of Planning and Community Development

1 JFK Memorial Dr.
Braintree, MA 02184
781 794-8230



Mayor Joseph C. Sullivan

Braintree Conservation Commission

Patrick Flynn, Chair
Donald Murphy, Vice-Chair
Kevin Bears
Heather Charles Lis
Diane Francis
Gail Poliner-Feldman
Alan Weinberg

Staff: Kelly Phelan

CONSERVATION COMMISSION MINUTES THURSDAY, JANUARY 7, 2016 7PM TOWN HALL- JOHNSON CHAMBERS

Present: Patrick Flynn, Chair; Donald (Gus) Murphy; Vice Chair, Kevin Bears, Heather Charles Lis, Diane Francis, Gail Feldman, Alan Weinberg & Kelly Phelan, Staff

Absent: None

Public Hearings

Notice of Intent

8-635 205 Elm St./RiverWalk Development, LLC

The Applicant, George Clements was present with Shawn Hardy, project engineer and Mike Walsh, the horticulturist.

Staff briefly reviewed the draft conditions, noting the conditions for riverfront restoration, performance bond and option for Conservation Restriction.

Ms. Charles Lis noted that she had sent staff the DEP comments on the 450i stormceptor as discussed at the last hearing. Staff will forward to the applicant and engineer.

Ms. Charles Lis suggested that a Conservation Restriction would be a useful tool for managing the restoration area and noted it could be conditioned to be done before the Certificate of Compliance was issued. This would not delay the start of the project. Mr. Clements said they prefer to keep it separate and noted that they are meeting with Mayor Sullivan next week to discuss public access to the river.

Motion by Mr. Weinberg, second by Ms. Feldman, to find the project significant to the state Wetlands Protection Act Ch. 131, Section 40 and the Braintree Wetland Bylaw Ch. 12.20. Vote: 7-0.

Motion by Mr. Weinberg, second by Ms. Feldman, to issue the Order of Conditions as drafted for 8-635. Vote: 7-0.

APPROVED

Motion by Mr. Weinberg, second by Mr. Bears, to close the public hearing. Vote: 7-0.

Notice of Intent

8-636 1091 Liberty St./Mento Homes

Sean Hardy, engineer, was present.

Mr. Flynn noted that the Town Engineer receipt of a comment letter from the Town Engineer (dated January 6, 2016) . He read the letter aloud. He noted that it raised more questions as the Town Engineer said there was no way to account for tree removal on runoff from site.

Mr. Bears said he felt the letter was comparing apples and oranges by not comparing the unbuilt site to the proposed project.

Ms. Charles Lis agreed that it was not quite what the Commission was looking for; they were looking for a comparison to no construction. She said in thinking about flooding typically surface water is the concern rather than groundwater and the effect of evapotranspiration of trees. She asked Mr. Hardy if he had prepared existing conditions calculations. Mr. Hardy said he had not because the project is not subject to stormwater standards as a single-family house. He did calculations to size the cultec unit for the 100 year storm.

Ms. Charles Lis said in light of the questions on downstream impacts it may be helpful to have calculations comparing existing conditions to post-construction. She added that she felt that there should be trees planted within the area being disturbed. Mr. Hardy said there is room for trees in line with the cultec chamber as it will be set back from the geogrid and he said there is room within the existing wooded area.

Mr. Murphy asked if there was a formula to calculate how much water the existing trees remove vs. what the planted ones will remove. Mr. Hardy said there is not; runoff numbers account for general conditions such as forested, grass, pavement etc.

Mr. Hardy said he felt the Town Engineer's letter addressed the situation. He was responding to the Commission's request as to why he initially commented that the project "should not be detrimental" and was providing more detail on that conclusion.

Mr. Flynn noted that there is a provision in the Braintree Wetland Bylaw for peer review. He said he would prefer to have an independent engineer look at this.

Ms. Charles Lis said she would support that. They could compare existing and proposed conditions.

Mr. Hardy asked what the peer consultant would be reviewing. He said the drainage calculation methods are not specific to trees and specific design storms. He uses the 100 year storm and sized the cultecs to hold that volume.

Mr. Flynn asked how many trees were being removed below the wall. Mr. Hardy said none below the wall; approximately 30 are being removed within the footprint of the wall. Ms. Francis asked if they were all living; noting that there were dead trees. Mr. Hardy said they counted living trees.

Mr. Weinberg asked about ownership of the property. Kevin Kirkland, one of the owners, was present. He said the new lot and the existing house are under agreement as a package. Mr. Weinberg asked about cumulative impacts. Staff said the existing house lot is almost entirely out of the buffer zone.

Mr. Bears said he was curious if the other members would support a peer review to look at the change in runoff heading down the hill.

Mr. Murphy said he was satisfied with the Town Engineer's letter. Ms. Francis said she agreed with Mr. Murphy. Ms. Feldman said there was so much dissension that a peer review would help to provide clarity. She said the abutters need to be assured on the question of flooding.

Mr. Murphy said if the Commission does a peer review and they find it won't be a water problem that the abutters may still have a wall problem. Mr. Weinberg noted concerns about stability during the construction of the wall if there is a large storm event. Ms. Charles Lis said that was a good point. She said that on the wall, it was not an issue of aesthetics but of stability during construction. She added that the peer review won't get at the tree issue. She asked if they are building the wall from the ground up. Mr. Hardy said yes. He explained that geogrid fabric would be laid every 16" (two blocks) which helps to hold the wall back.

Mr. Murphy asked what they achieve with a peer review that they don't already have. Mr. Weinberg said impacts to wetlands. Staff said the Town Engineer compared the proposed project to the same project built without the retaining wall rather than the proposed project compared to existing, undeveloped conditions. Mr. Hardy disagreed on the content of the Town Engineer's letter.

Mr. Flynn asked if there was comment from the public.

Town Councilor Michael Owens from District Five said he agreed with having a peer review done because of the concerns about runoff. He said the objective review would provide extra assurance to the abutters. He also noted that he was having a neighborhood meeting on the project on January 28th. He said he assumed that environmental concerns may be addressed at the meeting. He added that due diligence is necessary for the neighborhood because of the potential for lasting impacts.

Eason Chau asked about the comments regarding groundwater. He noted that groundwater is a cause of flooding. He said that pumping water into the ground adds more stress.

Ms. Charles Lis said surface runoff is the major cause of flooding but groundwater can also influence it. She said putting water into the ground is ideal because it moves much more slowly. She said the Commission doesn't regulate groundwater. She added that while trees take up groundwater she didn't see that as a huge impact.

Mr. Hardy said the same amount of water falls on a site regardless of whether it is paved or not. The only thing that changes is whether it runs off or goes into the ground. He said they are tasked with making sure more doesn't runoff than goes in the ground. He said hydrographs tend to show peak flows about 12 hours after a storm event. If they can push that peak back it helps to prevent flooding.

Mr. Chau asked about the system which collects runoff water and puts it in the ground. Mr. Hardy said the wall extends 6 inches above grade and has low weep holes to relieve hydrostatic pressure.

Mr. Chau asked about soil test pits. Staff said they had discussed that it would be better to have them done now or at least at the start of the project in order to verify soil conditions. Mr. Hardy said they requested to do this at the start of the project so as not to have to disturb the site.

Paul Giannino asked about tree removal; if they remove 30 mature trees and put in 60 small trees the root systems won't be comparable in terms of taking up water. Mr. Flynn agreed that the root mass on a large tree is huge compared to a newly planted tree. Staff said the tree policy was an attempt to address that by requiring two to one replacement but it is imperfect.

Mr. Hardy asked how they will comply with the tree policy. Mr. Hardy said they are proposing to plant the 60 trees. In addition to the 15 white pines they will plant trees up on top and in the wooded area. He said Mr. Mento is a landscaper and is confident he can fit them in. Ms. Charles Lis said she was skeptical that many will survive. She said there are gaps in the wooded areas because trees shade each other out. She said it might be worth finding out now how many can fit and show the locations on the plan. Mr. Flynn agreed that a planting plan should be provided.

Ms. Giannino asked how much slope will be left after the project. She said it would be beneficial for the Commission to look at the site from the bottom rather than just the top. She also asked about the different references in the bylaws to contours and wildlife and the 100 foot buffer.

Mr. Flynn said it is wildlife in wetland areas.

Mr. Murphy said they have authority to allow work within the 100 foot buffer and that is why the applicant is before them. Ms. Feldman noted the 25 foot no-disturb portion of the buffer.

Ms. Giannino asked why they are making that allowance to let them build in the 100 foot buffer zone. Mr. Murphy said for him personally it was the Town Engineer's report.

Ms. Giannino asked if the Commission is not addressing these things than who is. Staff said contours, wildlife etc. are values of the wetlands and the Commission needs to make sure they don't impact the wetland. Ms. Feldman said the Commission is not protecting wildlife in general.

Mr. Flynn said he does not see a detrimental impact to wildlife in the wetland from this project.

Ms. Charles Lis said they have narrow jurisdiction and need to ensure the project is not going to directly impact wetlands.

Ms. Giannino asked about the alteration of 10,770 square feet of land and effects of tree removal. Mr. Murphy said there is no quantitative information on how much water trees remove.

Mr. Owens asked if erosion of the plateau had been discussed. He said it will be absorbing water over the years and questioned if it will erode and shift toward the wetland and abutting properties. Mr. Murphy said they saw no factual analysis of this. Mr. Hardy said a structural engineer stamped the wall plan. He said it

is not like a bathtub; the water will get into the ground as groundwater. Mr. Flynn said it is not your average wall. Ms. Charles Lis said test pits will be important to ensure that infiltration is possible.

Mr. Owens said the site is not a normal site and it is not radical or drastic to look at the stability of the wall for 40 years.

Motion by Mr. Weinberg, second by Mr. Bears, for an independent peer review. Discussion.

Lisa Berch, attorney for Mento Homes was present. She said she wanted to formally object to the peer review. She said it is prohibitive for a single-family home project. She said Mr. Mento is very reasonable and wants to work with people and respects their concerns. She said she hopes it is not a delaying tactic. Mr. Flynn said he is not interested in placing an undue burden on the applicant but that it is a complex project and they are not engineers.

Mr. Hardy asked for clarification of what would be reviewed. Since the project is exempt from stormwater standards would it just be potential for downstream impacts. Mr. Flynn said yes. Mr. Hardy asked if they want both rate and volume included in the calculations. Staff said both.

Mr. Giannino asked if the board had ever permitted a similar wall. Mr. Murphy said he couldn't recall one. Ms. Giannino brought up slope, gravity and things shifting over time with wetlands at the bottom.

Mr. Weinberg restated his motion for a peer review stating that it would consist of review of pre and post development runoff calculations to be provided by the applicant's engineer, second by Mr. Bears. Vote: 7-0.

Motion by Mr. Weinberg, second by Mr. Murphy, to continue the hearing to February 4th. Vote: 7-0.

Ms. Charles Lis reminded Mr. Hardy about the planting plan.

Notice of Intent
8-637 39 Hayward St./McGourty Realty Series, LLC

Staff said the applicant requested the hearing be continued to the February 4th meeting.

Motion by Mr. Bears, second by Mr. Murphy, to continue the hearing to February 4th. Vote: 7-0.

Request to Amend Order of Conditions
8-592 20 Mill Lane/Zeboski

Stephen Zeboski was present with Jack O'Leary from SITEC Environmental. Staff said the Order of Conditions was issued in 2009 and the project has just recently been moving toward completion. Two issues had come up. One has to do with invasive species. The proposal originally included a riverfront restoration area planting plan. This area has been infested with Japanese knotweed. Staff recommended the applicant amend the Order to allow for herbicide treatment.

The second issue is that the test pit was not done during the design phase of the project. When it was done in November it revealed high groundwater. The applicant's representative proposed changing the infiltration basin to a pocket wetland incorporating the high groundwater.

Staff prepared draft conditions relative to these two changes.

Mr. O'Leary said the basin receives roof runoff and site runoff which has been treated by a CDS water quality unit. He said the basin was designed to serve both an infiltration function and a detention function. It still provides the detention function as the design only took credit for storage above elevation 8. He said while it won't provide infiltration the site only has to meet the stormwater standards to the maximum extent practicable.

Mr. Murphy asked how much runoff from the street the site receives. He said it used to flood a lot. Mr. Zeboski said most of the street runoff goes past the site and the MBTA Greenbush project had mitigated a lot of the flooding.

Ms. Feldman asked how close to the river the basin is. Mr. O'Leary said very close; within ten feet.

Mr. O'Leary said they will line the bottom of the basin with an erosion control mat and they can plant the wetland plugs through the mat now as they are dormant.

Ms. Charles Lis said she was concerned about sedimentation in the overflow to the river. Staff said that she had included a condition for a frac tank to be on site to handle excess volume from the basin in the event of heavy rains. Mr. O'Leary requested an alternative to a frac tank; a temporary bypass pipe from the invert to the basin which would take the roof runoff and treated water to the river and avoid the disturbed area of the basin until it can be stabilized. Staff said the site hasn't been paved yet which will lead to a lot of sediment in the water quality unit. Mr. Zeboski said they are paving next week.

Ms. Charles Lis said she was surprised by the planting choices as they are open water plants. Mr. O'Leary said they expect the basin to stay wet.

Discussion continued as to allowing a bypass pipe rather than requiring a frac tank. Staff suggested language for condition to \$57 to allow for the bypass pipe.

Motion by Mr. Weinberg, second by Mr. Murphy, to change draft condition #57 as revised by staff. Ms. Charles Lis suggested a change to condition #54 to clarify that monitoring is required for the basin. Mr. Weinberg amended his motion to include the suggested changes to both condition (#54 and #57). Vote: 7-0.

Motion by Mr. Weinberg, second by Mr. Bears, to find the project significant to the state Wetland Protection Act and Braintree Wetland Bylaw. Vote: 7-0.

Motion by Mr. Weinberg, second by Ms. Charles Lis, to issue the amended Order of Conditions with changes noted above (#54 and #57). Vote: 7-0.

Other Business



Open Space Plan Update Process

Staff handed out a revised schedule for updating the Open Space and Recreation Plan.

Funding For Tax Title Parcels

Staff requested the Commission fund \$5000 to allow the Treasurer/Tax Collector move forward on the foreclosure process for two properties which owe substantial back taxes and which are located along the Monaquot River and could provide access to the river. The parcels are identified on map 2002 as plot 1 and map 2006 as plot 1A.

There is \$17,000 available in the account the Commission spends from. The 4 year CD was automatically renewed in November for another 4 years.

Motion by Mr. Weinberg, second by Mr. Bears, to provide up to \$5000 to start the taking process for the tax title parcels. Vote: 7-0.

Request for Duplicate Certificate of Compliance 8-356



Staff said that a title search for a real estate closing revealed that the Order should have been recorded on both the Registry side and the Land Court side. Attorneys involved in the closing requested a duplicate (with original signatures) of the previously issued Certificate of Compliance for recording at the Land Court.

Commission members signed the form.

Other

None

Approval of Minutes – December 3, 2015

Motion by Mr. Weinberg, second by Ms. Feldman, to approve the December 3 minutes. Vote: 7-0.

Adjourn

Motion by Mr. Weinberg, second by Ms. Charles Lis, to adjourn the meeting at 9:36 pm. Vote: 7-0.