

Department of Planning and Community Development

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Mayor Joseph C. Sullivan

Braintree Conservation Commission

Donald Murphy, Vice-Chair

Joyce Albrecht

Kevin Bears

Heather Charles Lis

Diane Francis

Gail Poliner-Feldman

Alan Weinberg

Staff: Kelly Phelan

CONSERVATION COMMISSION MINUTES THURSDAY, NOVEMBER 3, 2016 7PM TOWN HALL- JOHNSON CHAMBERS

Present: Joyce Albrecht, Kevin Bears, Heather Charles Lis, Gail Feldman, Diane Francis, Alan Weinberg & Kelly Phelan, Staff

Absent: Donald (Gus) Murphy, Vice Chair

Ms. Charles Lis chaired the meeting and welcomed new member Joyce Albrecht to the Commission.

Public Hearings

Request for Determination of Applicability 304 Common St./Tran

APPROVED

Jack Tran was present.

Per the discussion at the October meeting staff drafted conditions to allow 5 foot encroachment of lawn into the 25 foot no-disturb buffer at the corner of the garage closest to the buffer zone. This is to allow access and maintenance around the garage. Other conditions include: compliance with the tree policy for trees removed from the buffer zone and for restoration of the 25 foot buffer as well as typical conditions for erosion control.

Mr. Tran said the tree which had been leaning fell over and he would like to remove it. Mr. Weinberg said it was fine to remove a hazardous tree. Ms. Charles Lis said the tree policy was intended for trees that are cut down, not those that fall down. Mr. Weinberg suggested flowering shrubs could be planted in the buffer zone. Staff noted that the tree policy does not permit replacing trees with shrubs. The Commission may wish to amend the policy as there are situations where shrubs would make more sense.

Motion by Mr. Weinberg to issue a negative Determination of Applicability with conditions as drafted. Second by Ms. Feldman. Vote: 6-0.

Motion by Mr. Weinberg to close the public hearing, second by Mr. Bears. Vote: 6-0.

**Request for Determination of Applicability
9 Hickory Rd./Christian**

Mr. and Mrs. Christian were not present. Per the discussion at the October meeting staff marked the 25 foot no-disturb buffer in the field and the Christians accepted that as the limit of work. Staff recommended issuing the negative Determination of Applicability with conditions for erosion control at the 25 foot buffer boundary and that it serve as the limit of work; fill may not extend into the 25 foot buffer. Ms. Charles Lis suggested adding a condition for temporary stabilization if the project is begun and cannot be completed within 30 days. Staff will add the standard condition for this.

Ms. Francis asked the purpose of the project. Ms. Feldman said it was to extend their backyard.

Motion by Mr. Weinberg to issue a negative Determination of Applicability for 9 Hickory Rd. with three conditions. Second by Ms. Feldman. Vote: 6-0.

Motion by Mr. Bears to close the public hearing. Second by Mr. Weinberg. Vote: 6-0.

**Notice of Intent
8-641 128 Town St./BSC Partners LLC and Town of Braintree**

Staff said the peer review results have not been received and the applicant requested the hearing be continued to the December 1 meeting.

Motion by Mr. Bears to continue the hearing to December 1. Second by Mr. Weinberg. Vote: 6-0.

**Abbreviated Notice of Resource Area Delineation
71 Adams St./Adams St. LLC**

Ms. Charles Lis opened the public hearing.

Garrett Tunison from Tunison Environmental Consultants was present. Shawn Hardy, project engineer was also present as was the applicant, George Lang of Adams St. LLC.

Mr. Tunison said the Abbreviated Notice of Resource Area Delineation was filed to review the wetland resource areas. He flagged three areas. Flag series "A" is Bordering Vegetated Wetland associated with an intermittent stream. Flag series "C" is an isolated wetland under the local bylaw. Flag series "B" is bank to the Monatiquot River. He said he flagged the bank by the first break in slope and rack lines/debris indicating mean annual high water.

Mr. Tunison addressed the question raised in the staff report about the “wet” area which was flagged on a previous plan for the site. Mr. Tunison said it is a stormwater area which was dug out and has been knocked over and dug again. He said there is a 30 inch pipe out to the river from it and a 12 inch pipe coming in. He said it is an active area of the site which was established for drainage. Ms. Charles Lis asked about the vegetation and soils. Mr. Tunison said it is phragmites and the soil is concrete mix. Staff said she was focused on other areas of the site during her site visits and needs to look this area.

Ms. Feldman said the site seems to be heavily used. Staff said there are fill piles throughout the site. Mr. Tunison pointed out the maintenance garage, wash area, batch plant and screening operations on the site plan. Ms. Feldman asked about the proximity to the river. Mr. Tunison pointed it out on the site plan and noted there is a block wall along a portion of the river to keep the operation from encroaching.

Mr. Tunison noted there have been enforcement orders in the past but these have been addressed when the applicant rebuilt the settling basin on the site.

Mr. Weinberg asked if they had done an inventory of the trees and shrubs on the site. Mr. Tunison said he had done an inventory and included it with the application. He also marked the native trees in the riparian zone for future reference for restoration.

Ms. Feldman asked what they are planning to build. Mr. Tunison said at this time they are only asking the Commission to agree to the boundaries of resource areas but they anticipate a proposal for multifamily development and a river walk and river restoration.

Ms. Charles Lis clarified for the public that the application was filed solely to determine the wetland resource areas present on the site and their boundaries.

Mr. Weinberg asked about hazardous waste on the site. Mr. Tunison said there was a Phase II site investigation done and they are working with DEP. He said there is nothing substantial but there is autoluff buried on the site.

Mr. Hardy addressed the Bordering Land Subject to Flooding. He said the flood map base flood elevations jump across the site from 42 to 45 to 50. He used the flood profiles from the flood insurance study for the Monatiquot River and plotted based on that. He noted the 42 foot profile does not fall on the property. It is mapped across the river on someone else’s property. The applicant’s site is above elevation 42. He said as the floodplain hits elevation 45 it comes back onto the property.

Mr. Hardy said an Alta survey of the property was done in 2014 but that it is an active site and stockpiles on it change every day. The access drive through the site has not changed much historically. Ms. Charles Lis asked staff if the Commission had ever permitted stockpiles on the site. Staff said the Commission had not. Ms. Charles Lis said it is unusual to have the floodplain change so much across the site and that using the flood study was a good approach. She said she wanted to give some thought to the stockpiles since they are not part of the natural topography.

Mr. Hardy noted that the use of site as a concrete plant predates the flood maps and Wetland Protection Act.

Ms. Charles Lis agreed that because the use predated the maps and the Wetland Protection Act the piles in place before the regulations came into place were allowed to continue but technically, new piles would not be allowed. She wonders how other communities have handled this and asked staff to reach out to DEP for comment.

Ms. Feldman asked for clarification of grandfathered status of the site. Mr. Hardy said the business existed before the Wetlands Protection Act and flood insurance studies and continues to operate in the way it always has. Ms. Charles Lis said she is not suggesting taking enforcement action, just considering how to evaluate topography of the site. Mr. Tunison said grandfathered status from case law typically means the current regulations should not impact the use of the site the way it has been historically used.

Mr. Hardy said the base flood elevations were plotted from the flood study regardless of the elevation of the land. Ms. Charles Lis asked for clarification that the flood zone was not based on topography on the ground. Mr. Hardy said it was not. She asked if he was asking the Commission to approve the line shown on the FEMA map as the boundary of the floodplain. Mr. Hardy said he was.

Ms. Feldman noted that a site visit was recommended by staff. Ms. Charles Lis said she would like to see the BVW and look at the questionable wet area. Mr. Tunison said the wet area would have to lie idle for 5 years to be considered jurisdictional. It is an active area.

Ms. Charles Lis said the isolated wetland was very close to the larger wetland. Mr. Tunison said it is separated by a 3 foot berm.

Ms. Charles Lis also noted that bank is not flagged at the highest elevation but further down the slope. Mr. Tunison said it was flagged based on the first break in topography and flagged conservatively.

Ms. Charles Lis asked if there was any public comment. There was none.

Ms. Charles Lis noted that the additional information needed was related to Bordering Land Subject to Flooding. Staff will follow up with the Town Engineer and DEP.

A site visit for Commission members was scheduled for Saturday, November 19 at 9:00 am.

Motion by Mr. Weinberg to continue the hearing to the December 1 meeting. Second by Mr. Bears. Vote: 6-0.

Other Business

Reorganization

This was discussed at the October meeting but tabled until all members are present. Ms. Charles Lis asked if members would like to table it as only six members were present. Mr. Weinberg said it would be ok to vote on it tonight because it was discussed at the last meeting with Mr. Murphy.

Ms. Charles Lis said she is willing to serve as Chair if voted by the Commission.

Motion by Mr. Weinberg to nominate Heather Charles Lis as Chair of the Commission. Second by Kevin Bears. Vote: 6-0.

Ms. Charles Lis said she is honored to take on the position and noted that Patrick Flynn's shoes would be very hard to fill. She said Pat was an inspiration and she learned a great deal by observing how he chaired the meetings.

Mr. Bears suggested that Mr. Murphy continue as Vice Chair but wondered about nominating him while not present. Mr. Weinberg suggested voting pending his acceptance.

Motion by Mr. Bears to nominate Gus Murphy as Vice Chair, pending his continual interest. Second by Mr. Weinberg. Vote: 6-0.

Mr. Weinberg suggested the Commission appoint a clerk who could take minutes in the case of an emergency meeting or a meeting without staff. He said he would volunteer. Motion by Mr. Bears to nominate Mr. Weinberg as Clerk of the Commission. Second by Ms. Francis. Vote: 6-0.

Request for Certificate of Compliance 8-613 825 Granite St./Sealcoating, Inc.

Ms. Charles Lis noted the staff memo recommended issuing the Certificate of Compliance for this project.

Motion by Mr. Weinberg to issue the Certificate of Compliance for 8-613 with surviving conditions as noted in the recommendation. Second by Ms. Feldman. Vote: 6-0.

Motion by Mr. Weinberg to release the \$4000 as-built guarantee. Second by Ms. Francis. Vote: 6-0.

Open Space Guide

Ms. Charles Lis suggested a deadline of the next meeting to submit comments on the draft guide to staff. So far the comments are: put legend on overview map, labels on the Sunset Lake map, add photos, add contact information and the rules and regulations.

Ms. Albrecht suggested looking at the Melrose and Winthrop guides and possibly collaborating with the high school for the website. She will contact the Historical Society for more historic information on the various areas. She also suggested adding information on the flora and fauna and information on tick identification.

Mr. Bears suggested adding information on other areas, not necessarily just the conservation areas.

Mr. Weinberg suggested adding more information on the Cranberry Pond ACEC district.

Approval of Minutes

Motion by Mr. Weinberg, second by Ms. Francis, to approve the minutes of October 6, 2016. Vote: 6-0.

Adjourn

Motion by Mr. Weinberg, second by Ms. Charles Lis, to adjourn the meeting at 8:35 pm. Vote: 6-0.