

CITY OF BEVERLY
PUBLIC MEETING MINUTES

BOARD OR COMMISSION: Beverly Conservation Commission
SUBCOMMITTEE:
DATE: March 1, 2022
LOCATION: Virtual Meeting Access Only via Google Meet
MEMBERS PRESENT: Chair Christine Bertoni, Vice Chair Robert Buchsbaum,
David Alden - St. Pierre, Meghan Jones
MEMBERS ABSENT: William Squibb
OTHERS PRESENT: Environmental Planner Jenna Pirrotta
RECORDER: Stacia Chamberlain

1. Chair Bertoni **calls the meeting to order** at 7:01 p.m. and reads the public notice regarding holding meetings remotely due to Covid-19.
2. **Recess for Public Hearings**
Alden - St. Pierre moves to recess for public hearings. Seconded by Buchsbaum. Bertoni takes a roll call vote. Motion passes 4-0.
3. **Notice of Intent/Abbreviated Notices of Intent/Requests for Amended Orders of Conditions**
 - a. **Cont.: 675E Hale Street, DEP File #5-1355** – pond dredging, grading of dredged material, and meadow planting – Seameadow LLC c/o Hilary Gabrieli

Documents Reviewed: Notice of Intent application and site plans by Hancock Associates, dated January 11, 2022 and landscape plan by Laura Gibson dated September 21, 2016; updated WPA Form 3, Wildlife Habitat Evaluation, and Water Quality Certification provided on February 7, 2022

Devon Morse, of Hancock Associates representing the applicant, gives an overview of the updated materials submitted to the Commission based on discussion at the last hearing and from comments by Mass Department of Environmental Protection (Mass DEP). David Cowell of Hancock Associates discusses how siltation in the pond has occurred over time as discharge from the roadway to the north about a mile away has led to accumulation. Buchsbaum believes that the source is speculative and that the applicant will likely need to come back to the Commission for approval of future dredging. Cowell refers to the large wetland to the north of the pond, as a source of runoff. Laura Gibson, ASLA adds that the pond was last dredged roughly 60 years ago, and future dredging would not be needed any time soon.

Bertoni asks for clarification about disposal of dredged materials, noting that the material is not designated for disposal into the wetland. Morse and Cowell confirm that no wetland fill or alteration is proposed and that dredged material would be reused on site in an upland location. Morse notes that the January 11, 2022 plan depicts the upland disposal location and Cowell describes the initial dewatering next to the pond. There are no comments from members of the

public. There being no further questions or comments, Buchsbaum moves to close the hearing. Seconded by Alden - St. Pierre. Bertoni takes a roll call vote. Motion passes 4-0.

- b. **Cont: 105 Sam Fonzo Drive & 10 LP Henderson Road, DEP File #5-1357** – construct commercial facility with parking, utilities, landscaping, and incidental site work – 105 Sam Fonzo Realty Trust c/o Thomas Ford

Documents Reviewed: Notice of Intent application and site plans by Engineering Alliance, Inc, dated January 18, 2022; revised C-1 and C-3 plans by Engineering Alliance, Inc, dated February 22, 2022 and replication sketch by Rimmer Environmental, LLC

Owner Tom Ford and Richard Salvo of Engineering Alliance, LLC are present to discuss the proposed project. Salvo recaps the Commission's site visit, noting that the Isolated Vegetated Wetland was flagged and added to the plan. He discusses the proposed relocation of that wetland and replacement with wetland of higher value, according to the wetland replication sketch by Rimmer Environmental. Salvo notes that the project is undergoing peer review through the Engineering Department regarding stormwater and they are still awaiting the report. Salvo provides an overview of the alternatives considered at the site and the constraints of the stream and wetland.

Buchsbaum asks if the replicated wetland would be considered an isolated wetland, consistent with what was filled. Salvo describes that the new wetland would be connected to existing Bordering Vegetated Wetland. Alden - St. Pierre asks if the relocated wetland would help with the flooding reported by the neighbors. Salvo replies that it would not necessarily provide significant flood mitigation, but that it is a part of the wetland function. Bertoni asks for more detail on the proposed wetland replication. Salvo describes the proposed plantings. Buchsbaum asks whether the invasive Phragmites will be removed and replanted with natives, noting that the area seemed fairly flat already. Ford replies that they will add dense gravel to accommodate the potential use of the area by the Fire Department and that a vegetated buffer would be maintained in that area to provide screening for the neighbors.

Bertoni asks for more information on the process for the wetland replication, and for clarification on whether 1) the timing of the site visit was appropriate to review the wetland line; 2) the drainage/stream crossing on Trask Lane needs to be cleared; 3) the building can be pulled out of the 100-Foot Buffer, and 4) the containment of fly ash was appropriately capped, and the amount of additional fill they plan to add to the site. Ford responds with their progress and thoughts on these concerns. Bertoni would like to ensure that the Commission receives information about the fly ash/AUL. Pirrotta reads comments from City Engineer Eric Barber, dated March 1, 2022. Bertoni requests that the applicant provide a response to the Commission as well as the Engineering Department regarding the stormwater management peer review.

There are no comments from members of the public. There being no further questions or comments, Buchsbaum moves to continue the hearing to the March 22, 2022 meeting. Seconded by Alden - St. Pierre. Bertoni takes a roll call vote. Motion passes 4-0.

- c. **Cont: 7 Ober Street, DEP File #5-1356** – building addition with associated driveway and patio improvements – Jeffrey & Kristine Avallon

Documents Reviewed: Notice of Intent application and site plan by Griffin Engineering Group, dated January 25, 2022

Bob Griffin of Griffin Engineering discusses the proposed project and recaps the Commission's site visit. Bertoni and Buchsbaum agree that the site visit was helpful in understanding the project and potential impacts. Pirrotta reminds the Commission that at the last hearing, they asked for a profile of the Coastal Bank, showing how it was delineated. Griffin displays the profile view of the Coastal Bank at the site noting the location of Land Subject to Coastal Storm Flowage on the plan and where the slope levels out. Bertoni asks about the need to install a fence on the retaining wall. Griffin notes that a fence is not required in that location and also describes a large tree they are hoping to retain. There are no comments from members of the public. There being no further questions or comments, Alden - St. Pierre moves to close the hearing. Seconded by Buchsbaum. Bertoni takes a roll call vote. Motion passes 4-0.

- d. **New: 223 Greenwood Avenue, DEP File #5-1358** – installation of garage, patio, and native plantings – Anne MacLean

Documents Reviewed: Notice of Intent application by LEC Environmental dated February 14, 2022 and site plan by Hawthorne Land Surveying Services, Inc., dated February 3, 2022

Pirrotta reads the legal notice. Owner Anne MacLean and Rich Kirby of LEC Environmental are present to discuss the proposed project. MacLean clarifies that she purchased the house from a contractor who performed recent interior renovations. Kirby describes the proposed project including the construction of the garage that would occur within an area of existing lawn and that there will be no change in grade within Bordering Land Subject to Flooding. Kirby describes the 6,700 square foot area of plantings noting that the owner will choose from a selection of native plants only. Bertoni discloses that she lives within the neighborhood, but that she has no financial interest and that she is impartial on this.

Buchsbaum asks about mitigation of the added roof runoff from the garage and Kirby explains that it will naturally infiltrate within the lawn, but that they are open to installation of an 18-inch by 18-inch stone trench on the wetland side of the garage. Bertoni asks whether the planting areas will be mulched. Kirby replies that they intend to use bark mulch for the initial plantings but could transition to use a more natural leaf mold over time. Bertoni asks whether pollinator-friendly plants will be used. Kirby replies that the homeowner's plants are not yet determined, but suggests they will provide a list of plants for approval before planting. Bertoni asks about invasives removal and Kirby describes that invasives removal is not specifically proposed but that they would remove any invasives by hand, to the extent that they are in the planting area. Kirby confirmed that evidence of Emerald Ash Borer was not observed on the ash trees at the site. Bertoni confirms the area of impact within the Riverfront Area. There are no comments from members of the public. There being no further questions or comments, Alden - St. Pierre

moves to close the hearing. Seconded by Buchsbaum. Bertoni takes a roll call vote. Motion passes 4-0.

- e. **New: 3 Pilgrim Heights, DEP File #5-1360** – construct a building addition with associated appurtenances – Glen Witwicki

Documents Reviewed: Notice of Intent application and site plan by Griffin Engineering Group, dated February 14, 2022

Pirrotta reads the legal notice. Bob Griffin of Griffin Engineering explains the proposed project for the construction of a new garage addition at an existing home. He notes that drainage improvements are also needed and that a drywell would be installed in addition to mitigation plantings in an area of existing lawn. Griffin notes that Mass DEP provided comments regarding adding plantings closer to the resource area, in order to improve habitat and meet the Riverfront Area performance standards. Buchsbaum encourages the plantings both next to the house and closer to the resource. Griffin agrees and will update the plan accordingly. Buchsbaum asks about the sizing of the drywell and Bertoni asks about the total increase in impervious surface area. Griffin describes the plant list, as described on the plan. The Commission schedules a site visit for Saturday, March 19, 2022, at 8 a.m. There are no comments from members of the public. There being no further questions or comments Alden - St. Pierre moves to continue the hearing to the March 22, 2022 meeting. Seconded by Buchsbaum. Bertoni takes a roll call vote. Motion passes 4-0.

- f. **New: 2 Thaxton Road, DEP File #5-1359** – construct an inground pool, patio, and landscaping – Justin & Emma Galui

Documents Reviewed: Notice of Intent application and site plan by Griffin Engineering Group, dated February 14, 2022

Pirrotta reads the legal notice. Bob Griffin of Griffin Engineering describes the proposed project for the construction of a pool, patio, and landscaped area in an area of existing lawn. Two 1,000 gallon drywells would accommodate runoff and pool drawdown water. Buchsbaum asks about impacts to Outstanding Resource Waters and Griffin confirms there will be no alteration of or discharge to Outstanding Resource Waters as a result of the project. Griffin describes the additional naturalization that would result along the edge of the wetland in the existing lawn area. Griffin confirms there is no Bordering Land Subject to Flooding on the site, in response to Bertoni's question and clarifies the amount of new impervious surface area within the 100-Foot Buffer. Buchsbaum asks whether the work could be moved outside the 50-Foot No-Build Zone. Griffin describes the alternatives, noting that the site is constrained and that only a portion of the work is in the No-Build Zone and impacts would be negligible. Bertoni invites comments from the public.

Tina Buchs, of 4 Thaxton Road, says that the clear cutting for the Thaxton Heights development has already increased the wet areas of her yard and she is concerned about increased impervious surfaces associated with the pool near the wetlands. She wants the pool to be located further

away from the wetland and for the drywells to be located away from her house on the other side of the patio. Griffin explains how the drywell will contain the runoff from the patio and pool deck as well as hold pool discharge. Griffin explains the function of the drywells in response to Buchs' questions.

Commissioners schedule a site visit for Saturday, March 19, 2022, at 9 a.m. There being no further questions or comments, Alden - St. Pierre moves to continue the hearing to the March 22, 2022 meeting. Seconded by Jones. Bertoni takes a roll call vote. Motion passes 4-0.

- g. **New: 181 Elliott Street, DEP File #5-1353** – request to amend Order of Conditions – Beverly Commerce Park, LLP

Documents Reviewed: Request to Amend the Order of Conditions and site plan by Beverly Commerce Park LLP, dated February 14, 2022

Pirrotta reads the legal notice. Pirrotta reports that the Commission received a written request by the applicant requesting that this hearing be continued without discussion until the next meeting, as they are working through potential plan changes. Buchsbaum moves to continue the hearing to the March 22, 2022 meeting. Seconded by Alden - St. Pierre. Bertoni takes a roll call vote. Motion passes 4-0.

4. **Reconvene Regular Meeting**

Alden - St. Pierre moves to reconvene the regular meeting. Seconded by Bertoni. Bertoni takes a roll call vote. Motion passes 4-0.

5. **Requests for Determination of Applicability**

- a. **Cont.: 340 Old Essex Road** – deck expansion and fence and gravel driveway installation – Ted Ramsdell

Documents Reviewed: Request for Determination of Applicability and associated attachments, by Ted Ramsdell, dated January 25, 2022

Owner Ted Ramsdell, is present and Bertoni recaps with him the observations from the site visit. Buchsbaum and Bertoni agree that the site visit was helpful to understand site constraints and that they did not have any further information to request for the project. There being no further questions or comments, Buchsbaum moves to issue a Negative 3 Determination under the Wetlands Protection Act and Beverly Wetlands Protection Ordinance, with the conditions as discussed. Seconded by Bertoni. Bertoni takes a roll call vote. Motion passes 4-0.

- b. **New: Hale Street** – gas main installation between Cabot and Boyles Streets – Boston Gas Company c/o Jaime Walker

Documents Reviewed: Request for Determination of Applicability application and plans by Tighe & Bond, dated February 14, 2022, and updated site plan dated February 22, 2022

Pirrotta reads the legal notice. Megan Woytik of Tighe and Bond (on behalf of Boston Gas Company), is present and provides an overview of the proposed gas main installation project. Woytik describes that this utility work is exempt from the Commission's review, except for the portions of the project that fall within Bordering Land Subject to Flooding. Bertoni asks about anticipated de-watering and the erosion control measures, as was described in the RDA. Woytik notes that these are the standard specification uses, but that dewatering was not specifically anticipated for this work. There being no further questions or comments, Alden - St. Pierre moves to issue a Negative 2 and 3 Determination under the Wetlands Protection Act and Beverly Wetlands Protection Ordinance, with conditions as discussed. Seconded by Buchsbaum. Bertoni takes a roll call vote. Motion passes 4-0.

c. **New: 675E Hale Street** – revetment repair and restoration – Laura Gibson

Documents Reviewed: Request for Determination of Applicability application by Laura Gibson, ASLA, and annotated plans dated February 14, 2022

Pirrotta reads the legal notice. Laura Gibson representing the applicant describes the proposed project, noting the damage to the revetment from recent storm. Bertoni asked about the best type of maintenance here and Gibson notes that if there were a wall instead of revetment, it would have collapsed. Buchsbaum asks about requirements of abutters to access the water. Gibson describes a 1915 land survey showing the easement to the water and that that they do maintain the stones for easier foot access to the beach. She notes that existing conditions are significantly different from the 1915 survey. Bertoni asks about equipment access to complete the work. Gibson responds that they should not need abutter access at West Beach, and that the work should be done from above the revetment, but that they included in the RDA in case conditions change. There being no further questions or comments, Alden - St. Pierre moves to issue a Negative 2 and 3 Determination under the Wetlands Protection Act and Beverly Wetlands Protection Ordinance, with conditions as discussed. Seconded by Buchsbaum. Bertoni takes a roll call vote. Motion passes 4-0.

d. **New: 109 Preston Place** – deck and stairs installation – Wayne Mack

Documents Reviewed: Request for Determination of Applicability application and plans by Griffin Engineering Group, dated February 14, 2022

Pirrotta reads the legal notice. Bob Griffin of Griffin Engineering, describes the proposed project for the construction of a new deck and stairs within the wetlands buffer. Griffin recaps the permit history at the site, including an Order of Conditions for construction of the house and another one for construction of the pool, cabana, and septic system work. Bertoni asks that the applicant submit a request for Certificate of Compliance to close out the outstanding Order of Conditions at the property. Alden - St. Pierre asks about the list of plantings. Bertoni says that a pre-construction site visit by Pirrotta should be conducted. Bertoni asks how the hot tub will be filled and where the water will be drained to. Owner Wayne Mack describes that the tub would be filled by the hose and would be drained into the existing drywell, as is done to drawdown water from the existing pool, as needed.

There being no further questions or comments, Buchsbaum moves to issue a Negative 3 Determination under the Wetlands Protection Act and Beverly Wetlands Protection Ordinance, with conditions as discussed. Seconded by Alden - St. Pierre. Bertoni takes a roll call vote. Motion passes 4-0.

6. Requests for Certificates of Compliance

- a. **New: 59 Ober Street, DEP File #5-1278** – replace existing dwelling and associated site work, grading, utilities, and driveway – 59 Ober Street LLC, c/o Peter Brown

Documents Reviewed: Request for Certificate of Compliance with engineers letter and as built plan by Williams & Sparages, dated February 14, 2022

Thor Akerly, of Williams & Sparages representing the applicant, recaps the work approved under the Order of Conditions, and the results of the as built plan. He describes the changes from the approved plan including a shifting of the pool patio and that some of the landscape areas were not installed. Akerly confirms that Pirrotta met with him on site and that they observed areas of vegetation near the bank that were cut. Bertoni reminds the applicant that work such as this needs approval in advance from the Commission and that changes to the plan should be approved ahead of time. Applicant Peter Brown confirms his understanding of this condition and will refrain from future cutting. Pirrotta confirms that the mesh netting from the straw wattle were still in place at the time of her site visit and Bertoni states that the owner is responsible for removing the mesh netting as soon as possible. Commissioners discuss whether they should issue a partial certificate until the mesh is removed. Akerly suggests that the Commission vote to issue the Certificate of Compliance, but place it on hold until removal to the Conservation Agent's satisfaction. Pirrotta confirms that Certificates of Compliance are issued within 21 days of the Commission's vote, and the applicant agreed to sign a 21-day waiver.

Buchsbaum moves to issue a complete Certificate of Compliance with Perpetual Conditions 35-39 and Special Condition 1 under the Wetlands Protection Act and Beverly Wetlands Protection Ordinance, after confirmation of removal of the remnant erosion controls. Seconded by Alden - St. Pierre. Bertoni takes a roll call vote. Motion passes 4-0.

7. Old/New/Other Business

- a. **Minor Modification to Order of Conditions**

- i. **Cont.: 28 Fosters Point, DEP File #5-1330** –Doug & Susan Stone

Documents Reviewed: Request for Minor Modification to Order of Conditions and revised site plan by Griffin Engineering, dated January 10, 2022

Bob Griffin of Griffin Engineering recaps the Minor Modification request and the Commission's site visit to the property. Griffin explains the fencing would be black aluminum with gaps. Buchsbaum and Alden – St. Pierre confirm they have no further questions after seeing the site. There being no further questions or comments, Buchsbaum moves to issue the Minor Modification to the Order of Conditions, noting that all existing conditions continue to apply,

and with the additional condition that gaps be provided in the fencing. Seconded by Alden - St. Pierre. Bertoni takes a roll call vote. Motion passes 4-0.

b. Enforcement Orders

i. Cont.: 0 Netherton Avenue

Documents Reviewed: Topographic Plan of Land by Hancock Associates, dated July 14, 2021; Wetland Restoration Plan by Hancock Associates, dated January 24, 2022; Enforcement Order dated February 10, 2022

Pirrotta updates the Commission on the status of the restoration work, per the Commission's latest Enforcement Order issued on February 10, 2022. The Commission received a revised plan based on observations from the site walk and discussion at previous meetings, and Pirrotta reported that earlier in the evening the Commission received an email with confirmation from the abutter that the applicant has permission to do the portions of the restoration work that falls on their property. The Commission still has not received the soils data due to technical issues reported by the consultant. Alden - St. Pierre moves to amend the Enforcement Order, with the conditions as discussed. Seconded by Buchsbaum. Bertoni takes a roll call vote. Motion passes 4-0.

c. Potential Violations, If Any
i. 115 Essex Street

Pirrotta reports receipt of a complaint regarding tree work and brush clearing at 115 Essex Street. She sent a possible violation letter and received a response from the owner and held a site visit earlier that day. Pirrotta reports that there are a lot of plantings on the site including gardening areas within lawn and that the owners claimed they had performed tree pruning, as well as cutting of a large broken tree at the edge of the property. The area was under snow cover during the site visit and members decide to not take any action at this time.

d. Review of draft action plan for the 2022 Open Space and Recreation Plan

Members discuss the draft action plan as part of the 2022 Open Space and Recreation Plan update and are enthusiastic and supportive of the plan as presented. Members discuss the addition of other outreach partners, such as Salem Sound Coastwatch.

e. Keolis 2022 Yearly Operating Plan, Vegetation maintenance activities Commuter Rail

Pirrotta informs the Commission of a notification that was received regarding vegetation management activities planned for this fall.

f. Varian Medical Systems, Inc. Phase V Remedy Operation Status Inspection & Monitoring Report

Pirrotta informs the Commission of a notification letter received regarding the July 1 through December 31, 2021 inspection and monitoring report for the former Varian Facility Site. The Commission receives regular reports and these are kept on file.

8. **Orders of Conditions, If Any**

i. **223 Greenwood Avenue, DEP File #5-1358**

The Commission recaps the project and discusses the issuance of an Order of Conditions for the project. Alden - St. Pierre moves to issue an Order of Conditions under the MA Wetlands Protection Act and Beverly Wetlands Protection Ordinance with the special conditions as discussed and the standard general and perpetual conditions. Seconded by Jones. Bertoni takes a roll call vote. Motion passes 4-0.

ii. **7 Ober Street, DEP File #5-1356**

The Commission recaps the project and discusses the issuance of an Order of Conditions for the project. Buchsbaum moves to issue an Order of Conditions under the MA Wetlands Protection Act and Beverly Wetlands Protection Ordinance with the special conditions as discussed and the standard general and perpetual conditions. Seconded by Jones. Bertoni takes a roll call vote. Motion passes 4-0.

iii. **675 Hale Street, DEP File #5-1355**

The Commission recaps the project and discusses the issuance of an Order of Conditions for the project. Alden - St. Pierre moves to issue an Order of Conditions under the MA Wetlands Protection Act and Beverly Wetlands Protection Ordinance with the special conditions as discussed and the standard general and perpetual conditions. Seconded by Jones. Bertoni takes a roll call vote. Motion passes 4-0.

9. **Approval of Minutes (as available)**

a. **January 25, 2022**

Commissioners review the draft minutes for the January 25, 2022 meeting. Buchsbaum moves to approve the minutes for January 25, 2022, as written. Seconded by Alden - St. Pierre. Bertoni takes a roll call vote. Motion passes 4-0.

b. **February 8, 2022**

Commissioners review the draft minutes for the February 8, 2022 meeting. Alden - St. Pierre moves to approve the minutes for February 8, 2022, as written. Seconded by Jones. Bertoni takes a roll call vote. Motion passes 4-0.

10. **Adjournment**

Alden - St. Pierre moves to adjourn at 10:47 p.m. Seconded by Bertoni. Bertoni takes a roll call vote. The motion carries 4-0.

The next regular meeting of the Conservation Commission is scheduled for Tuesday, March 22, 2022.