



**Environmental Stewardship Department/
Conservation Commission**

**City of New Bedford
Jonathan F. Mitchell, Mayor**

**Meeting Minutes of the Conservation Meeting of
October 15, 2019
Brooklawn Senior Center**

Members Absent

Dennis Audette

Staff Present

**Agent Sarah Porter, Conservation Agent
Sandy Douglas, Admin. Coordinator**

CALL MEETING TO ORDER

Chairman Dixon called the meeting to order at 6:30 pm

ROLL CALL OF COMMISSIONERS

Chairman, Craig Dixon, Commissioner Paul Pacheco and Commissioner Peter Blanchard

Chairman Dixon read General Procedure for Hearings for the record.

OLD BUSINESS:

1. **SE49-0771** - (Continued from 5/7/19, 5/21/19, 6/4/19, 6/18/19, 7/2/19, 7/16/19, 8/6/19, 8/27/19, 9/17/19, 10/2/19) – A Request for partial Certificate of Compliance as filed by Tim Cusson of Parallel Products of New England for property identified as 100 Duchaine Boulevard (Map 134, Lot 5). Representative is Matthew White of Farland Corp.

Mr. Christian Farland of Farland Corp was present on behalf of the applicant. Mr. Farland advised that this has been an ongoing project because there were a few puddling areas on the North side of the driveway. Mr. Farland has met on site with Agent Porter and Nitsch Engineering and the applicant ended up ripping up pavement and re-grading it and all the water sheet flows as designed. As-built plans were submitted to Agent Porter today.

Chairman Dixon inquired whether there was anyone present who wished to speak in favor or in opposition of this project. None heard.

Agent Porter advised for the record that an as-built dated 10/15/19 was received this afternoon and she has photos of the site that show the area that was re-paved and recommended that it be sent to Nitsch for review.

Commissioner Pacheco made a motion to forward to Nitsch for further review. Motion was seconded by Commissioner Blanchard. All in favor. Motion carries.

NEW BUSINESS:

1. **SE49-0727 - Request for a Certificate of Compliance as filed by Susan Nilson of Foth Infrastructure and Environment, LLC for property identified as 137 Popes Island (Map 60, Lot 13).** Representative is Susan Nilson.

Ms. Susan Nilson was not present. Agent Porter advised that she emailed Ms. Nilson twice today to address the following two concerns: 1) That the issued COC is for a barge with two spuds attached to it and the as/built plans dated 10/4/19 shows a smaller barge attached to the larger barge and that's not part of the permit. Agent did speak with Chapter 91 and they advised that the barge is subject to Chapter 91 licensing. 2) There are numerous 55-gallon drums on site and needs to know what's in them and if they are going to remain there or not.

Agent Porter stated for the record that she has received as-built plan dated 10/4/19 and original gangway plan dated 12/2/15 along with photographs that shows the barge coming out of the coastal bank. Agent Porter read letter from Foth dated 10/7/19 into record.

Mr. Scott Taber of Shoreline Resources was present and stated that the small barge has been there longer than planned and is going to be relocated and does not know if there is a spud in there or not, he is not sure. As far as the 55-gallon drums there is concrete in them and spray foam, there is no oil in them. There are drums on the land side but nothing on the barge. Some drums also have chains in them, and they will be crushing them.

Commissioner Pacheco inquired as to how long the small barge has been there. Mr. Taber is not sure and can find out.

Commissioner Pacheco made a motion to table to the next meeting. Motion was seconded by Commissioner Blanchard. All in favor. Motion carries.

2. **SE49-0694 - Request for a Certificate of Compliance as filed by Ron Oliveira for property identified as 968 Lucy Street (Map 132, Lot 346).** Representative is Ron Oliveira.

Agent Porter advised that a certificate cannot be issued until the split rail fence is fixed and another sign is installed.

Commissioner Pacheco made a motion to table to the next meeting. Motion was seconded by Commissioner Blanchard. All in favor. Motion carries.

CONTINUED HEARINGS:

1. **SE49-0735 – (Continued from 3/15/16, 4/5/16, 4/19/16, 5/3/16, 5/17/16, 6/7/16, 6/21/16, 7/5/16, 7/19/16, 8/16/16, 9/6/16, 9/20/16, 10/6/16, 10/18/16, 11/1/16, 11/15/16, 12/20/16, 12/27/16, 1/17/17, 2/7/17, 2/21/17, 3/7/17, 3/21/17, 4/4/17, 4/18/17, 5/2/17, 5/16/17, 6/6/17, 6/20/17, 7/5/17, 7/18/17, 8/8/17, 8/22/17, 9/5/17, 9/19/17, 10/3/17, 10/17/17, 11/7/17, 11/21/17, 12/5/17, 12/19/17, 1/2/18, 1/16/18, 2/6/18, 2/20/18, 3/6/18, 3/20/18, 4/3/18, 4/17/18, 5/1/18, 5/15/18, 6/5/18, 6/19/18, 7/3/18, 7/17/18, 8/7/18, 8/21/18, 9/4/18, 9/17/18, 10/2/18, 10/16/18, 11/6/18, 1/20/18, 12/4/18, 12/18/18, 01/8/19, 1/22/19, 2/5/19, 2/19/19, 3/5/19, 3/19/19, 4/4/19, 4/16/19, 5/7/19,**

5/21/19, 6/4/19, 6/18/19, 7/2/19, 7/16/19, 8/6/19, 8/27/19, 9/3/19, 9/17/19, 10/2/19) - A Notice of Intent as filed by Anthony R. DeCosta d/b/a A-1 Asphalt for property located at 1861 Shawmut Avenue, New Bedford (Map 124, Lot 27). Applicant proposes improvements to a soil and aggregate re-cycling facility in the Buffer Zone to Bordering Vegetated Wetlands. Representative is Rick Charon of Charon Associates, Inc. **CONTINUED**

2. **SE49-0810** – (Continued from 9/4/18, 9/17/18, 10/2/18, 10/16/18, 11/6/18, 11/20/18, 12/4/18, 12/18/18, 01/8/19, 1/22/19, 2/5/19, 2/19/19, 3/5/19, 3/19/19, 4/4/19, 4/16/19, 5/7/19, 5/21/19, 6/4/19, 6/18/19, 7/2/19, 7/16/19, 8/6/19, 8/27/19, 9/3/19, 9/17/19, 10/2/19) - A Notice of Intent as filed by Norman Nichols for property identified as a 50' wide easement through Map 130A, Lot 720. Applicant proposes a stream crossing for a 20' wide paved drive which shall alter Bordering Vegetated Wetland, Bank and Land Under a Waterway. Representative is Richard Rheume of Prime Engineering. **CONTINUED**

3. **SE49-0819** - (Continued from 3/5/19, 3/19/19, 4/4/19, 4/16/19, 5/7/19, 5/21/19, 6/4/19, 6/18/19, 7/2/19, 7/16/19, 8/6/19, 8/27/19, 9/3/19, 9/17/19, 10/2/19) - Notice of Intent as filed by MIH1, LLC for property identified as Farland Circle (Map 130D, Lot 472). Applicant proposes to construct a single-family dwelling in the Buffer Zone to a Bordering Vegetated Wetland. Representative is Jack Tabares of Farland Corp.

Christian Farland of Farland Corp., was present and requested a continuance of this hearing so they can have additional time to provide calculations for the subdivision.

Commissioner Pacheco made a motion to table until the next meeting. Motion was seconded by Commissioner Blanchard. All in favor. Motion carries.

4. **SE49-0820** - (Continued from 3/5/19, 3/19/19, 4/4/19, 4/16/19, 5/7/19, 5/21/19, 6/4/19, 6/18/19, 7/2/19, 7/16/19, 8/6/19, 8/27/19, 9/3/19, 9/17/19, 10/2/19) - Notice of Intent as filed by MIH1, LLC for property identified as Farland Circle (Map 130D, Lot 477). Applicant proposes to construct a single-family dwelling in the Buffer Zone to a Bordering Vegetated Wetland. Representative is Jack Tabares of Farland Corp.

Christian Farland of Farland Corp., was present and requested a continuance of this hearing so they can have additional time to provide calculations for the subdivision.

Commissioner Pacheco made a motion to table until the next meeting. Motion was seconded by Commissioner Blanchard. All in favor. Motion carries.

5. **SE49-0821** - (Continued from 3/5/19, 3/19/19, 4/4/19, 4/16/19, 5/7/19, 5/21/19, 6/4/19, 6/18/19, 7/2/19, 7/16/19, 8/6/19, 8/27/19, 9/17/19, 10/2/19) - Notice of Intent as filed by MIH1, LLC for property identified as Farland Circle (Map 130D, Lot 478). Applicant proposes to construct a single-family dwelling in the Buffer Zone to a Bordering Vegetated Wetland. Representative is Jack Tabares of Farland Corp.

Christian Farland of Farland Corp., was present and requested a continuance of this hearing so they can have additional time to provide calculations for the subdivision.

Commissioner Pacheco made a motion to table until the next meeting. Motion was seconded by Commissioner Blanchard. All in favor. Motion carries.

6. **SE49-0824 - (Continued from 4/16/19, 5/7/19, 5/21/19, 6/4/19, 6/18/19, 7/2/19, 7/16/19, 8/6/19, 8/27/19, 9/17/19, 10/2/19) - A Notice of Intent as filed by Michele Paul Director of Environmental Stewardship for the City of New Bedford for property identified as Riverside Park (Map 99, Lot 81; Map 100, Lots 83 and 84) which is located on the east side of Belleville Ave. and the north side of Coffin Ave.** Applicant proposes to remove invasive species. construct a six-foot wide riparian walkway and plant native vegetation adjacent to the pathway. Representative is Stevie Carvalho of Farland Corp.

Christian Farland of Farland Corp., was present and requested a continuance of this hearing.

Commissioner Blanchard made a motion to table until the next meeting. Motion was seconded by Commissioner Blanchard. All in favor. Motion carries.

NEW HEARINGS:

1. **A Notice of Intent as filed by Tim Cusson of Parallel Products of New England for property identified as 100 Duchaine Blvd (Map 133, Lot 67 and Map 134 Lots 5 & 462).** Applicant proposes to construct a rail sidetrack (from an existing rail to the glass recycling facility), an open box culvert stream crossing, a wetland crossing, bunker buildings for glass recycling, photovoltaic canopies, stormwater improvements and associated site grading and utilities. Representative is Christian Farland of Farland Corp.

Christian Farland of Farland Corp., Tim Cusson of Parallel Products and Mark Manganello of LEC Environmental were present.

Mr. Farland advised that subject property located at 100 Duchaine Blvd., is 71 acres of land. The applicant purchased this property in 2016 and has relocated a portion of his business from 969 Shawmut Avenue to this location. There is 1.5 megawatts of solar array canopies and access to this site is provided by Duchaine Blvd. The majority of limit of work for the site is existing impervious asphalt areas and concrete slab areas and previous building foundations. There is no natural heritage or historical structure or critical environmental issues of concern. The applicant is proposing appx. 25,000 linear feet of the rail spur that is coming off mainline and will run from mainline into the facility which will be utilized by recycling process to haul off site. Where they are installing the rail, they must cross the existing stream and it currently has an existing bridge and that would be best the location to minimize impacts to the resource area. They are also proposing an open box culvert.

Other permitted structure are two bunkers and proposing more solar canopies to the south side of the building. All five of rooftop areas will have solar arrays that will add another 1.9-megawatt power to the project. With proposed structure they will be doing some sub grading, some utility work, and stormwater improvements to the site. They have created a stormwater constructive wetland pocket and it will catch the sheet flow of water coming in and will pick up roof water by downspouts and piped to the system. Wetland pocket will have sediment forebay and eventually during large storm events water will flow into BVW.

The rail has been designed by four specialist engineers from Farland Corp., Greenseal, Tech Associates and LEC Environmental to assist with the State Stormwater Regulations and DEP Performance Standards that must be met with a project of this site.

Mr. Mark Manganello stated that they reviewed the wetland delineation and put together a report that was submitted with the NOI. There are two primary wetland disturbance areas, stream crossing and BVW crossing. One of the things they worked on was location of replication area, under 5,000 of BVW disturbance with wetland crossing and found improved location for that replication area shown on the plan. It covers over 80,000 s.f. which is above the 1.5 to 1 ratio required by the Board. The mitigation is in accordance with State Performance Standards for BVW disturbance which have to provide at least 1to1 replication of wetland being disturbed and requirements to be connected to same wetland system and waterbody and there is another standard that avoids minimizing mitigating which they have designed to minimize impacts as best as can be done. Small amount of wetland restoration on either side of the retaining wall is also being proposed.

Chairman Dixon inquired whether there was anyone present who wished to speak in favor of this project. None heard.

Chairman Dixon inquired whether there was anyone present who wished to speak in opposition of this project.

Elizabeth Swible of 3 Jennifer Lane, New Bedford was present and inquired if the two buildings on plan are existing, Mr. Farland indicated on the plans which buildings are being built and which ones are existing. Ms. Swible also inquired as to the purpose of this expansion. Mr. Farland replied that all the work was going to be done outside but decided to enclose the areas. Ms. Swible inquired what the plan is for a Phase II. Chairman Dixon advised that Phase II is not before this Commission this evening and cannot comment on that.

Tracy Wallace of 75 Stephanie Place, New Bedford was present and inquired if there will be a peer review for endangered habitats. Chairman Dixon advised that will be done.

Peter Swible of 3 Jennifer Lane, New Bedford, inquired if the rail will run 24/7. Mr. Cusson replied that the rail has the ability to run 24 hours a day but the scheduled proposed by Mass Coastal right now is that it will service New Bedford two times a day, once at 8:00 am and again at 6:00 pm but that is subject to change according to the Mass Coastal Schedule.

Wendy Graca of 26 Elizabeth Street, New Bedford inquired as to why Mr. Manganello stated that the ratio wetland restoration is 1.5 vs. 1 to 1. Mr. Manganello replied that this project is greater than 1.5 to 1 and the State Standards is 1 to 1.

Agent Porter stated that she is reviewing the NOI and the narrative from LEC and Farland Corp. and needs to review the wetland boundary. Agent Porter will only be reviewing the area within 100' to 200' of proposed disturbance areas. Agent Porter recommended Nitsch for stormwater review for verification of wetland impacts and mitigation sizes and for a determination on the compliance with Mass DEP stream standards.

Commissioner Pacheco inquired as to how many bunkers exist. Mr. Farland replied there currently aren't any. Commissioner Pacheco also inquired if the bunkers can be used for anything else besides glass recycling. Mr. Cusson replied that their specific intention is to use for glass. Mr. Farland added that the main purpose of the bunkers is for glass storage.

Elizabeth Swible stated that this site used to be a tank farm and the tanks above ground have been removed but is wondering if the underground tanks that used to hold oil were ever looked at to see if there

is any oil drainage into wetland. Mr. Cusson replied that the tank farm was south of this property on which is now the Eversource property. Ms. Swible stated that the address listed is 100 Duchaine Boulevard and the tanks are still there and do exist. Mr. Cusson added there was a 300,000-gallon water tank that was removed and have installed a 9,000-gallon fuel station that has been permitted to fuel up the trucks and as part of that process there is an oil/water separator and spill pad per the rules and regulations. Ms. Swible insisted that these tanks still exist. Mr. Cusson stated that a Phase I and Phase II done by licensed professionals with no mention of underground storage tanks being present.

Chairman Dixon stated that this Commission would need to see proof of those existing tanks. Ms. Swible will pick-up copies tomorrow and drop it off to the Commission.

Commissioner Pacheco made motion to send to Nitsch for peer review. Motion was seconded by Commissioner Blanchard. All in favor. Motion carries.

Commissioner Blanchard made a motion to continue to the next meeting. Motion was seconded by Commissioner Pacheco. All in favor. Motion carries.

- 2. A Notice of Intent as filed by Scott Taber, Shoreline Resources, LLC for property identified as 137-143 Popes Island, New Bedford (Map 60, Lot 13).** Applicant proposes to convert a dedicated fabrication facility to a True Value Hardware Marine Store with areas for retail, item storage and machine shop. The existing bituminous pavement will be removed, graded, repaved and restriped with a Stormceptor added to capture and treat stormwater runoff. Representative is Danny Rebelo of BETA Group, Inc.

Mr. Scott Taber of Shoreline Resources, LLC., and Laura Krause of Beta Group and Alan Hanscom of Beta Group were all present.

Ms. Krause advised that the project is a repaving project and repaving in exact same location with 800 sf decrease in impervious surface that will be revegetated following completion of project. There is a coastal bank at edge of property. Not proposing any work beyond the coastal bank and staying 8 feet off coastal bank and permanent impact over 30' away from coastal bank. Proposing to install cape cod berm along downgradient side of parking lot that will direct stormwater flow to catch water basin and hydrodynamic separator there is currently no stormwater control on site everything sheets to Acushnet River, at discharge point stone splash pad and vegetated. Project has been designed to meet all the standards and proposing erosion control of 12' compost filter tube around the limits of the project and removing debris from the site as part of project.

Agent Porter advised that this is a redevelopment site and they are decreasing the impervious surface. What going to do with shrubby vegetation around coastal bank. Ms. Krause replied that shrubbery is going to stay in place. Agent stated that because it is a redevelopment project and they are not disturbing any vegetation she has no other comments and recommended it be forwarded to Nitsch Engineering for stormwater peer review.

Commissioner Blanchard made a motion to forward this application to Nitsch Engineering. Motion was seconded by Commissioner Pacheco. All in favor. Motion carries.

Commissioner Pacheco made a motion to table to the next meeting. Motion was seconded by Commissioner Blanchard. All in favor. Motion carries.

OLD BUSINESS CONTINUED:

1. 3806 Acushnet Avenue - update on Restoration Plan

Agent Porter advised that she spoke with Stephen Chmiel and the owner did put up a sign written in a sharpie but Mr. Chmiel is going to get back to the Agent and if he doesn't hear back from him she will send a letter to the property owner giving him the specifications for the sign.

2. Almy Street - update on Restoration

Agent Porter spoke with Stephen Chmiel and he was supposed to go to site and seed it and if he doesn't, then this Commission will have to pursue further action against the property owners.

70 Dana Street

Agent Porter advised that she received an e-mail request from the property owner of 70 Dana Street to remove some tree branches that overhang onto her house. She also submitted photos of the tree. Agent Porter will meet with the property owner and give her a markup showing what branches need to be removed. The Commission agreed that the Agent will meet with the property owner and will present her recommendation to the Commission at the next meeting and if the commission agrees she will forward it to the homeowner.

Lot 480 Seth Daniels Drive

Agent Porter advised that they have a closing this Friday, but they could not get on the agenda until November 5th. She has been to the site and they are in full compliance and have submitted a complete COC. Agent Porter inquired if the Commission would agree to the Agent signing off on the CO if they are on agenda for next meeting. Agent confirmed that this has been done in the past. Commission agreed that Agent can sign off on the CO.

Scope of work for Nitsch Engineering

Agent Porter advised that the Commission will be entering into a new contract with Nitsch Engineering the only change made was to the scope of work that they would be looking at stream crossing standards and verifying the sizes of the wetland impact areas and mitigation areas.

NEW BUSINESS CONTINUED:

- 1. Agent Updates/General Correspondence**
- 2. Meeting Minutes of 10/2/19 for approval.**

Commissioner Pacheco made a motion to approve the meeting minutes of October 2, 2019. Motion was seconded by Commissioner Blanchard. All in favor. Motion carries.

Mr. Joseph Pacheco the President of the Fort Rodman Associates and Low Tide Yacht Club was concerned about beach grass and has contacted Mary Rapoza at the Parks Department along with an email to Agent and he has not received a reply from Sarah. Agent Porter stated that she replied via email to Mary and spoke with Mr. Pacheco on the telephone and explained to him that beach grass cannot be removed because MA DEP advised that it's against the regulations. Mr. Pacheco stated that it's taking over our beaches and affects tourism and sailboat racing because beaches are shrinking. He added that other towns in Cape Cod and Duke University have come up with plans to stop the erosion. Chairman Dixon stated this Commission has been advised by Mass DEP that beachgrass cannot be removed.

Chairman Dixon stated that if Mr. Pacheco can provide evidence that other towns are allowing this and its being approved by the Mass DEP then this Commission may entertain it. Mr. Pacheco stated that they are not removing beachgrass they are cutting back on the grass and erect sand fences. Chairman Dixon would like evidence of that. Porter if were to have done that they would have to have gone before their town Conservation Commission so would need to see those plans and what has been approved in other towns because have been told it cannot be done. Agent Porter also been advised by the City Solicitor that should not be issuing permits to remove beach grass.

Letter of Resignation

Chairman Dixon read into record his letter of resignation dated October 14, 2019. Chairman Dixon will be moving out of the city by the end of the year and will not be able to continue as Chairman for this Committee. Chairman Dixon will stay on until December 17th to give the Mayor's office enough time to find a replacement.

Agent Porter read into record letter of resignation from Chancery Perks.

ADJOURN

Commissioner Pacheco made a motion to adjourn at approximately 7:45. Motion was seconded by Commissioner Blanchard. All in favor. Motion carries.

Respectfully submitted,

Sandy Douglas, Administrative Coordinator