



**Environmental Stewardship Department/
Conservation Commission**

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

**Meeting Minutes of the Conservation Meeting of
November 21, 2017
Brooklawn Senior Center, 1997 Acushnet Avenue**

Members Absent

None.

Staff Present

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

Chairman Dixon called the meeting to order at 6:30 p.m.

Roll Call of all Commissioners' Present: Chairman Jacob Gonsalves, Commissioner Peter Blanchard, Commissioner Chancery Perks, Commissioner Paul Pacheco, Chairman Craig Dixon, Vice Chairman Dennis Audette

CALL MEETING TO ORDER

ROLL CALL OF COMMISSIONERS

OLD BUSINESS:

NONE.

NEW BUSINESS:

1. **SE49-0722** - Request for Certificate of Compliance as filed by Leslie Braz for property located at 5 Ava's Way (Map 138, Loy 494).

Agent Porter advised the Commission that the lots are in compliance but they have not yet submitted the as-built and do not have letter from designer stating that it's built in substantive compliance so they are not ready for a Certificate of Compliance to be issued.

Commissioner Audette made a motion to table this matter. Motion was seconded by Commissioner Gonsalves. 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) - 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. **SE49-0739** – (Continued from 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) - A Notice of Intent as filed by Michele Paul, Director of Environmental Stewardship for the City of New Bedford for property identified as Ruggles Street and Hathaway Boulevard (Map 69, Lots 86, 88-93, 96-100, and 125). The applicant proposes to conduct remediation activities to remove contaminated soils followed by construction of an athletic facility. Representative is David Sullivan of TRC Environmental.

CONTINUED

3. **SE49-0777** - (Continued from 10/3/17, 10/17/17, 11/7/17) - A Notice of Intent as filed by Jean Fox of the Massachusetts Department of Transportation for property identified as 217 Herman Melville Boulevard (Map 72, Lot 275) New Bedford, Massachusetts. Applicant proposes to construct the Wamsutta Layover railroad facility, a portion of which is in the buffer zone to a Bordering Vegetated Wetland. Representative is Lisa Standley of Vanasse, Hangen, Brustlin, Inc. **CONTINUED**

4. **SE49-0778** - (Continued from 10/17/17, 11/7/17) - A Notice of Intent as filed by Mickey Higgins of South Coast Development, LLC for property identified as 209 Theodore Rice Boulevard (Map 136, Lot 322). Applicant proposes to construct a convenience store/gas station with associated parking and utilities. A wetland crossing is proposed as well as work within the 100' buffer zone. Representative is Steven Gioiosa of SITEC, Inc. **CONTINUED**

5. **SE49-0782** - (Continued from 11/7/17) - A Notice of Intent as filed by Manny Silva of S&S Properties, LLC., for property identified as West Side of Phillips Road (Map 134, Lot 466). Applicant proposes to construct a single family dwelling in the Buffer Zone. Representative is Matthew White of Farland, Corp.

Mr. Matthew White of Farland Corp., was present on behalf of the applicant and advised the Commissioner that they are proposing a single family dwelling on this lot and a significant portion of the wetland is located on the back half of the property and they have revised the plans since last meeting to bring everything out of 25' and still maintain the Zoning Bylaws. They are connecting to City water and utilities with associated grading.

No comments heard from the public or Commission.

Agent Porter stated that the only comment she has is she doesn't think staked straw waddles will be sufficient because of slope and suggested adding trenched in silt fence behind the straw waddle. Mr. White is in agreement.

Agent Porter recommended the issuance of an Order of Conditions with the following special conditions: addition of trenched in silt fence behind the straw waddles for the erosion controls, upon completion of construction a split rail fence or approved equivalent is to be installed at 25' no disturb zone to establish a no disturb zone in perpetuity with sign on fence stating that "Protected Conservation Commission area

exists beyond this fence and is to remain undisturbed per order of the New Bedford Conservation Commission”; and at time of land transfer the owner or any successor shall require the buyer to sign an acknowledgment that they have read and understand Condition 50 and notarized original document is to be submitted to the Conservation Commission. The plans for approval is titled Site Plan LC, Lot 13 Phillips Road, Assessor’s Map 134, Lot 466, revise date of 11/17/17.

Commissioner Audette made a motion to approve as recommended by the Agent with special conditions as read. Motion was seconded by Commissioner Gonsalves. All in favor. Motion carries.

- 6. SE49-0780 - (Continued from 11/7/17) - A Notice of Intent as filed by Manny Silva of S&S Properties, LLC, for property identified as West Side of Phillips Road (Map 134, Lot 467).** Applicant proposes to construct a single family dwelling in the Buffer Zone. Representative is Matthew White of Farland, Corp.

Mr. Matthew White of Farland Corp., was present on behalf of the applicant and advised the Commission that this lot also has similar restrictions like previous lot with half of property containing BVW. They were able to pull everything out of 25’ no touch and are in compliance with Zoning Bylaws and the revised plan has been approved by DPI.

No comments from Commission or public heard.

Agent Porter recommended the issuance of an Order of Conditions with the following special conditions: addition of trenched in silt fence behind the straw waddles for the erosion controls, upon completion of construction a split rail fence or approved equivalent is to be installed at 25’ no disturb zone to establish a no disturb zone in perpetuity with a sign on fence stating that “A protected Conservation area exists beyond this fence and is to remain undisturbed per order of the New Bedford Conservation Commission; at the time of land transfer the owner or any successor shall require the buyer to sign an acknowledgement that they have read and understand condition 50 and notarized original document is to be submitted to the Conservation Commission.

The Plans for approval is titled Site Plan LC Lot 14, Phillips Road, Assessor’s Map 134, Lot 467, New Bedford, MA with revise date of 11/17/17.

Commissioner Audette made a motion to approve as recommended by the Agent with special conditions as read. Motion was seconded by Commissioner Gonsalves. All in favor. Motion carries.

- 7. SE49-0784 - (Continued from 11/7/17) - A Notice of Intent as filed by Manny Silva of S&S Properties, LLC, for property identified as West Side of Phillips Road (Map 134, Lot 468).** Applicant proposes to construct a single family dwelling in the Buffer Zone. Representative is Matthew White of Farland, Corp.

Mr. Matthew White of Farland Corp. was present on behalf of the applicant and advised the Commission that this lot is also similar to the previous lots. They are proposing a single family dwelling with a drive under style house and associated grading with asphalt driveway, connecting to City utilities. They were also able to pull everything out of the 25’ and have met all slope requirements and DPI requirements.

No comments from the Commission or public.

Agent Porter recommended the issuance of an Order of Conditions with the following special conditions:

addition of trenched in silt fence behind the straw waddles for the erosion controls, upon completion of construction a split rail fence or approved equivalent is to be installed at 25' no disturb zone to establish a no disturb zone in perpetuity with a sign on fence stating that "A protected Conservation area exists beyond this fence and is to remain undisturbed per order of the New Bedford Conservation Commission and at the time of land transfer the owner or any successor shall require the buyer to sign an acknowledgement that they have read and understand condition 50 and notarized original document is to be submitted to the Conservation Commission. The plan for approval is titled Site Plan LC. Lot 13 Phillip Road, Assessor's Map 134, Lot 468 revise dated 11/17/17.

Commissioner Gonsalves made a motion to issue an Order of Conditions as recommended by the Agent with special conditions. Motion was seconded by Commissioner Pacheco. All in favor. Motion carries.

- 8. SE49-0779 - (Continued from 11/7/17) - A Notice of Intent as filed by Manny Silva of S&S Properties, LLC, for property identified as West Side of Phillips Road (Map 134, Lot 469).** Applicant proposes to construct a single family dwelling in the Buffer Zone. Representative is Matthew White of Farland, Corp.

Mr. Mathew White of Farland Corp., was present on behalf of the applicant and advised the Commission that they are proposing a single family dwelling with driveway associated grading and drive under style home. The limit of work is at the 25' no touch nothing beyond. This portion of Phillips Road gains more square footage of upland and was easier to pull everything out of 25' and gave them a little bit more room with regard to zoning setbacks.

No comments from the Commission or the public.

Agent Porter recommended the issuance of an Order of Conditions with the following special conditions: addition of trenched in silt fence behind the straw waddles for the erosion controls, upon completion of construction a split rail fence or approved equivalent is to be installed at 25' no disturb zone to establish a no disturb zone in perpetuity with sign on fence stating that "A protected Conservation area exists beyond this fence and is to remain undisturbed per order of the New Bedford Conservation Commission and at the time of land transfer the owner or any successor shall require the buyer to sign an acknowledgement that they have read and understand condition 50 and notarized original document is to be submitted to the commission. The plans for approval is titled Site plan LC, Lot 16, Phillips Road, Assessor's Map 134, Lot 469 revise dated 11/17/17.

Commissioner Gonsalves made a motion to issue an Order of Conditions as recommended by the Agent with special conditions. Motion was seconded by Commissioner Audette. All in favor. Motion carries.

- 9. SE49-0783 - (Continued from 11/7/17) - A Notice of Intent as filed by Manny Silva of S&S Properties, LLC, for property identified as West Side of Phillips Road (Map 134, Lot 470).** Applicant proposes to construct a single family dwelling in the Buffer Zone. Representative is Matthew White of Farland, Corp.

Mr. Matthew White of Farland Corp., was present on behalf of the applicant and advised the Commission that they are proposing a single family dwelling with driveway associated grading, connecting to City utilities with the limit of work outside the 25' no touch buffer zone. Roof recharge system per DPI requirements and permanent barrier at 25' when project is complete.

Agent Porter recommended the issuance of an Order of Conditions with the following special conditions: addition of trenched in silt fence behind the straw waddles for the erosion controls, upon completion of construction a split rail fence or approved equivalent is to be installed at 25' no disturb zone to establish a no disturb zone in perpetuity with sign on fence stating that "A protected Conservation area exists beyond this fence and is to remain undisturbed as per order of the New Bedford Conservation Commission and at the time of land transfer the owner or any successor shall require the buyer to sign an acknowledgement that they have read and understand condition 50 and notarized original document is to be submitted to the Commission. The plans for approval is titled Site Plan LT, Lot 17, Phillips Road, Assessor's Map 134, Lot 470, New Bedford, MA revise dated 11/17/17.

Commissioner Gonsalves made a motion to issue an Order of Conditions as recommended by the Agent with special conditions. Motion was seconded by Commissioner Audette. All in favor. Motion carries.

- 10. SE49-0781 - (Continued from 11/7/17) - A Notice of Intent as filed by Manny Silva of S&S Properties, LLC, for property identified as West Side of Phillips Road (Map 134, Lot 471).** Applicant proposes to construct a single family dwelling in the Buffer Zone. Representative is Matthew White of Farland, Corp.

Mr. Matthew White of Farland Corp., was present on behalf of the applicant and advised the Commission that they are proposing a single family dwelling with driveway, associated grading, connecting to City utilities and with roof recharge system. The limit of work is outside of the 25' no disturb zone.

No comments from public or Commissioners.

Agent Porter recommended the issuance of an Order of Conditions with the following special conditions: addition of trenched in silt fence behind the straw waddles for the erosion controls, upon completion of construction a split rail fence or approved equivalent is to be installed at 25' no disturb zone to establish a no disturb zone in perpetuity with sign on fence stating that "A protected Conservation area exists beyond this fence and is to remain undisturbed per order of the New Bedford Conservation Commission"; and at the time of land transfer the owner or any successor shall require the buyer to sign an acknowledgement that they have read and understand condition 50 and the notarized original document is to be submitted to the commission. The plans for approval is titled Site Plan LC, Lot 18, Phillips Road, Assessor's Map 134, Lot 471, New Bedford, MA revise dated 11/17/17.

Commissioner Gonsalves made a motion to issue an Order of Conditions as recommended by the Agent with special conditions. Motion was seconded by Commissioner Pacheco. All in favor. Motion carries.

- 11. SE49-0730 – (Continued from 11/7/17) - A Request To Amend Order of Conditions as filed by Michele Paul, Director of the City of New Bedford Department of Environmental Stewardship for property located at 241 Duchaine Boulevard, New Bedford, MA (Map 136, Lot 231).** Applicant proposes to modify the proposed cap and storm water system within the Buffer Zone. Representative is Todd Kirton of Tighe & Bond.

Chairman Dixon recused himself from this matter and left the hearing room.

Mr. Todd Kirton of Tighe and Bond was present together with Raymond Holberger of City of New Bedford Environmental Stewardship Department.

Mr. Kirton advised that the original Order of Conditions for this was issued in April 2016 and the building has since been demolished and only the concrete floor is left. In May of 2017 there was interest received

from a private party for rebuilding the property. The City then asked Tighe and Bond to submit an amended risk base approval to EPA documenting conditions and as to how site could be redeveloped and EPA approved the amendment. Instead of building the asphalt parking lot as previously approved the impacted material with PCB will be capped by September of 2018 which is the end date that the City has to have a concrete plan for redevelopment per EPA requirements. The 12" of gravel that will be used as a cap would be the same base for the asphalt parking lot initially proposed.

Mr. Holberger stated that the City would come back before the Conservation Commission with revised storm water calculations. This amendment to the Order of Conditions is to leave the site under interim which is completely permeable and would actually be decreasing the impervious area by 13,000 s.f. size of the existing concrete pad breaking up concrete pad and leaving most PCB impacted soils on site consolidate beneath fill material and gravel.

Commissioner Audette inquired if any clean-up been started. Mr. Holberger replied that yes they have removed 600 tons of toxic waste and the approval under EPA is to remove all of the material with contained concentration of over 500 pm PCB and consolidate the remainder.

Commissioner Pacheco asked what would happen by October 1 if nothing transpires between City and new owner. Response was that EPA reserves requirement to proceed with original approved plan which was to cap it.

Agent Porter questions on the plan where it says no entrance road not being completed under NOI Amendment. RH will not be paving new entrance ways so that might have been a typo. TK proposing to leave existing asphalt entrances in place.

No comments from the public and Commission.

Commissioner Gonsalves made a motion to approve Amendment. Motion was seconded by Commissioner Pacheco. All in favor. Motion carries.

NEW HEARINGS:

None.

NEW BUSINESS:

1. Agent Updates

Pope's Island

Agent Porter advised that received copy of Enforcement Order today from DEP to Popes Island Harbor Development Corp., at 213 Popes Island for a waste barge that was grounded and being dismantled within land under the ocean in Fairhaven/New Bedford Designated Port Area. The extent and type of activity is beaching and partially dismantling of waste barge on land under the ocean within the New Bedford/Fairhaven Designated Port Area resulting in alteration of land under ocean. The property owner, within 21days of receipt of said Enforcement Order, shall remove the waste barge and associated debris from the resource area in accordance with spill management plan.

2. General Correspondence

3. 2018 Meeting Agenda

Commissioner Gonsalves made a motion to approve the 2018 Meeting Agenda. Motion was seconded by Commissioner Audette. All in favor. Motion carries.

Commissioner Gonsalves made a motion to adjourn at approximately 7:05. Motion was seconded by Commissioner Audette. All in favor. Motion carries.

Respectfully submitted,

Sandy Douglas
Administrative Coordinator