



Environmental Stewardship Department/
Conservation Commission

City of New Bedford
Jonathan F. Mitchell, Mayor

**Meeting Minutes of the Conservation Meeting of
April 19, 2016
Room 314, City Hall**

Members Present

John Radcliffe, Chairman
Craig Dixon, Vice Chairman
Paul Pacheco
Jacob Gonsalves

Members Absent

Dennis Audette

Staff Present

Agent Sarah Porter
Sandy Douglas, Admin., Specialist

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

OLD BUSINESS:

1. **SE49-466 (Continued from 2/16/16, 3/1/16 & 3/15/16) – Request for Certificate of Compliance for property identified as 2301 Purchase Street, New Bedford, MA (Map 97, Lots 6 & 9).** Representative is Alan J. Heureux of Boucher & Heureux.
2. **1151 Cardinal Street**

Agent Porter advised that she and Chairman Radcliffe went to the house and there was no one at the home. Agent Porter left her card on the door with a note to please call and to date, has not received a call. The original letter that was sent was received by the homeowner because it was not returned to this office. Agent Porter recommended giving them a deadline to remove the material in the wetland rather than coming before the Commission. Chairman Radcliffe suggested contacting the Solicitor's Office as to how to proceed with this matter since there hasn't been any cooperation from the homeowners.

NEW BUSINESS:

1. **SE49-249 – Request for Certificate of Compliance for property identified as John Vertente Boulevard, New Bedford, MA (Map 135, Lot 2).** Representative is Blair Bailey of the City of New Bedford. **CONTINUED**
2. **SE49-253 – Request for Certificate of Compliance for property identified as 129 John Vertente Boulevard, New Bedford, MA (Map 135, Lot 2).** Representative is Blair Bailey of the City of New Bedford. **CONTINUED**

3. **SE49-267 – Request for Certificate of Compliance for property identified as John Vertente Boulevard, New Bedford, MA (Map 135, Lot 2).** Representative is Blair Bailey of the City of New Bedford. **CONTINUED**
4. **SE49-324 – Request for Certificate of Compliance for property identified as John Vertente Boulevard, New Bedford, MA (Map 135, Lot 2).** Representative is Blair Bailey of the City of New Bedford. **CONTINUED**
5. **A Request for Determination of Applicability as filed by Graham & Hunt, LLC for property identified as 978 Nash Road (Map 123, Lot 120).** Applicant proposes to install two new catch basins and a stormwater treatment unit in the Buffer Zone to Bordering Vegetated Wetlands. Representative is Alexander Trakimas of SITEC Environmental Inc.

Mr. Alexander Trakimas of SITEC was present on behalf of the applicant and advised that there are existing small catch basins behind the building with a sump pump with a 1 1/2" discharge which freezes during cold water and causes ponding. He is proposing to install a deep sump catch basin with stormwater treatment unit and sediment removal and it is going to connect to the existing municipal drain in the street. All of the work will take place in existing paved areas and it will be saw cut. A long term maintenance plan has been provided as requested by the Agent.

Chairman Radcliffe inquired whether there currently is any impact from the runoff into the resource area. Mr. Trakimas replied that there isn't any impact.

Agent Porter advised that this is a water quality improvement project and recommended the issuance of a negative determination. The Special Conditions are as follows: the catch basins and water quality until be maintained in conformance with the Stormwater Operation and Maintenance Plan, which has been submitted. That a pre-construction meeting be held with the Conservation Agent following the installation of the straw wattles and before any other work is to commence on site. Agent Porter does not feel that this application needs to be reviewed by Nitsch Engineering. Chairman Radcliffe agreed.

Commissioner Dixon made a motion for a negative determination as recommended by the Agent with conditions as read. Motion was seconded by Commissioner Pacheco. All in favor. Motion carries.

6. **A Request for Determination of Applicability as filed by Abilio Fernandes for property identified as 255 River Road, New Bedford (Map 119, Lot 94).** Applicant proposes to demolish an existing structure and construct a residential duplex with associated utilities in the Buffer Zone to the Bank of the Acushnet River. Representative is Nick Dufresne of Farland Corp.

Mr. Nick Dufresne of Farland Corporation was present on behalf of the applicant and advised the Commission that it's an old building previously used as a warehouse. The owner is proposing to demolish the building and construct a duplex with a storage garage and small parking area. The present resource area is located across River Road and top of bank is associated with the Acushnet River, the 100' buffer zone does extend across the property. The grading is associated with the new structure, and utilities will be tied into existing utilities on site, erosion controls will consist of staked straw wattles around the edge of the property.

Chairman Radcliffe inquired as to the net change in the impervious area. Mr. Dufresne replied that it is approximately 18% decrease.

Agent Porter stated that this is a straight forward project for demolition and re-construction of a duplex on a warehouse facility with an overall increase in pervious surface of 18% and recommended the issuance of a negative determination with the following special conditions: that the straw wattles be placed along River Road coming up Hamlin Street, that the straw wattles be in place prior to demolition and are to remain in place throughout construction activities, and an onsite meeting shall be held with the Conservation Agent for inspection of the straw wattles prior to any demolition.

Chairman Dixon made a motion to approve with conditions as read by the Agent. Motion was seconded by Commissioner Pacheco. All in favor. Motion carries.

CONTINUED HEARINGS:

1. **SE49-0735 – (Continued from 3/15/16 & 4/5/16) - 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.
2. **SE49-0736 - (Continued from 3/15/16 & 4/5/16) - A Notice of Intent as filed by Terrence Tedeschi of New Bedford Cousins, LLC for property identified as Northside Farms (Registry of Deeds: Plan Book 164, Pg 75) which consists of Declan Dr., Horseshoe Rd., Monson St. Northside Dr. & Acushnet Ave. (Map 130 D, Lots 117, 402, 380, 381, 382, 407, 408, 409, 410, 411, 379, 398, 399, 400, 401, 397, 395, 396, 412, 419, 403, 404, 405, 406, 416, 417, 418, 413, 414, 415, 393, 383, 384, 394, 392, 385, 386, & 387).** Applicant proposes a subdivision roadway with associated utilities and grading including wetland filling and replication. Representative is John Cavanaro of Cavanaro Consulting.

Mr. John Cavanaro of Cavanaro Consulting was present together with Mr. Terry Tedeschi. Mr. Cavanaro advised the Commission that they received a response from Nitsch Engineering this afternoon and 4:00 and is prepared to go over it with the Commission. Mr. Cavanaro advised that he would like to focus on Nitsch's last comment with regard to alteration of the small portion of the wetland in the middle of the property. Mr. Cavanaro added that the comments that were submitted today we made on assumptions based on soil classifications and producing infiltration rates that were too conservative and as a result had to look at pretreatment for infiltration rates.

Mr. Cavanaro stated that replication was proposed as part of their original proposal and Nitsch suggested reviewing a drainage report from CDM and one recommendation from the CDM report was to clean the stream in this area to improve downstream flooding and they agree with said recommendation.

Mr. Cavanaro continued to review Nitsch's comments with the Commission.

Chairman Radcliffe stated that these comments were just received from Nitsch and the Commission hasn't had an opportunity to review.

Agent Porter added that they are to avoid cutting down of trees within the 25' setback area of the stream. The Lucy street neighborhood used to flood badly and they found a crushed culvert so the Commission issued an Emergency Certification years ago to replace that culvert which took care of a lot of the upstream flooding that was occurring. The channel cleaning would trigger impacts

to the steam and Riverfront Area in terms of removal of the vegetation and the Agent does not feel it is necessary as mitigation. Agent Porter recommended that the Commission should focus on informing the applicant and engineer what new Special Conditions this subdivision may have over the initial Northside Farm Order of Conditions. Special conditions have changed if going to follow the Conditions issued for Ava's Way.

Chairman Radcliffe clarified that the application tonight is for the roadway. Agent Porter replied that was correct and that the order would be limited to those activities associated with the construction of the roadway, utility infrastructure and stormwater management systems as shown on the approved plans and documents.

Agent Porter questioned whether the Commission wants the erosion controls moved to the 100' buffer or if they are going to allow work in the 100' buffer under this application.

Chairman Radcliffe replied that he would need to review Nitsch's comments first.

Agent Porter recommended reviewing the following special conditions that were issued to Ava's Way to see if they are applicable to this subdivision: 1) all activities associated with the development of the individual lots in the Buffer Zone including but not limited to land clearing, earthwork, grading, etc., is outside the scope of this Order and will be subject to further review by the Conservation Commission. 2) Erosion controls at the 50' line. 3) Prior to the Conservation Commission's endorsement of any building permit applications and/or issuance of any further Orders of Conditions on this property, the stormwater management system shall be substantially complete and functional. As-built drawings of the entire stormwater management system and hydrologic calculations for the 2, 10 and 100 year storm events certified by a Mass. Registered P.E., shall be submitted to the Commission and reviewed by consultant for the Commission. 4) The consultant for the Conservation Commission shall conduct periodic inspections of the work associated with the construction of the stormwater management systems during the construction period for compliance with the approved Order of Conditions documents and these inspections will include but not limited to: a) subgrade excavation of the infiltration basin prior to the placement of the loam and b) subgrade excavation of proposed underground infiltration system. 5) Prior to land clearing activity, the erosion control line shall be staked out in the field and inspected by the agent for the Conservation Commission. Agent Porter recommended that their roof infiltrators be sized to accommodate a 100 year storm event. Mr. Cavanaro replied that right now they are sized for a 2 year storm event. Agent Porter will consult with Nitsch regarding the sizing. 6) That storage or use of pesticides and fertilizers in the Buffer Zone is prohibited. 7) Stormwater management devices shall be maintained as established in the Long Term Operation and Maintenance Plan and Illicit Discharge Statement.

Mr. Cavanaro requested a continuance.

Commissioner Dixon made a motion to continue to May 3, 2016. Motion was seconded by Commissioner Pacheco. All in favor. Motion carries.

NEW HEARINGS:

- 1. A Notice of Intent as filed by Ray Holberger of the Department of Environmental Stewardship for property located at 255 Hathaway Boulevard (Map 75, Lot 167). Applicant proposes to clear woody and herbaceous vegetation using mowers and hand held equipment in the**

Buffer Zone to Bordering Vegetated Wetland. Representative is Ray Holberger of the Department of Environmental Stewardship.

Mr. Raymond Holberger with the City of New Bedford's Environmental Stewardship Department was present and advised the Commission that in 2010 a deed restriction was placed on the property under the Toxic Substance Control Act it is required that the during the entirety of the cap it be kept clear of any deep rooted vegetation and between then and now some deep rooted vegetation has become established on the cap of the slope between the chain link fence that surrounds the KMS parking lot, driveway and the wetlands below it. They are proposing an ongoing condition to allow for the physical clearing of any deep rooted vegetation on the vegetated slope on an annual and ongoing basis. All the stakes and flags have been labeled out on the field. The work would most likely be done by hand. The arborists with the Department of Public Infrastructure will be performed the work. The vegetation would either be chipped on site or taken off site.

Agent Porter stated that this is her first look at the plans, when she visited the site there weren't any numbers on the stakes and it's been a struggle to get a plan that accurately represents what is out in the field. They are requesting an ongoing maintenance clause so that when they have the slopes cleared and they apply for a Certificate of Compliance there would be an ongoing condition that would permit the cutting of the slope vegetation in perpetuity. Another condition would be that the vegetation on the slopes is to be cut periodically, annually at a minimum, to prevent the establishment of trees, shrubs, and other deep rooted vegetation and prior to any cutting the Agent will conduct a site visit. It is also recommended that the wetlands be flagged annually prior to cutting.

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

- 2. A Request for an Amended Order of Conditions (SE 49-0719) as filed by McDonald's USA, LLC for property identified as 1080 Kings Highway, New Bedford (Map 125, Lot 29).** Applicant proposes to amend the previously approved project to incorporate a 750 S.F. building addition which will include an indoor Playplace. The project still results in a decrease in impervious area over existing conditions and does not change the approved water quality improvements. Representative is Eric Dubrule of Bohler Engineering.

Mr. Eric Dubrule of Bohler Engineering was present on behalf of the applicant and advised that they were before the Commission back in October of 2015 and was granted an Order of Conditions for the McDonald's on Kings Highway. The amendment they are requesting is to incorporate a 750 s.f. building addition with small adjustment to the parking. The proposed work will be conducted outside of the 100' buffer and no increase to the original approved proposed footprint.

Agent Porter stated that this is a very straight forward project and recommended the issuances of an Amended Order Of Conditions with the same special conditions that are in the original order with approved updated plans titled Site Development Plans Sheets C-1 through C-15 of 15 revised dated 1/12/16, Alta/ACSM Land Survey Sheets 1 and 2 of 2 dated 11/24/14 and A2.0 and A2.1 dated 2/25/16.

Commissioner Dixon made a motion to approve the request for an Amended Order as recommended by the Agent. Motion was seconded by Commissioner Pacheco. All in favor. Motion carries.

NEW BUSINESS CONTINUED:

1. Parallel Products (SE49-0728) Farland Corp to present as-built plan of where Limit of Disturbance has been exceeded.

Mr. Nick Dufresne of Farland Corporation was present and advised that some tree clearing was done that exceeded the limit of clearing shown on the approved plans. Seeding has been done. The tree service went above and beyond what was to have been cleared and the engineer was not present.

Chairman Radcliffe requested that Mr. Dufresne provide the name of the tree service company.

Agent Porter confirmed that it was seeded today.

2. Agent Updates (airport, 1463 Morton Avenue)

AIRPORT

Agent Porter advised that they didn't know that there was a crushed pipe under Phase I and they replaced it without consulting the Commission. It was replaced in kind and placed crushed stone around it and it was already within the confines of the straw waddles and nothing got into the wetland area. Agent Porter informed them that this work qualified for an Emergency Certification and they should have notified this Commission before replacing it.

1463 MORTON AVENUE

Agent Porter advised the Commission that Commissioner Audette informed her that they were cutting down trees at 1463 Morton Avenue in the outer buffer zone. By the time she visited the site there were only two left and was informed by owner that several arborists had informed him that the trees were diseased and that it was a safety issue.

Chairman Radcliffe inquired as to how many trees were taken down. Agent Porter advised that there were 6 trees. Agent Porter suggested sending the owner of the property a letter advising him that he is in the buffer zone and whenever he performs any activities in the buffer zone he must call the Commission. The Commission agreed.

KEITH MIDDLE SCHOOL

Agent Porter advised that Mr. Raymond Holberger from the Dept of Environmental Stewardship was present with regard a request if Nitsch could get involved with a pre-application conference call for a soccer field project south of the existing KMS site. TRC is the consultant for the City and they would like input into the design before they go too far.

Mr. Holberger stated that there are 6 vacant lots on Ruggles Street and the City intends to extend the KMS cap and creating artificial turf soccer fields for the KMS students and a basketball court. The EPA PCB coordinator prefers remedial caps to include artificial turf because they provide a better barrier. TRC is curious on the Commission's view on whether or not an artificial turf field could be considered a pervious surface.

Chairman Radcliffe stated they will approve a pre-conference call prior to any submittal and to cost up to \$500.00.

Commissioner Dixon made a motion to authorize the expenditure of up to \$500.00 for a conference call for the purpose of determining additional information and exchanging information as cited by the applicant. Motion was seconded by Commissioner Pacheco.

3. General Correspondence

A motion to adjourn was made by Commissioner Dixon at approximately 7:55 pm. Motion was seconded by Commissioner Pacheco. All in favor. Motion carries.

Respectfully submitted,

Sandy Douglas
Administrative Specialist