

**Department of Planning and Community Development**

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Mayor Joseph C. Sullivan

**Braintree Conservation Commission**

Heather Charles Lis, Chair  
Donald Murphy, Vice-Chair  
Alan Weinberg, Clerk  
Joyce Albrecht  
Kevin Bears  
Diane Francis  
Gail Poliner-Feldman

Staff: Kelly Phelan

**CONSERVATION COMMISSION MINUTES  
THURSDAY, FEBRUARY 2, 2017 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

**Public Hearings**

**APPROVED**

**Notice of Intent**

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

Ms. Charles Lis said the applicant had requested the hearing be continued to the March meeting.

Motion by Mr. Bears to continue the hearing to the March 2 meeting. Second by Mr. Weinberg.  
Vote: 6-0.

**Notice of Intent**

**8-644 44 Allen St. /Braintree Electric Light Department**

Mel Higgins from Weston and Sampson was present with Sean Healey, LSP from Weston and Samson and Ken Stone from the Braintree Electric Light Department. Mr. Higgins said they plan to excavate a small area to remove contaminated soil within the 200 foot riverfront area and the buffer zone. They plan to excavate an area 20' x 25' x 9' deep. They will place the soil on poly sheeting and cover it. They will test it with hand meters and send it out to the lab. Once the lab results come back they will send the soil to a licensed facility. He said they will use straw wattles around the excavation and stockpile area to prevent migration of sediment.

Mr. Higgins said that the Commission had questions at the last meeting about the sewer easement and 21E permit. He displayed an old plan which shows the sewer easement and said their work area is 40 feet north of the easement. As for the 21E issues, Mr. Healey said the site contains typical urban fill with some lead and PAH's in relatively low readings. They are removing the soil from the area with the higher readings to make the site available for unrestricted use. The work will be done under a Release Abatement Measure (RAM) plan and under the supervision of a Licensed Site Professional.

Ms. Charles Lis noted that the staff had prepared draft conditions. Staff reviewed the conditions.

Mr. Weinberg suggested the Commission be provided a copy of the RAM plan.

Ms. Charles Lis asked Mr. Healy if they were able to comply with the dewatering conditions. Mr. Healy said they are modifying the RAM plan to satisfy the condition.

Motion by Mr. Weinberg to find the project significant to the state Wetland Protection Act and Braintree Wetland Bylaw and the interests of both. Second by Ms. Feldman. Vote: 6-0.

Motion by Mr. Weinberg to issue the Order of Conditions for 8-644 44 Allen St. Second by Ms. Feldman. Vote: 6-0.

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

### **Notice of Intent**

#### **385 Quincy Ave/CITGO Petroleum Corporation**

Alan Pepin, the project engineer was present. Mr. Pepin reviewed the plan and said they need to replace 239 feet of bulkhead at the CITGO site. They plan to install the bulkhead one foot landward of the existing bulkhead and all work will be done on the land. Stockpile areas will be surrounded by haybales.

Staff reviewed the conditions and asked for clarification that the diversion of runoff from the drainage pipe would be diverted through a temporary pipe. Mr. Pepin said that was correct.

Motion by Mr. Weinberg to find the project significant to the state Wetland Protection Act and Braintree Wetland Bylaw and the interests of both and to issue the Order of Conditions for 8-645 385 Quincy Ave. Second by Mr. Bears. Vote: 6-0.

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

### **Request for Determination of Applicability**

#### **44 Andersen Rd. /Martone**

Mr. Martone was present. He said there is an existing single-family ranch house on the site and they plan to add an 8 foot addition to the rear, a two-car garage to the side and a second story addition.

Ms. Feldman asked about the wetland. Staff clarified that the wetland was flagged as part of the Sunrise development and is along the rear property line, approximately 60 feet from the work area.

Ms. Charles Lis asked Mr. Martone if he considered where to direct the roof runoff from the garage addition. She noted that single-family homes are exempt from the stormwater standards but it is a good practice to direct runoff to lawn area rather than the driveway, which can wash pollutants into the drainage system. Mr. Martone said he would direct the runoff to the lawn.

Motion by Mr. Bears to issue a negative Determination of Applicability with conditions for 44 Andersen Rd. Second by Mr. Weinberg. Vote: 6-0.

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

Shawn Hardy, engineer from Hardy Engineering was present. George Lang, from Adams St. LLC was also present as was Brian Palmucci, attorney for Adams St. LLC. Also present was Garrett Tunison, wetland scientist from Tunison Environmental Consultants.

Mr. Hardy said the hearing had been continued from the last meeting to determine the flood zone. He said met with staff and the Town Engineer and had met with staff on site. They went back to the 1993 topography to get an accurate representation of floodplain on the site. He revised the plan to include gray hatch for today's grades, angled lines for the 1993 topography and dotted pattern for floodway. Mr. Hardy noted that they had also located the drainage pipe which had been a question and flagged what had been noted as a "wet area" as bank.

Mr. Tunison said he hadn't seen the inlet to the pipe in question because it was behind a pile of debris. He said there are pipes coming under the tracks from a wetland on the other side. These outlet into an open area for a short distance. He flagged this area as bank of an intermittent stream. He said the area is heavily altered and highly degraded. Ms. Charles Lis asked if there were wetland associated with this. Mr. Tunison said there is not; it is a steep slope down to the bank.

Staff explained that she had gone back through old files to determine if 1993 was a valid starting point to use to determine floodplain. She noted that there was a history of filling on the site which as well as sedimentation to the river. A 1996 Order of Conditions and 1999 Certificate of Compliance (8-423) focused on addressing the sedimentation and seemed to legitimize the fill and the condition of the site. She noted however that there is outstanding compensatory flood storage associated with a later filing for a new batch plant and garage (8-550). Using the 1993 topography "erases" that issue for purposes of determining floodplain but it should be noted the site is not in compliance and this will need to be addressed. Ms. Charles Lis agreed that it was

important to be included in the findings. Mr. Weinberg said the issue should be addressed through a Notice of Intent.

Attorney Frank Marinelli, representing Brian Richardi and the Richardi family, abutters across the river, said their property is a commercial property. The concrete plant is zoned as general business and housing is not a use by right. He said the Richardi family is protecting their commercial asset. He said a fact sheet distributed by the applicant does not mention PCB's, auto shredder residue, flooding, etc. He noted that there had been flooding on the site on last week and gave the Commission photographs. He said a drain pipe broke and trenching was done and questioned whether auto fluff was disturbed. He said they have great concerns over what caused the pipe to break – did flooding and the volume of water from the area cause the pipe to break? He asked if a retroactive Notice of Intent would be filed. He said there is an outstanding issue regarding compensatory flood storage which should be addressed and the ANRAD decision should not be issued with an outstanding compliance issue.

Gabe Crocker from CHA Consulting thanked the Commission for noting the concerns about Bordering Land Subject to Flooding raised in his letter at the last meeting. He asked if an ORAD is issued today, what happens tomorrow given the ongoing earth moving activities at the site.

Ms. Charles Lis said the issues with flooding and infrastructure are separate from the resource area delineation. She said, in regard to the non-compliance issue, that if it was a NOI before the Commission it would be standard practice to not permit a proposal when there is a non-compliance but there is precedent for issuing a determination of resource areas.

Staff explained what she knew about the broken pipe. She was told that one of the building inspectors had told Mr. Lang to fix the pipe immediately and that he would let Conservation know but she had not been notified. She said she would have issued an Emergency Certification for the pipe repair. Since that was not the case, the applicant would have to file a retroactive Notice of Intent for the work.

Mr. Palmucci said the neighbor which is a roofing company on Arnold St., had reached out to the building department to help alleviate the flooding. He said the building department told Mr. Lang to fix it and that they would let conservation staff know. Ms. Feldman said the pipe is not relevant to the delineation. Ms. Charles Lis asked what had caused the pipe to break. Mr. Palmucci said that had not been determined.

Staff said they should file a retroactive Notice of Intent for the next meeting (March 2). Mr. Tunison said they would stabilize side slopes of the trench and use crushed stone to prevent erosion from within the trench.

Ms. Charles Lis returned to the floodplain discussion. Mr. Crocker said compliance for the outstanding flood storage issue should not be tied to development.

Staff reviewed the draft decision and noted which flag series were being approved and noted that the Bordering Land Subject to Flooding (BLSF) section referenced the 1993 topography and included the outstanding compliance issue. Ms. Charles Lis suggested adding the paragraph

from the staff memo on BLSF in the findings because it is part of the rationale for using 1993 topography.

Mr. Crocker asked if there was any specificity for filing a NOI for the non-compliance. Mr. Weinberg said there should be a timeframe of 45 days. Staff said a comprehensive approach to providing flood storage should be taken and it should be located along the river, as opposed to where it had been originally approved, disconnected from the river. She suggested 3 months.

Mr. Palmucci said they would proceed with permitting for residential in the future and would address this issue. He said they are still having community meetings and developing plans and don't have a timeline to file that.

Mr. Charles Lis suggested adding language in the findings to say if a NOI is not filed within 90 days the Commission may take enforcement action.

Motion by Mr. Weinberg to issue the Order of Resource Area Delineation with findings as amended. Second by Ms. Feldman. Vote; 6-0.

Ms. Charles Lis said she appreciated the time and effort that everyone put into this application.

Michael Lynch said he wanted to go on the record regarding the flooding. He owns a roofing company and has a warehouse and shop in the building at 21 Arnold St. He said his shop was under water on January 24<sup>th</sup>. The DPW pumped it out but said it was a one-time offer because the street is private. They suggested he "camera" the drain lines to see what was going on. Two days later the street flooded again and the DPW said this would be the last time they pumped. He said the camera located a broken drain line and the building inspector told Mr. Lang to fix the pipe. He said he is reliant on the drainage system to protect his property.

Ms. Charles Lis noted this information and said that drainage and infrastructure were not part of the ANRAD review but would be considered in any future development proposal.

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

## **Other Business**

### **Potential Land Donation/Acquisition**

Staff said she had expected to receive a written offer to donate parcels near Town Brook but it had not been received.

### **Open Space Guide**

No updates since the last meeting.

### **Open Space Plan Update**

Staff is getting quotes from 3 consultants to help with public participation process and mapping and is pursuing funding from the Community Preservation Committee.

### **Mullin Rule Adoption**

Ms. Charles Lis said she had been asked to provide a recommendation to the Town Council on the adoption of the Mullin Rule. She recommended adoption.

Mr. Weinberg said he is in favor of adopting it but noted that the audio should be reviewed if a member misses a meeting.

Motion by Mr. Weinberg, second by Ms. Francis, to recommend the Council take favorable action on adoption of the Mullin Rule MGL Ch. 39, Section 23. Second by Ms. Francis. Vote: 6-0.

### **MACC Updates**

Ms. Charles Lis noted the Massachusetts Association of Conservation Commissions had requested a slide from each Commission to be displayed at the annual conference. She and staff had put together a slide with a photo of recently passed Chair, Patrick Flynn as well as the cedar swamp at Cranberry Pond Area.

She said the MACC update also mentioned that FERC had approved the Spectra Compressor Station in Weymouth. Also there is a Public Lands Preservation bill filed by state legislators. The Commission may want to discuss sending a letter of support. This can be discussed at the March meeting.

### **Approval of Minutes**

#### **January 5, 2017**

Motion by Mr. Bears to approve the January 5 meeting minutes. Second by Mr. Weinberg. Vote: 6-0.

### **Adjourn**

Motion by Mr. Weinberg at 8:35 pm to adjourn the meeting. Second by Ms. Francis. Vote: 6-0.