

Department of Planning and Community Development

1 JFK Memorial Dr.
Braintree, MA 02184
781 794-8230



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, JANUARY 5, 2017 7PM
TOWN HALL- JOHNSON CHAMBERS**

Present: Kevin Bears, Heather Charles Lis, Gail Feldman, Diane Francis, Donald (Gus) Murphy, Alan Weinberg & Kelly Phelan, Staff

Absent: Joyce Albrecht

APPROVED

2017 Meeting Schedule

Ms. Charles Lis said she had learned that the Town Hall was not likely to be amending hours to be open late on Tuesday, which was the impetus for moving the Conservation Commission meeting nights to Tuesday. She said a benefit to staying with Thursday meetings is that the Commission would be able to continue meeting in the Johnson Chambers, rather than moving to the basement. Members agreed that staying with Thursday nights would be fine. The next meeting date is February 2, 2017.

Public Hearings

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. Murphy.
Vote: 6-0.

Notice of Intent
8-644 44 Allen St. /Braintree Electric Light Department

Mel Higgins from Weston and Sampson was present as was Ken Stone from the Braintree Electric Light Department. Mr. Higgins passed out an aerial photo of the site and noted that it is an industrial, impervious site. He said they plan to excavate a small area to remove contaminated soil within the 200 foot riverfront area and the buffer zone. He said an environmental site assessment found a small pocket of contaminated soil. They will remove it to make the site suitable for future activity. 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 out to the lab. Once the lab results come back they will send the soil to the Fall River landfill, which is a licensed facility. He said they will use straw wattles around the excavation and stockpile area to prevent migration of sediment.

Ms. Charles Lis said the staff report had raised a question about a clay sewer pipe through the site. Mr. Higgins said the project manager is not aware of any sewer pipe. Mr. Stone said they removed a tank in 2011 and there was no problem. Staff said there was documentation in the 2011 file that there was a problem with a sewer pipe. Mr. Weinberg said there was a sewer easement through the site. Staff suggested the applicant speak with the Water & Sewer Dept. to clarify the issue.

Ms. Charles Lis asked what the final treatment of the area would be, whether it would be paved or seeded. Mr. Higgins said it would be paved and returned to previous condition. Mr. Stone said the Town uses it as a staging area.

Ms. Charles Lis asked how long the soil would be stockpiled before being removed. Mr. Higgins said a maximum of two weeks. They will dig until they find clean soil through hand monitoring then confirm through the lab results.

Ms. Charles Lis suggested weighing down poly over the soil.

Mr. Weinberg asked if they have received a 21E waste permit already. Mr. Higgins said he did not know.

Ms. Charles Lis suggested continuing the hearing to the next meeting. The additional information needed is – clarification on the location of the sewer pipe and the sewer easement and status of the 21E permit.

Public comment

Andrea Allix asked why the applicant didn't come prepared. Ms. Charles Lis said it is not unusual for questions to come up during review or be posed by the Commissioners which require additional information to be provided.

Motion by Mr. Weinberg to continue the hearing to the February 2nd meeting. Second by Ms. Feldman. Vote: 6-0.

**Request for Determination of Applicability
MBTA Plain St. Bridge/SPS New England, Inc.**

Prasun Sen, project manager for the MBTA was present as was Charlie Guido from SPS New England, the project contractor. Mr. Sen said the project is just bridge repair. He said inspection of the bridge found deficiencies. There is a gap where the steel stringers of the bridge sit on the bearing pad and this gives a lot of movement to the train.

Charlie Guido from SPS New England said they have the contract with the MBTA for emergency bridge repairs. He said they need to install steel shims and epoxy between the granite blocks and the beam seat to take away the deflection. He said they were originally going to dewater but they cannot do so right now due to high flows. The contractors will work in waders from the water. They will use debris netting to prevent anything from falling into the river. Ms. Francis asked about chemicals. Mr. Guido said they drill ports into a grout pad to inject the epoxy.

Ms. Charles Lis noted that the Commission had previously issued an Emergency Certification for this work and that it had come to light that some work was previously done. Staff confirmed that she was informed that the granite repointing work included in the Emergency Certification had been previously done and noted that this was without any permitting or communication with the Commission. Mr. Murphy asked who was in charge of the project. Mr. Sen said he is the project manager. Mr. Murphy asked who did the granite repointing work. Mr. Sen said he didn't know if had been done. Mr. Guido said Keolis (operator of the commuter rail) has done work like this in the past. Ms. Charles Lis said the Commission wants to know who did what and requested the MBTA find out and provide that information.

Public Comment

Andrea Allix asked if they were subject to fines for not doing the work without a permit. Ms. Charles Lis said that is a possibility. The Commission usually starts by trying to address the situation and uses fines if compliance cannot be achieved or if there is a lot of damage.

Ms. Allix suggested looking at the police detail cards to find the dates of when the work was done. Mr. Guido said they don't need a police detail; they use a railroad flagger.

Ms. Charles Lis suggested adding a finding section to the decision to document what has happened and the questions the Commission wants answered.

Motion by Mr. Weinberg to issue a negative Determination with findings and conditions. Second by Ms. Francis. 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 he had slightly revised the plan since the last meeting. He added the shading for the floodplain to the roadway as well. He also identified the inverts of the 30 inch pipe.

Mr. Hardy said he had met with the Town Engineer about the delineation of floodplain and the Town Engineer had agreed with what was shown and issued a letter today stating that but he rescinded the letter later in the afternoon. He said there are two areas where the grades are different today than they were shown on a 1996 plan. Mr. Hardy said he could hold those elevations and show them on the plan.

Ms. Charles Lis noted that the Town Engineer had issued a letter today but later retracted it based upon additional information. She read the email from the Town Engineer dated January 5, 2017 which noted that due to two areas of discrepancy between the 1996 plan and the current ANRAD plan he needed to rescind the letter.

Staff said there is an application for a garage and new batch plant that included compensatory flood storage be created but the new batch plant was never built and the file was never closed out.

Ms. Charles Lis said the 2014 plan includes a note that the site consists of active quarry areas and the topography is subject to change. She said she was surprised to see how different the mapped floodplain is from the FEMA map. She said it is questionable that three areas are not connected to the river. She said it doesn't make sense intuitively. Mr. Hardy said technically it wouldn't be considered floodplain if there is not a hydrologic connection but he was being conservative when mapping and showed it as floodplain. He said the site has stayed the same for the last 30 years even though the piles change. He said material was brought into the site in the 1960s and 1970s but that predated the Wetland Protection Act and flood maps.

Ms. Charles Lis said the Commission needs additional information on the history and whatever documentation exists. Ms. Feldman questioned if the Commission would accept it if it doesn't make sense. She said the site needs work.

Mr. Hardy said there hasn't been a flood study since the original study in the 1970s.

Public comment

Andrea Allix, abutter asked staff if the river is narrower downstream of her property at 76 Adams St. Staff said it is about the same. She also asked if there are obstructions in the channel. Staff said no, trees may fall in but water finds a way around them. The Town does not remove trees from the river.

Ms. Allix asked whether units which may be built on the site will be owner-occupied. Ms. Charles Lis said the only proposal before the Commission is delineation of resource areas.

Attorney Frank Marinelli, representing the Richardi family, abutters across the river, said the property requires a Special Permit. Their engineer (Gabe Crocker) had to be at another meeting tonight but will speak at the next hearing. He said the Commission has noted the complexity of the site. He said there are three acres of auto shredder residue on the site and questioned whether it would have to come out. He said there is not yet an Activity Use Limitation on the site. He noted that the local wetland bylaw allows the Commission to hire consultants for peer review and suggested the Commission do so for a project of this size, scale and complexity. He said the Commission would benefit from a peer review.

Ms. Charles Lis noted that a peer review is an option. She added that the Town Engineer is reviewing the floodplain delineation and that a peer reviewer would not generate new information but only review the information that has been presented. Ms. Feldman suggested a peer review might be needed in the future if a development proposal is filed. Mr. Murphy suggested the Commission wait and see what Mr. Hardy comes back with for documentation.

Ms. Charles Lis noted the letter received from Gabe Crocker, engineer for the Richardi family. She noted two points which were raised in the letter. One was related to the floodway and stated that it should be shown as Bordering Land Subject to Flooding. Another point was that flagging on abutters' property should not be approved. Ms. Charles Lis said any approval would include specific flag numbers or series.

An abutter, Brian Williams, said that water is a sensitive issue in the area; Arnold and Adams St. flooded a few years ago. He is happy the Commission is looking closely at the issue. He said there is a sewer issue there as well when there is flooding.

Attorney Palmucci said he would like to further clarify what information the Commission wants. He said they are happy to map out the additional areas the Town Engineer mentioned. Ms. Charles Lis said they should present documentation from previous filings and any other sources such as USGS maps. The burden of proof is on the applicant. Mr. Palmucci commented that it was difficult to respond to issues raised the day of the meeting. Staff noted she and other town staff had met with Mr. Hardy three weeks ago and the outcome of that meeting was that Mr. Hardy would map the floodplain based on the town's topography data. He did not do that and had only this week stated that he was not providing that map.

Motion by Mr. Weinberg to continue the hearing for 8-642 to February 2nd. Second by Mr. Murphy. Vote: 6-0.

Request for Determination of Applicability 71 Adams St. /Adams St. LLC

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

Mr. Tunison said they filed the RDA for excavation of 14 test pit plots for soil investigation as part of the Phase II site investigation. He said the majority of the site was previously tested and is outside of resource areas. These tests are within Riverfront Area, Bordering Land Subject to Flooding and buffer zone to Bordering Vegetated Wetland. He pointed out the locations of the 14 test pits along the top of the slope to the river. They are proposed to be 4 or 5' wide x 10' long x 3-5' deep. The Licensed Site Professional will oversee the work. If they encounter the auto fluff material they stop and sample it and use ionizing gas meters to sample for volatile organic compounds.

The areas selected for test pits are free of native vegetation to avoid disturbance to native vegetation. Invasives will be removed, bagged and disposed of off-site. A backhoe or small excavator will be used. Once complete, soil will be stabilized with straw wattle and seeded with a seed mix and covered with jute. He said there is a total of 700-900 square feet of disturbed area associated with the test pits. He said they have a Health and Safety Plan and Standard Operating Protocols.

Staff noted that she had read through the Phase II site report found on the DEP database. She is interested to see if DEP's hazardous waste division will require removal of the auto shredder residue, noting that could restore flood storage.

Ms. Charles Lis noted that an alternatives analysis was included. She also asked how the locations were chosen. Mr. Tunison said based on avoiding native vegetation. She clarified that it is a requirement of the DEP's hazardous waste division to do the test pits. Mr. Tunison affirmed that.

Public comment

Attorney Frank Marinelli, representing the Richardi family, abutters across the river, stated that there is excavation within resource areas and there are significant resource protection issues. He said they just got notice Tuesday. He said with everything presented the Commission should issue a positive determination of applicability and require a Notice of Intent to be filed. He said the number of conditions drafted indicate it should be a positive determination. He said the DEP filing number would correspond with the tracking number for the hazardous waste site. He said the reportable concentration for several hazardous substances was exceeded. He said the fill goes back 50 years; why rush now to shortcut the process. He said the applicant has a Purchase and Sale agreement; he is not yet the owner.

Ms. Charles Lis said it is possible to do work in a resource area under the RDA/DOA process and that DEP's hazardous waste division is the regulatory authority on the hazardous waste

issues. She said test pits strictly in the buffer zone are exempt and no filing at all is needed. She said she felt an RDA was appropriate.

Mr. Marinelli said there is not same level of vigilance with a DOA and it is not enforceable. Ms. Charles Lis said the Commission still has authority to step in if warranted.

Staff suggested keeping the scope of the application in mind; it is strictly for excavation of 14 test pits and noted that there was not additional information requested by the Commission.

Ms. Charles Lis suggested adding a condition that the wetland scientist also be present during the work, in addition to the Licensed Site Professional.

Motion by Ms. Francis to issue a negative Determination of Applicability with conditions. Second by Mr. Bears. Vote; 6-0.

Notice of Intent 385 Quincy Ave/CITGO Petroleum Corporation

Bradford Saunders from GEI consultants was present with Alan Pepin, the project engineer. Mr. Saunders said they need to replace 239 feet of bulkhead at the CITGO site. Mr. Saunders said they plan to install the bulkhead one foot landward of the existing bulkhead. They will install a “deadman” anchoring system 55 feet landward and install tie backs from the new bulkhead to the deadman. The area will be restored to grade upon the completion of the installation.

Mr. Saunders said there is a phragmites marsh about 70 feet from the limit of work. Other resource areas include coastal bank (in this case – the bulkhead) and land subject to coastal storm flowage which will be restored to grade.

Mr. Saunders addressed a questions raised in the staff report. One was about the note on the plans “rip rap as present”. He said the note indicated presence of rip rap, not the replacement of it or addition to it. He said they sent a copy of the Notice of Intent to the Division of Marine Fisheries. Another question was regarding how the new bulkhead would be installed around the existing drainage pipes through the existing bulkhead wall. He explained they would disconnect the pipe and then feed it through the new sheet pile and reconnect it with a headwall box.

Mr. Saunders addressed the DEP comment regarding whether a Chapter 91 license is needed. Mr. Saunders said the existing bulkhead has a license and DEP approved the replacement bulkhead as a minor modification. He also said a 401 Water Quality Certification was not needed as there is no discharge to the water.

Staff asked for clarification of the method to install the sheet pile around the existing drainage pipes. Mr. Pepin said they would break the existing pipes at the bell and reconnect once the sheet pile wall is installed.

Ms. Charles Lis asked about cutting the existing sheet pile wall. Mr. Saunders said that would be the last step.

Ms. Feldman clarified that the site would be returned to existing grade after the work is completed. Mr. Saunders said that it would. He said everything is upland of the existing bulkhead and they are installing the new one upland of the existing one because it is the most benign way.

Ms. Charles Lis asked about a construction entrance. Mr. Saunders said the area is all gravel.

Motion by Mr. Weinberg to continue the hearing to the February 2nd meeting for draft conditions. Second by Mr. Murphy. Vote: 6-0.

Other Business

MACC Letter Re: Pipeline

Staff noted that the Massachusetts Association of Conservation Commissions had drafted a letter to the Governor in opposition of new interstate gas pipelines and requested the Commission consider signing on.

Ms. Feldman said the letter did not address the particular concerns of the South Shore, such as the proposed gas compressor station in Weymouth.

Mr. Murphy said he had mixed feelings about it and was not interested in signing.

Mr. Bears said he saw no harm in signing.

Ms. Francis said she was willing to sign, mostly due to concern about the proposed compressor station in Weymouth.

Ms. Charles Lis said it seemed there was not unanimous or near unanimous support for signing on to the letter.

No action was taken.

Open Space Guide

No updates since the last meeting.

Sunset Lake Invasive Aquatic Monitoring Report

Staff noted receipt of the 2016 Sunset Lake aquatic vegetation monitoring report from Solitude Lake Management. The report notes curly leaf pondweed throughout the littoral zone and recommends spot treatment with Reward herbicide.

The Order of Conditions for herbicide treatment expires in April. Staff plans to request an extension permit for this work and will also need to ask Natural Heritage and Endangered Species for an extension due to the presence of the eastern pondmussel.

Ms. Charles Lis noted that if the Commission extended the Order of Conditions it would give the Town the option to treat but other options could also be explored.

Email Addresses for Town Business

The Department Director had town email addresses set up for members of boards and commissions staffed by the Planning and Community Development Department. This is in response to new requirements of the public record law. All meeting materials and correspondence will be sent to these addresses.

Approval of Minutes

December 1, 2016

Motion by Mr. Weinberg to approve the December 1 meeting minutes. Second by Ms. Feldman. Vote: 6-0.

November 16, 2016 (joint meeting with Weymouth Conservation Commission)

Motion by Mr. Bears to approve the November 16 minutes. Second by Ms. Feldman. Vote: 6-0.

June 2, 2016 (Executive Session)

Motion by Mr. Murphy to approve the June 2 minutes. Second by Ms. Feldman. Vote: 6-0.

May 5, 2016

Motion by Mr. Murphy to approve the May 5 minutes. Second by Mr. Bears. Vote: 6-0.

Motion by Mr. Weinberg to release the executive session minutes. Vote: 6-0.

Adjourn

Motion by Mr. Weinberg at 10:05 pm to adjourn the meeting. Second by Ms. Francis. Vote: 6-0.