

**Salem Conservation Commission
Minutes of Meeting**

Date and Time: Thursday, December 14, 2017, 6:30 p.m.
Meeting Location: Third Floor Conference Room, City Hall, 120 Washington Street
Members Present: Chair Gregory St. Louis, Bart Hoskins, Gail Kubik, Tom Campbell
Members Absent: Dan Ricciarelli, Scott Sheehan, Tyler Glode
Others Present: Ashley Green, Conservation Agent
Recorder: Stacy Kilb

1. Old/New Business

- **4-6 Atlantic Avenue, DEP #64-633, Request for Certificate of Compliance.**

Mike Kantorosinki of 407 Essex St, owner of the above address, is requesting the Certificate. Green states that there was a site visit and that the Applicant is requesting to waive the as-built. A letter from the Engineer with a couple of deviations has been provided. Rather than grass around the drainage, there is white gravel, large enough to not fall in the drain. It will not be plowed off. Pictures are included. There is more pavement than originally approved, but this is minor.

There are no comments from the Commission or the public.

A motion to issue the Certificate of Compliance is made by Kubik, seconded by Hoskins, and passes 4-0.

2. Bridge Street Reconstruction Project— Continuation of Public Hearing—Notice of Intent for the City of Salem, 120 Washington St, 3rd Floor, Salem MA. Purpose of hearing is to discuss proposed roadway and intersections improvements along Bridge St from Boston St to Flint St and along Goodhue St within an area subject to protection under the Wetlands Protection Act MGL c131§40 and Salem Wetlands Protection & Conservation Ordinance.

The Applicant has requested a continuance to the January 11, 2018 meeting.

A motion to continue to the January 11, 2018 meeting is made by Hoskins, seconded by Kubik, and passes 4-0.

3. 329-333 Highland Avenue Wetland Resource Area and Buffer Zone Delineation—Public Hearing—Abbreviated Notice of Resource Area Delineation under the Wetlands Protection Act, Mass. General Laws c.131§40 and Salem Wetlands Protection and Conservation Ordinance for Hutchinson Realty Trust, 333 Highland Ave, Salem MA. The purpose of the hearing is to discuss the proposed delineation of wetland resource area boundaries and their associated buffer zones for the properties located at 329, 331 and 333 Highland Ave.

Presenting for the Applicant is Chris Gajeski of Meridian Associates. He outlines his work experience, including serving on his town's Conservation Commission. There are no proposed projects for this area yet, but they would like to confirm wetland boundaries first.

The resource areas are described as two Bordering Vegetated Wetland areas, one of which has an intermittent stream. Wetland boundaries were reviewed at a site visit by Agent Green. All flagging is still in place. This is a blue line stream on the Blue Line USGS map; the definition of an intermittent stream is reviewed. The stream was photo documented over two dates in August and two in September; it was not flowing.

No culvert connects the stream to any body of water; it ends in a fill pile and most likely infiltrates the gaps.

Chair St. Louis notes that DEP repaired a culvert last year, but Mr. Gajeski does not believe it is this one as the area seems not to have been recently disturbed. The culvert is further discussed.

The Chair asks about silt fence; none is in place. The deposited material at the end has mature vegetation growing through it.

The Chair asks about the M Series and Mr. Gajeski elaborates; there is no stream there, but it is most likely stormwater discharge. It may be a structure that was grandfathered. A large phragmites patch is in the wetland, which could be defined as shallow marsh. The wetland areas are further described and discussed.

Campbell asks about the adjacent City transfer station. There is a gravel road next to one of the wetlands.

Hutchinson Realty Trust owns both lots that are part of this filing; there are two properties on one lot and the other is undeveloped.

Chair St. Louis opens to the public but there are no comments.

The Chair notes that the Applicant is not contending that what is potentially a wetland created by the stormwater discharge is not subject to the Wetlands Protection Act and is considered a wetland regardless of how it was originally formed. Delineation of the slope is described.

A motion to close the public hearing is made by Hoskins, seconded by Kubik, and passes 4-0.

A motion to approve the delineation as accurate is made by Kubik, seconded by Hoskins, and passes 4-0.

4. 441 Lafayette Street Dock and Float Repair—Public Hearing—Notice of Intent for Mark Mazuzan, 441 Lafayette St, Salem, MA. The purpose of this hearing is to discuss proposed repair and replacement of a dock, float, and mooring at 441 Lafayette Street within an area subject to protection under the Wetlands Protection Act MGL c.131§40 and Salem Wetlands Protection & Conservation Ordinance.

Presenting for the Applicant is Mr. Mark Mazuzan, who would like to fix his dock, which is in disrepair. Plans for the existing structures have been submitted, one for the lot, and the other of the original dock in its 1988 construction. The lower half of the dock, the float and the mooring must be replaced. The work is described. The mooring license is up to date. The roof on the original Plan was never built. No current proposal of work is provided since Mr. Mazuzan plans to replace the dock in-kind.

Chair St. Louis asks if the application includes storage of the gangway and float on the flat. It does not, so the Chair asks what the plan is; Mr. Mazuzan was planning to do what the previous owner did, which is store it on the beach.

The Applicant is unsure if there is a Chapter 91 license. He cannot find it, though there is evidence that it was pursued. The Chapter 91 contact could not find it either. The Chair notes that it is required regardless.

Hoskins asks if there are other storage options for the float. It is on beach currently, not on the salt marsh. In 2010 there was a violation as the dock was being stored in the salt marsh; it was moved after that up to the beach, a less sensitive resource. Mr. Mazuzan states that it is on rocks. Kubik asks about the construction and the Applicant outlines; steel will be replaced and he believes that the footings will also require replacement. Kubik asks for a more thorough description of the work and Mr. Mazuzan outlines. There will be no digging as this will be on rock, but he is unfamiliar with the construction process, and asks if the Commission would like

more detailed information. They would. Fabrication will occur offsite; the only work onsite would be to drill the rock deep enough to pin the structure to the ledge. The footprint of the new structure will be as much as possible in the footprint of the old. The Chair asks if it is pinned now or if concrete was built up; the Applicant believes it is pinned. The cross section implies that it is built up, but the Applicant states that it is not.

Chair St. Louis is mainly concerned with the gangway and the float, not the deck, both off season and in season. The Chapter 91 office will place lots of conditions as the gangway and float are in the mud. Mr. Mazuzan will build it however it is required. He may want to consider multiple smaller floats rather than one large one. The Marina he will be using will be able to remove the float when necessary.

The Division of Marine Fisheries (DMF) has commented that they did not have time to do a full review, though they recommend that all dock and pier work occur as suggested in Mass DEP's Small Docks and Piers Guidebook so as to avoid any permanent impacts to the salt marsh. The Chair notes that they will also want more detail on how the float will sit on the mud.

Chair St. Louis would like to see the float design, how it sits and where the feet are. It will not be allowed to rest on the mud; it will require feet or stops, like a table, so that the whole thing does not rest on the mud, a resource area. Mr. Mazuzan asks about how it is stored if there are feet attached to the float; he notes that they are usually built with skids and dragged in for storage.

Agent Green notes that the last applicant was given the option of skids or feet, however, the Chair states DMF would prefer they drive pile and leave it out year round; the issue there is cost. Kubik notes that Mr. Mazuzan should explore his options, and also requests updated drawings with details.

Hoskins notes that Chapter 91 will also have comments and input on design, which should be solicited first before Mr. Mazuzan returns to this Commission. The process is discussed. Any drawings provided, even a sketch made by the Applicant, would still have to show conformity with the requirements of Chapter 91. Thus, Mr. Mazuzan should see Chapter 91 and have his builder make the drawings. Green recommends discussing the project with Chapter 91 now, but states they require an Order from the Conservation Commission before they will approve the project on their end.

Chair St. Louis suggests Mr. Mazuzan look at what recent Applicants have built.

The Chair provides a list of drawings Mr. Mazuzan will need to furnish:

- Plan with resource areas
- Float plan
- Footing plan
- Site plan
- Storage location/strategy

A motion to continue to the January 11, 2018 meeting is made by Kubik, seconded by Hoskins, and passes 4-0.

5. Kernwood Country Club Tree Removal, Brush Clearing and Vegetation Planting—Public Hearing—Notice of Intent for Kernwood Country Club, 1 Kernwood St, Salem MA. Purpose of hearing is to discuss proposed removal of trees, brush clearing, and planting of vegetation at 1-9 Kernwood St and 2 Kernwood St within an area subject to protection under the Wetlands Protection Act MGL c.131§40 and Salem Wetlands Protection & Conservation Ordinance.

Presenting for the Applicant is Attorney Scott Grover and Susan St. Pierre. John Eggleston, Greens

Superintendent, and Frank Cole are also present.

Previously, the removal of some trees was granted through an after-the-fact approval and permission was sought for the removal of several additional trees. The Commission asked the Applicant to come back with a full NOI for the rest of the trees. Some of the original trees requested are in this NOI, along with others within Commission jurisdiction that have been added. Green has conducted a site visit.

This is part of selective tree removal and replanting under the guidance of the USGA to promote better maintenance and management of the golf course. Unrelated but upcoming is that the Club is planning a shoreline restoration project, which will address some of the Commission's concerns about the stabilization of the banks; they will be back before the Commission with a separate NOI for this work.

Ms. St. Pierre describes the location of the Country Club and the resource areas, which include Coastal resources and inland areas (the ponds on the golf course). A 2011 site plan for drainage and utilities is presented. Wetland delineation is outlined. The site was not surveyed but State GIS and FEMA maps, along with Google Earth, were used.

The site includes:

- Entire site: coastal bank resource area
- Salt marsh: several areas
- 100' buffer zone from coastal bank and salt marsh resource areas
- 100' buffer zones around ponds
- Riverfront Area: DEP designates Danvers River as subject to Riverfront Act
- LSCSF: FEMA floodplain, elevation 10 ft

Sites of trees to be cleared are also on this illustration. Most areas are in the buffer zone or the riverfront area. One tree is in Coastal Bank near the clubhouse. Four areas include 6 trees in LSCSF (Land Subject to Coastal Storm Flowage), with no performance standards there. She would like to request not to submit an as-built, but will provide photographic documentation after vegetation is restored.

The Applicant is requesting a five year Order including that the Course come back if additional maintenance activities are needed.

John Egleston outlines the trees to be removed.

- A, B, C: Large pin oak, hollow, next to a pond and a bank. European Larches nearby will also be removed. Trees will be cut flush, stumps left, will grow longer grass there. These recommendations came from report by USGA; would remove diseased trees and/or safety hazards
- D: White oak encroaching on tee area; surrounded by Japanese Knotweed, sumac, etc.
- E: Several trees, black locust, white pine, some are dying. Bittersweet is taking over, will grow tall fescue
- F & G: Locust and Norway maple on edge of flood zone, dirt underneath as too shaded for grass to grow
- H: Sugar Maple, behind the first green, also shades the green and compromises it
- I & J: Two large oak trees in extremely poor condition, safety hazard, difficult to grow grass underneath
- K: White Oak, overhanging 12th green, safety hazard
- L: Gray birch, extremely poor condition, safety hazard
- M: Stand of Norway Maples in poor condition
- N & O: Trees from the last meeting, white pines near #5 green, would be cut flush and left to preserve bank
- P & Q: Shagbark hickories between 12 Green and 13 Tee, in extremely poor condition, wrong tree in the wrong area

Chair St. Louis would like to see the trees and recommends a site visit, especially if the Applicant is working with the USGA suggestions, with the 5 year term being requested and ongoing maintenance. The scope of this application compared to the email seems much broader. No arborist report has been submitted; the USGA consultant is an agronomist, but the Chair notes that the interests of a golf course are not necessarily those of this Commission. While he understands the golf course must be able to function, he would like to see the trees. He is also concerned with slope stabilization, and does not want to see an erosion problem.

Kubik comments that she would also like to see an arborist report for all trees designated in poor health, or could verify this via site visit.

Campbell asks how many trees are unhealthy. At least 25% are healthy. Aside from future shoreline stabilization discussion, the Chair asks if there are other mitigative plantings for wildlife habitat. There are plans for planting on hole #7. Ms. St. Pierre notes that the Club has an ongoing program of planting and will plant in the near future, but they may not be in the same areas where trees are being removed. There is the question of "right tree, right place." Many trees that are being removed are in Commission jurisdiction, but very few of those are on the bank itself so do not present stabilization issues. Some are not right for the area they were originally planted in, so replanting may be done elsewhere and not necessarily on a 1:1 basis.

Hoskins notes that he had hoped to see a plan for stabilization of the shoreline; it appears to be under development and is an extensive project that must be engineered over the next couple of years. Hoskins asks if stabilization is focused on engineering or will use vegetation; it is mostly engineering/structural but is too early in the process to determine; options will be discussed. Much may depend on location, boat traffic, wakes, etc.

There is some urgency; trees can be removed only when the ground is frozen so that the equipment does not damage the golf course. Kubik asks about the rate of erosion over time. Photos can be found online.

Chair St. Louis opens to the public.

Joel O'Day of 67 Appleton St. wonders about the 13th hole, and the trees there. This area will not be affected.

Hoskins asks about the USGA recommendations on removal and replacement and if they plan to follow those recommendations. Chair St. Louis notes that USGA recommendations do not appear to cover all trees. Removal and replacement are again discussed; the Applicant can follow Commission recommendations.

To the extent possible, the overall plan should consider the ideal trees and replace as many as possible. Some areas of bank are already engineered. The salt marsh at the base of one slope should be preserved; no riprap is being considered. The plan is to clean up overgrowth in that area and replace with native species, as indicated in the filing.

Green notes that the additional NOI for bank stabilization is expected to be filed in the next couple of months, so this is a good opportunity to see the area in a site visit.

A site visit is planned for Saturday January 6th at 9AM. Commissioners will meet at the Clubhouse. Plantings can be discussed then, and the Chair would like to see a GIS zoom in on each site as well. Green notes an additional resource area that is not included on this map is the 100' buffer to the 100 year flood zone, which is subject to the local ordinance; any trees in this area would be jurisdictional and would need to be added.

Hoskins asks about shrubs along the shoreline; this can also be discussed at the site visit.

A motion to continue to the January 11, 2018 meeting is made by Hoskins, seconded by Kubik, and passes 4-0.

6. Old/New Business Cont.

- **Request to extend Order of Conditions for:**
 - **DEP #64-581, Lot 87, 32 Osborne Hill Drive**
 - **DEP #64-582, Lot 86, 34 Osborne Hill Drive**
 - **DEP #64-583, Lot 49, 35 Osborne Hill Drive**
 - **DEP #64-584, Lot 48, 33 Osborne Hill Drive**
 - **DEP #64-585, Lot 47, 30 Osborne Hill Drive**
 - **DEP #64-586, Lot 5, 31 Osborne Hill Drive**

Green states that Mr. DiBiase cannot attend, so she is presenting on his behalf. He could come to the next meeting if there are questions, as there is some time before it expires. He is requesting an additional 3 years; he came in for the Certificates of Compliance previously, but additional questions came up before its issuance, and he has not yet addressed those concerns.

Issues:

- Wetland markers to be installed
- Clean out access ports on infiltration chambers
- Homes are all occupied, so new owners may have tweaked things. Green notes that one house installed a pool and she wonders how the Commission would like them to proceed. Chair St. Louis opines that if lawn is allowed, pool should be allowed, notwithstanding additional factors. An RDA or minor deviation should be sought.

Timing of this phase of the development is discussed.

A motion to extend the Order of Conditions for three years, for all six properties, is made by Kubik, seconded by Hoskins, and passes 4-0.

- **Discussion on Salem Wetlands Protection & Conservation Ordinance.**

The EEA has provided grant funding in the amount of \$45,000, and the City will contribute \$15,000 for total of \$60,000, to update subdivision regulations. LID will be part of that. Dave Knowlton, City Engineer would like detail specs for roadway improvement to be explored. Green is hoping this resource could be used for general design guidelines, not just subdivisions. The City will put out an (Request for Proposals and solicit bids, then see if there is excess funding to look at the ordinance and draft regulations, or collaborate with the City Engineer.

Thus, amending the Salem Wetlands Protection & Conservation Ordinance could be added on to this process. The stormwater ordinance will also need to be updated as a result of changes to the new MS4 permit; Chair St. Louis is working on this now for Everett, and describes his requirements.

Green solicits guidance from the Commissioners on changes they would like to see in the local ordinance.

Chair St. Louis suggests postponing the discussion until more Commissioners present, but suggests some changes to be considered. These include treating inland BVW separate from coastal BVW. A 50' no disturb zone on the coast is impractical for Salem, but not so much for inland areas of new development. Some inland communities have this; he does not approve of blanket "no build" statements, so some flexibility is warranted. It would allow the Commission to prohibit, for example, shoehorning in houses around vernal pools. Right now if challenged, there are no regulations to point to, in order to have a legally defensible argument.

Kubik asks where Salem's regulations stand with regards to those of nearby communities. Salem currently does not have any regulations associated with their ordinance. Newburyport has updated theirs in 2017, so would be a good one to follow.

Logistics of the discussion occurs. Green will send a link to a chart of communities and their bylaws organized by MACC.

Hoskins notes that Salem has a lot of shoreline in poor condition. Chair St. Louis feels that many inland communities write their regulations with more of an anti-development sentiment, rather than as a wetlands protection tool, so resource areas should be considered on a case by case basis, as they may or may not actually provide value, for example the North River Canal buffer zone vs. coastal zones. What problems are we trying to solve and what do we want to accomplish? Those questions should be considered. 50' is a large area for Salem. Chair St. Louis notes that coastal areas are the oldest and most dense, with subdivisions trying to creep into gaps and green spaces. They may try to build so close to vernal pools because they can, especially if the pool is not certified, and this should not be allowed.

Chair St. Louis would like to see the draft RFP once it is developed. If, for example, subdivision control laws address tree species, the Commission can refer applicants to that.

- **Approval of meeting minutes—October 12, 2017.**

A motion to approve the minutes is made by Hoskins, seconded by Kubik, and passes 4-0.

- **Discussion and vote of 2018 meeting schedule.**

A motion to approve the schedule is made by Kubik, seconded by Hoskins, and passes 4-0.

A motion to adjourn is made by Hoskins seconded by Campbell, and passes 4-0.

The meeting ends at 8:50PM.

Respectfully submitted,
Stacy Kilb
Clerk, Salem Conservation Commission

Approved by the Conservation Commission on March 8, 2018.