

**Salem Conservation Commission
Minutes of Meeting**

Date and Time: Thursday, January 10, 2018, 6:30 p.m.
Meeting Location: Large Conference Room, City Hall Annex, 98 Washington Street
Members Present: Chair Gregory St. Louis, Dan Ricciarelli, Scott Sheehan, Bart Hoskins, Tyler Glode, Tom Campbell
Members Absent: Gail Kubik
Others Present: Darya Mattes, Conservation Agent
Recorder: Stacy Kilb

Chair Gregory St. Louis calls the meeting to order at 6:30PM.

I. ROLL CALL

II. REGULAR AGENDA

- A. 16, 18, and 20R Franklin Street (DEP #64-660) – Public Hearing - Notice of Intent for Juniper Point Investment Co, LLC, 63 Federal Street, Salem, MA 01970. Purpose of hearing is to discuss the proposed construction of a 42-unit residential condominium development, including two townhouse-style buildings and three garden-style buildings with associated parking, landscaping and utilities, site remediation, shoreline cleanup and stabilization, complete removal of junk materials, and construction of a public access walkway along the North River, at 16, 18, and 20R Franklin Street, the former site of the Ferris Junkyard (Map 26, Lots 400, 401, and 402) within an area subject to protection under the Wetlands Protection Act MGL c.131§40 and Salem Wetlands Protection & Conservation Ordinance.**

Bob Griffin, Griffin Engineering, presents:

- History of site as filled tidelands
- Outline of 2 areas of material to be removed, a total of 4000 square feet
- AUL is possible but not strictly necessary
- Furlong Park grades
- Proposed grading; site raised to elevation 9; inland areas at 7.0 in lawn that will drain into catch basins. 400 yards of fill will be needed
- Stormwater management standards are met except for #3, infiltration, as this was a landfill
- Planning Board had stormwater plan peer reviewed and all concerns were addressed
- Rip rap slope stabilization
- Landscape cross section
- Minor changes to landscape plan:
 - Proposed plant schedule – 40-50 trees and 200+ shrubs. Silverbell - now oak. Oak leaf hydrangea now winterberry. Eastern Red cedars added in place of one other plant
 - Proposed landscape plans

Chair St. Louis asks about grading; there is no grading change around the parking areas or buildings. The Applicant has obtained unanimous approval from the Planning Board (PB) and Zoning Board of Appeals (ZBA) approval has also been obtained. The Planning Department did hire a peer reviewer for Stormwater and all conditions were met; copies of those letters are available.

The Chair asks about FD on the drainage schedule; this stands for First Defense. No comments from the DEP have been received. Hoskins observes that in Furlong Park, erosion was evident, even where grass remained. Rip rap was being undermined, but he hopes that with higher elevations planned it will not be an issue under current conditions, however with storms and sea level rise, it may occur. Sheehan comments that the geotextile was pulled up to the surface as well; it was originally under the riprap and extended landward. Vegetation was originally planned between the two rows of riprap, but it did not happen.

Chair St. Louis asks if the duck bill tide gates will have trap rock or precast pad; riprap will most likely be installed. An easement over the City drain line is being provided; no significant flow is being added to it, but the City will have access. Public access to the walkway is provided via the walkway next to the parking lot, as per Chapter 91 requirements.

Sheehan asks about elevations; this is discussed at length. The project is mostly out of FEMA flood elevations but Coastal Zone management is predicting high sea level rises. One concern is floor drains from garages that connect to the sanitary sewer, which can get overwhelmed in a flood event. These garages are out of the current flood plain, and the Commission cannot regulate for change but this should be considered when the current bylaws are revised. The Chair notes that the Commission could start to consider future flood risk regarding utilities but it would be hard to change what's required by the building code. A gate valve could be installed on the sewer line for activation during flood events, says Mr. Griffin.

Campbell asks about an LSP and the impacted sediment along the bank; the LSP is satisfied that pulling asphalt and concrete up will not be a 21E issue.

Chair St. Louis opens to the public.

Barbara Warren of Salem Sound Coastwatch

- Chapter 91 license has not yet been applied for
- She disagrees with the description of A4 on the NOI of Coastal Bank, commenting that this is not a sea wall and that the Applicant may need to use a more natural treatment of the edge. Mr. Griffin disagrees, noting that Furlong park is similar and demonstrates that riprap will be acceptable to the DEP. He feels materials such as the debris does provide buffer to wave action, and riprap will continue to provide that function. The natural shoreline is actually back at Franklin St. Barbara Warren will be submitting a MEPA comment
- She asks about lighting. Some is proposed along the pathways that go from Franklin St. down to the stone dust path, but not along the stone dust shoreline walkway itself. Barbara comments that some residents may want to comment on how the area is used now

Anne Sterling, 29 Orchard St.

- Notes that in the semi-annual cleaning of Furlong park, syringes, fireball nip bottles, cigarettes and debris are regularly found, speaking to the character of the
- Asks about the soils brough back from 9 Mason St. previously; the pile is stabilized with Commission approval

Marie Bresher, Essex St.

- Is concerned about the disputed strip of land. This is not under Conservation Commission jurisdiction, but both the ZBA and Planninb Board have commented. Mr. Griffin states that the Ferris trust believes they own disputed property, and the client intends to purchase it; if not, they can't build the project. Darya Mattes has spoken to the City Solicitor, and the City's take is that if the project gets the relevant approvals, it will need to get clear title to land and will need to undergo the relevant process to do so

George O'Brien (no address stated) asks about a granite wharf and if an archaeological exploration has been done. The Conservation Commission process only encompasses issues relating to the Wetlands Protection act; the Chapter 91 and MEPA filings would probably cover archaeological resources.

Anne Sterling asks if this project needs to go before Historical Commission; it may as the concrete building is over 50 years old

Barbara Warren questions the selection of trees as they are not salt tolerant. Mr. Griffin notes that they will be at a higher elevation, but their replacement is one of the standard conditions. He comments that it is in the Applicant's interest to maintain a thriving open area and maintain the open space to adhere to the Planning Board and Ch 91 Approvals.

There will be a condominium association. Typically the Conservation Commission refers to Planning Board conditions if those are in place; this also applies to maintenance of plantings. If the site was not stabilized and sediment transport occurred, this Commission would have jurisdiction. Thus, the site must inherently remain stable or the Commission will act. Typically lawn areas are permitted to be maintained under the WPA.

Shoreline rip rap will be installed during construction phase, which will take a year or more; the exact time is uncertain but the open space must be ready when the Applicant seeks an occupancy permit. The Commission feels that the wall could be constructed ahead of the buildings, but the Applicant does not see this happening and feels there is adequate time during the construction phase. There is currently a berm there at Elevation 8 preventing water from leaving the junkyard.

A motion to close the public hearing is made by Ricciarell, seconded by Glode, and passes 6-0.

The Planning Board has not seen these changes and MEPA and Ch. 91 may require further changes, so once those are made, the Applicant will go back before the PB. One standard condition requires that each condo unit file a statement that they are aware of the Order of Conditions and its requirements; the Applicant is requesting a waiver of that condition. Mr. Griffin notes that those on upper floors may not understand the Conditions and that the Condo association and developer will be responsible. However, Chair St. Louis feels that, since in the past, some Orders of Condition have not been closed out, and owners have wanted to sell but couldn't, that it should be left in. Mr. Griffin feels that this is an unusual hurdle for real estate transaction, and wonders if, since the Order of Conditions will be in effect upon the sale, a time limit can be placed on it. The Applicant wants people to move in before they have a Certificate of Compliance; they sell unit by unit to finance the project so a Certificate of Compliance may not be sought until 50% of units are sold. Ricciarelli notes that the condition is there because people are not aware of the significance of the site, and may dump or incur other infractions unless made aware.

Barbara Warren comments on the stabilization of plantings, noting that for salt marsh monitoring, five years is becoming standard. Trees could die anytime in the first two years after planting, depending on conditions. The length of time an Applicant should be required to maintain plantings, and the logistics of closing out that condition, are discussed. Such conditions could be perpetual, but this is more necessary when landscaping is mitigating something else. Hoskins comments that sea wall erosion must be prevented as well. The shoreline should be protected from erosion and sedimentation of the coastal area. Plantings here are not meant to protect from contact with contamination; the soil above that is meant for that. A typical Chapter 91 license requires that the structures be maintained by the Applicant. Chair St. Louis points out that there are enforcement options if things fail.

A motion to issue the Order of Conditons with standard and the special conditions listed below is made by

Ricciarelli, seconded by Glode, and the motion carries.

Special Conditions:

- Continued stabilization of the site
- A two-year growing season warranty on all shrubs and trees

III. OLD/NEW BUSINESS CONT.

A. Clark Avenue Subdivision (DEP #64-607) – request for extension of Order of Conditions

Rich Williams, engineer, and Nick Menino, owner, of Menino Construction, are present. Staff reached out to notify the Applicant that the Order was set to expire. The project has started and construction has been underway about a year and a half. Blasting is mostly complete and grading underway. Four houses are under construction, with 500-600' of road paved with binder course. The project should be completed within the 3 year term of the extension as long as the market holds.

A motion to extend the Order of Conditions for three years is made by Sheehan, seconded by Ricciarelli, and passes 6-0.

B. Washington and Dodge St. (DEP#64-610) – request for extension of Order of Conditions

Thomas Alexander of 1 School St. Beverly explains that a minor modification was approved in May, since the original project had been designed in such a way that it came in over budget. It had to be redesigned, and the process took extra time. Construction has started, and the project will most likely be complete within a year.

A motion to extend the Order of Conditions for three years is made by Sheehan, seconded by Ricciarelli, and passes 6-0.

C. 162 Federal St. (DEP#64-523) – request for Certificate of Compliance

The Applicant is not present; the Engineering Dept. required changes to drainage and as a result, the as built plans are being modified. They will come back at a future meeting. Ricciarelli is recused for this item.

D. Discussion of abutter notification policies

Darya Mattes reviews this issue, which came up in the Traders Way application. Some discussion centered around how members of a condo association were notified. Text from the Wetlands Protection Act (WPA) regulations have been brought in; the FAQ's from requirement to notify abutters in 1995 went into effect is also attached. Summary of Applicant requirements:

- Notify abutters whose lots are within 100' of project property line
- If water or roadway exists sin between the two, it still must be within 100' (so someone across a 100' river would **not** be notified)
- This does not apply to a linear shaped project 1000' in length; in those cases the Applicant must notify abutters within 1000' (e.g. transmission lines, etc.)
- Condo association only must be notified, not individual unit owners.
- Abutter notification proof must be submitted at the same time as the filing

Sheehan comments that condo associations may not know what to do with these notices. Chair St. Louis comments that this is the fourth time the Commission has discussed creating dimensional regulations other than setbacks from the flood plain.

This leads to extensive discussion not only of abutter notification, but also a possible overhaul of the City's Wetlands Protection and Conservation Ordinance. Discussion includes:

- Changes to abutter notification procedures, specifically a possible increase in distance; limit of disturbance and offset of notification should be revised
- Preference for resilient design
- Differentiation between projects proposed in coastal and inland areas
- Setbacks
- Changes to the requirement that certain drains be connected to the City Sewer; types of valves are discussed at length
- Baseline conditions to be used for stormwater management are discussed
- Chair St. Louis notes that the WPA does not have a 25' no build zone, but he would not advocate using it as an anti-build tool. He again notes the distinction between inland and coastal projects. The Commission could inform Applicants that their project will not gain approval if within 10' of a wetland, or can write into the Ordinance that a waiver must be sought if the work proposed is too close.

Chair St. Louis notes that the WPA does not have a 25' no build zone, but he would not advocate using it as an anti-build tool. He again notes the distinction between inland and coastal projects. The Commission could inform Applicants that their project will not gain approval if within 10' of a wetland, or can write into the Ordinance that a waiver must be sought if the work proposed is too close.

The Conservation Commission has enough areas of concern, especially with the amount of development planned moving forward, that it would be logical to hire someone to draft a new Ordinance. After that, the City Council would have to approve it. Darya Mattes notes that several organizations do this type of work. Chair St. Louis asks her to explore whether the City has finances to cover this.

This would be the Local Ordinance Chapter 50, which the Conservation Commission enforces. It has nothing to do with standard conditions on an Order of Conditions, which are policy, not regulation.

It is decided that the Agent will discuss amending the regulations as discussed with the City Solicitor. The process for rewriting regulations is discussed. Any changes must be defensible in court, as developers may object.

Other Business:

Chair St. Louis notes that at the next meeting, the Board must vote on a chairman.

Darya Mattes announces that the Commission needs to approve meeting schedule of this year, and that this item will be on next month's agenda, plus posted on the website.

Additionally, Gail Kubik is planning on rotating off the the Commission; her term was up in November, but will continue on for 90 days. Another Commission member is being sought. The Mayor's office included this in its list of open Board positions, but as of yet does not have any applicants.

Darya Mattes notes that the MACC (Mass. Association of Conservation Commissions) annual conference will be Sat. March 2nd in Worcester.

IV. APPROVAL OF MINUTES

A. Meeting minutes: 10/8/18, 11/12/18 and 12/13/18

Hoskins motions to accept Oct. 8 and Nov. 12 sets of minutes, is seconded by Campbell, and the motion passes with all in favor.

Hoskins motions to accept the Dec. 13 minutes, is seconded by Cambell, and the motion passes 5-0 with Chair St. Louis abstaining.

V. ADJOURNMENT

A motion to adjourn is made by Scott Sheehan, seconded by Tyler Glode, and passes unanimously.

The meeting ends at 8:10 PM.

Know your rights under the Open Meeting Law M.G.L. c. 30A §18-25 and City Ordinance Sections 2-2028 through 2-2033.

Respectfully submitted,
Stacy Kilb
Clerk, Salem Conservation Commission