



CITY OF SALEM CONSERVATION COMMISSION

Tuesday, March 16, 2020 6:30 PM via remote participation.

Approved MINUTES
Salem Conservation Commission
Minutes of Meeting

Date and Time: Tuesday, March 16, 2021, 6:30 p.m.
Meeting Location: Zoom or call-in
Members Present: Bart Hoskins, Chair Gregory St. Louis, Tom Cambell, Tyler Glode, Dan Ricciarellih
Members Absent: Scott Sheehan, Malissa Vieira
Others Present: Brittany Dolan, Conservation Agent
Recorder: Stacy Kilb

calls the meeting to order at 6:30PM.

I. ROLL CALL

II. REGULAR AGENDA

- A. Bridge Street and North Street Intersection** – DEP #64-719 – Continuation of a Public Hearing - Notice of Intent for Linda Calnan, SiFi Networks, 55 Madison Ave, Morristown, NJ 07960. The purpose of the hearing is to discuss the proposed construction of a telecommunications shelter and diesel backup generator within an area subject to the Wetlands Protection Act MGL c131§40 and Salem's Wetlands Protection & Conservation Ordinance.

Linda Calnan presents for the Applicant. The item was continued from the last meeting as there was no file number. No comments have been received from the DEP.

Jim Buhrdorf, EM², describes the shelter.

- Design plan is shown.
- Fencing, driveway, landscaping are described.
- Generator will be cycled once a month for 30 minutes, for maintenance, and that is the only time it will run, except for outages.
- Site Plan is shown and outlined.
- Building will be on skids w/no foundation.
- Elevation is 8.52, in flood zone AE 10', so they will build up (via grading and thicker slab) the ground to be 1' above. Skid will take up 7-8".
- Grading plan has not been developed yet but elevation views are shown .
- Shelter on piers? City DPW had no comment on this, but the Commission would prefer piles.
- Other options: raise gravel/crushed stone area? Will drop off dramatically at front and sides of shelter; they are not filling anything north of it except for a small ramp, or

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they could build stairs. That would eliminate need to grade.

- Chair comments that no one is looking for compensatory storage, but if they don't have a grading plan, he expects no grading. Applicant notes Deb Duhamel with City brought up compensatory storage; Brittany Dolan has requested a ruling on if DEP will complain about that. Chair notes they are looking to change regulations to associate compensatory storage, but thinks riverine characteristics fall short of roadway and site is not in 1-year statistical flood zone.
- Ricciarelli wonders, if on piers, infrastructure coming up from ground must also be protected. Difficult to protect without grading.
 - Protection of lines in conduits is discussed .
- Chair asks about a fuel compartment; this is discussed and shown; secondary containment for a tank spill is required. Fuel source in a wetland area must have one; Applicant has not planned this yet; Commissioners describe what this would be. Applicant will design one. Could be poured as a piece of the pad. Logistics of this are discussed.
- Pad and grading are further discussed.

The Chair opens to the public but there are no comments.

- Require grading plans to be submitted for review and vote or ask Applicant to return with them? A grading plan will be done in the next week.
- The City's belief that there is a need for compensatory storage is discussed. The Chair advises the Applicant to do a slab and not much grading. The requirements of the local Ordinance are discussed.
- Geotech study was done, found cobblestones and ash; may have to remove some to make the ground stable. Helical piles and beams are suggested by Dan Ricciarelli to get around that.
- Keep filing under Army Corps jurisdiction? If they want to get back to Conservation Commission, they can leave hearing open.
- Foundation options: 2' exposed of foundation, undisturbed ground at edge w/crushed rock surfacing? Prefab stairway up to shelter - YES.
- Working w/National Grid who will get to their designs in 3-4 weeks.
- Will work on getting raised foundation out of flood zone.
- Stairway.
- Will do full design by next meeting.

A motion to continue to the April 20, 2021, meeting is made by Tyler Glode, seconded by Dan Ricciarelli, and passes in a roll call vote.

Tom Campbell	Yes
Tyler Glode	Yes
Bart Hoskins	Yes
Dan Ricciarelli	Yes
Greg St. Louis	Yes

B. 78 Bay View Avenue – Public Hearing – Request for Determination of Applicability for Patrick and Stephan O'Sullivan, 78 Bay View Avenue, Salem. The purpose of the *Know your rights under the Open Meeting Law M.G.L. c. 30A § 18-25 and City Ordinance § 2-2028 through § 2-2033.*

hearing is to discuss the proposed renovation of an existing house within an area subject to the Wetlands Protection Act MGL c131§40 and Salem's Wetlands Protection & Conservation Ordinance.

Dan Ricciarelli recuses himself from this item.
Julia Mooradian, Seger Architects, presents

- Plot plan is shown, and renovation described; will stay within the existing footprint of house.
- No grading is proposed.
- Existing parking space shared w/neighbor; will be pervious pavers.

One written comment was received from Susan St. Pierre, 74 Bayview Ave, noting that work is proposed in the buffer zone. There are no additional public comments.

A motion to close public hearing, is made by Tom Campbell, seconded by Tyler Glode, and passes 4-0.

Tom Campbell	Yes
Tyler Glode	Yes
Bart Hoskins	Yes
Dan Ricciarelli	Recused
Greg St. Louis	Yes

A motion to issue a Negative 2 and Negative 6 Determination is made by Tyler Glode, seconded by Tom Campbell, and passes 4-0.

Tom Campbell	Yes
Tyler Glode	Yes
Bart Hoskins	Yes
Dan Ricciarelli	Recused
Greg St. Louis	Yes

C. 163-173 Derby Street – Public Hearing – Request for Determination of Applicability for William Fuchs, National Park Service, 160 Derby St, Salem. The purpose of the hearing is to discuss the proposed placement of granite blocks along Derby Wharf as well as other maintenance activities within an area subject to the Wetlands Protection Act MGL c131§40 and Salem's Wetlands Protection & Conservation Ordinance.

Bill Fuchs presents the project.

- Last meeting: discussion about placing 200' of large stones on Derby Wharf happened during NOI, now they are expanding RDA for most of work on wharf areas.
- Locus map Salem NHS.
- FEMA map - whole park South of Derby St is Flood Zone AE, most of area is buffer zone and a good portion in Wave Action Zone. Everything is in resource area or buffer zone.
- Proposed: Place 300 linear feet of granite blocks on Derby Wharf as breakwater, maintain existing rows by re-positioning, move eroded wharf fill back into position.
- When fill and blocks are moved, they wish to re-place them on the wharf, as needed.

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- Photos of Derby Wharf.
- Expecting to come before Commission to remove fill that washed out of wharf and built up to 4-5' above surrounding sediments, but not part of this request.
- Existing walkways are shown.

7:23 restart top 7:30

Proposed actions:

- Fencing.
- Lighthouse - concrete, paint.
- Landscaping maintenance, remove trash, debris from lawn, wharves and beach. Wrack will not be removed from beach but will be removed from lawn and wharves.
- Ricciarelli: concrete by lighthouse: is public allowed in? Only on rare occasions, but usually no. Would this be better as a pervious surface? Slabs have been in place for a long time, slab is being undermined, project approved last time was filling that area with larger stones to hold fill under slab in place, being able to move fill that gets washed out back in will be a benefit. Slab is 30+ years old but is not shifting but is cracking b/c of being undermined. Use large blocks to keep slab in place and provide seating?
- This is an attempt to bring the Wharf area into compliance. All tasks done within regulated areas may not be jurisdictional, but they want the entire operation in compliance and come back before Commission with updates and future requests.
- Chair: material washed to inland side: removed in future application, not this one, would be an NOI and will require consultation with Agent.
- Mr. Fuchs: concern is that if foundation of lighthouse fails, everything fails. Above ground undergoes routine maintenance, but digging down below surface to see foundation is not something that has been done recently but understanding its condition is critical.
- Has wharf been filled? Exposed exterior of foundation? This should be protected.

A motion to close the public hearing is made by Bart Hoskins, seconded by Dan Ricciarelli, and passes in a roll call vote.

Tom Campbell	Yes
Tyler Glode	Yes
Bart Hoskins	Yes
Dan Ricciarelli	Yes
Greg St. Louis	Yes

A motion to issue a Negative 3 Determination, subject to standard conditions, and a Negative 6 Determination, is made by Dan Ricciarelli, seconded by Tom Campbell, and passes in a roll call vote.

Tom Campbell	Yes
Tyler Glode	Yes
Bart Hoskins	Yes
Dan Ricciarelli	Yes
Greg St. Louis	Yes

D. 34 Peabody Street, 38 Palmer Street, & 47 Leavitt Street – DEP #'s 64-xxx

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Public Hearing – Notice of Intent for David Valecillos, North Shore CDC, 93 Lafayette St. The purpose of the hearing is to discuss the proposed construction of a new mixed-use residential rental and community building at 34 Peabody Street within an area subject to the Wetlands Protection Act MGL c131§40 and Salem’s Wetlands Protection & Conservation Ordinance.

Public Hearing – Notice of Intent for David Valecillos, North Shore CDC, 93 Lafayette St. The purpose of the hearing is to discuss the proposed new parking lot at 38 Palmer Street within an area subject to the Wetlands Protection Act MGL c131§40 and Salem’s Wetlands Protection & Conservation Ordinance.

Public Hearing – Notice of Intent for David Valecillos, North Shore CDC, 93 Lafayette St. The purpose of the hearing is to discuss the proposed demolition of an existing building and the construction of a new mixed-use residential and commercial building at 47 Leavitt Street within an area subject to the Wetlands Protection Act MGL c131§40 and Salem’s Wetlands Protection & Conservation Ordinance.

Mr. David Valecillos introduces the project. |

Site overview:

- North Shore Community Development Coalition’s mission is described. Point is where they have their neighborhood model.
- Action Plan for Point Neighborhood is outlined.
- Overview of Point Neighborhood work and investments
- Passive House setup is described.
- 34 Peabody St. aerial views
 - Building elevation shown, 21 units, all above ground; mechanical also above ground. Community room is on ground floor, all units are residential, program space at bottom but is not commercial. Lobby, parking also on this level.
 - Chair notes the requirements of being in flood zone.

Steven Ventresca and Paige Simmons, Nitsch Engineering, present 34 Peabody St.

- Site overviews.
- Site plan. Roof drainage and infiltration is described.
- Parking lot is at Elevation 8/9, will stay within existing elevation grade.
- Drainage of parking lot and backflow valves for sewer/drain are discussed.
- First floor: Roll gate (solid door) will allow stormwater to enter and exit. Scuppers? No. Chair asks about the confined space, can’t put garage door? City/building inspector did not bring this up, buildings are permitted (When did they go to Planning??)
 - Chair appreciates this, but this is his 10th parking garage in a floodplain, none has had a solid door. Look at Salem Oil and Grease garages, other sites along North River for guidance.
 - Building code? Chair St. Louis comments about the diversion and trapping of floodwater within developed spaces. Mr. Valecillos notes that the garage is not completely enclosed, opens into alleyway, using existing walls of other building but project is not having a fully enclosed garage.

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Commented [SK1]: @Kate Kennedy I could not catch the names he mentioned. If you want them, is there a way to find them?

- Chair notes that can't trap people, project must allow floodwater and inhabitants to exit freely.
- Tyler Glode: where will floodwater recede? If floodwater is trapped in, door will open automatically? If storm event is coming, door will be left open prior to storm. Chair St. Louis suggests making the door not solid at the bottom to allow flow.
- Egress from proposed staircase so will not need to go to bottom floor, can go through.
- Ward St. If water comes in, can flow to alleys.
- Implication of flooding in garage is discussed. Applicant has proven that water will not be trapped in garage. Discharge must happen during/after floodplain event.
- Paige Simmons, Nitsch: Leavitt St.
 - LSCSF, similar to Peabody St.
 - Ground level is garage (open with gate).
 - Subsurface infiltration is described.
 - Backwater valves on drainage and sewer are provided.
 - Tyler Glode: sizing to store 100-year storm event; is this over the whole property even though covered by buildings? Flood plain overflow if entire site underwater? This was not taken into account; system is sized to hold 1" storm w/static storage but takes into account infiltration. It can handle up to 100-year storm but not sized to handle a flood.
 - Garage would flood, drains in garage lead to sewers in overflow emergency.
 - Tyler Glode: as a 100-year rain event falls on property, could fill system but not contribute negatively to existing system. Yes. Rates and volumes reduced in 100-year storm.
 - Chair: Utilities must be watertight. Anything entering sewer must be valved off to prevent water going to SESD. Valves are further discussed - should be just before infiltration system.
 - No living units or HVAC on ground level.
 - 1500 sf of community space on this level, Salem Pantry hoping to build a grocery store.
 - All systems have 2' separation to groundwater. Depth of groundwater is clarified as being 8.5' underground.
 - Entire subsurface system is at same level; this is described.

Palmer St.

- Existing dirt lot, proposing paved lot w/bioretenion basin sized to store 1" storm and reduce rates and volumes.
- Lot grades are described, bioretention basin is described.
- Mulch shall not be used in basin as it floats.
- Sidewalk improvements and ramps proposed.
- Chair asks: Not jurisdictional, but climate change studies point out sea level rise. We try to advocate people build above floodplain but building code prohibits requesting freeboard. He advocates building as high as possible for longevity of structure, and secondly, give thought to communal spaces within floodplain as they will periodically flood. Community would be devastated to come together in a safe place that would be affected by adverse weather.

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- These are passive houses, above LEED, Applicant is paying attention to finishes in community space to be water resistant.

The Chair opens to public comment.

One letter submitted re 34 Peabody, from Dan Albert of 29 Harbor St.

- Feels property will drain well.
- Impact of drainage on Ward St. above retaining wall.
- Mr. Ventresca: Ward St. is higher, most construction will happen from Peabody St, drainage patterns on Ward St. will remain the same.

Nancy Moore, 39 Prince St.

- Abuts Palmer St.
- Concerned about parking; lot covered by cars esp. during snow emergency. Where will they park? Ditto for Peabody St.
- Chair notes that parking is beyond the jurisdiction of this Board.
- Ms. Moore did not receive notice for Planning Board meetings. ZBA meeting was April 2017, project permitted a long time ago through 40B process.
- Exits of garage are clarified but loss of impacted parking spaces is not under the purview of this Commission. Parking spaces will be tied to rental agreements of tenants.

Stacia Kraft, 140 Federal St.

- FHOD (Flood Hazard Overlay District) update in OLA?
- Projects proposed in flood zones in meantime, Commission has asked for stronger regulations.
- Temporary moratorium on reviewing projects in flood zone until Ordinance is finished?
- Chair St. Louis is not sure Wetlands Protection Act (WPA) gives moratorium powers, Ms. Kraft wonders if he would support the idea, but that question is not related to this application, notes the Chair. Ms. Kraft disagrees.
-

Commented [SK2]: What is OLA?

Sonia Marques 36 Lafayette St.

- Concerned about loss of parking.
- Concerned that housing will not be truly "affordable" to those working regular jobs, claims that another building was supposed to be affordable, but they made 1 floor affordable and rest market rate. Chair points out this is not under purview of this Commission.
- Concerned about flooding; drainage is described. Ms. Marques' concerns can be passed along to the City as this is a larger problem in the area.

A motion to close all three public hearings is made by Tyler Glode and seconded by Dan Ricciarelli. The motion carries.

Tom Campbell	Yes
Tyler Glode	Yes
Bart Hoskins	Abstain, microphone broken.
Dan Ricciarelli	Yes

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Greg St. Louis Yes

A motion to issue an Order of Conditions with standard and special conditions, for all three sites, is made by Dan Ricciarelli, seconded by Tyler Glode, and passes 4-0.

Tom Campbell	Yes
Tyler Glode	Yes
Bart Hoskins	Abstain, microphone broken.
Dan Ricciarelli	Yes
Greg St. Louis	Yes

Special Conditions:

- Watertight utilities.
- Transformers, etc. above floodplain to be provided w/protection w/add'l valves on sanitary sewer to prevent floodwater entering.
- Parking garages to provide signage stating they are within floodplain as a public outreach measure.

Tyler Glode asks about best management plans/practice submitted? As built call these out. He comments that conditions should ensure all shutoff valves. As built should encompass these. All subsurface chambers have inspection ports. Such items shall be called out on the as built.

- This has 3 separate DEP file #s so Board needs to act separately though the filing was read concurrently. They need to re-vote on each site separately. Mr. Ventresca notes that special conditions shall not apply to the Palmer St. site (parking lot).

A motion to issue an Order of Conditions with standard and special conditions, for 34 Peabody St, is made by Dan Ricciarelli, seconded by Tyler Glode, and passes 4-0.

Tom Campbell	Yes
Tyler Glode	Yes
Bart Hoskins	Abstain, microphone broken.
Dan Ricciarelli	Yes
Greg St. Louis	Yes

A motion to issue an Order of Conditions with standard and special conditions, for 38 Palmer St, is made by Dan Ricciarelli, seconded by Tyler Glode, and passes 4-0.

Tom Campbell	Yes
Tyler Glode	Yes
Bart Hoskins	Abstain, microphone broken.
Dan Ricciarelli	Yes
Greg St. Louis	Yes

In addition to the regular and special conditions noted above, mulch shall also be removed. Due to lack of consistent drainage, an equivalent conservation mix shall be used as basin mix is inadequate.

A motion to issue an Order of Conditions with standard and special conditions, for 47 Leavitt

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St. is made by Dan Ricciarelli, seconded by Tom Campbell, and passes 4-0.

Tom Campbell	Yes
Tyler Glode	Yes
Bart Hoskins	Abstain, microphone broken.
Dan Ricciarelli	Yes
Greg St. Louis	Yes

Bart Hoskins leaves the meeting at 8:54 PM

III. OLD/NEW BUSINESS

A. 117 Marlborough Road – DEP #64-363 – Request for Certificate of Compliance
Requested to continue to April meeting.

A motion to continue to the April meeting is made by Tyler Glode, seconded by Dan Ricciarelli, and passes 4-0 in a roll call vote.

Tom Campbell	Yes
Tyler Glode	Yes
Dan Ricciarelli	Yes
Greg St. Louis	Yes

B. 2 Dearborn Lane – DEP #64-13 – Request for Certificate of Compliance

- Yes, the DEP file number above is correct.
- Bill McKinnon has moved to Danvers but owned this property until a couple of months ago. An Order of Conditions has been outstanding since 1976; the property was purchased by him in 2000 and it did not come up then, but did when they went to sell a couple of months ago. The City of Salem is having difficulty tracking the Order of Conditions. Between 2000 and 2003 Hancock Survey was hired and permits obtained and closed, with no previous Orders of Conditions mentioned. He is requesting to put this to rest as no information is available. Orders of Conditions were issued to the Contractor at the time to build multiple houses at the end of the street, notes Brittany Dolan. Nothing on file has an Engineering stamp; all Plans filed were just sketches. She has made a site visit and this is one of the original Salem Conservation Commission Plans.
- The Chair notes it was a Chapter 91 application that necessitated an NOI; if everything is in good working Order it can be closed out. Mostly these come out after the 2008 mortgage collapse.
- Each address had a separate NOI; it's not for the entire subdivision.
- What to check off on the Certificate is discussed. "No Action" would be appropriate.
- There were no special Conditions on the Original Order.

A motion to issue the Certificate of Compliance is made by Dan Ricciarelli, seconded by Tom Campbell, and passes 4-0 in a roll call vote.

Tom Campbell	Yes
Tyler Glode	Yes
Dan Ricciarelli	Yes
Greg St. Louis	Yes

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Dan Ricciarelli asks if a ruling from City Solicitor Beth Rennard has been obtained. 1976 was just after the WPA came into effect. Old Orders should expire, he suggests, if there is no follow up. Tyler Glode notes he was forced to apply for an extension even though COVID interrupted things. Permit timing is discussed.

C. Discussion on Salem's Wetlands Protection & Conservation Ordinance

Dan Ricciarelli rejoins the meeting for this item, which is heard after item D. The City has begun thinking about updating policies.

- Informal small group of Dan Ricciarelli, Greg St. Louis, Kirt Rieder (Planning Board), Patti Morsillo (City Councilor), Planning Dept staff.
- Met multiple times to discuss possibilities for what to update, and how, in policy.
- Pathways to update: 1. City Council amends WP Ordinance 2. Conservation Commission adopts regulations (or both).
- Next step: Convene working group of stakeholders to ID what short term updates/priorities vs. long term goals are desired. I.e. Do we need a "no disturb zone" in buffer zone, once done could be policy update to protect isolated wetlands, intermittent streams, or to add construction standards to coastal flood zone?
- Group will meet two more times to establish priorities, after which they will have an outline of proposed policy update to go before Conservation Commission and have a public forum.
- Public and Con Com feedback would occur, working group would then consider what City drafts for Ordinance or Con Com regulations
- Summer/fall: working draft document produced for amended Ordinance or regulations. If regs, Commission considers, if Ordinance, goes before OLA (Office of Legal Affairs) committee.
- At last meeting, discussed details of possible changes.
- Chair St. Louis: We make comments based on site specific conditions, in addition to reviewing regulatory authority of the Commission. It has discussed codifying those expectations and having mitigation when developers seek to go above and beyond what we verbally mandate. Agrees with comments made that illustrate to the public, the various concerns the Commission addresses on a usual basis, and allows the public to understand that not all sites are equal. Commission does not want someone to make the case that "The Commission is regulating a land taking." Chair St. Louis regularly gets overturned by the DEP, so is mindful of the legal ramifications.
- Worth adding items for Land Subject to Flooding or vernal pools, blasting zones, especially off wetlands.
- Inland vs. coastal was also discussed. Inland areas are more vegetated/habitat.
- Tyler Glode: An added focus on coastal storm flowage and providing additional definition to those resource areas would be beneficial.
- Case law supports, as highlighted tonight, that different boards and Commissions cannot regulate the building code directly, so the opportunity is to allow a "density bonus" or waiver, if willing to build vertical offset into project, you get value. Offset would be subject to MUCH more discussion.
- Contaminated sites come up frequently, encourage developers to clean them up/turn them over, not enough grant \$\$ out there, Superfund and 21E are not adequate to

Commented [SK3]: Did I capture the Chair's thoughts on this correctly?

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clean up so many years of industrial uses.

- Bolster with legal opinion.
- Chair St. Louis thinks it should be a regulation that the Commission is invested in vs. something explicit that does not have flexibility to address site-specific conditions.
- Tyler Glode: Is floodplain overlay district accurate? Chair St. Louis:
 - Floodplain overlay district is under Building Commissioner and Planning Board jurisdiction, subject to specific criteria. Most communities follow active FEMA maps but draft maps mean overlay districts look forward one year and consider them live. If there is local knowledge that supports local flooding issues, those areas are to be treated as such (same as if it's a potential vernal pool, treat it as one).

Steve Kapantais, 23 Wisteria St.

- Feels it needs to be an Ordinance. Current Flood Hazard references maps from 1974. If overturned and Ordinance not changed, will lose in court.
- 100' is left to City to make a Decision, if left in Ordinance, Commission will not be able to make the decision.
- Does not belong 100% in Board's hands, needs to help them draft the Ordinance.
 - Chair St. Louis appreciates this, and it is not misstated but must be clarified in the public's eyes: The buffer zone is NOT a resource in the WPA. It is presumed to be a buffer to the resource, barring other considerations. When developers come before the Commission and Peer Reviewers review different stormwater measures, and look to treat quality and quantity of stormwater, so whether 101' from jurisdiction and developing to a less stringent standard, or 25' away, you are doing what is best for the site.

Stacia Kraft

- Concerned about coastal flooding areas, no residential housing in these areas but proposals are coming to Boards.
- Again, suggests temporary moratorium on reviewing projects until this is sorted out.
 - Chair St. Louis does not want to be put in a position where the Commission creates something that generates lawsuits; he has not seen a Commission come forth with a moratorium on a building department consideration. He has been overturned by legal counsel informing him that he cannot withhold his permit based on that of another jurisdiction.
- Ms. Kraft notes this would go through the Council and wonders if Chair St. Louis would entertain the idea.
 - He has been informed that he is not allowed, under Mass. General Law, to withhold a permit pending another department's permit, so if a building code regulation says, "Habitable space must be built 1' above the FEMA floodplain," he personally is not in favor of creating a situation where this Commission could be subject to a lawsuit for withholding its permit. Our legal counsel can opine but that is what counsel in other cities has said.

Councilor Dibble

- If City council placed Moratorium, would not cover Conservation Commission, it would be beyond them. Ms. Kraft was asking if they would support such a thing.
- He also thinks it should be an Ordinance, which should replace the existing Ordinance and not mention regulations of Conservation Commission.

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- Is the need great enough that an Ordinance needs to happen to allow the Commission to do its job?
 - Chair St. Louis asks what such a moratorium would read. It gets very technical very quickly and there will be ramifications to municipal projects as well as private entities unless very specific exemptions are made.
- Councilor Dibble suggests bringing it to Tom Daniel [Planning Director] to speed up the process.
 - Tom Devine will convey this to Tom Daniel but points out: he and a colleague have reviewed other communities' wetlands ordinance and regulations, and how to establish suggested restrictions. Some do it through ordinances, some through regulations, some both. Although the current ordinance has shortcomings, it has one key provision to allow City to establish regulations: "The Conservation Commission shall promulgate regulations." He has seen good examples of wetland regulations and has communicated with peers in other communities, in an expanded working group. He intends to report more findings to them so they can consider how to do this. Actions to be taken in interim can be discussed.
- Dan Ricciarelli thinks 6 months is excessive, they are trying to move faster.
- Chair St. Louis: Commission has a jurisdiction as does the Planning Board. The City Council governs the interests of the City with all departments. He has worked in communities where people have used their Conservation Commission as an anti-development, anti-density body. He does not want the Commission to end up in zoning – and many comments here have been re density of development in backyard vs. qualitative or quantitative comments about how development was adversely affecting wetlands. He gets that people don't want five-story projects, and that they may want a manicured buffer, but this Commission does not do it. Developers hire professionals to address some items the Conservation Commission is charged with protecting, and most of them work very well with feedback and what the Commission is looking for re the stormwater management handbook. Those regulations should be more stringent and reflect upgraded precipitation data as much as TMDLs (Total Maximum Daily Loads) and coastal situations that Engineering and other permitting authorities do. We are all trying to do what's best for our own Commissions and bodies, we do overlap, and he wants to make sure that zoning items remain in zoning jurisdiction.
- Stacia Kraft takes issue with the fact that he talked about development and density. Flood area does not currently house people and it should not. It is not helpful to mix it up, but the Chair knows there is a regulation that says you can't spend 40B state money in a floodplain, and Ms. Kraft is interested to hear how funding is broken down.

D. Discussion on contamination at former Overlook Acres project site

Dan Ricciarelli recuses himself from this item.

- Developers withdrew and will not be building this project because of the level of contamination on the property. A lawsuit has ensued.
- It is uncertain what this Commission can do, but it's up to \$34 million of remediation,

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and part of that property is within Con Com jurisdiction and within the Forest River watershed.

- DEP is waiting for report but is aware of the situation.
- Chair St. Louis comments that once you ID the contamination onsite, the owner of the property is subject to conditions, and the timeframes of the state, which are strict.
- Responsible parties: Mass Contingency Plan, 21E to get site to closure/no risk. Does not include human health only, also environmental risk.
- Brittany Dolan notes that past owners have been before the Commission, and contamination was brought up 30-40 years ago, but nothing was ever done. Can this Commission push it forward? Chair St. Louis comments that if the Local Board of Health does not report it to the state, other actions can be sought.
- Tom Campbell notes the DEP has an enforcement branch but can be slow to act.
- [Link to news article: https://www.itemlive.com/2021/03/01/overlook-acres-files-lawsuit-regarding-contamination-in-salem-development/](https://www.itemlive.com/2021/03/01/overlook-acres-files-lawsuit-regarding-contamination-in-salem-development/)

Public comment:

Steve Kapantais, 23 Wisteria St.

- Concerned that claim made is imminent harm to public and the environment - is there a way for this Board to write letter to City or DEP to obtain test results?
 - Chair St. Louis: "DEP Lookup" allows looking up property by address or GIS location, should already be posted, if not by end of month, the Conservation Commission can file enforcement but if there were an absentee owner, it would not have teeth until the Commission goes through a constable-type process.
 - Chair St. Louis will send the Agent information that she can share with members of the public who may ask.
 - This Commission would need to coordinate with multiple authorities.

Councilor Steve Dibble

- Recommends Agent research minutes from 1976, that owners were in discussion w/City to clean up property, also reach out to Building Inspector and City Solicitor to get back to Commission within a week so it can provide info to relieve neighbors' concerns.

Alvi Ibanez 49 ½ Barnes Rd

- Concerned abutter.
- Contamination was brought up many times, testing did not occur.
- Nothing has been heard from City or Conservation Commission re contamination and risks.
 - DEP contact information will be sent.
 - Chair St. Louis screenshares the state website that shares reportable conditions (Mass DEP waste site/reportable release file viewer)
 - <https://eeaonline.eea.state.ma.us/portal#!/wastesite/3-0034643>
 -

Councilor Morsillo

- Meeting where CoC was issued, asked them to report any contamination found.
- They said it would take 6 months to do analysis.

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

- Is it possible to go through developers to get this info as it was mentioned in the meeting?

<https://eeaonline.eea.state.ma.us/portal#!/wastesite/3-0034643>

- Timing, DEP waiting for submittal it has not rec'd, tracking number may be for something else. There are 200 such sites in Salem.
- The Developer is suing the owner for nondisclosure of contamination, fraud, etc. Developer did due diligence, found something, and backed out.
- Councilor Dibble: Blue dot [shown above] was Cinema Salem property; they did not come before Conservation Commission, but the City Council received testimony, developer desired to subdivide 10% of property that was contaminated.
- He objected b/c if subdivided it will sit there, City would take ownership eventually.
- Chair St. Louis: many owners of such properties maintain ownership as they do not want to become after the fact/sale. Any property the City buys should undergo testing.
- Councilor Dibble: City wouldn't buy it, if no one pays taxes, it will come to us. Chair St. Louis states that it could be auctioned off.
- Councilor Dibble does not want to see the City have to pay for cleanup.

E. Discussion to change the regular Conservation Commission meeting dates.

This item is heard after Item B. Tuesdays do not work for Dan Ricciarelli. The issue with Thursdays was with Greg St. Louis, who would have to step down as Chair if they had to go back to Thursdays. Dan Ricciarelli will examine his schedule. Brittany Dolan will look at the City calendar, but Chair St. Louis notes the Commission could buy its own zoom room so as not to conflict with those occupied by other City boards and commissions.

IV. ADJOURNMENT

A motion to adjourn is made by Dan Ricciarelli, seconded by Tom Campbell, and passes 4-0 in a roll call vote.

Tom Campbell	Yes
Tyler Glode	Yes
Dan Ricciarelli	Yes
Greg St. Louis	Yes

The meeting ends at 10:05PM.