



Stephanie Radner, Chair
Nathan Gauthier, Vice Chair
Nick Garlick, Associate
Leigh Hafrey, Associate
Eliot Foulds, Associate
Bob Holmes, Associate
Erik DeAvila, Associate
Tim Puopolo, Alternate
Elissa Brown, Agent
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TOWN OF DEDHAM CONSERVATION COMMISSION

Minutes of January 6, 2022

In response to the COVID-19 pandemic and given the current prohibitions on gatherings imposed by Governor Baker's March 23, 2020 "Order Assuring Continued Operation of Essential Services in the Commonwealth, Closing Workplaces, and Prohibiting Gatherings of More than 10 People," this public hearing was conducted virtually, as allowed by Governor Baker's March 12, 2020 "Order Suspending Certain Provisions of the Open Meeting Law," G.L. c. 30A, §20.

The following Commissioners were present:

Stephanie Radner, Chair
Nathan Gauthier, Vice Chair
Eliot Foulds, Clerk
Erik DeAvila
Nick Garlick
Leigh Hafrey
Bob Holmes
Tim Puopolo, Alternate

The following staff were also present:

Elissa Brown, Agent
Patrick Hogan, Assistant Agent

The following Commissioners were absent:

The following Applicants and/or Representatives were present:

Michelle Tinger, Dedham Planning Department – Providence Hwy. Access and Recreation Study
Mark Hebert, Applicant – 685 Providence Highway
Zachary Richards, Representative – 685 Providence Highway, 4 Prospect Street
Tom Liddy, Representative – 685 Providence Highway, 4 Prospect Street
David Webster, Representative – 4 Prospect Street
Andrea Crowell, Applicant – 333 Bridge Street
Jason Mammone, Applicant – Evergreen Way
Sofia Sarafoglou, Applicant – 688-700 Providence Highway
Steve Ivas, Representative – 688-700 Providence Highway
Mark Arnold, Representative – 399 West Street

Commissioner Radner called the meeting to order at 7:02 pm in accordance with the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, the Dedham Wetlands Bylaw, and the Dedham Stormwater Management Bylaw.

1. Providence Highway Access and Recreation Study

Michelle Tinger, Assistant Town Planner for the Town of Dedham presented an overview of an ongoing project. She stated the project is reviewing access and recreation opportunities along Providence Highway from the Marine Rotary to Bridge/Spring Street and is funded by an earmark from Senator Rush and Representative McMurtry.

Ms. Tinger stated the study was originally intended to be included in the VFW/Providence Highway corridor action plan, but due to the timing of the earmark, it wasn't able to be conducted in time to be included. Instead, it will build on the action plan by envisioning a greenway along this corridor. BL Companies is currently conducting the study, with the Planning & Zoning and Engineering Departments managing. She stated the study will assess the existing conditions of the corridor and then develop conceptual plans for recreational use of the area.

Ms. Tinger stated the first step will include a public meeting in February, where the existing conditions and initial concepts will be discussed. A second public meeting will be held in April or May to work toward a preferred conceptual plan. A final report will be prepared by the end of June 2022.

Commissioner Radner asked if there had been any communication with the Boston Architectural School who owns some of the land in the area. Ms. Tinger stated she would check with the Town Planner and report back. Agent Brown stated that the land had been donated to the Boston Architectural School by Mr. DiMaura but they hadn't been able to do anything with it yet. She stated the Town Planner had intended to reach out to the school, but she didn't know if he had done so yet.

Commissioner Radner expressed support for this project. She noted that the land was donated to be used for Conservation, so it would likely have to be passive recreation unless the land use was significantly changed. She also noted that the land is in the riverfront area, so the Conservation Commission will likely be involved in any future work.

Commission Gauthier also expressed support for this project and stated he would likely be amenable to waivers for work that is eventually proposed as part of this study, provided it resulted in educational opportunities and enjoyment of the area.

Commissioner Radner noted some of the land in the area is owned by the Army Corps of Engineers. Ms. Tinger replied that the project team was willing to work with the Corps.

Commissioner DeAvila stated that if the Town could gain access to the old McDonald's parking lot, which he noted likely wasn't within the Town, then access to the area wouldn't require new parking.

Commissioner Foulds asked why this wasn't included in the recent Providence Highway corridor action plan. Ms. Tinger stated that the timing of the earmark funding for this study did not line up with the work on the corridor action plan. Mr. Foulds noted that the entire road corridor was being reconsidered as part of the action plan to accommodate linear, multi-modal transportation and it might be a duplication of efforts to also have walking pathways parallel to the road through the adjacent conservation land. Commissioner Radner stated this new study seemed to be considering non-parallel pathways that would allow the public to access and enjoy the area. Commissioner Foulds asked if the linear, multi-modal

transportation routes were still included in the Providence Highway corridor action plan. Ms. Tinger confirmed and offered to provide a link to the action plan for reference.

Commissioner Radner asked that the Commission be kept updated on the progress of the project and any need for input. Ms. Tinger agreed.

Commissioner Radner asked if anyone from the public had comments or questions. She received no responses. She suggested that anyone who had questions reach out to the Planning Department.

2. Continued Applications (Applications Previously Opened to be Discussed Tonight)

2.1. 685 Providence Highway – DEP #141-0590 – Utility Trenching

Applicant: Mark Hebert, Federal Realty Investment Trust Representative: Zachary Richards, Bohler Request: Issue OOC

Zachary Richards reintroduced the proposed project. He reminded the Commission that the project is intending to extend utilities to the property, which currently relies on a well and on-site propane tank. Mr. Richards also stated that there were questions about dewatering and invasive species that the project team was ready to answer this evening.

Mark Hebert added that the ability to lease the building is currently limited by the utilities. He also noted other limitations, including space and access. Mr. Hebert stated the project team is pursuing both a short-term solution to these issues, which is this proposed project to connect utilities, and a long-term solution, which is still being developed.

Mr. Richards stated a contractor has not yet been secured, but the project team has considered the work and does not believe dewatering will be needed. They believe the bulk of the work could be completed with directional drilling. He proposed that a dewatering plan be provided prior to construction once a contractor was secured.

Mr. Richards also stated that Lucas Environmental had surveyed the area for invasive species removal. Based on that review, they believe the work required to remove invasive species would be extensive. As the applicant is considering a second phase of work that would be a more intensive, they are proposing limited removal and cut-and-dab treatment to remove selected invasive species now, with the understanding that more extensive invasive species management would occur when this second, more permanent solution for the property is devised and proposed.

Commissioner Radner agreed that these were the two outstanding items that the Commission asked to be addressed. She stated dewatering activities have had a greater focus in projects throughout town lately. She stated she was willing, if Agent Brown agreed, to include a condition allowing the dewatering plan to be supplied prior to the start of work, after a contractor is obtained. She emphasized the need for a contractor to have ample resources to address dewatering should it be needed.

Commissioner Radner also stated she understood the thought process behind the proposed plan for the invasive species. She asked if there were any areas on the property where plantings could be included, particularly after the invasive species are cut back. Agent Brown noted that a written plan had not been submitted for the work. Commissioner Radner agreed and stated that whatever the invasive species management plan was, it would need to be in writing. Agent Brown added that the plan should include the location, frequency, and timing of the work, the specific chemical(s) to be used in any cut-and-dab activities, and how the removed material will be disposed of. Mr. Richards proposed that the submission of this plan be included as a condition. He reiterated that a long-term invasive species removal plan will be prepared and would be included as part of the next proposed phase of the project. He stated he hoped the short-term management of invasive species could be captured under a condition of the permit.

Tom Liddy of Lucas Environmental related the challenges with invasive species management in the area. He stated the bank is steep and the soil is poor. He feels that full eradication will destabilize the slopes, which will then need an engineering plan for re-stabilization. He believes this robust plan will require long-term work and investment. In the short-term, he suggested mechanical removal of oriental bittersweet with a replacement conservation seed mix. He asked if the Commission would be in favor of this plan associated with this application. If so, he stated he could prepare a letter detailing the activities.

Agent Brown reiterated that the Commission needed something in writing to fully understand the proposed plan. Commissioner Radner agreed and asked if a short summary of the work could be written up. Mr. Hebert stated he believed that was reasonable. Mr. Liddy agreed.

Commissioner Radner opened the floor to the other Commissioners for questions and comments.

Commissioner Holmes asked why the well failed and what it was originally used for. Mr. Hebert stated it was a potable well used by a previous tenant and could still be used, but would need rehabilitation. He noted that a future tenant could have a potential problem with fire suppression requirements if they used the well as a water supply.

Commissioner Gauthier stated that he preferred to see a written invasive species plan before issuing a permit. He also noted that he was not interested in plans for second phase for this site, as that was not currently proposed and could potentially never happen.

Commissioner DeAvila stated he would like to review a construction plan and, if necessary, a dewatering plan. Commissioner Radner asked if this could be included as a condition. Agent Brown confirmed. Mr. Richards added that delaying the dewatering plan until a contractor had been selected could also be worthwhile because different contractors might approach it differently.

Commissioner Radner summarized that the project team needed to submit a short-term plan for managing invasive species and the Commission would include a condition for a dewatering plan to be submitted prior to the start of work.

Commissioner Holmes asked if stormwater would be updated as part of the project. Mr. Richards stated this project would not be affecting drainage patterns, so any drainage work would occur as part of the second, longer-term phase.

Commissioner DeAvila asked how the well would be capped when abandoned to prevent contamination of the aquifer. Mr. Hebert stated he had been working with a well company, who plans to cap and completely seal the well. Mr. Richards stated MassDEP had a standard process for abandoning wells and it would be abandoned according to those regulations. Agent Brown stated that abandonment of groundwater monitoring wells typically includes removal of the casing and application of some type of slurry to fill the well. She stated she would prefer a similar process for this potable well if no other guidance existed.

Commissioner Radner opened the floor to the public for questions and comments. She did not receive any responses.

Agent Brown asked that a plan for abandoning the well be submitted, as well. Mr. Hebert stated he could submit the narrative, though he was uncertain on when the well abandonment would be completed. He asked how long a permit was active for. Agent Brown stated the permit would be valid for 3 years. Mr.

Hebert stated, given the permit term, he was comfortable including well abandonment as part of this project.

Commissioner Radner motioned to continue this item to the next hearing on 1/20. Commissioner Hafrey seconded. Commissioner Radner led a roll call vote. All attending commissioners voted "aye." The motion carried 7-0.

3. New Applications

3.1. 333 Bridge Street – RDA 2021-14 – Fence Relocation

Applicant: Andrea Crowell

Ms. Crowell gave an overview of the proposed project. She stated a chainlink fence currently exists around her backyard. The back section of fence, which is adjacent to wetland area, encroaches on a neighboring property. Her neighbor has requested the fence be moved off of his property. She would like to remove it and relocated it on her property, which would be further from the wetlands.

Commissioner DeAvila noted the need for wildlife passage through a fence near the wetland. Commissioner Radner noted that the fence is chain link which inherently allows wildlife passage. Commissioner Gauthier asked the applicant to confirm she would be replacing it with chain link. Ms. Crowell confirmed, but noted that she may replace a small section next to her deck, further from the wetlands, with a vinyl fence. Commissioner Gauthier suggested she leave a gap at the bottom of this section to allow for wildlife passage.

Commissioner Radner opened the floor to the other commissioners for questions and comments. She received no responses.

Commissioner Radner asked if Agent Brown had drafted a negative determination of applicability. Agent Brown stated she had not, but that it would have standard conditions with an extra condition that required a 6" gap at the bottom of any solid fences.

Ms. Crowell asked if there were any requirements for the postholes that will be left when the fence is removed. Agent Brown suggested filling them in with the dirt from the new postholes. Commissioner DeAvila also stated concrete footings should not be left after work is completed. Commissioner Gauthier added that the disturbed ground should be seeded to prevent erosion. Agent Brown stated seeding the disturbed ground could be added as another condition.

Commissioner Radner motioned to close the public hearing for RDA 2021-14. Commissioner Hafrey seconded. Commissioner Radner led a roll call vote. All attending commissioners voted "aye." The motion carried 7-0.

Commissioner Radner motioned to issue a Negative Determination of Applicability for RDA 2021-14. Commissioner Hafrey seconded. Commissioner Radner led a roll call vote. All attending commissioners voted "aye." The motion carried 7-0.

3.2. Evergreen Way – RDA 2021-15 – Road Maintenance and Repair

Applicant: Town of Dedham Representative: Jason Mammone, Town of Dedham Engineering Department

Mr. Mammone gave an overview of the project. He stated this is the annual blanket RDA for the Town's planned road construction in 2022. He stated the Engineering Department typically submits a list of areas that will need to undergo reclamation in the coming year and then note which ones are in buffer zones or resource areas. This year, only one such road scheduled for reclamation, Evergreen Way, falls within a buffer zone or riverfront area.

Mr. Mammone stated Evergreen Way is a 4-house cul-de-sac roadway with a very small catchment area. He stated there is one stormwater catch basin in the cul-de-sac, which then directly discharges to the nearby waterway. Mr. Mammone stated the stormwater system is in good condition and the catch basin provides both sediment capture and infiltration. To help further improve its function, an Eliminator device is proposed to help trap trash and floatable materials.

Commissioner Radner asked how often catch basins were cleaned. Mr. Mammone stated the Town is required to clean catch basins before they reach 50% capacity. He stated the Town is currently conducting ongoing maintenance on catch basins and, through the data that's gathered during cleaning, determining which ones need to be cleaned more often.

Commissioner Holmes asked what is found most often in catch basins. Mr. Mammone stated it depended on the section of town, but common items are dog waste bags, leaves, cigarette butts, and plastic bottles.

Agent Brown asked how long a full reclamation will take. Mr. Mammone stated work is usually completed within a week or so to prevent erosion and the need for regrading.

Commissioner DeAvila asked if silt bags will be installed in the catch basin. Mr. Mammone stated some form of erosion and sediment control will be installed to protect the inlet, but the exact type is usually determined on a case-by-case basis.

Commissioner Gauthier asked when Evergreen Place was last resurfaced. Mr. Mammone stated it likely hadn't been resurfaced since its initial construction.

Agent Brown noted there is a slight grade toward the end of the road, which has a cape cod berm. She suggested the Commission consider whether erosion and sediment controls should be required around the project area or if that berm will be sufficient. Commissioner Radner asked if the work will be scheduled to avoid significant rain events. Mr. Mammone confirmed they typically try to avoid precipitation events, but stated he was willing to install erosion and sediment controls around the boundary of the roadway just in case. Commissioner Radner stated this might be a good idea to prevent issues from unforeseen storms. Mr. Mammone agreed.

Commissioner Radner opened the floor to the public for questions and comments. She received no responses.

Agent Brown stated a Negative Determination of Applicability could be prepared with standard conditions and a special condition to require erosion and sediment controls be placed around the boundary of the work and protecting the storm drain in the cul-de-sac.

Commissioner Radner motioned to close the public hearing for RDA 2021-15. Commissioner Hafrey seconded. Commissioner Radner led a roll call vote. All attending commissioners voted "aye." The motion carried 7-0.

Commissioner Radner motioned to issue a Negative Determination of Applicability for RDA 2021-15 with a special condition to add sediment controls downgradient of the work area. Commissioner DeAvila seconded. Commissioner Radner led a roll call vote. All attending commissioners voted "aye." The motion carried 7-0.

4. Requests for Modification

4.1. 688-700 Providence Highway – DEP# 141-0557 – Stormwater Facility Maintenance

Applicant: Pearl Realty Associates, LLC c/o LMML LLC Representative: Steve Ivas, Ivas Environmental

Mr. Ivas stated rip-rap had been placed adjacent to the parking lot at this location to manage runoff during storms. Live stakes had been planted in the rip-rap, but most did not survive. He is proposing to install 50 3-gallon shrubs instead of the live stakes in hopes they will have a better survival rate. He stated this will also increase the wildlife habitat along the fence. Mr. Ivas also reported that the installed rip-rap and scuppers were working well to reduce erosion from splashing water as vehicles passed during rain events.

Commissioner Radner asked if the plantings will be behind the fence. Mr. Ivas stated they would be in front of the fence, planted within the rip-rap. After reviewing the submitted plan, he noted that it didn't look like the plantings were indicated in front of the fence. He stated he could submit a more accurate planting plan.

Commissioner Radner opened the floor to the other commissioners for questions and comments.

Commissioner Hafrey asked if there was greater confidence that these plants would survive. Mr. Ivas confirmed and also stated that the contractor that had been selected for this work was more familiar with planting vegetation than the one used previously.

Commissioner Holmes asked if there were parking spaces right up to the fence. Mr. Ivas stated he believed the area next to the rip-rap was a travel lane. Ms. Sarafoglou stated there are a few parallel parking spaces in one area along the rip-rap, but they are seldom used.

Commissioner Radner opened the floor to the public for questions and comments. She received no responses.

Commissioner Radner motioned to approve the requested modification to DEP 141-0557. Commissioner Gauthier seconded. Commissioner Radner led a roll call vote. All attending commissioners voted "aye." The motion carried 7-0.

5. Requests for Extension

5.1. 399 West Street – DEP# 141-0481 – New SFD

Applicant: William and Perry Phinney Representative: Mark Arnold, Goddard Consulting, LLC

Mr. Arnold stated that the applicants were requesting a 3-year extension for the permit so they had adequate time to complete the project.

Commissioner Radner noted that this would be the second 3-year extension, but the Town's wetland bylaws only allow a single one-year renewal of a permit. She noted that there is not language limiting the number of extension periods in the Wetlands Protection Act.

Agent Brown asked if the permit would be naturally extended due to the across-the-board COVID-related extension legislation. Mr. Arnold stated there probably would be some sort of extension through that legislation, but the applicant preferred to have a formal extension through the Commission.

Commissioner Radner asked if work had begun yet. Mr. Arnold reported that no work had begun.

Commissioner Radner expressed a concern that the Order of Conditions was based on an ORAD from 2014 and wetlands conditions could have changed. Mr. Arnold stated, based on his visits, he did not believe conditions had changed significantly.

Commissioner Radner opened the floor to the other commissioners for questions and comments.

Commissioner DeAvila stated he was concerned granting a 3-year extension may allow for the project to be “grandfathered-in” should the laws change in this time period. Commissioner Radner agreed and noted that the permit would be 9 years old at the end of the term if the extension was granted.

Commissioner Radner asked if Mr. Arnold anticipated work beginning soon. Mr. Arnold stated he did, but the backlog due to COVID led to some uncertainty.

Commissioner Gauthier stated he opposed the requested extension, particularly since the permit had already been extended and work had not yet begun. He also noted that the necessary documentation had already been completed, so a new application would not be excessively onerous.

Commissioner Holmes asked why work did not begin prior to COVID. Mr. Arnold stated that COVID had impacted the applicants’ expectation to begin construction. Agent Brown noted that the property had been on the market for sale, as the Conservation Department had periodically received calls from prospective buyers. Mr. Arnold confirmed that the applicant previously had someone interested in buying the property.

Mr. Arnold offered to re-delineate the wetlands for the Commission’s review, but asked for a short extension in order to be able to perform the work.

Agent Brown noted that the wetlands regulations have not changed since the project was originally approved, but the stormwater regulations had. She stated that this project, if proposed today, would require a separate stormwater management permit. Mr. Arnold stated dry wells were included in the design to capture roof runoff. He also noted that the driveway was to be constructed of permeable pavers.

Commissioner Gauthier reiterated his objection to the extension. He stated that permit extensions are for special circumstances and not meant to allow old projects to maintain their approved status indefinitely. He stated that no commissioner sitting today was a commissioner when the project was approved 6 years ago and also noted that there had been new precedents established and new stormwater regulations developed in this time.

Commissioner DeAvila asked for confirmation that work had not yet begun. Mr. Arnold confirmed.

Commissioner Radner agreed with a previous point by Agent Brown that this project, if proposed today, would require a separate Major Stormwater Permit. Mr. Arnold asked for clarification if there existed a separate stormwater permit and bylaw. Agent Brown stated stormwater considerations were combined into Orders of Conditions when this Order of Conditions was issued. Mr. Arnold asked if a stormwater management permit would be needed for this project if an extension to the existing Order of Conditions was granted. Commissioner Radner stated she did not believe a stormwater management permit would be required if an extension was granted for the existing Order of Conditions because the stormwater management requirements that were in effect at the time the Order of Conditions was issued were met.

Commissioner Radner expressed concern with granting an extension. She stated that since this was approved under older regulations, granting an extension could be perpetuating an outdated project design. She also noted that, while the pandemic has likely impacted the project since 2019, the Order of Conditions was issued well before the pandemic and no progress was made. Commissioner Radner added

that approving the extension would not be fair to someone seeking approval for an equivalent project under the current regulations.

Commissioner Radner asked when the Order of Conditions would expire. Mr. Arnold stated it expired at the end of the month, not counting the extension granted by COVID-related legislation. He believes that legislation will add another year to the permit's effective dates.

Commissioner Radner stated her preference was to have the applicant utilize the COVID-related extension legislation and, if work is initiated in that period and not able to be finished, the applicant could request a formal extension.

Mr. Arnold stated that, without an extension, the applicant would likely utilize the COVID-related extension legislation and begin work on the site, but they would likely still need to come back for a formal extension. He stated that the applicant was hoping to have a 3-year extension granted so they had plenty of time to complete the project. After looking further at the regulations, Mr. Arnold stated that the COVID-related extension legislation extended the permit's expiration date to August 20, 2022.

Commissioner Foulds motioned to deny the request to extend DEP 141-0481. Commissioner DeAvila seconded. Commissioner Radner led a roll call vote. All attending commissioners voted "aye" in favor of denying the request. The motion carried 7-0.

6. Requests for Certificates of Compliance

6.1. 377 Sprague Street – MSMP 2019-08 – New Residential Duplex

Applicant: Silverbeach Partners LLC Representative: Nicola Facendola, PE, Level Design Group LLC

Agent Brown gave an overview of the project. She stated this is one of several projects in the same area by the same applicant. This permit related to the duplex furthest uphill on the site. She stated all plantings and systems were installed according to plan and an as-built plan had been submitted.

Commissioner Radner motioned to issue a Certificate of Compliance for MSMP 2019-08. Commissioner DeAvila seconded. Commissioner Radner led a roll call vote. All attending commissioners voted "aye." The motion carried 7-0.

6.2. 4 Prospect Street – DEP# 141-0586 – Resource Area Restoration

Applicant: David Webster, FRIT Solar, Inc. Representative: Will Granbery, Bohler Engineering

This item was taken out of order, immediately after item 2.1.

Agent Brown stated that the area that was disturbed during the sewer work had been restored. She stated weekly monitoring reports had been submitted and large boulders had been placed along the edge of the wetland. She stated all work had been completed and the area was well stabilized.

Commissioner Radner opened the floor to the other commissioners for questions and comments. She received no responses.

Commissioner Radner opened the floor to the public for questions and comments. She received no responses.

Commissioner Radner motioned to issue a Certificate of Compliance for DEP 141-0586. Commissioner Hafrey seconded. Commissioner Radner led a roll call vote. All attending commissioners voted "aye." The motion carried 7-0.

7. Minutes – 12/16/21

Commissioner Radner stated she had reviewed the minutes and did not have revisions.

She asked if other commissioners had any revisions to the minutes. She received no responses.

Commissioner Radner motioned to approve the minutes as drafted. Commissioner DeAvila seconded. Commissioner Radner led a roll call vote. All attending commissioners voted “aye.” The motion carried 7-0.

8. Agent’s Report

Agent Brown reported Commissioner Radner’s grant to plant pollinator gardens was successful.

Agent Brown stated she had been having conversations to organize an Open Space Summit with Town departments and other groups involved in the Town’s open spaces to determine who is maintaining what sections of open space in town, using the information as a springboard to further discuss plans for organized maintenance in the future.

Agent Brown stated the house at 637 East Street had been demolished in compliance with the Building Department, but there was a significant amount of regrading on site. She visited the site and noted a vegetative buffer along the regraded area and suggested a Major Stormwater Permit not be required. Commissioner Foulds agreed. Commissioner Gauthier stated he was amenable to that suggestion, but felt that the property owner had done a more significant amount of work than other projects that required a permit.

Agent Brown stated the applicant of 38 Icehouse Lane will be attending the next meeting with a revised plan. She suggested the Commission consider entering into executive session to discuss the revisions.

Commissioner DeAvila noted that the Tree Bylaw Subcommittee should meet again, potentially near the end of the month. Commissioner Foulds agreed.

Commissioner Garlick motioned to adjourn. Commissioner Radner seconded. All attending commissioners voted “aye.” The motion carried 7-0.

The meeting was adjourned at 9:21 PM.