



Billerica Conservation Commission

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*Conservation of Natural Resources
in
Billerica, Massachusetts*

MEETING AGENDA

October 28, 2024

6:30 PM

Room 210

365 Boston Road, Billerica MA

Attendance: Commission Members – JoAnne Giovino (Vice Chair), Diane DePaso (Secretary), Jack Bowen, Christine Aras, and Jeff Connell (arrived at 6:32pm). Staff Members – Mike DeVito (Conservation Land Use Assistant), and Kristina Bernard (Head Administrative Clerk).

I. 6:30 PM – PUBLIC COMMENT - None

II. 6:31PM - NEW WETLAND HEARING:

- MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS

HEARING – Notice of Intent – Public Hearing – Faulkner Street (Talbot Mills Dam) – Applicant: Robert Martin, CRT Development Realty, LLC – DEP File No. 109-1585/BBL-1585

Documents Submitted:

10/11/2024 Received a Notice of Intent from Gomez and Sullivan Engineers, DPC. for 67 Faulkner Street (Pace Industries, LLC – Dam Removal), stamped and signed by Jill W. Griffiths, dated on October 11, 2024, scale as shown on plans (DEP # 109-XXXX)

10/16/2024 Received by email a Letter of Intent from Jill Griffith with Gomez and Sullivan Engineers, DPC. by Robert Martin with CRT Development Realty, LLC for Mark LaLumiere, Building Commissioner; Followed by an email response by the Commissioner on October 16, 2024, stating he was formally notified and had no issues at the time, and to accept the email as a written acknowledgement. (DEP #109-XXXX)

10/28/2024 Received an email from Mary McBride with the Historic District Commission for the Talbot Mills Dam Removal (DEP #109-XXXX)

10/28/2024 Received by email Certified Mail Receipts from Jill Griffiths, PE with Gomez and Sullivan for the Talbot Mills Dam Removal Project (DEP# 109-1585)

Jill Griffith with Sullivan and Gomez presented the project overview using a slide presentation. She summarized the impacts to wetland resource areas, benefits of the project, and the construction approach on how they plan to remove the Talbot Mills Dam located on the Concord River in North Billerica.. Also present were Heather Conkerton with OARS, Ben Gahagan and Joe Holbecke with the Mass Wildlife and Fisheries, and Eric Hutchins with NOAA Restorations Center.

Robert Martin, CRT Manager/Owner, discussed the dam and explained why he would like to have the dam removed due to safety and liability reasons.

Eric Hutchins with NOAA explained that they would leave the water chestnuts instead of removing them. because to remove them would have a huge impact on the wetland. Allowing the natural vegetation to grow through the existing water chestnuts would normally take only one growing season.

There was a lengthy discussion concerning the long-term impacts to wetland resource areas upstream of the dam and the spread of invasive plant species in resource areas and potential impacts to the Town's water supply intake, which is located upstream of the dam. There was also a discussion regarding the need for Peer Review of the NOI, particularly the

proposed short-term construction related impacts and long-term impacts to regulated wetland resource areas after the dam has been removed, the degree of any restoration and an invasive species management plan. Also, the need for engineering peer review of the proposed construction means and methods of dam removal, including the access road proposed within various resource areas, staging and stockpiling locations proposed for the project, and overall project layout. There was also a discussion concerning the potential need for a bond to cover costs associated with the spread and management of invasive plant species.

The Commission noted the following information is missing and/or required as part of the NOI wetlands review.:

- Independent Peer Review is needed, both wetlands review and engineering reviews.
- Addition information concerning the short-term construction impacts and long-term impacts to wetland resource areas around the dam and upstream of the dam, including the large wetland system and river extension between the main river channel and Call Street. As presented, it is not clear
- How will it be confirmed that the area will remain a wetland, since ecological restoration does not exist in the Billerica By-Law.
- Confirm if property boundaries and jurisdiction of land will be reviewed and documented post dam removal.
- Additional information concerning the superfund site and related drainage, leachate and water levels.

Fred Liberatore, resident of Billerica, spoke on the water system and felt the dam would not fail during a flood. He expressed his opposition of the proposed project.

Marlies Henderson, resident of 31 Sprague Street, discussed the project and the removal of the water chestnuts. She expressed her support of the proposed project.

Andrew Jennings, resident of 29 Talbot Avenue, spoke on the project and felt the Notice of Intent is incomplete and everyone should know of the full impacts of the mitigation, and include the historic aspects and related impacts as well.. He expressed his opposition of the proposed project.

Justin Damon, resident of 429 Middlesex Turnpike, spoke on the project and inquired about the peer review process . He also discussed the historical aspect of the dam and the free flow of the dam.

Elissa Brown, Former Conservation Agent for Concord from 5 Concord Green, in Concord, MA, discussed the historical aspects of the river and inquired about the impacts to fish after the dam removal. She expressed her support of the proposed project.

Tom Lincoln, 27 Gleason Street in Medford, MA, and Chair of the Middlesex Canal Association spoke on the project and its historical aspect. He noted objections to the project and referenced correspondence related to the Section 106 historical review process. The correspondence was from Eric Hutchins with the NOAA, acknowledging additional design details that still need to be defined through the local, state, and federal permitting processes and the additional follow up required under the Section 106 review. He is concerned that the historical significance of the dam is not being considered. There was also discussion regarding a fish ladder option that was a preferred alternative initially, which was a simple and logical alternative, but the response he has received is that it would be too expensive. He expressed his opposition of the proposed project.

Jay Breen, President of the Middlesex Canal spoke on the project and discussed the quantity of fish that pass through the dam, and what would happen if they removed the dam. He feels this will kill fish due to the fact the waters will be too low. He expressed his opposition of the proposed project.

Wayne Smith, a resident of Billerica for 47 years now, discussed the water levels being dropped and the possibility of being added to the MWRA and the related high costs . He expressed his opposition of the proposed project.

Dana Marrett, 24 Wilson Street, noted that he spoke to Jill Griffith prior to the meeting and expressed his concerns related to sewer and water and about his land. Specifically, what would happen to his property including mitigation since the water level will drop drastically, and he will lose the features and characteristics of his property he has known for a very long time.

Ed Bunker, resident of Billerica, spoke on the project and was concerned about the price of his property and what will happen when he loses the waterfront that he has known for as long as he can remember. He requested definite answers concerning impacts to wetland resources and not “I think” or “it could” answers from the applicant and project team.

Carlos Rominicko, resident of 6 Colby Street, an abutter to the project along the Concord River, discussed how he was previously flooded during the fall, winter, and summer but that the river goes back to average water levels quickly unless there are repeated high amounts of rain. He expressed his support of the proposed project. .

Deb Folder, 146 High Street, expressed her concern regarding impacts to the Town’s water supply and the lack of a Plan B in the event dam removal does impact the Town’s drinking water supply.

Diane Smith, 20 Oxford Road, spoke on the project, particularly her concern of the potential project impacts to endangered species of butterflies near the North Billerica Fire Station. She requested confirmation that they would not be affected and Jill Griffith, the applicant’s consultant confirmed they would not be affected..

Brian Henderson, 31 Sprague Street, spoke on the project, including the overall benefits to fish and the river. He expressed his support for the proposed project.

Joe Silva, resident of Bridle Road in Billerica spoke on the project and that degree of riverfront in his yard. He expressed his support of the proposed project. ,

Dave Cook, from Carlisle with the Sudbury Wild Scenic Council, and he also works with OARS, discussed the benefits of the project and his support of the proposed project.

Patrick Robbins, Merrimack Valley Paddling Group spoke on the project and his support of the proposed project.

Motion: TO continue to the December 11, 2024, meeting made by Commissioner Diane DePaso, seconded by Commissioner Jeff Connell. All in Favor. Carried Unanimously.

III. CONTINUED PUBLIC HEARINGS:

- **8:40PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING** – Notice of Intent – Continued Public Hearing – 123 Andover Road – Applicant: DH Realty Trust – DEP File No. 109-1584/BBL-1584

Documents Submitted:

10/21/2024 Received Supplemental Information from Stephen Dresser with Dresser, Williams, and Way for 123 Andover Road, stamped and signed by Stephen Dresser, dated October 20, 2024, scale 1” = 20’ (DEP #109-1584)

10/28/2024 Received Supplemental Information for 123 Andover Road from Stephen Dresser with Dresser, Williams, and Way, Revised O&M Plan (DEP #109-1584)

Mike DeVito, Conservation Land Use Assistant, discussed the revisions, which included a revised site plan and an O&M Plan. He stated that review comments provided by the Commission and staff appeared to have been addressed. .

Motion: TO close, sign, and issue the Order of Conditions with all special conditions discussed made by Commissioner Diane DePaso, seconded by Commissioner Christne Aras. All in Favor. Carried Unanimously.

- **8:42PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING** – Notice of Intent – Continued Public Hearing – 505 Boston Road – Applicant: McCue Outlet LLC – DEP File No. 109-1548/BBL-1548

Documents Submitted:

10/21/2024 Received Supplemental Information from Stephen Dresser with Dresser, Williams, and Way for 505 Boston Road, Variance Request (50-foot), stamped and signed by Stephen Dresser, dated October 20, 2024, scale 1" = 20' (DEP #109-1548)

10/23/2024 Received a Memorandum with Comments from the DPW-Engineering Division for 505 Boston Road (DEP #109-1548)

10/28/2024 Received Supplemental Information for 505 Boston Road from Stephen Dresser with Dresser, Williams, and Way, Revised O&M Plan, Revised Plan View, stamped and signed by Stephen Dresser, dated on October 25, 2024, scale 1" = 20' (DEP #109-1548)

Mike DeVito, Conservation Land Use Assistant, discussed the revisions, which included a revised plan and an O&M Plan. He noted the review comments provided by the Commission and staff appeared to have been addressed. .

Motion: TO approve variance 3.03.C(2) for increase of impervious area in the Buffer Zone made by Commissioner Diane DePaso, seconded by Commissioner Jack Bowen. All in Favor. Carried Unanimously.

Motion: TO approve variance 3.03.C.3(B) 25-No Alteration Zone made by Commissioner Diane DePaso, seconded by Commissioner Jack Bowen. All in Favor. Carried Unanimously.

Motion: TO close, sign, and issue the Order of Conditions with all special conditions discussed made by Commissioner Diane DePaso, seconded by Commissioner Christine Aras. All in Favor. Carried Unanimously.

- **8:45PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING** – Notice of Intent – Continued Public Hearing – 309 Boston Road – Applicant: Joseph Arria, JMA Properties, LLC – DEP File No. 109-1581/BBL-1581 (*Continue to the 11-13-2024 meeting per the applicant's request*)

Documents Submitted:

10/28/2024 Received a Continuance Request from Stephen Dresser with Dresser, Williams, and Way for 309 Boston Road (DEP #109-1581)

Motion: TO continue to the November 13, 2024, meeting per the applicant's request made by Commissioner Diane DePaso, seconded by Commissioner Jack Bowen. All in Favor. Carried Unanimously.

- **MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING** – Notice of Intent – Continued Public Hearing – 223 Boston Road – Applicant: Luke Bouchard, Enterprise Bank & Trust Company – DEP File No. 109-1574/BBL-1574 (*Previously Continued to the 12-9-2024 meeting per the applicant's request*)

IV. ADMINISTRATIVE MATTERS / DIRECTOR'S REPORT:

- **Requests for Certificates of Compliance (As-Built Reviews)**

- 8:46PM - DEP File No. 109-1378/BBL-1378 – 20 Purcell Road

Mike DeVito, Conservation Land Use Assistant, spoke on the project to construct an addition, sunroom, and a deck on Sono tubes. He stated that according to the approved plan and site inspection, the visual barrier was not in the correct location, and this had been discussed this with the owner. The visual barrier did not comply with the wetlands permit and approved plan. The Commission confirmed the visual barrier need to be corrected and comply with the permit.

Motion: TO neither approve nor deny the Request for Certificate of Compliance at this time made by Commissioner Diane DePaso, seconded by Commissioner Jack Bowen. All in Favor, Carried Unanimously.

- 8:47PM - DEP File No. 109-1570/BBL-1570 – 11 Kingston Street

Documents Submitted:

10/16/2024 Received a Request for Certificate of Compliance from Robert Crowell with Crowell Engineering for 11 Kingston Street, stamped and signed by Robert Crowell, dated on October 15, 2024, scale 1" = 20' (DEP #109-1570)

10/16/2024 Received Revised Plans from Robert Crowell with Crowell Engineering for 11 Kingston Street, stamped and signed by Robert Crowell, dated on October 15, 2024, scale 1" = 20' (DEP #109-1570)

Mike DeVito, Conservation Land Use Assistant, spoke on the project to replace and upgrade the septic system with other site grading within the 100-foot Buffer Zone. He explained that the wetland permit and approval requires another full growing season of restoration area monitoring.

Motion: TO neither approve nor deny the Request for Certificate of Compliance at this time made by Commissioner Diane DePaso, seconded by Commissioner Jack Bowen. All in Favor, Carried Unanimously.

▪ **Miscellaneous Updates**

- 8:47PM - Request for Re-Appointment to the River Stewardship Council (RSC)

Mike DeVito, Conservation Land Use Assistant, opened the discussion regarding the request and discussion received via email from Marlise Henderson to have Trek Reef be appointed as an alternate to the River Stewardship Council (RSC).

The Commission had some questions regarding the request and inquired if Trek Reef had been attending RSC meetings and the need for an alternate member. The Commission had not received a formal request or correspondence from Trek Reef seeking to fill the alternate position. The Commission requested staff follow up with RSC or Marlies to clarify. The appointment was postponed to the next meeting so that the Commission could get more information.

▪ **8:51PM - Minutes:** 1-25-2023, 4-26-2023, 2-28-2024, 3-13-2024, 3-27-2024, 9-9-2024, 9-23-2024

Motion: TO approve the minutes for 04/26/2023 with minor edits made by Commissioner Diane DePaso, seconded by Commissioner Jack Bowen. All in Favor. Carried Unanimously.

Motion: TO approve the minutes for 02/28/2024 with minor edits made by Commissioner Diane DePaso, seconded by Commissioner Christine Aras. All in Favor. Carried Unanimously.

Motion: TO approve the minutes for 03/13/2024 with minor edits made by Commissioner Diane DePaso, seconded by Commissioner Christine Aras. All in Favor. Carried Unanimously.

Motion: TO approve the minutes for 03/27/2024 with minor edits made by Commissioner Diane DePaso, seconded by Commissioner Jeff Connell. All in Favor. Carried Unanimously.

V. 8:52PM - ADJOURN

Motion: TO adjourn made by Commissioner Christine Aras, seconded by Commissioner Jeff Connell. All in Favor. Carried Unanimously.

Respectfully submitted,

Diane DePaso, Secretary

Prepared by Kristina Bernard, and Isabel Tourkantonis