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CONSERVATION COMMISSION  
LOWELL, MASSACHUSETTS  
June 10, 2020

**Note:** These minutes are not completed verbatim. For further detail, video recordings are available at the Pollard Library, second floor reference desk or online at [www.LTC.org](http://www.LTC.org).

Due to the COVID-19 pandemic, this meeting was held virtually using GoToMeeting.

**Members Present:** Chairwoman Varnum, Commissioner Lovely, Commissioner Dillon, Commissioner Downs, and Commissioner Standish.

**Members Absent:** Commissioner Buitenhuis

**Others Present:** Fran Cigliano, Associate Planner

**CALL TO ORDER**

7:00 PM

**CONTINUED BUSINESS**

**Enforcement Order**

Leonel Galvez

5 Billings Street

Lowell, MA 01852

Violation Location: 5 Billings Street 01850

Dumping and storing mulch within bordering vegetated wetlands and the 100-ft buffer zone to the bordering vegetated wetlands.

On Behalf:

Leonel Galvez, Property Owner

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

L. Varnum: We received a letter this afternoon that proposes to remove the mulch. The date of removal is between the 18<sup>th</sup> and 20<sup>th</sup>. We did have a discussion with Mr. Galvez at last meeting. He has a company that's

going to do it with a truck and small Bobcat. That's what we were looking for. We will keep this EO in place until the work is done. You got someone to do the work?

L. Galvez: Correct.

L. Varnum: Soil underneath is to stay as it is. You did mention area for a swing set. If that's what you're looking to see happen, need to talk to someone at DPD again if you're going to be changing any of the elevations of the land in your yard. We want you to get the mulch out of there. Should be able to tell between the mulch and the soil. We're happy that you found somebody. Please keep in touch with the office. We are going to put on the agenda for the next meeting. When you're done, at the next meeting, we can rescind and take away the EO. I'm happy that you were able to find somebody so quickly.

L. Galvez: I know!

L. Varnum: Keep in touch, if you have any work to do on your property, be sure to ask the Conservation office.

L. Galvez: Problem with water coming up. If water keeps coming to us, this is the problem.

L. Varnum: That's part of a brook that runs behind all of those businesses on Bridge Street. When it rains, the brooks get higher, sometimes in the summer they get lower. That's why you have to leave space for the water when it does come up. That's just the nature of it, that area will get wet. When the house was built there, people who built knew it would be there forever and there's nothing you can do to take it away. We are happy to have the mulch going. Be sure if you have anything you propose to do in your yard - pretty much your whole yard is under review because of the wetland. So thank you for doing that work and please notify when you're done the work.

L. Galvez: Could I have someone there to come see when it is removed?

L. Varnum: It is possible someone could drop by to see how it's going. We will take a look either way and at the next meeting we can lift the EO if everything looks good.

L. Galvez: Okay.

Motion:

None

## **NEW BUSINESS**

### **Notice of Intent**

Kyle Burchard c/o Columbia Care, Inc.  
39 Main Street, Suite 301  
Ayer, MA 01432

Project Location: 170 Lincoln Street 01852

A Notice of Intent has been filed by GPR, Inc. on behalf of Columbia Care, Inc. to expand an existing marijuana cultivation facility at 170 Lincoln St., 156 Lincoln St., 17.1 Tanner St., & 159 Tanner St. The project site is within the 100-ft. riverfront area of River Meadow Brook.

On Behalf:

Kyle Burchard, GPR Inc., Project Manager

K. Burchard: As you mentioned, there are four properties under common ownership. Strange looking parcels. In between Lowell Connector and our property is River Meadow Brook, the resource. There's 25 feet of riverfront

area associated with River Meadow Brook. Two existing storm drain outfalls. Area where the expansion is taking place is on top of an existing paved area used for parking, loading, and so on. This whole paved area is for the most part in a bowl flowing back to the building from the river to the building. Two lonely catch basins going out to the river. There is a large existing drainage easement. Bank is fairly steep. We do not have any of the individual trees on the bank, but bank is wooded. Currently no fence along bank. No parking area meant to allow for DPW access for maintenance. There is a rolling gate along other side to restrict access. Not in the 50 foot buffer with the building expansion. Part of 100 foot buffer does clip the corner of existing building in a couple of places. That is somewhat the focus of the application. Trying to make improvements while making an expansion for existing development that is there. There are two catch basins, normal catch basins, they receive roof drain connections, takes about half of existing building each. That's the drainage leading to the river. Basically this whole area plus what's coming from roof of existing building passes through two catch basins I their way to the river. With this expansion of the building, we have attempted to make an improvement to the existing property by adding in various pervious islands where there is currently paving, and part of that constitutes our disturbance in riverfront area. The disturbance is to install pervious areas in the riverfront through various islands. Trying to reduce some impervious area on the property. Also, what we're proposing is to replace existing catch basins at the low point of the bowl with deep pump catch basins. On the other side, we inserted a man hole to receive roof drainage. Currently roof drainage will be rerouted from proposed expansion and drop into this man hole. Cleaning surface water with some level of pretreatment in deep pump to then merge with clean water at a downstream structure. Reduce as much as we can without resuspension of solids. Cleaner discharge to the river overall. Summary breaks down and details area within particular stratum. Roughly 6,300 sq. ft. expansion. Several comments we received from staff.

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

L. Varnum: Perhaps you can start with comment #3 from the staff memo.

K. Burchard: I guess the notes might not be very explicit in the narrative. The intent was to install straw wattles, silt fence barriers along the riverfront.

L. Varnum: I think we would prefer to keep natural vegetation there, if it is necessary to remove vegetation to put a silt fence there. Could you perhaps install the fence further back from the brook?

K. Burchard: Would not want to dig a whole trench line along here when pavement is at the crest between the river bank and pavement that comes down into the site. It would seem possibly reasonable to just have a little bit of silt fence along certain areas of disturbance, and the fence post would be along the pavement. Only have small segments of silt fence installed, with the presumption that there would be almost no disturbance from the removal of pavement here, so that small silt barriers at localized locations would be least disruptive.

W. Standish: If that would be sufficient protection, I can see that working.

L. Varnum: I would think that makes sense. Fairly dense vegetation along there. I would take proponent's suggestion that something to the effect that silt fence would go along any disturbed areas so as not to disturb vegetation when possible.

P. Downs: I think small fence areas would do the job.

L. Varnum: I think any stormwater falling there would drain toward the storm drains, rather than over the edge and into the brook.

K. Burchard: Short segments would seem to do it. Going back to comments, #4. We did not depict where stockpiles may come into play. Certainly there is room on the right hand side of the project inside fence area outside excavation area, as well as over in this area [to the left of the building]. There still needs to be access to facility during construction, but certainly these areas would be suitable for some storage and staging during construction. There may be some material that needs to be excavated.

L. Varnum: The two possible stockpile sites would be outside of the 100 ft. buffer, well away from the resource.

K. Burchard: Yes, and don't drain toward the resource. Drain toward Tanner Street.

L. Varnum: Won't be writing the order tonight due to lack of DEP number. Perhaps changes we are discussing can go into plans for review for next hearing. It would be a lot neater if the changes can be in the plans themselves. Won't be voting on these tonight but this gives a sense of how we feel about proposal.

K. Burchard: Comment #5, already discussed. #6, will add silt sack detail. #7, fence will be six inches off of the pavement. Not likely much vegetation to be removed. Not proposing to dig, just drive fence posts into ground and string up the chain link fabric to that.

L. Varnum: Planning a gate along there?

K. Burchard: Purpose of fence is just to be a barrier along here. Would a gate be desirable?

L. Varnum: If debris and trash were to build up you would be able to get in and get that out. Want to have access if needed.

K. Burchard: The slope of these pipes is pretty good. Steep slope so maybe there could be a gate somewhere possibly between the two to maximize access.

L. Varnum: Concerned the slope would be fenced away from access, but I guess you could access from either end, so I'm not as concerned as I was.

K. Burchard: Comment #8, that is certainly a solution. Comment #9, I've had several conversations with City entities regarding stormwater concerns. Can briefly address each stormwater comment. First one, wrote back that by definition, recharge requirements are a function of the imperviousness of the site from the existing to proposed conditions. We are reducing the amount of imperviousness on the site. I understand it would be desirable to give more perviousness but it is challenging on this site. By definition, we have no further requirement for recharge on the project. Second, there are several sections in the MA Stormwater Management Handbook that deal with that topic exactly. There are in the MA handbook – all of the infiltration practices state that runoff coming from a roof can be directly recharged. Effectively clean water. Kind of a known convention that roof water does not incur the same loading of sands, salts, deposits from vehicle emissions that a paved driving surface does. Therefore, the stormwater handbook in all of its section for infiltration BMP practices, allows for roof water to go directly into recharge without pretreatment. That's the standard. There was further discussion that I had with Greg Coyle who issued that comment and issued one more speaking to encourage any additional recharge possible. The thing he recommended/suggested was to install leeching galleys that are surrounded by stone that would have fabric wrapped around the stone to prevent intrusion of fine material. Not excited about doing something like that in this situation. Introducing water very near the building foundation is somewhat undesirable. At these two locations, we could install them as far away from structure as it can be. Tried to keep far from building as possible. I understand the intent and I do think that it's a good idea to recharge water more than what's there already in this hindered industrial site. This could work to promote some additional recharge

with minimal impact to the building and the pavement that are around it. Could be deep enough. Elevation of piping and so-on down at elevation of somewhere around 5-6 feet below the existing grade. There will be a measure of increased recharge as a result from these.

L. Varnum: Percentage of roof water runoff versus pavement runoff?

K. Burchard: Haven't run that calculation. I'd say probably have 1/3 from pavement and 2/3 from building.

L. Varnum: That's what I was thinking. Discharging directly through culvert wouldn't be such a bad thing.

W. Standish: I agree. In this site, don't have good topography to do a rain garden. Introducing water to the middle of it doesn't seem like a good idea. Could cause frost heaves or a sink hole.

K. Burchard: If the Commission could permit me to remove them in the plans I would greatly appreciate it.

L. Varnum: Any other comments on recharge?

W. Lovely: I agree. I don't think it makes sense to focus additional infiltration in the depression area. Increasing recharge, reducing imperviousness, in this type of lot - I think you meet the intent of the standard.

L. Varnum: That's the end of the list that came from the office. Are there any other comments or questions on the plan from the Commission? Don't have a DEP number yet so will have to be continued to next hearing. Glad we had time to review the proposal.

Motion:

W. Lovely motioned and P. Downs seconded the motion to continue the petition to the next Conservation Commission meeting. The motion passed unanimously, (5-0).

**Request for Determination of Applicability**

Ryan Bianchetto c/o RB Lowell Meadow Brook LLC

100 Commerce Way, Suite 5

Woburn, MA 01801

Project Location: 199-211 Plain Street 01852

A Request for Determination of Applicability has been filed by Allen & Major Associates, Inc. on behalf of RB Lowell Meadow Brook, LLC to replant a portion of the bank of River Meadow Brook in response to an enforcement order. The work will occur within the 100-ft. Buffer Zone to Bordering Vegetated Wetlands and the 200-ft. Riverfront Area of River Meadow Brook.

On Behalf:

George Theodorou, Applicant's Attorney

George Eliades, Applicant's Attorney

Ryan Bianchetto, the Applicant

G. Theodorou: At the last meeting back in May, we presented this plan as a comprehensive plan to restore the area along River Meadow Brook. Includes stabilization plan. Ten species of shrubs. Over 75 in total that will go along the river bank to restore the area. Removed invasive vines. Part of restoration process is to improve visibility along the Lowell Connector, which is critical to the survival of the shopping center today. Of 14 businesses, 7 have reopened as of Monday. Their survival is questionable. Remaining stores have not opened. Even at this time, the applicant has been responsible for the costly plan. Brought plaza back as a viable economic entity for the City. Will move along with planting as quickly as they can considering economic conditions.

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

L. Varnum: I read all the notes as well and was pleased that they would take care to ensure the plants would survive. Good soil, seeding with conservation seeds along steeper slopes. Pleased with everything about that plan and I am hopeful that can be implemented this season. Mr. Eliades, you are looking relaxed in your retirement.

G. Eliades: Can't say a lot more than what George has said. Center is such an important part of the city of Lowell, economically. My client is not Target, they have the 14 other stores and it is critical to them that the place gets up and running to make sure everybody is still coming to visit there. Defer for the moment to see if anything else needs to be covered. Want to make the point, as soon as we get the necessary approvals, they want to get moving to get this thing done for everybody's benefit.

L. Varnum: Is there anyone from the Commission that would like to comment or ask questions about the submitted plan?

W. Lovely: It's a good plan..

L. Varnum: I don't see anything needs to be changed.

Motion:

W. Lovely motioned and P. Downs seconded the motion to issue a Negative III determination. The motion passed unanimously, (5-0).

**Enforcement Order**

RB Lowell Meadow Brook LLC  
211 Plain Street  
Lowell, MA 01852

Violation Location: 211 Plain Street 01852

Tree removal along River Meadow Brook without a permit.

On Behalf:

George Theodorou, Applicant's Attorney  
George Eliades, Applicant's Attorney  
Ryan Bianchetto, the Applicant

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

None

Motion:

W. Lovely motioned and P. Downs seconded the motion to rescind the Enforcement Order. The motion passed unanimously, (5-0).

**Notice of Intent**

Bree Sullivan c/o PURE Lowell, Inc.  
Bayside Engineering, Inc.  
600 Unicorn Park Dr.  
Woburn, Ma 01801

Project Location: 671-683 Rogers Street 01852

A Notice of Intent (NOI) has been filed by Bree Sullivan on behalf of PURE Lowell, Inc. to demolish two existing residential structures and construct a 3,700 sq. ft. retail marijuana facility and 40-space parking lot. Wetland resource areas on the site include Bordering Vegetated Wetlands (BVW) and Bordering Land Subject to Flooding (BLSF).

On Behalf:

Bree Sullivan, the Applicant  
Jim Statires, the Applicant

B. Sullivan: I am with Bayside Engineering and we were hired to do this site plan for PureLowell. This particular plan wasn't in your packet. Printed in color. The lot is located on Rogers Street which is otherwise known as Route 38. That is a state highway. This is the existing conditions plan. Shows the lot lines and basically the project is going to occur on these two existing lots here. The lots currently have multifamily houses. 683 Rogers Street is vacant right now, no tenants there. This house [671 Rogers Street] is currently occupied with tenants. Owned independently of each other. Applicant plans to purchase these lots and demolish the buildings and construct a parking area and 3,700 sq. ft. single story dispensary. The two lots are subject to the WPA due to a bordering vegetated wetland to the southwest of the lot. Tulley Brook comes into this area, discontinues when it goes under Phoenix Ave, turns into this wetland, then continues into a brook again. Because of that, they don't have riverfront area on this lot. The existing lot basically has turf grass, buildings, and parking areas on each lot. The lot slopes from the street gradually fall toward the back of the lot. These lots are actually urban fill. This was confirmed in test pits. Not a big deal, no demo debris mixed in. Not an issue. Proposal to regrade the lot and construct a retaining wall to construct a parking lot with a gradual slope. This will make it easy to traverse with wheel chairs. There are 40 parking spaces. There are site circulation walkways. Secure dumpster area. As part of the Planning Board regulations, we are required to provide trees within parking the area. Shown here, placeholders, we have a landscape plan we haven't submitted yet. Don't have a DEP number yet so Commission can't vote on the plan yet. Will submit a landscape plan that does a slightly different tree layout, but similar to this. Wetland delineated by River Environmental. As part of this project, not proposing wetland disruption at all. The plan is, where you see compost filter tube line, won't be work beyond that line. Don't recall seeing too many invasives if any in this area. There might have been some Asian bittersweet. Proposal is to do subsurface infiltration chambers to meet stormwater standards. We have separated the rooftop runoff to discharge directly into subsurface chambers. Parking lot will flow from north corner down paved area and eventually end up in drain garden. It's like a rain garden, open top septic tank, filled with media, under drain installed under it, connected to subsurface infiltration chambers. There will be landscaping, shrubs, ornamental grass in that area. Vast majority of stormwater on this site will be infiltrated during a storm event. Have included a silt sack detail. Had to use infiltration system for peak discharge attenuation. Exceeds stormwater standards. Wanted to come in with a good plan. This is a buffer zone only job, not affecting 100 yr. flood plain, no changes in that area at all. Had some comments from DPD. We will only have one 24-ft. curb cut located to the north property line. That curb cut is dictated by MassDOT because it's an access permit from MassDOT. 24-ft. what they like to see. Will not increase off-site flooding impacts. Could submit landscaping plan for you to review on your own.

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

L. Varnum: Would like to have a copy of that for our files.

B. Sullivan: I actually have a written memo in response to the stormwater comments, and we will provide a statement from the owner. The comments are somewhat related. The owner has agreed to do #1. #2 will fall under responsibility of the contractor. The owner will convey that to contractor they select. So that wraps up what I have to present.

L. Varnum: We currently have a 50-ft. no-disturb zone in our bylaw. I am wondering about a no-disturb zone beyond the silt fence. I'm wondering if that can be the limit of work. We've had issues with this particular wetland. I was quite impressed with the variety of bird life and plants growing in there compared to some years ago. Seems to be pretty much cleaned up at the moment. Wouldn't want this project to threaten that edge of the wetland, seems to be on the rebound. We also have an issue with this wetland backing up, major flooding on streets on other end of the area. I think its critical to leave the back area of those two lots as a no-disturb zone and not disturb trees or present vegetation. Is that your intent?

B. Sullivan: Absolutely. That is the work limit. The area in here is actually maintained as turf lawn right now. Once we leave this area alone - we are going to remove the shed - the plants that aren't obligate wetland species will likely take over. We can even put down a seed mix to help re-vegetate. I think it helps us make sure any runoff that comes off pavement will help filter before it gets to the wetland.

W. Standish: Could we look at the landscaping plan?

B. Sullivan: Includes only trees specified for parking area as well as plantings that are in the drain garden. Don't have anything proposed back here.

W. Standish: A couple trees cut within the buffer zone. Do you know the size of those trees and what the impact would be?

B. Sullivan: Trees hadn't leafed out when I went out there. If I recall, they were not mature trees. I have photos.

L. Varnum: I would think you have area in the lawn area to actually replant some trees to replace the ones you are taking down. I was out there today and saw Maples, most Norway Maples which aren't the best. One giant Catalpa. Probably two feet in diameter. Would be interested to hear if that's on your cut list. Slightly beyond the edge of pavement.

B. Sullivan: We have area over here that's a grass area. This is all maintained as turf grass. Area to put the replacement trees there.

L. Varnum: Would you continue to mow the lawn area?

B. Sullivan: This wall is a barrier, going to keep people away because of the height. Stuff wont readily go over the edge of the wall. There is no need to mow this lawn area. Could discuss that with the owner.

L. Varnum: Could be nice to put wetland plantings there in area where you are planning to take down some trees. Would be fairly low maintenance, wetland shrubs. My concern is to maintain that buffer zone surrounding the wetland. Additional plantings that would please me as well. You are encroaching in the 50 ft. no-disturb zone but I think the silt fence line is a reasonable line. If you could write that that's the limit of work, that sometimes helps.

K. Dillon: Is that shed going to still be there?

B. Sullivan: The shed will be removed.



K. Dillon: Looks like there's a ton of space there. Almost exact same size of area of trees you are going to cut down. Would like to see some plantings over there.

B. Sullivan: Don't think that's unreasonable. I think that makes sense.

L. Varnum: Any more questions or comments? What are those round stone areas in the parking lot?

B. Sullivan: It's a raised planter area. I looked at the records of lot, no need to have a well on the site. Has been served by municipal water since 1912. Just a planting area.

L. Varnum: What's your time frame on this proposal? Something that would come to fruition in the next year?

J. Staires: We are planning to go in front of the Planning Board for the July hearing date. We are a good way through the state application process, so a realistic timeline would be starting building in early 2021.

L. Varnum: For any planting plan, it is best to have a favorable season for that to occur. If that could be done in the spring. In the fall, I have not had much success myself.

J. Staires: We would be 100% on board with replanting over in that open area.

L. Varnum: Important to make sure it is compatible with the wetland behind it, and make sure it's not invasive species planted in there.

B. Sullivan: I'll talk to Mary and see if she has her field sheets and see what species are in that wetland. Use species that are already in that area. I've seen Catalpas almost be invasive.

L. Varnum: There are some very attractive flowering wetland shrubs that would be a nice backdrop in the spring. You might look out for that, things that flower at different times. We can't close the hearing tonight, don't have the DEP number.

Motion:

W. Lovely motioned and K. Dillon seconded the motion to continue the petition to the next Conservation Commission meeting. The motion passed unanimously, (5-0).

**Request for Determination of Applicability**

Nicole Stiling  
7 Avalon Street  
Lowell, MA 01854

Project Location: 7 Avalon Street 01854

A Request for Determination of Applicability has been filed by Nicole Stiling to construct an above ground pool at 7 Avalon Street. The pool would be within the 100-ft. Buffer Zone to Clay Pit Brook.

On Behalf:

Nicole Stiling, the Applicant

N. Stiling: It's going to be within our fenced-in backyard. Will be between 50 and 80 feet from the brook. 15-ft. above ground pool. Crew won't be bringing in a Bobcat.

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

L. Varnum: Well-established lawn. Edge of brook well vegetated and not subjected to erosion a whole lot. Do have a 50-foot no disturb zone we like to maintain.

W. Lovely: I have no concerns, straightforward to me.

Motion:

W. Lovely motioned and K. Dillon seconded the motion to issue a Negative III determination. The motion passed unanimously, (5-0).

**OTHER BUSINESS**

**Minutes**

May 13, 2020

May 22, 2020

W. Lovely motioned and K. Dillon seconded the motion to approve the minutes from May 13 meeting. The motion passed unanimously, (5-0).

The Board will vote to approve the May 22 minutes at the next Conservation Commission meeting, as the Commissioners did not have an opportunity to review them.

**ADJOURNMENT**

W. Lovely motioned and K. Dillon seconded the motion to adjourn the meeting. The motion passed unanimously, (5-0). The time was 9:17PM.