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CONSERVATION COMMISSION
375 MERRIMACK STREET
LOWELL CITY HALL
LOWELL, MASSACHUSETTS 01852
January 9, 2019

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.

Members Present: Chairwoman Varnum, Commissioner Dillon, Commissioner Buitenhuis, and Commissioner Downs

Members Absent: Commissioner Biedron, Commissioner Lovely, and Commissioner Dineen

Others Present:

Patrick Burns, Associate Planner

CALL TO ORDER

Call to order at 7:00pm.

ORDER OF BUSINESS

NEW BUSINESS

Request for Certificate of Compliance

Tighe&Bond c/o

City of Lowell, Wastewater Utility

Church of Nazarene

180 Adams Street

Quincy, MA 02169

DEP# 206-0764

Location: 55.1 and 61 First Street Blvd (VFW Hwy) 01850

The applicant submitted Record Drawings, dated December 2018, (Attachment C) that depicts post-construction site conditions and compliance with the Order of Conditions issued for the overall project.

Speaking on behalf of the project: Mark Young, Dr. of Lowell Regional Wastewater and Water Utility: We are seeking a COC, the project has been completed. We have removed the remnants of silt fence as was a condition of the project.

L. Varnum: It looks well vegetated. Is what was planted going to grow up? How will it be maintained?

M. Young: It will be mowed by the city.

L. Varnum: How often?

M. Young: As needed.

L. Varnum: You have a fence around the portion that you are using. Is there any maintenance in resource areas that we may be interested in?

M. Young: We have no concerns of that either.

L. Varnum: It looked well stabilized and it was done quickly.

M. Yong: There was an emergency because they had to be in compliance with the descent decree that the city has with the DEP and EPA in regards to CSO Combined Sewer Overflow mitigation as well as the completion of the flow pump station so that people behind the levy can be relieved of paying flood insurance.

L. Varnum: Does that finish that side of the river as far as the stormwater issue?

M. Young: Oh no. We have a lot more to do.

K. Dillon: Looks good.

Motion: K. Dillon made a motion to issue a Certificate of Compliance. The motion was seconded by B. Buitenhuys with unanimous approval by the Commission, (4-0).

Request for Certificate of Compliance

JACO Lowell Realty, Inc. c/o

S. James Boumil, Esq. Trustee of Cunningham-Middlesex Realty Trust

2816 W. 11th Street

Panama City, FL 32401

DEP# 206-0357

Location: 130 Marshall Road, 01852

The applicant submitted an as built plan, dated October 16, 1991, that depicts as-built conditions and compliance with the Order of Conditions issued for the overall project.

L. Varnum: This is an old order that came out before the Veteran Administration Clinic was built. It concerns the access road to the clinic. The as built plan is dated Oct 16th 1991 and shows the as built conditions. That is a requirement before we issue a Certificate of Compliance. We did have a site inspection and got a lot of information about the relocation of the road and the slopes and the boundary lines. It looked perfectly stabilized to me. I don't think it could have been built any other way. Does anyone have any other questions?

Motion: K. Dillon made a motion to issue a Certificate of Compliance. The motion was seconded by B. Buitenhuys with unanimous approval by the Commission, (4-0).

Request for Determination of Applicability

Paul Stedman, MassDOT District Highway Director

MassDOT District 4

519 Appleton Street

Arlington MA 02476

Location: MassDOT ROW along Lowell Connector near Robinson Street and Lincoln Street

A Request for Determination of Applicability has been filed by MassDOT Highway Division for a project involving encampment clean up and debris removal within Bordering Land Subject to Flooding (BLSF), the 25' Riverfront Area to River Meadow Brook, and the 100-foot buffer zone to Bordering Vegetated Wetlands.

Speaking on behalf of the project: Sandra Sprague, Environmental Engineer for District 4 Mass Highway:

We have 2 homeless encampments between the Lowell Connector and the River Meadow Brook. The primary goal is to clean up the hazardous waste posing public safety concerns. There is drug paraphernalia out there. I walked the site, it is pretty sad. We want to make sure it's a safe area. We hired Triumvirate. They will go to the site to pick up trash with grabbers, not by hand, and be moving it off site to trash containers that will be placed off Thorndike St. in an area that is open for the Robinson St site. I have asked to keep the dumpster as far away from the brook. For Lincoln St. the dumpster will actually be on Lincoln St. There is a fence along the street that has been cut, we are going to keep it open for right now and the container will be on the street. This is new for us, we build highway and bridges. We will remove the trash. The tree cutters will come in. They are only using chain saw, not excavators. There is a lot of bittersweet. They are going to cut from the ground and as high up as they can while standing. There are not using bucket lifts. They want to open up the area for police and the highway department. Hopefully this will deter them from coming back. We have cleaned up the Robinson St. site once before. We are trying to come up with a different way that makes the site more visible. The other area of concern is the bank. They will be using a small excavator that has a thumb for the large debris. There is no earth excavation. If there is something embedded into the ground, they are not digging it up. I don't want to give the impression that this is a full blown cleanup, it is not. We will do the best we can, there probably will be some debris left behind.

We are in resource areas and we meet the standards. There is no compensatory storage because there is no fill being added, there is no restriction of flow, and there is no impact to protected wildlife. There is a 25' river front area and we meet those performance standards. There is no impact to another resource area. We are good with the Bordering Land Subject to Flooding (BLSF) standards; there is no endangered species in the area. There is no other economic alternative for the project. We are starting with the Robinson Street project next week. Police have gone to the site and asked that they vacate the area. We are hoping that they have. The goal is to begin the cleanup next week. Once they are told to leave, we don't want leave the site open. We want to clean the site as soon as possible, so we have to be quick. That is our top priority. There is housing close to the area. The other area is off Lincoln St. which probably will happen later this winter or early spring. We will see how the first one goes. We will let you know, but we just want to permit them together because it's the same type of work. Some trees will have to come down. The bittersweet has created curtains. If we knock down some trees that are so wrapped up in the bittersweet, it will help. Right now the bittersweet is taking up the canopy. We will leave the majority of the canopy in the 25' river front area. It is not the goal to take down everything there. We are just trying to make sure we have open access.

L. Varnum: Thank you. What's the size of the excavator? Is it a bobcat size?

S. Sprague: It's small, about a bobcat size maybe a little bigger. It's the smallest excavator they can have. They only have a small area. There is a natural path created. There isn't much room from the bottom of slope from the Lowell Connector and the river itself. We can't get in with bigger equipment.

L. Varnum: We will be interested in not having the excavator disturbing any part of the river bank by driving along it or digging at it.

S. Sprague: No it won't. They will only be picking up the bigger stuff. They are just picking up what they can grab with the thumb of the machine which will be used for mattresses. They are not going to be picking pieces of paper with it.

B. Buitenhuys: Can you ask operator to keep the excavator straight?

S. Sprague: Yes

L. Varnum: When I read the description, I was under impression that you would only be trimming limbs, not taking down trees.

S. Sprague: I did mention we would take down trees and it's the ones covered in bittersweet. They would be dead anyways.

L. Varnum: I am a little uncomfortable not knowing the number or location of trees since you are removing trees along bank. That's an artificial channel when the brook was rerouted so it's probably moving a little faster than its natural course. Do you have sense of where the trees are?

S. Sprague: I don't. While we were out there, we didn't really have a chance. We had the police with us and the occupants of the site. It wasn't a very conducive time to be inspecting everything out there.

L. Varnum: Without marking them, how will we know?

S Sprague: We can leave the trees for now and they can just cut the vines and we'll revisit. That's maybe how we go forward with this type of work. We can go back to it. We can just cut the underbrush and the bittersweet.

L. Varnum: And the same thing with the underbrush, if it's within a number of feet from the bank, I think you have to be careful not to clear cut everything.

B. Buitenhuys: I don't think straight cutting of bittersweet will eradicate that issue. This will make it more visible this year, but next year, it will come back just as strong.

S Sprague: Right, we are not proposing to spray. This is a trial and error for us. We don't know if this going to work.

B. Buitenhuys: If we are going to be addressing the bittersweet, cutting it alone will not be enough.

S. Sprague: I know, it's not going anywhere.

L. Varnum: Are you working with someone who knows trees and can point out which ones are dead?

Sprague: If you look at some of the photos, the bittersweet has wrapped up some of the branches. We don't have an arborist on the team. We were notified in early November and walked the site quickly. If you don't want trees to be cut down we can wait for right now.

L. Varnum: I understand you have a timeline and you are dealing with weather.

S. Sprague: If we get an inch of snow, this project is done.

B. Buitenhuys: Judging by these photos I wouldn't cut the trees. I have seen them come back to life after cutting the bittersweet off of them.

L. Varnum: If you cut the vines at the base, then at least it gives the trees a chance.

S. Sprague: We will be cutting some trees which are out of the resource area. Some of those trees will be coming down, it's just about access and it's on our property and not in a resource area. I know some of those trees will be coming down.

L. Varnum: if this is going to be a 2 part process maybe we could schedule a site visit after it's cleaned up and we can discuss what trees you would like to take down.

S. Sprague: If my hire ups still want to do that. I can't say we will come back later and still want to cut trees down then. I felt the best way to deal with the canopy was by taking down some to protect them. We are proposing limbing trees and opening up underneath.

L. Varnum: We do need to give something more concrete to give to the person doing the work.

S. Sprague: If it's easier to say no tree cutting in resource areas, we can do that. If you want to say no tree cutting until you walk the site if we choose to go further, we can do that.

L. Varnum: I don't have a problem with you cutting the vines off at the base.

K. Dillon: What's the long term plan?

S Sprague: We don't have one. We don't know if this will work.

K. Dillon: So the whole purpose is to the clean up the area and deter people from coming back. I know the Concord River Greenway has become a way to invite the public and has deterred encampments. That is something to think about for the future and more long term.

S. Sprague: Thank you. I will pass that along.

L. Varnum: I think this is a necessary project. I just want to have a little bit of caution as to keeping the resource intact as possible. There is some wildlife. I have seen birds and muskrats. It's not that nothing can be cut, it's just scary to hear that there will be clearing as far as what it will look life after the work is done, especially when you're goal is to clean up the site.

Sprague: I have said no grubbing, no earth excavation. The ground will be frozen which will be better for the bobcat going back and forth. It's a work in progress. They are going to be moving as they go along and go down the site.

L. Varnum: Where you are coming back in the spring to do the other location, it's possible you could do some more work on this site [Robinson] at that point. We would be happy to go out and walk the site. We could probably even do it before the work begins. If you feel your work can be completed without tree cutting in the resource area.

S. Sprague: They need to cut the brush along the edge because that is where the debris and hazardous material is trapped.

L. Varnum: Alright, with what you've discussed tonight as far as holding off tree cutting, vine cutting okay, and not clear cutting or disturbing the slope too much down to River Meadow Brook, I think this is something we could do a Negative 3 on.

B. Buitenhuys: Is there any hazardous material being left overnight? I don't know if you'll be able to do it all in one night.

S. Sprague: It will take 2-3 days total for the first site to get done. The hazardous material is going in the MassDOT pickup trucks and will leave the site at night. The dumpster itself is to remove it that night. Our goal is to remove it every night. The sharp objects will come out. The dumpsters need to at least be covered.

Speaking in favor: Sandra Judge, Resident of Robinson Street: The site is worse than ever. I have lived there over 30 years. There's an opening in the street, it's a mess. Luckily, most people who live there don't go up on my street, they go around, but it's horrifying.

Motion:

B. Buitenhuys made a motion to issue a Negative Three Determination with conditions. K. Dillon seconded the motion with unanimous approval by the Commission, (4-0).

1. There shall be no removal of or cutting down trees in the resource area
2. Cutting vines at the base is allowed
3. There shall be no clear cutting or disturbing the slope that goes down to the River Meadow Brook

Enforcement Order

Stallion Company
P.O. Box 243, Middleton, MA 01949
c/o FLABEL (B V I) LTD
Izabel ET De V Souza
946 Bay Drive, #14
Miami Beach, Florida 33141

Violation Location: 5.1 Thorndike Street 01850

Illegal dumping of trash and landscaping debris within 100' of Pawtucket Canal.

Staff: We have not made contact with the property owner. We issued an Enforcement Order to the recycling company, the Stallion Company, who is actively using the site to make some contact. We have not heard back from them either.

Motion: P. Downs made a motion to ratify the Enforcement Order. B. Buitenhuys seconded the motion with unanimous approval by the Commission, (4-0).

OTHER BUSINESS

None

ADJOURNMENT

K. Dillon made a motion to adjourn the meeting and P. Downs seconded the motion. (4-0).