

CONSERVATION COMMISSION

LOWELL, MASSACHUSETTS

March 8, 2023

**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 both in person and virtually using Zoom.

**Members Present:** Chairwoman Varnum, Brad Buitenhuys, Kevin Dillon, Perry Downs, Stephen Laput

**Members Absent:**

**Others Present:** Dylan Ricker, Associate Planner

**CALL TO ORDER**

A quorum of members was present, and L. Varnum called the meeting to order at 7:01pm.

**ORDER OF BUSINESS**

**CONTINUED BUSINESS**

**Enforcement Order**

City of Lowell  
1365 Middlesex Street  
Lowell, MA 01851

Violation Location: Land adjacent to 52 Lawrence Drive, Lowell, MA 01852 (Latitude: 42.652579  
Longitude: -71.314128)

The City of Lowell has substantially cut back trees on the bank of the Merrimack River along the Riverwalk.

On Behalf:

None

Discussion:

L. Varnum said the City is supposed to be lining up an arborist to evaluate the remaining trees. K. Dillon said the applicant is to get an arborist for a site visit. K. Dillon he would like this to be done sooner than later so plantings can be done in the spring.

Motion:

K. Dillon motioned, and S. Laput seconded the motion to continue the Enforcement Order to the March 22, 2023 Conservation Commission meeting. The motion passed unanimously, (5-0).

**Notice of Intent**

Adam McPhillips  
9 Descheneaux Drive  
Lowell, MA 01854

Project Location: 38 & 49 Casco Street, 01854

A Notice of Intent has been filed by Adam McPhillips to construct a new single-family home within the 100-year floodplain.

On Behalf:

John Cox, Applicant's Representative

J. Cox said the plans have been revised based on the Conservation Commission's comments and explained the proposed plans. J. Cox said the home has been switched to the opposite side of Casco Street further from the wetland. J. Cox said the Law Department issued an opinion that the applicant has access to the paper street and added that the applicant was granted the necessary Variance relief.

Matt Hamor, Applicant's Engineer

In Favor:

None

In Opposition:

None

Discussion:

L. Varnum said she did not receive a copy of the revised plan. L. Varnum said she could not discuss this since they did not receive the revised plans. M. Hamor said the required copies were submitted to DPD, and he can provide copies tonight.

L. Varnum requested the ZBA related documents.

Motion:

K. Dillon motioned, and P. Downs seconded the motion to continue the application to the March 22, 2023 Conservation Commission meeting. The motion passed unanimously, (5-0).

**Request for Determination of Applicability**

Global Montello Group Corp  
15 Northeast Industrial Road  
Brandford, CT 06405

Project Location: 980 Chelmsford St 01851

A Request for Determination of Applicability has been filed by Global Montello Group Corp to extend the tunnel entrance to a car wash by approximately 30 feet. The proposed work would be within the 100-ft. buffer zone to bordering vegetated wetlands.

On Behalf:

Chris Tymula, Applicant's Representative

C. Tymula explained the site, location of the wetland, and the proposed plans for the site. C. Tymula said the applicant is converting the existing car wash to a more efficient car wash system. C. Tymula said the drive-through is being expanded to give cars enough space to straighten the car out prior to entering the car wash. C. Tymula said they propose winterberry plantings to provide a buffer to the wetland. C. Tymula said stormwater would run away from the wetland and would enter into the site's stormwater system.

In Favor:

None

In Opposition:

None

Discussion:

L. Varnum asked about the stormwater system.

B. Buitenhuys asked about any additional stormwater requirement. C. Tymula said for gas station developments they typically do try to capture runoff, they could capture roof runoff. B. Buitenhuys said the car wash will not be within the 100 foot buffer zone. C. Tymula said only a portion of the canopy is in the buffer zone. B. Buitenhuys expressed concern about the cleaning chemicals within the 100 foot buffer zone. C. Tymula said the water would flow in the opposite direction of the wetland.

B. Buitenhuys expressed concern about the upkeep of the site and said that if the site were better taken care of he would feel more comfortable strictly with water flow, but given the lack of maintenance at the property he does not feel comfortable with the proposal.

B. Buitenhuys said the chemicals are contaminants and there is no guarantee that none of the chemicals will get into the wetland. B. Buitenhuys expressed opposition to expanding a car wash in the buffer zone. B. Buitenhuys expressed opposition since they cannot prove there will be no impact on the wetland.

L. Varnum said it is the property owner's responsibility to ensure there is no dumping on the property. L. Varnum asked if the new driveway would require trees be cut back. C. Tymula said there would be no impact on the existing tree line.

K. Dillon asked when the original structure was built. C. Tymula said he did not know, but for as long as he can remember the structure has been there. K. Dillon asked about the building's foundation, C. Tymula said it is a concrete slab, and the garage is 1100 square feet. C. Tymula said he does not know the exact depth. K. Dillon asked if the new structure's foundation will be deeper. C. Tymula said he would not expect the new foundation to be deeper.

B. Buitenhuys asked if it will be constructed with frost walls or just a slab. C. Tymula said he is not sure, but they would need to work with the manufacturer to get final plans.

L. Varnum asked about the additional impervious surface and whether the applicant is constructing an exit route for those who don't want to go through the car wash. C. Tymula confirmed this and said it is located primarily out of the buffer zone. L. Varnum asked if the exit ramp could be constructed with a pervious surface. C. Tymula said pervious pavers in this situation would not be the best use and noted

they are not as durable. C. Tymula said providing an emergency bypass lane is good practice. B. Buitenhuys agreed that previous pavement is not a good solution since they do not want infiltration of gas and chemicals from the site.

C. Tymula explained the stormwater system and runoff associated with the work.

L. Varnum asked about the proposed start date. C. Tymula said they are waiting to complete the permitting process, and anticipate spring or summer. L. Varnum asked how long the construction will last. C. Tymula said it varies based on getting access to materials, and estimated 8-12 weeks.

B. Buitenhuys said he would like to see the car wash completely out of the buffer zone. L. Varnum said she did not have significant concerns. K. Dillon expressed concern about the increase in impervious surface in the buffer zone and noted it is more encroachment on the wetland.

C. Tymula said the edge of pavement is 64 feet from the wetland, the existing edge of pavement is 74 feet and the impervious area already exists within the 100 foot buffer zone. C. Tymula said the overhead awning structure is the only portion of the building in the buffer zone. B. Buitenhuys said the paving and the structure and not something that is typically denied. B. Buitenhuys said his concern is relocating a car wash inside the buffer zone.

C. Tymula said the winterberry plants could be moved further up to increase the buffer to the wetland. C. Tymula said in his opinion there should be no concern of anything from the car wash entering the wetland based on the distance to the wetland, topography of the site, and plantings. L. Varnum asked about the height of the plantings. C. Tymula said they are 3-4 feet in height. L. Varnum suggested the applicant use a fence for the additional area as a buffer. C. Tymula said they could do this.

L. Varnum asked if the sides of the pavilion are open, and asked if there could be sheeting along the side of the canopy. C. Tymula said they could expand the fence along the new structure. L. Varnum suggested shrubs at the bend and a fence along the remaining side of the paving and new structure.

P. Downs said the fence and plantings are an improvement, and said he feels the project is minimizing the risks of the car wash. P. Downs noted the elevations and said he does not feel a positive determination is correct.

B. Buitenhuys agreed that after reviewing the elevations this makes sense and adding a fence would help with trash.

S. Laput agreed with the proposed fence, and said he does not feel a positive determination is correct. S. Laput suggested a condition of adding the fence.

K. Dillon said he still has concerns about the proposal.

L. Varnum summarized the conditions, catch basin hoods, and the fence along the side of the paving and canopy. L. Varnum suggested bushes inside the fence.

Motion:

B. Buitenhuys motioned, and K. Dillon seconded the motion for a Positive 5 Determination. B. Buitenhuys withdrew his motion.

P. Downs motioned to issue a Negative 3 Determination with the following conditions:

1. The applicant shall install gas hoods on all catch basins if they are not already in place;
2. The applicant shall remove trash along the property lines of the site and regular efforts shall be made to remove debris in danger of impacting the wetland;
3. The applicant shall install a solid fence along the canopy and paving up to the berm; and
4. The applicant shall not begin construction until an updated plan is submitted.

S. Laput seconded the motion. The motion passed (4-1) with B. Buitenhuis voting in opposition.

### **NEW BUSINESS**

### **OTHER BUSINESS**

#### Request for Permit Extension Request: 83 Boulevard Street 01854

Massachusetts Electric Company (MECO) has requested an extension to the Order of Conditions (MassDEP file #206-0790) for the Boulevard #77 Substation Rebuild Project in Lowell, MA. The Order of Conditions was originally issued on April 2, 2019 and, due to the state tolling provision, is currently scheduled to expire on July 8, 2023.

#### On Behalf:

Melissa Kaplan, Applicant's Representative

#### Discussion:

K. Dillon expressed support as long as the plans remain the same. M. Kaplan said nothing is changing and the extension is due to Covid delays, and the expectation is it will be done next year.

#### Motion:

K. Dillon motioned, and P. Downs seconded the motion to extend the Order of Conditions for 3 years. The motion passed unanimously, (5-0).

1/11/2023 meeting minutes

2/8/2023 meeting minutes

P. Downs motioned, and S. Laput seconded the motion to approve the January 11, 2023 and February 8, 2023 meeting minutes. The motion passed unanimously, (5-0).

### **ADJOURNMENT**

K. Dillon motioned, and P. Downs seconded the motion to adjourn. The motion passed unanimously. (5-0). The time was 8:15pm.