

APPROVED

**CONSERVATION COMMISSION MEETING
CITY HALL AUDITORIUM
62 FRIEND STREET, AMESBURY**

JANUARY 4, 2016 @ 6:30 PM. Meeting started at 6:35 PM.

PRESENT: Steve Langlois, Kinsey Boehl, Alan Corey, Suzanne Egan.

ABSENT: None.

ALSO PRESENT: John Lopez, Agent; Paul Bibaud, Recording Secretary.

MINUTES: December 7, 2015: Motion by Alan Corey to accept minutes as presented. Motion was seconded by Kinsey Boehl. AIF.

ADMINISTRATIVE: NONE.

CONTINUED BUSINESS:

**NOI (002-1132) REVISED SITE PLAN AND WRITTEN NARRATIVE,
5 MERRILL STREET - (LINDEN) - Continued to Feb. 1 meeting.**

**NOI (002-1133) 103 & 107 MACY STREET, AMESBURY CHEVROLET
(FECTEAU) - Continued to Feb. 1 meeting.**

NEW BUSINESS:

NOI - MARSHALL DRIVE, MAP 86, LOT 39 - (DESMARAIS)

Rob Desmarais, Director of DPW: This application is to install a fence adjacent to 6 Marshall Drive to protect a detention pond. The city is putting this up. There was one there before that was deteriorated fence and was removed by abutter.

Motion was made by Kinsey Boehl for conditional approval pending DEP issues a DEP number to this project. Motion was seconded by Alan Corey. AIF.

Motion to conditionally close by Kinsey Boehl and seconded by Alan Corey. AIF.

**NOI – RIVERFRONT DRIVE AND PLEASANT VALLEY ROAD, MAP 110, LOT
4A - (DESMARAIS) - Commissioner Alan Corey recuses himself as abutter.**

John Lopez: This is a NOI for the proposed removal of an unspecified number of trees as well as associated invasive species plan for a parcel of conservation land at the entrance to the Merrimac Landing subdivision.

Rob Desmarais, DPW Director: We have not specified the number of trees because we don't know which ones will be taken down and which ones we won't. This area is a piece of open space that is adjacent to a landscaped area of the subdivision. There is a stream and wetland associated, as seen on the plan. These are all trees that were currently part of the forest that was there before the subdivision went in. When they took out all the other trees, these trees suffered from an edge effect, where they were compromised and invasives grew in, like bittersweet wrapping around the trees. Neighbors had experienced three trees falling in their yards, crushing two cars. We came to you this summer with an RDA to take down four trees. We took down the worst four. As part of Condition of

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Approval of that RDA, we were to file a vegetative management plan to come back. We filed that on November 1st. The NOI didn't get in until December, but we basically want to monitor this area and if trees become a problem, we would follow the protocols established in this management plan to remediate the area, remove invasives, and plant new plantings based on the list that is proposed.

Suzanne Egan: What is before ConCom that shows us what you are specifically going to do?

Rob Desmarais: This management plan. So if I come in, my anticipation is that we'd do what we do for any other vegetated management plan city wide. When a tree needs to be taken down, we'd follow whatever protocol you wish to establish, whether we come here or deal directly with Mr. Lopez, and follow protocols in the plan. We're not proposing to take any trees down at this time. I suspect in spring, we get an arborist to take a good look at the trees, as do we, and get a list of things we want to do there. We got the four worst trees, I think there is at least 3-4 more that should come out.

Suzanne Egan: You hired Woody Cammett to come up with this plan for you?

Rob Desmarais: They flagged the wetlands, they prepared the plan, they put that management plan together.

Kinsey Boehl: So, for the map of existing conditions, so the trees you're talking about are only in that swarth that is right there? (Rob = correct). Because the rest of Map 11, Lot 4A, that is not shown. Is that part of the city's property also?

Rob Desmarais: It is. There are no trees on that section. If they are, they are along the road and decorative trees. They are not part of this plan, only the trees shown in the plan. This site is about 100 acres. It wraps all around the subdivision. It is a giant open space parcel. The only thing that is subject to this plan is that which is shown on this plan.

Suzanne Egan: My concern with this is that the large trees we're taking out will be replaced with shrubs or very smaller trees that we won't serve the same purpose as a large tree will. So is this plan that you're presenting deal with that issue at all, or are you just mainly going for shrubs?

Rob Desmarais: We're going for the shrubs because the area needs to be maintained because of the invasives. There is so much bittersweet in there that, as we clean this area up, it needs to be managed to keep bittersweet returning into the area. The residents requested that no more trees be planted. It is not their property, but we followed their request.

Kinsey Boehl: The only thing I'd comment is that, if another applicant came in with this, we'd tell him to show us which trees specifically were to be removed, either with photos or taping the trees. It tells us those are the trees, and the arborist says they need to come out.

Rob Desmarais: When we contacted the tree board and the arborist for that board, his response was to take them all out. Realizing that that it is probably not feasible on a number of levels, both financially and you're not going to want all these trees to come out, and frankly, they don't all need to come out, in my opinion. This is sort of a happy medium to those opinions. The resident would like them all removed. The arborist says that is what should happen. So here we are. I only have a budget for a few of these trees a year, so I anticipate this to be a long term plan.

Suzanne Egan: So you know how ConCom operates as normally a 2:1 replacement ration. There is nothing in your plan that shows the 2:1. It would be helpful, in my

opinion, for you to come back with something more fully in keeping with the ConCom protocol on this.

Kinsey Boehl: And specifics regarding which trees. This tree, not that one, or take out whatever you want type of thing.

Rob Desmarais: Well, that's not my intention. My intention is, just like with our vegetative management plan city wide, we just sort of narrow it down to a more specific site. We'd evaluate whatever tree needed to come down, then we would present it either to John or ConCom, however you want to handle it, but it would operate under this NOI. So I wouldn't have to do all the notification and so forth, every time I wanted to take a tree down. But if you want it done that way, I have no problem with it.

John Lopez: In just doing a preliminary review of this proposed plan, I felt it lacking. It didn't provide sufficient detail. We could be talking with the removal of more than 20 trees, which is a considerable amount. It is also important to keep in mind that this is conservation land. When you remove that many trees, you really do alter not just the visual but the physical characteristics of the site. I think that this is a project that would be worthy of a peer review, but I don't think we're there yet. I don't think it provides enough detail. Mr. Desmarais and I, along with one of the commission's consultants, Stantec, just had a rather informal discussion about this, and the Stantec representative felt that there could be ways to approach this, such as various phasing in of the project. That's fine. On the other hand, I feel it is not the consultant's responsibility to help design a plan for an applicant. I feel much more comfortable when an applicant appears before ConCom with something that is reasonably close to being approvable. To drag things out through phased approach is just complicates things.

Steve Langlois: So, we're talking about 4 trees that have already been taken down. He's coming before us with a plan. They are going to replace the trees, whether it's 2:1, but that is not proposed. Is this a proposal or is this a management plan? (Rob equals management plan). So what is the proposal for the four trees. We need to get that.

John Lopez: We're talking about perhaps the removal of 20 or more trees. That is considerable. This also comes at the request of an abutter, for safety concerns.

Rob Desmarais: We went over this a little bit. We don't necessarily agree.

Steve Langlois: Well, you've presented a management plan, but none of us have had the time to go through it thoroughly. We aren't able to approve that tonight.

Kinsey Boehl: If another applicant were to come in, a citizen, we would say the same thing. Tell us the number of trees, give us specific locations...

Steve Langlois: He's not saying if he had to come in with another project, that he's not going to tell us what trees are coming down.

Kinsey Boehl: But that doesn't have the specifics for what...

Steve Langlois: So let's tell him what we want, for the four that have already been taken down.

Kinsey Boehl: For the four already taken down, we want a specific plan for mitigation.

John Lopez: Plus all the trees that you anticipate. So in other words, no phasing of this. Identify all the trees, whether it be 30 or 40 trees, species, size, location with a site plan, and provide a 2:1 ratio for replacement, along with the invasive species plan and long term monitoring protocol.

Suzanne Egan: Right. The purpose this will serve is that, if we approve this management plan, it is very specific, instead of you having to come back in here every

time you want to act on it, you've already provided enough detail so that you are going to be in compliance with that. So you are actually pre-permitting this, even though it is a long term plan.

Rob Desmarais: I understand that, but this is a fairly significant effort on our part. We are unlikely to be able to budget replacing 20-30 trees within three years. So that causes a problem because a permit is only good for three years.

John Lopez: Well, whatever work at the expiration point was not done, it just was not done. Get an extension.

Suzanne Egan: We would also like to have it updated at the end of three years, presumably. The environment will change. An updated site plan wouldn't hurt after three years.

Steve Langlois: Maybe you could come back with a prototype of another project, sort of like: We're going to have this project, we're going to do these trees, we'll show how this plan works. If you can prove to ConCom that you're not trying to get away with something, and that this particular plan is not to be cumbersome. Right now, if we were to wrap this up, we'd say "we want 8 replacement trees."

Rob Desmarais: The location of the tree plantings, the site is 100 acres. Can I plant trees anywhere on the 100 acres or do they need to be in the area of this plan we have here.

John Lopez: The 2:1 ratio is proposed to account for a 50% mortality. So if you remove 20 trees, and you plant 40, it is reasonable to assume 20 would survive and 20 would not. The other option would be 1:1 which would extend the monitoring period from 5 to 8 years, and none of us want a monitoring period of 5 to 8 years.

Suzanne Egan: Is the entire site jurisdictional under the Wetlands Protection Act?

John Lopez: That's a good point, because some of the proposed tree removals could be within a bordering vegetated wetland, which is a protected resource.

Suzanne Egan: And that is what we need to protect. So it wouldn't make much sense if we're saying "give us a management plan to show us the trees you're cutting down within this jurisdictional area, and then it is planted someplace else, that doesn't serve the same function?"

Rob Desmarais: I understand, but from a very practical sense, we took down 4 trees in the middle of this little forested area that is covered with bittersweet. I can plant them along the street, but that doesn't serve the same purpose. I'm not sure how well they'll do planting them in the mess of the bittersweet. I'll come up with something and work it out with everyone.

John Lopez: I think the intent is to also have an invasive species plan, which would remove the invasive species prior to planting. So the site is prepared. It's a lot of work.

Steve Langlois: So what does ConCom want to do with this?

John Lopez: When do we want to continue this to? Also, how are invasives to be removed... by hand, chemicals. We'd need details.

Rob Desmarais: The April 4 meeting would be perfect to continue this to. That has an associated deadline of March 14.

Motion to continue this hearing made by Kinsey Boehl to the April 4 meeting, and that in the next revised plan, there's specifics on the number and location of trees to be removed and a provision for a 2:1 replacement ratio within the same general area. Motion was seconded by Suzanne Egan. AIF with Alan Corey recused.

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RCoC – 36 KIMBALL ROAD #RR (ASPESLAGH)

John Lopez recommended approval of ConCom. “So moved” motion was made by Kinsey Boehl and seconded by Suzanne Egan. AIF.

NOI – 14 PLEASANT VALLEY ROAD, GOODWIN CREEK MARINA (McKENZIE)

John Lopez: This is a NOI for the proposed replacement of an underground fuel storage tank, within riverfront area. The proposal is to replace the existing tank in the same footprint, which is in a developed site, an asphalt parking lot.

Ann Martin, LEC Environmental, director of ecological services: With me tonight is Kaitlyn Mullen, also with LEC, the applicant Dick McKenzie, owner of Goodwin Creek Marina, and Luis Diaz from Commonwealth Tank, who will do the tank removal and installation. I just passed out to you an updated plan. We discovered the plan said the stream from Goodwin’s Creek was labeled as intermittent, and it is now shown as mean annual high water. The entire site is in riverfront area, as well as the entire site being in the flood plain. We’ll remove the existing tank which was installed in the 1980s, a single wall steel tank. That will be excavated, removed, soil will be tested, a new double walled fiberglass tank meeting today’s standards will be installed. The existing fuel station will be removed. The pump for that will be incorporated into the tank, and the line will be tied into an existing sump that comes out in the wall of the bulkhead. All the work is within existing asphalt or a portion of it is gravel. So they will perform the work, and once done, they will put everything back the way it is with same grade asphalt. There is an estimated habitat associated with the Merrimac River, but we placed the fencing on the confining, to stay out of the estimated habitat. Commonwealth Tank prepares all of the details of the plan, which will then go to the fire department, who would approve that prior to the start of work. If comfortable with that, we’d ask you to follow that protocol. There can be a special condition, such as prior to the start of work, something was documented to the ConCom showing the fire dept. had reviewed and approved all of that work. Also LEC will act as environmental monitor. We can attend the pre construction meeting and periodically visit the site during construction, especially after a rain event that was coming or after the event. Those are standard techniques.

Suzanne Egan: Have you acted as environmental monitor when you are hired by the proponent of the project?

Ann Martin: Yes. I am also the environmental monitor for the town of Andover. For tank removals, I’ve always done it for the applicants, not the commissions.

Luis Diaz: There is no need for an LSP (licensed site professional that is appointed by DEP). There is no evidence that there is any leakage at all.

Alan Corey: You are in an AE flood zone. So you will need to follow the FEMA regulations for anchoring that tank. So when you do the specifications, we’ll need to see that too, please.

Steve Langlois: And we’re going to review those new plans?

Suzanne Egan: They are asking for that after the fact, after we issue an Order of Conditions.

Ann Martin: Typically, those are prepared after the OoC, which is why I had suggested the concept of, before they could put it in, providing ConCom with proof that the fire dept. reviewed and approved it as a special condition.

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Alan Corey: As a certified flood plain manager, I would like to come see the installation before it is filled in, if that is ok. I could coordinate just like the fire department. I just want to see it before it is filled in.

Ann Martin: Sure.

Kinsey Boehl: I'd personally feel more comfortable with say a peer review.

Steve Langlois: What is it you are worried about?

Kinsey Boehl: It's kind of a complicated site. You've got basically two water bodies in the middle of it, it is bound by both water bodies, and we haven't seen anything like this before. So I'd be more comfortable with peer review.

Steve Langlois: Sir, how long has your company been doing this?

Luis Diaz: About 22 years for the company. Myself it has been 15 years.

Steve Langlois: How many tanks have you done where you had big problems with?

Luis Diaz: This is a well maintained tank, even though it was installed in the 80s. I've removed tanks that were put in 1930, so, in average, and 12 steel tanks usually corrode and leak. With this tank that is not leaking as tested last year. The chance of leak is probably close to 1 %. There will be inspections by the fire department at all three levels of install.

Kinsey Boehl: I'd be mostly concerned with a spill and where is the fill going to be placed, are the erosion controls adequate...

Ann Martin: The fill materials will be stockpiled within the fenced and hay bailed area.

John Lopez: That could be included in a condition as to the applicant will identify a site at the appropriate time prior to construction.

Luis Diaz: For a fiberglass tank installation like this, the surrounding fill needs to be sand or pea stone. So whatever soil is excavated, it will be trucked off.

Steve Langlois: I think these guys are trained professionals with lots of experience, and this is a highly regulated project. I feel confident in them.

Alan Corey: I feel very confident in what I've heard tonight, that the area will be protected.

Ann Martin: At the closest point, the project is 35 feet from the river. If we sequence the work, we may not need to stockpile at all to avoid that issue.

Suzanne Egan suggested a motion could be made to continue this if they come back with the pre-construction management plan approved by the fire department with the details that we've asked for to be included, and then we can at that point review them, and if we feel it still is not sufficient, and we don't have the ability to review it, so that the commission as a whole feels comfortable that protections are in place, then we can revisit the third party review at that point.

Ann Martin: We would greatly appreciate that. The entire site is within the riverfront area.

John Lopez: If ConCom continues this, do you feel confident you'd be able to get this into us by the deadline, which is in two weeks, or would you prefer in March, which is three weeks prior. The submittal deadline for Feb. 1 meeting is Jan. 11.

Ann Martin: Could we continue to Feb. 1, and if we don't meet the deadline, we'll just ask for an automatic continuance?

Kinsey Boehl: You should probably also submit a waiver, based on the wetlands ordinance. Section 21.5.

Ann Martin: Okay.

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Suzanne Egan makes a motion to continue this to Feb. 1 meeting and the applicant will provide a construction schedule approved by the fire dept. and additional information regarding storm water management and protection of the resource area, and information sufficient for the ConCom to consider the waiver request. Motion was seconded by Alan Corey. AIF.

NOI – 77 ELM STREET (MARTIN) - Continued to Feb. 1 meeting.

Motion to adjourn this meeting was made by Suzanne Egan. Motion was seconded by Alan Corey. AIF

Motion to go into Executive Session was made by Suzanne Egan and seconded by Alan Corey. AIF in roll call. Unanimous.