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CONSERVATION COMMISSION
LOWELL, MASSACHUSETTS
May 27, 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.

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

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

Members Absent: None

Others Present: Jared Alves, Senior Planner

CALL TO ORDER

7:00 PM

ORDER OF BUSINESS

CONTINUED BUSINESS

Notice of Intent

Norse Environmental Services Inc. c/o Paul Mercier
92 Middlesex Road Unit 4
Tyngsboro, MA 01879
DEP# 206-0796

Project Location: 51-57 Shirley Ave 01854

A Notice of Intent has been filed by Paul Mercier for construction of a single-family home located in the 100-year floodplain.

On Behalf:

Steven Eriksen, Norse Environmental

Offered Comments:

None

Discussion:

Chairwoman Varnum summarized the history of the case. She noted that the Commission had concerns about using the mound as compensation. She noted that they have received an affidavit from 2013 stating that the

mound was present for at least 20 years. The Wetlands Protection Act would still be in effect at that time, so she believes that they have not come up with the necessary compensatory storage without using the mound. She believes that it is a filing that cannot be approved by the Conservation Commission in its present form.

Mr. Eriksen said the Commission is talking about a miniscule wetland compensation. There is fill in the floodplain. It appears it was at least 27 years ago. It is still fill in the floodplain and they are willing to remove it. They have a minor amount of fill going into the floodplain as the construction is proposed on piles. It was approved in the past by MassDEP. If he needs to appeal, then he will again but he would prefer to have the Commission's blessing.

Chairwoman Varnum said they made it clear that the mound was not part of the project. It was just added fill at an unknown time. When that occurred is irrelevant. They gave him time to show compensation figures. The peer reviewer said he has no additional figures to come up with.

Mr. Eriksen said they could not find any other areas for compensation.

Chairwoman Varnum said it was illegally dumped and that he can't use it as compensation. Otherwise, it would encourage illegal dumping.

Commission Buitenhuis voiced the same sentiment.

Commission Lovely said that at the last meeting they wanted to see if there could be compensation without the mound. It looks like that is not possible. The mound in and of itself should not be considered as part of compensation. They have a factual basis to deny the permit. If the applicant would like to appeal it to MassDEP then that is their prerogative. If MassDEP has a different opinion, then at least the Commission has done their due diligence.

Commissioner Standish said that he is new to this item, but logically it does not make sense to use the mound as compensation.

Commissioner Downs said he is in the same boat. He has the same opinion.

Commissioner Dillon said he agrees with the other Commissioners and he has no further comments.

Chairwoman Varnum said that the Notice of Intent in its current form cannot be approved. She asked for a motion to deny. The applicant is within his rights to appeal to MassDEP if that's the course he would like to take.

Motion:

B. Buitenhuis motioned and W. Standish seconded the motion to DENY the Notice of Intent application for these reasons:

1. The mound identified for compensatory storage is unpermitted fill in the floodplain, so the project cannot rely on this mound for compensatory storage;
2. The applicant failed to provide further flood storage calculations that do not use the mound, as requested by the Commissioners during the May 13, 2020 meeting;
3. Without the mound, the applicant failed to demonstrate that the project provides compensatory storage for each elevation interval between elevations 95-ft. and 100-ft.; and
4. The letter from the peer reviewer Paul Chisholm, P.E., of Keach-Nordstrom Associates, Inc. dated May 26, 2020 confirmed the Commission's determination that without the mound the project does not provide compensatory storage for each elevation interval between elevations 95-ft. and 100-ft.

The motion passed unanimously, (6-0).

Enforcement Order

Roman Catholic Archbishop of Boston Cemeteries
117 Boston Road
Lowell, MA 01852

Violation Location: 117 Boston Road 01852

Building and storing of large machinery and other materials within the 100-ft. Buffer Zone to Bordering Vegetated Wetlands and on property owned by the City of Lowell.

On Behalf:

Michael DeRosa, DeRosa Environmental Consulting, Inc.

Offered Comments:

Discussion:

Chairwoman Varnum summarized the situation of dumping of materials, landscaping debris, and construction debris to the rear of the cemetery, which have pushed into the wetland over a number of years. They have been sent a restoration plan from DeRosa Environmental. This restoration plan, is one of the best plans that she has ever read. It covers a lot of ground.

Mr. DeRosa said that he started the firm in 1994. He has been working in the north shore of Boston, east of Framingham since that time. They have been involved in a lot of ecological restoration and mitigation projects. He has worked with Archdiocese of Boston since 1996. He is a professional wetlands scientist and a licensed site professional. He also deals with brownfield sites. When he walked on this property and talked with Francesca in DPD, he was astounded at the amount of fill that had been deposited on the town property. In some areas there is 10-12 feet of fill. The first thing he did was delineate the boundary of the wetlands. There are two wetland areas. He worked with The Morin-Cameron Group, Inc. They located the extent of fill as well as installed the wetland flags. He worked with them on determining preexisting contours based on the City's GIS information. It is all approximate, but after ground truthing it makes sense. There are 3,800 cubic yards of material deposited here. Portions within the wetland, most within the buffer zone. They will restore the forest. He described the wetlands and lot. Some soil from grave excavations and others from a tree company that has been using the site and is in the process of being evicted. They overlaid the City GIS topo underneath the existing conditions and noted the 10-12 feet of fill. They have conducted that analysis up to the limits of fill. The objective is to remove the fill from the site. They will be adding erosion control at the base of the fill and edge of the wetland. They will need to use a compost filled sack. It has weight and structure so that it doesn't move. May also put orange construction fencing behind it to have visual barriers for end of work zone.

Commissioner Standish suggested a mulch tube and a silt fence.

Mr. DeRosa said that at some point they will hit native soil as they peel back the fill. They want to ensure that it is a strong enough erosion control structure. He will be out there as they peel things back with the excavator. When they get to existing grade there is a chance that the wetland extends further into the property than they think. They will be very careful as they peel things away. They should find the organic soils.

Commissioner Buitenhuis asked what the GIS said about the shape of the wetlands.

Mr. DeRosa said that the plan includes the GIS shapefile for the wetlands as well as their marking of the wetlands. He believes the wetland is up around the 100-ft. elevation.

Chairwoman Varnum asked if there are any hazardous materials in the fill.

Mr. DeRosa said he can't imagine that there would be, but they don't know for sure what has been brought in. Francesca was out there before him. There were junked cars out there, a number of different things that shouldn't have been there. Those junked cars have been removed. But he doesn't know the source of the material. He did an assessment with aerial photographs. They will be screening the soils. Segregating the materials that need to go offsite for disposal: solid fill, concrete, bricks, other construction debris... that's what he anticipates finding. If they find hazardous materials, everything will stop and they will need to deal with it in a different manner. He would like to bring the material outside the buffer zone. They will prep the area first so that there is room. He estimates that there are 3,800 cubic yards, which is a lot of material to pull out. He would like to compost what is compostable. He is not sure how much solid material will need to be removed. They will have dumpsters for the disposable material. He is hoping to compost and use the organics on-site.

Commissioner Standish asked if there are plans to install a silt fence or erosion control around the staging area. He can't see the grades, but he assumes it runs downhill toward the wetlands.

Mr. DeRosa said there is a berm. He thinks they will be okay, but they will look at it when they put the erosion control out. The staging area will also be at least 100-ft. to the wetland.

Commissioner Lovely said that 3,800 cubic yards is about 250 truck loads on a triaxle truck. He asked how they will spread it on-site or take it off-site.

Mr. DeRosa said he is not sure yet. Depending on how much concrete, wood, construction, debris... if that's the majority of the fill, then it will all go off-site. Apparently, the gentleman ran a tree company. He made firewood. They haven't gotten into it yet. A lot of this will be field determined. His sense is that if it is historic interment, excavation, material then it will probably be sand and gravel from the cemeteries around the area. They may just end up just moving it off-site. They don't have unlimited room to store it at the cemetery. There will be phases. The next step is to interview contractors. They will bring it 2-3 contractors to interview.

Commissioner Lovely said if a lot of it needs to go off-site, then there will be protocols for hazardous waste, including manifests, etc. for the receiving facility.

Mr. DeRosa said they will, although they hope that they will not need to. It would become a whole different project.

Commissioner Lovely said that depending on how dry the stuff is...

Mr. DeRosa said they will perform dust control. They will likely use sprinklers. Any cured material will be seeded with probably a clover mix. They will do dust control and keep things wet.

Commissioner Lovely said it sounds well thought out.

Mr. DeRosa reviewed aerial photos to document the emergence of the fill. He noted a significant difference between 2017 and 2018, with the pile up of logs. A chipper or log splitter in the space. The canopy removed. 2019 shows even more stuff. The photos chart the expansion over the last few years. He wanted to emphasize the elimination of the canopy. With the restoration plan, he would like to return the canopy. Bringing back red oak, hickory, and American beech. They are climax forest species. Oak and hickory are present today. In the understory, he would like to bring in winter berry, elderberry, high bush blueberry. Also, an upland grass mix. Lots of drought tolerant things. Shrubs and other plants for the wetlands. The objective is to bring back the canopy and return a functioning upland area. There will be monitoring. Usually do two years. For restoration areas of this size, he often looks for a five-year approval. This isn't a Notice of Intent. The work would be under the Enforcement Order. It would be an administrative consent order, with the Commission managing the work locally. This way it doesn't get bogged up in the Notice of Intent permitting. They will start planting this summer and get it stabilized by the fall. There is an invasive species piece. Nothing better than an invasive species likes is disturbed soil. He is

asking the Commission for permission to go forward with the plan as proposed. His intent is to keep Francesca involved completely along the way. He has annual update report and can also do more frequent reporting during the actual removal process. He has been directed by the Archdiocese to do whatever the Commission would like them to do.

Chairwoman Varnum said the plan is a good one. It appears ready to go for this planting season. She doesn't have any more questions. Updates would be nice, sent into the Planning Department.

Mr. DeRosa said that when they work with the state, they have a preconstruction meeting. He would do so with Francesca once they have erosion control in, just like a standard project. They would do a post-construction report. Once get to the end of a phase, like the end of removal, he would send a written report to the Commission to memorialize the end of the piece. He would do one after the plantings are installed. Annual monitoring report thereafter. Will be out there quarterly.

Chairwoman Varnum said that sounds adequate. Anyone can go out to check progress from the Commission. Looking for a motion for approval for this plan.

Motion:

W. Lovely motioned and P. Downs seconded the motion to approve the restoration plan dated May 21, 2020 prepared by DeRosa Environmental Consulting, Inc. with this condition:

1. The responsible party shall provide periodic progress updates at a frequency determined by the Conservation Agent and the responsible party's environmental consultants.

The motion passed unanimously, (6-0).

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 Bordering Vegetated Wetlands.

On Behalf:

Leonel Galvez, Owner, 5 Billings Street

Offered Comments:

None

Discussion:

Chairwoman Varnum said they have another Enforcement Order. It was sent to Leonel Galvez at 5 Billings Street for dumping and storage of mulch within Bordering Vegetated Wetlands (BVW) and Buffer Zone to BVW. She was by the property a couple weeks ago. The property was the first project in the City that she was on the Conservation Commission was for. The house goes back quite a way. They had their doubts about the proximity to the wetland area, which is rather small. It has lasted quite a few years without too much encroachment. She can understand that with the yard that was rather bumpy up and down and she can understand the tendency to want to level it off and get a more useful area. Anything within 100-ft. comes within their jurisdiction. In this case, she doubts if permission to leave woodchips would be forthcoming. They have to talk about how to get the chips out of there.

Mr. Galvez said that they put wood chips there because they have little kids at home and he would like to make a swing set for them. He never thought that they would have that problem. To take the woodchips out would be a lot of work and money. Honestly, he doesn't have the money. He will not put any more chips there. He asked if there is any chance that they can leave the chips there.

Chairwoman Varnum said that she didn't go onto the property to dig down to see how deep the chips were. It appeared to be several large truckloads. Unfortunately, that's what happens when you aren't aware of the regulation. It starts costing money to reverse things. Because there is such a small space there and it is so close to the wet area, she doesn't see a way that the chips could stay. It is not something that is stable. It could wash into the wet area over time and fill it up.

Mr. Galvez said he would not put any chips. He would like to put something for his kids. He could add plywood to avoid going into the water.

Chairwoman Varnum clarified that he would like to put a barrier there. She thinks there is opportunity in the yard to make a flat area for the swing set without first raising the elevation of the soil. Thinks there is space for a swing set. The Commission might entertain flattening it out by moving some of the natural fill there slightly. As far as bringing in truckloads of woodchips, that is not something as being approved. It's not just a little number of woodchips like under the shrubs in front of the house. This is large truck loads.

Commissioner Standish said that from the picture and what he has looked at on Google Maps, it looks like quite a lot of chips and they look very near to the wet, ponded areas. it's not good to have them there. There has to be some other course of action without chips.

Commissioner Buitenhuis said he understands at the desire to have a flat area, but that is a different project based on what they are looking at here with the Enforcement Order. The Commission just needs to decide whether to require the wood chips to be removed.

Commissioner Standish would require the wood chips to be removed.

Commissioner Lovely said he empathetic to the cost. The Commission has been consistent when things like this have been done. They have required the violator remedy the situation. They have had driveways cut in half. They can be flexible in terms of timing, methods, and approaches to minimized cost. He agrees that leaving the wood chips there would not comport with the Wetlands Protection Act.

Commissioner Downs said he is in the same boat. That is a significant amount of wood chips. He can't see how they would allow them to be left there.

Chairwoman Varnum said that fortunately with wood chips it's easy to determine what is new, added, or was there originally. The faster they are taken out the better. They might be able to be repurposed elsewhere. They could be worth something to someone looking to buy wood chips. They ratified the Enforcement Order last time. Now they need a restoration plan, the plan should include how it they will remove the chips. Where will they be taken and the time frame for this to be accomplished. She said they will take a vote.

Commissioner Buitenhuis reiterated to Mr. Galvez that the plan should it go back to the Commission or could it be through the Planning Department.

Chairwoman Varnum said that in this case it is fairly cut and dried in terms of what was put in there and needs to come out. They are nice wood chips. There is no junk or anything else mixed in with them. The Conservation Office could monitor, but they need a restoration plan submitted. She does not want any more damage done to the wetlands. The trees could be damaged. They may need to do hand work around the tree trunks.

Mr. Galvez said they can work on it and keep the chips off the roots of the trees. He never wants to kill the trees. He can plant some small trees around.

Chairwoman Varnum said she would like to see the restoration first, then planting of trees is something that they usually approve. The removal doesn't have to require mechanized equipment. She can imagine people with wheelbarrows going up to a truck on a gangplank. Remove it the way it is sometime brought it.

Commissioner Buitenhuis asked Mr. Galvez to write his thoughts down for this plan and to submit it to Jared. He can help get that information over to the Commission for their review.

Chairwoman Varnum said they would like to see a plan fairly soon. She would also want them removed before the rainy season in the fall. She would hope to see them removed in the next month or 6 weeks. She asked Mr. Galvez to write up a plan and to go over it with the Conservation Agent. If it's not something that they have talked about tonight as far as the removal and how to do it, then they will bring back to the Commission.

Commissioner Lovely said that if Mr. Galvez was listening to the project before about the cemetery, it is a smaller scale but the same type of effort. The footprint of where he did the work is a lot smaller. Wood chips versus soil. To the point that the other Commission members made, the plan doesn't have to be very in depth. He should lay out his thoughts about what he is going to do, how he will do it, and the schedule. He would like to have the plan by the June 10 Conservation meeting, but certainly no later than the June 24 meeting.

Commissioner Buitenhuis asked if Mr. Galvez has any questions.

Mr. Galvez said it's straightforward, but he is concerned about the money. No one wants to buy the chips.

Commissioner Lovely said that some landfills may like to use the chips for daily cover.

Chairwoman Varnum said he could check with landscapers.

Mr. Galvez said they will try to take something out, but he can't promise 100%.

Commissioner Standish said that Mr. Galvez will need to write a plan of what he thinks is appropriate and the Commission will review it when it is ready.

Chairwoman Varnum said they are interested in the time frame of getting the plan submitted by the June meetings at least. If the plan executed and removed by second June meeting, then that is even better. If the violation lingers, then the Commission can fine people for not restoring areas where a violation has occurred.

Commissioner Buitenhuis said he is expecting 100% removal of the wood chips. He understands that the money is an issue. They do not force work lightheartedly. It may not be possible for him to afford to do it all right away, but it needs to be removed.

Chairwoman Varnum said they are looking for a plan to remove the chips in their entirety. He should ask around, probably someone who wants chips may use them. Mr. Galvez needs to get in touch with the conservation office within the next week or so with a plan. Don't wait on this.

Mr. Galvez said that he doesn't have any questions. He just needs time to get the chips out. Needs to put money together and look for people who can help him.

Chairwoman Varnum said she understands the difficulty, but that's the situation. He came about the information to know that the area is protected in an unfortunate way. It should've been in the deed when the house was built.

Mr. Galvez said he put chips there because some homeless people go there. He tries to take care of his family. Some people dump trash.

Chairwoman Varnum said that she strongly encourages Mr. Galvez to be in touch with conservation agents and to submit a plan in writing. They will help him get it down on paper. She thanked him for attending the meeting and wished him good luck with preparing the plan.

Motion:

None

NEW BUSINESS

Emergency Certification

Lowell Department of Public Works
1365 Middlesex Street
Lowell, MA 01851

Project Location: Clay Pit Brook near to Eleanor Drive and Varnum Avenue 01854

An emergency certification was issued to the City of Lowell Department of Public Works to make a small breach in the existing beaver dam(s) to allow water to flow and abate flooding of homes near to Clay Pit Brook. Humane trapping of beavers consistent with MGL c131 Massachusetts Division of Fisheries and Wildlife regulations is permitted if deemed necessary by a licensed professional to abate the emergency.

On Behalf:

Christine Clancy, Commissioner of Public Works, City of Lowell

Offered Comments:

Discussion:

Chairwoman Varnum said that the problem is a beaver dam on Clay Pit Brook. They gave permission at a recent meeting to make a small breach in the dam, but not to remove the entire dam. Apparently, there were some beavers trapped in that location.

Ms. Clancy said that there was previous Emergency Certification permit in this area that was up by Holt Circle, upstream. The city hired a beaver consultant for that original Emergency Certification permit. He trapped and installed beaver deceivers. As he was doing the work, the consultant found a dam between Varnum Ave and Eleanor Drive. That discovery required a breach to allow water to pass. They had received calls from residents in the Eleanor Drive area of flooding. He didn't have to do any additional trapping, but he did breach the dam and installed a beaver deceiver.

Chairwoman Varnum asked if the situation has been resolved.

Ms. Clancy said that they started this work in April. They will continue to look at this area. The problem started at Holt Circle. Now water is flowing through Clay Pit Brook

Chairwoman Varnum said all they need to do is ratify the Emergency Certification.

Motion:

W. Lovely motioned and K. Dillon seconded the motion to ratify the emergency certification. The motion passed, (5-0-1). Chairwoman Varnum abstained.

Emergency Certification

Merrimack Valley Radio, LLC
234 Central Street
Lowell, MA 01852
Project Location: 280 Totman Street 01854

An emergency certification was issued to Merrimack Valley Radio, LLC to conduct work necessary to control beavers and breach a dam causing high waters and a high voltage hazard at the radio tower near to Clay Pit Brook.

On Behalf:

Sam Poulton, Merrimack Valley Radio, LLC

Offered Comments:

Discussion:

Chairwoman Varnum said the next situation is similar. Another Emergency Certification given to Merrimack Valley Radio. They had a situation here in past years. If the dam is in the same place, then the location is in state forest land but just to the south of the WCAP radio towers. Water rises and causes chance of electrical shock by inundating the bottom of the electrical towers. Apparently, there is a problem with safety. They were allowed to breach the dam, but she is hopeful that they did not remove the entire dam.

Mr. Poulton, said that as the Chair mentioned it has been an ongoing problem for many years. They had a plan in place that was successful for 5-6 years. But they had an interruption of that plan. At its worst, they had a backup of about 3 feet of water that shorted out the electronics. Of late, they have been working with Eric Slagle who has been terrific. They have not removed the dam. The dam is about 200-ft. long. It takes a very long time at a 3x3 breach to lower the water level. They have been doing that right along since... goes back to about March. He hired Patrick Musto, the trapper who has been trapping for them. The water level is down. He was out with Patrick today and he thinks that they are down to the last two beavers. There is still activity. They are very industrious. They repair the breaches within a day or two. Obviously, the only way to stabilize the site is if the beavers go away. They have stakes throughout the site that show the water level and when it would be in danger of the electronics. They never lower any more than that. Right now, things are safe. They keep coming back and filling in the small breaches. That's where they are.

Chairwoman Varnum said this another case where the work for the moment is completed.

Mr. Poulton said that the completion should be tomorrow by the permit. Patrick does not think that they are done. They are substantially done. The site isn't stable yet. He would like to have the site stable and have the flooding stop. It is very, very expensive.

Chairwoman Varnum asked if with summer coming the water levels will decrease naturally.

Mr. Poulton said that the problem is being helped by the work being done downstream. They have a dozen dams downstream of them. They have had a problem of people releasing water upstream without any permits, but looks like it's just over the city line. Have water regularly coming downstream that inundates them. Clay Pit Brook goes right through the site. He would think the water would go down naturally. It's better today. Eleanor Drive is very close. Although not directly downstream, he believes the work helped them.

Chairwoman Varnum said that if things are better, she would like him to take a break. If the order is up tomorrow rather than renew it immediately.

Mr. Poulton said that Patrick's traps are out. He was led to believe that they are no so close to being done that what happened two years ago would not happen again. But he would respect the Commission's wishes. He has

spent close to \$2,000 making 3x3 breaches to lower 1 million gallons of water. 3x3 at a time. Patrick needs another couple days to finish his trapping.

Chairwoman Varnum said that she is in the minority. She has been voting against beaver situations right along, which is why she abstained on the last vote. She can't give a death sentence to a wild animal. She said they are about to ratify the emergency certification.

Commissioner Lovely asked to hear from the applicant about the direction of going an extension or a new order at a later date.

Chairwoman Varnum said that he is almost done. He asked if they need a new 30-day order or just an extension.

Mr. Poulton said that they have been working right along with Eric Slagle. It is massive flooding. The dam system is very, very extensive. To comply exactly with the letter of the law. The breaches have been relatively small. They have been small. Now almost to the point to where the water level is manageable. The trapper, who has extensive dealings with the city. He believes they are down to 1-2 beavers. Nothing was caught yet in the new traps. He has traps out there now. He would like to be allowed to continue. They have not removed the dam. The goal is to manage the flooding. According to Patrick's expert opinion, the only way to finish is to get the last stragglers. He believes that it will be under control in the next few days. Flooding occurs very rapidly. Breaches and trappings are expensive. The damage to the equipment has been expensive. it's also dangerous. 18,000 volts of electricity there. The Recently retired fire chief came out. He has kept everyone in the loop. He would like to complement Eric Slagle. He has been excellent and understands the situation. They are on the 2-yard line would like permission to bring the ball over the yard line.

Commissioner Lovely said that by another 30-day extension water levels should be going down. He would hope that things stabilize even without trapping the remaining beavers.

Mr. Poulton said that he would certainly hope so. He doesn't think the rainy season would extend into July.

Commissioner Lovely said this is a common challenge where urban areas come into contact with wildlife. He struggles with the right decision, but he would support a 30-day extension.

Motions:

W. Lovely motioned and K. Dillon seconded the motion to ratify the emergency certification. The motion passed, (5-0-1). Chairwoman Varnum abstained.

B. Buitenhuys motioned and W. Standish seconded the motion to extend the work permitted by the emergency certification by an additional 30 days to June 27, 2020. The motion passed, (5-0-1). Chairwoman Varnum abstained.

Request for Determination of Applicability

Nitsch Engineering c/o

City of Lowell

375 Merrimack Street

Lowell, MA 01852

DEP#

Project Location: 50 Father Morissette Blvd., 55 French St., 75 Arcand Dr. (Lowell High School) 01852

A Request for Determination of Applicability has been filed by Nitsch Engineering on behalf of the City of Lowell to demolish an existing medical office building, partially demolish the existing school building, demolish and replace the existing pedestrian bridges, and rebuild, renovate, and expand the Lowell High School. The work will include activity within 100-ft. of the Merrimack Canal and within the canal bed.

On Behalf:

Joe Drown, Perkins Eastman
Jonathan Hedlund, Nitsch Engineering
Chris Walentin, Suffolk Construction
Evan Davenport, Traverse Landscape Architects

Offered Comments:

None

Discussion:

Chairwoman Varnum summarized the project. She noted that several people are present representing the project.

Mr. Drown said that they were in front of the Commission several months ago. They started the project back in 2016. They are now in the middle of construction documents. They will put out an early bid package for the demolition of the medical office building and the steel and concrete of the gymnasium in August 2020. The rest of the project bid will be out in 2021. They have series of phases that start with the gymnasium and the work will finish in summer 2026. He described the existing site plan. They are moving one of the pedestrian bridges away from Father Morissette. They are replacing the southern bridge in its current location.

Mr. Hedlund said the project is in front of the Commission for a Request for Determination of Applicability (RDA) because they proposing work within 100-year floodplain and within the buffer zone to the canal. He described those areas. He noted the temporary protection that will be in the canal during construction of the bridges, as requested by the owner of the canal. Erosion control will be installed around the property line and surrounding the bridge foundations. They are proposing to stockpile within the buffer zone because of site constraints. They have a Stormwater Pollution Prevention Plan (SWPPP) for the project, which the contractor will follow to limit erosion in this area. He discussed the site utility plan. They will infiltrate the half inch storm with one large and two smaller infiltration systems on the west side. On the east side, they will have a detention system. Previously, they had presented plans to have water go into the canal, but that is not the scheme they have finalized. Detention will mitigate water going into the Kirk Street system. Public Works agrees with this plan. They are not altering the footprints within the 100-ft. buffer zone to the canal, with the exception of a new walkway or place.

Chairwoman Varnum said that she received some comments from DPD and she believes that they have addressed all of them.

Commissioner Lovely said he recalled the project being presented when it started. He asked if it was presented as an overall Notice of Intent or if it was just an informational briefing.

Mr. Hedlund said that the presented previously for informational purposes. They showed two schemes: bore through canal and have a new outfall. If they would have gone with the former then they would have gone with a Notice of Intent. The second scheme was to connect to city system, so they have chosen the RDA.

Commissioner Lovely remembered a comprehensive presentation, but he couldn't recall if it was formal or informational. He thanked them for clarifying.

Chairwoman Varnum said they have had work in or near canals before where they put netting or debris catching. She asked if the water will be drawn down during work. She asked if that sort of netting is unnecessary.

Mr. Walentin said they will probably leave the water where it is. They can install netting or tarps. The scheme will be to demolish as much as possible inside the buildings. They will use a large crane to take down the existing

bridges in sections. They will do the same with new bridge. They will do the cladding from the bridge structure. There will be minimal risk to any things running into the canal.

Chairwoman Varnum clarified that there will be no tiny pieces pulverized and that they are not blowing up bridges. They are pre-fab types of bridges.

Mr. Walentin said structure itself will be pre-fab. They will clad with glass and add the roof from the structure itself.

Chairwoman Varnum asked whether the trees need to come down. She asked about their plan to protect them, especially when they are driving back and forth construction equipment.

Mr. Davenport said that he will be working with construction managers before and during construction to put in place proper tree protection measures. The intent is to protect and maintain all of the trees, as many trees as possible along the canal.

Chairwoman Varnum asked if any work will involve getting up against canal walls or fencing along the top of the canal.

Mr. Hedlund said that the erosion control fencing will be along the property line. They are limiting fencing along the canal edge.

Chairwoman Varnum so no one working within zone between property line and canal wall.

Mr. Hedlund said except for area where bridges are.

Commissioner Lovely said that looking at the overall scope of the project and portion within jurisdictional area. He sees that controls are being put in place. They have conducted outreach with most affected stakeholders. He sees this going the route of an RDA. He is willing to offer motion for Negative III.

Commissioner Buitenhuis said he would like to review the SWPPP.

Mr. Hedlund said they can submit them when they are available.

Commissioner Buitenhuis said he is fine with adding a condition of approval based on provision of the SWPP.

Motion:

W. Lovely motioned and W. Standish seconded the motion to issue a Negative III determination with this condition:

1. The applicant shall provide a copy of the Stormwater Pollution Prevention Plan to the Conservation Agent.

The motion passed unanimously, (6-0).

OTHER BUSINESS

Minutes

May 13, 2020

Commissioner Lovely said there are few things to fix. He is not prepared to approve them. A couple things were typos and others he would like to get factually right. He doesn't want it to be taken as a criticism. There was a lot of conversation.

Chairwoman Varnum said that it is not always easy to catch who's speaking. She postponed the vote on the minutes until the next meeting.

ADJOURNMENT

W. Lovely motioned and K. Dillon seconded the motion to adjourn the meeting at 8:48 PM. The motion passed unanimously by acclamation, (6-0).