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**ADAMS CONSERVATION COMMISSION
MEETING MINUTES**

THURSDAY, MARCH 4, 2021

6:30 P.M.

MEMBERS PRESENT: Chairman James Fassell and Commission Members Brian Bishop, Tom Robinson, David Lipinski and Natasha Bordeaux

MEMBER ABSENT: Vice-Chairman Tammie Shafer

OTHERS PRESENT: Donna Cesan; Mark Stinson, MA DEP; Luke Distefano, Bohler Engineering; Attorney Tom Reidy, Bacon Wilson; Peter Yeskey, First Hartford Realty Corp.; Elizabeth Irwin; Joshua Swerling; Wayne Piaggi; Greg Lucia; W. Peter Gutmann; Anita Gutmann; Scott Stafford, *The Berkshire Eagle*; Tammy Daniels, *iBerkshires*; Rebecca Ferguson and Recording Secretary Pam Gerry

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CALL TO ORDER: Chairman Fassell called the meeting to order at 6:30 P.M.

Administrative Assistant, Pam Gerry reads the pandemic waiver.

APPROVAL OF MINUTES: Chairman Fassell requested the Commission members to approve the minutes of January 14, 2021.

A motion made by Member Lipinski, seconded by Member Bishop to approve the minutes of January 14, 2021 as submitted, passed unanimously. A roll call vote was taken 5-0 with Chairman James Fassell and Members David Lipinski, Brian Bishop, Natasha Bordeaux and Tom Robinson voting in favor.

NOTICE OF INTENT: filed by Cumberland Farms, Inc. for property located at 5 Elm Street, 89 & 95 Commercial Street. Proposed construction of a gas station and convenience store facility.

Chairman Fassell invited the applicants to address the Commission members. Peter Yeskey with First Hartford Realty Corporation introduced the other members of the team working on behalf of Cumberland Farms: Luke Distefano, Bohler Engineering, and Attorney Tom Reidy, Bacon Wilson

representing Cumberland Farms. Attorney Reidy offered background information to the process they have been following to move forward on the proposed project. He explained that Cumberland Farms had originally applied to the Zoning Board of Appeals several years prior requesting a Variance which they had subsequently withdrawn. He continued stating that the Town had completed a district zoning change and this action permitted a path forward for the proposed development at this site. Attorney Reidy stated that this was their first presentation before the Conservation Commission. He let them know that Cumberland Farms would be seeking approval from the Zoning and Planning Board's in the near future, as well. Attorney Reidy stated that they would request continuance of the meeting this evening in anticipation of the peer review. He stated that their presentation would offer an opportunity for the Commission to observe what they proposed to do at the site, as well as any potential impacts that they would be mitigating. He explained further that Cumberland Farms would be undertaking significant cleanup activities to address the environmental contaminants at the project's site.

Chairman Fassell introduced Mark Stinson from the Massachusetts DEP, noting the Commission always appreciates his assistance regarding any regulatory questions that may arise.

Attorney Reidy turned the meeting over to Luke Distefano who began his presentation by stating that most of the town was familiar with the proposed project site. He stated that this would be a good redevelopment plan pointing out the area on the site plan. Mr. Distefano explained that the development would be located on the intersection of Elm, Commercial and Prospect Streets. He stated that it was currently developed as a vacant former gasoline facility which he noted would be considered a "junkyard" with several residential structures on the property. He stated that the site is over 65,000 square feet on the intersection of Elm, Commercial and Prospect Streets and adjacent to the Hoosic River. He explained that everything on the property would be demolished, including above ground and below ground features and removed from the site. He stated that Cumberland Farms would redevelop the site with a gasoline facility and convenience store. Mr. Distefano informed them that the convenience store would be approximately 4,384 square feet located in the direct center of the property continuing to note that the building would be serviced by twenty-seven parking spaces on the north, east and south sides of the building. He stated that they proposed to install four fueling pumps that would have the ability to fuel eight vehicles at one time under a 24' x 122' area canopy. He continued by stating that the site would include two curb cuts located on Commercial Street in the southeast corner of the property, in addition to Prospect Street on the north side of the site. He wanted them to know that they would be reducing the number of curb cuts that presently existed. Mr. Distefano stated that Cumberland Farms was attempting to maintain as much of a green space as possible. Mr. Distefano stated that it would be a 50-50 condition when you compare impervious areas to open space. He stated that a major improvement was being made to the Stormwater Management. He explained that under the existing conditions the site "runs untreated and unchecked into the abutting rights of ways." He stated that under the proposed conditions within the Notice of Intent and drainage reports submitted to the Conservation Commission, Cumberland Farms planned to "completely capture and infiltrate all runoff from this location." He stated that the catch basins would collect the runoff from the property and be conveyed through some pipes to proprietary stormwater quality units where it would be pretreated prior to entering the infiltration basin located near the dispenser's and Elm Street. He emphasized that this process would reduce runoff rates for all storms up to and including the 100-year design storm. He stated major improvements would be made to stormwater quality and quantity exiting the site. He stated that their extensive landscaping plans would provide buffers "to soften the site" for residential neighbors. He stated that all utilities would be updated and improvements would be made to the existing conditions. In conclusion to his

presentation, he stated that their lighting plan was designed to put state of the art lighting located near "activity areas" and not near the abutting neighbor's or rights of ways. Mr. Distefano stated that the fuel dispensing system would meet all federal and local requirements and would be monitored 24 hours a day, seven days a week. He pointed out photos of the sites and the proposed outcome while emphasizing to the members that Cumberland Farms had always maintained a quality façade. He wanted the Commission members to know that the town would observe a "much better property under the proposed conditions." Mr. Distefano stated that he would be happy to accept any questions the Conservation Commission members or the public would have at this time.

Attorney Reidy turned the meeting over to Mr. Yeskey requesting that he review the remediation process prior to opening the discussion for the Conservation members and the public audience.

Peter Yeskey addressed the Commission members by stating that the site had environmental concerns, with junk cars and eight underground storage tanks which were removed. He continued to note that they had soil concerns on site. He stated that they estimated a cost of \$200,000.00 for soil remediation work to be performed but assured the Conservation Commission that any soil that was required to be treated would be removed from the property. Mr. Yeskey stated that they planned to remove 3,000 tons of soil. He further noted that Cumberland Farms was prepared to perform an extensive clean up with any environmental concerns to "tackle the problem." Attorney Reidy asked him to clarify the procedure that Cumberland Farms would follow to bring new and clean soil into the site. Mr. Distefano addressed him by stating that they would be bringing in clean and natural fill which he noted would be a big improvement over the existing conditions at the site.

Attorney Reidy addressed Chairman Fassell to state that they were prepared to answer any questions the Commission Members or general public had at this time. Chairman Fassell addressed Commission Members asking them if they had any questions for the applicants or if there were anyone from the public wishing to speak.

Member Bishop stated that he reviewed the plans and he stated that it was "well addressed," adding that as long as the project met MA DEP standards, then it should be acceptable.

Member Lipinski stated that the applicants had done a "tremendous job" and the proposed project would be a "huge upgrade." He further noted that as a lifelong resident of Adams and a Conservation Commission member he applauded their proposed plans and looks forward to the completed project.

Member Robinson stated that over the years serving on the Conservation Commission stated that "It was one of the finest proposals I have seen." He thanked the applicants and stated he looked forward to viewing their completed project.

Member Bordeaux stated that their proposed project would be an improvement to the property. She further noted that the visual appeal would be much cleaner looking especially with the green space added to the site.

Chairman Fassell expressed concern that the property had over the years had become "a traveling junk shop." He stated that "this was a great project for the area."

Donna Cesan requested Chairman Fassell to explain how the Commission had recently engaged Hill Engineers to perform a peer review with Wetland Scientist, Emily Stockman. Chairman Fassell stated that the consultants had been hired by the Commission, given the complex and highly technical nature of the proposal, to ensure the requirements of the Wetland's Protection Act and MA Stormwater Management would be properly addressed.

Chairman Fassell opened the meeting to public comment.

Peter Gutmann, a resident of Adams addressed the Commission Members to ask the applicants where the contaminated soil would be relocated. Mr. Yeskey stated that the contaminated soil would be taken to an off-site facility that would adhere to MA DEP standards for hazardous material removal. Mr. Gutmann was curious to know if the soil would be stored in Berkshire County, MA. Mr. Yeskey stated that he could not be sure of the exact location.

Attorney Reidy stated that the soil would be tested on site and at that time they would determine the "end resting place for the soil" through MA DEP with the proper filing procedures being followed.

Mr. Gutmann asked what measures would be taken to control erosion while the soil was stored on the property. Attorney Reidy explained that the soil would have a waterproof cover and the installation of haybales and silt fences would surround the piles of soil. He assured Mr. Gutmann that this activity would be "dictated by the LSP, "licensed site professional," that would classify the soils and determine the outcome.

Mr. Gutmann had further concern to discuss regarding the soil removal. He wanted to know the reason that the Conservation Commission had taken this project under their review. In response, Chairman Fassell stated to him that applicants should come to the Conservation Commission first before appearing to other municipal boards. Ms. Cesan added that the project was within the Riverfront Area and within the jurisdiction of the Conservation Commission, who is responsible for enforcing the Wetlands Protection Act in Adams.

Elizabeth Irwin, a resident of Temple Street and an abutting neighbor to the proposed site addressed the Conservation Commission stating that she was excited about the anticipated project. Ms. Irwin told them that she had tenants occupying her two-family home and had various concerns with the site plans. She was curious to know if Cumberland Farms would install a fence on their property to provide screening in regards to her property.

In response to her question, Mr. Distefano stated that they planned to install a 6' vinyl fence that would run along any portion of the site that did not front on the street, noting that the small portion on the west side adjacent to Temple Street would also have a fence.

Ms. Irwin wanted the applicants to understand that in the evening during the warmer months, their windows would be open. She requested that the applicants consider starting and stopping their commercials at the fuel pumps during different times that would accommodate them. Ms. Irwin stated that during the hours from 7:30 a.m. to 8:00 a.m. would be a more appropriate time to begin the commercials and she concluded by mentioning that at an earlier time in the evening would be more conducive to their living conditions.

Greg Lucia, a resident of Adams addressed the Commission Members stating that he had been following the progress of the Cumberland Farms project over the years. He stated that this project would be a positive start to the redevelopment of the Route 8 corridor.

Mark Stinson, DEP addressed the Commission Members to ask them if the emails he had submitted to the Conservation Commission Office were shared with the members and they stated that they had received them. He wanted the members to know that if they had any questions in regards to the content of the emails or any regulatory questions, that they should contact him.

Wayne Piaggi, a resident of Adams addressed the applicants to thank them for their proposed project in Adams. He stated that the town's residents should be impressed by how well Cumberland Farms "rebuilds their properties to remediate the situation to the final product."

Ms. Cesan addressed Chairman Fassell to ask him if he knew the timelines involved in the peer review process that was being conducted by Hill Engineering. He stated that he spoke with Mr. Harris from Hill Engineering who conveyed to him that they would need approximately four weeks to complete the review. He further noted that Emily Stockman was hired as their subcontractor to represent them with regard to the project, noting that Cumberland Farms was funding this peer review.

Chairman Fassell stated that the applicants would need to request a continuance from the Conservation Commission to extend their presentation four weeks while the peer review was being conducted. Attorney Reidy addressed the Commission members to state that they would agree to continue their meeting.

A motion made by Member Robinson, seconded by Member Lipinski to continue the meeting for four weeks to conduct the peer review and have the required reports submitted to the Conservation Commission.

Ms. Cesan suggested that the Commission members should consider setting the date for April 8, 2021 at 6:30 P.M. to continue their meeting. The applicants agreed that this date would be satisfactory.

Attorney Reidy responded by stating that if there were any additional comments regarding peer review prior to the next scheduled meeting that this would be beneficial for the applicants to know.

A motion made by Member Robinson, seconded by Member Lipinski to amend the motion to continue their meeting to April 8, 2021 at 6:30 P.M. to discuss the submitted peer review, passed unanimously. A roll call vote was taken with Chairman James Fassell and Members Tom Robinson, David Lipinski, Natasha Bordeaux and Brian Bishop voting 5-0 in favor.

OLD BUSINESS: NEW BUSINESS:

Status of the Emergency Certificate-Cross/Grant Street

Chairman Fassell stated that Member Robinson would review the Emergency Certificate on Cross and Grant Street.

Member Robinson addressed the Commission members by stating that there was a problem on Cross Street with stormwater runoff from the drainage project being conducted by the Town of Adams and

Maxymillan. He further noted that he brought this issue to the attention of the Conservation Commission Office to obtain assistance in resolving the serious emergency situation. He began by letting the members know that stormwater runoff was running onto Cross Street and down Grant Street which began to freeze in the area. Member Robinson explained that the Town's DPW used sand bags to divert the water into the manhole. He stated that it "semi-worked," adding that there was an improvement to the situation. Member Robinson stated that a site visit and a review of the problem was completed. He mentioned that he emailed the Commission Members a letter in respect to the site review and a "disagreement" with the review. Member Robinson stated that he spoke with Donna Cesan regarding the Town's goal in resolving the problem, noting that the problem had not been resolved but it had "been contained." He stated that he requested that a follow up of the situation be performed in the spring with a resolution to the major problem that would not burden the town financially. He wanted the Commission to know that he moved forward on this situation as an abutter to the project and not as a member of the Conservation Commission.

Chairman Fassell addressed the Commission Members stating that an Emergency Certification was put in place on February 2, 2021 to allow the Town to address the emergency situation quickly. He mentioned to the members that Mr. Stinson from MA DEP stated to him that the Conservation Commission should have waited until the emergency had presented itself and dated the document within that timeframe. Chairman Fassell emphasized that he recognized Member Robinson's concerns and he was anxious to respond to the situation. He stated that the Conservation Commission had a Request For Determination that was previously filed on this project, which they can use "to satisfy the problem."

Mr. Stinson wanted them to know that when he observed the site on the GIS map, he was not sure of their jurisdiction under the Wetland's Protection Act. He stated that the Commission should wait to issue an Emergency Certificate on the day before the work begins, noting that they expire in 30 days and the Commission was not be allowed to grant an extension past that time. He stated that the Commission needed to vote on the Emergency Certificate to ratify it.

Mr. Stinson addressed the members asking them to determine where their jurisdiction would be. He added further that running water coming from the ground does not make it a regulated area. Mr. Stinson stated that the Commission should always determine their resource areas. There was additional discussion on the Emergency Certificate. Mr. Stinson addressed the Commission to offer several options to choose, "ratify, not ratify or amend before ratifying, or withdraw the Emergency Certificate."

Member Bishop stated that he was hesitant on voting on something the Commission was not clear on and they should be assured that they had jurisdiction in this area.

Member Lipinski stated that the drainage project voted on by the Commission in the past could be considered a part of the connection to this water problem in the area. He stated that this could be how they could determine whether they had jurisdiction in the area.

Member Bishop stated that he assumed there were some wetland areas where the water was located.

Member Robinson stated that the project area previously addressed by the Conservation Commission included the site off of Cross Street. He stated that the wetland scientists had reviewed the site and

conditions were set in place by the Commission in the isolated vicinity only where the water had originated. He further noted that the other portion of the project water was to be contained in the pipes.

Member Lipinski stated that the Conservation Commission determined that they had jurisdiction in this area.

A motion made by Member Robinson, seconded by Member Lipinski to ratify the Emergency Certification, passed unanimously. A roll call vote was taken with Chairman James Fassell and Members David Lipinski, Brian Bishop, Natasha Bordeaux and Tom Robinson voting in favor 5-0.

REVIEW MAIL: The mail was available for the Commission members' review.

ADJOURN: A motion made by Member Lipinski, seconded by Member Bishop to adjourn the meeting at 7:40 P.M., passed unanimously.

Respectfully Submitted

Date

Ram Berry

4-14-21