

Holyoke Conservation Commission Meeting Minutes 12/2/2021 (Remote via Zoom)

Conservation Commission Members Present: Michael Dodge (Chairperson), Bernice Bowler (Vice Chairperson), Jeffrey Horan, Mary Moriarty, John Perdrizet, Chelsea Gazillo, Rosemary Arnold

Conservation Commission Members Absent: None

Staff Present: Yoni Glogower (Holyoke Conservation and Sustainability Director)

Members of the Public Present: John Furman (VHB), Jeffrey Dannenberg (attorney), Tom Griffin (attorney), Eddie Fernandez, Adam Mulcahy

1. Call to Order

Chairperson Dodge called the public meeting to order at TIME. He explained the protocols of remote public hearings.

2. Item No. 1 - Public Hearing (Continuation) - Notice of Intent (DEP186-0291)

Applicant: EMB Natural Ventures, LLC

Representative: VHB

Location: 140 and 160 Middle Water Street

Description: Redevelopment of existing buildings and parking lot repaving within Riverfront and 100-foot buffer zone of banks

Chairperson Dodge stated that there has been a site visit since the last meeting. Vice Chair Bowler asked if the Commission could speak about 140 and 160 Middle Water separately to avoid confusion. She stated that the site visit helped clear up some confusion about the separate parcels and what issues were present on each. She then asked if someone could present a map of 140 Middle Water Street in order to address issues. Director Glogower shared a map of the parcels and pointed out different points. Vice Chair Bowler mentioned the debris at the railroad portion of the 200 Riverfront property. She asked for the square-footage of the riverfront area, and John Furman (VHB) stated that there was 7,577 square feet of riverfront area on that parcel.

Chairperson Dodge asked if anyone wanted to comment on the site visit. As no Commissioners had anything to add, John Furman suggested that Attorney Dannenberg walk the Commission through the timing issues with the CCC in relation to the property. Attorney Dannenberg explained that EMB had a provisional license from the CCC, which was acquired in March 2020 after acquiring a special permit from the Holyoke City Council in April 2019. The difference was that the provisional license showed that the Applicant had satisfied the CCC that its operating plans complied with CCC regulations. The provisional license would also allow the Applicant to begin setting up the facility. However, nothing can be built for cultivation until a design is approved by the CCC, and approval cannot be applied for until a building permit is issued by the municipality.

EMB originally planned to renovate an existing structure, but received news from the architects and engineers in 2020 that the structure was unstable and renovation would be both extensive and unsafe for workers. As a result, by mid-2020, the project had changed from a renovation to a demolition and new building construction. Generally, the CCC wants to move applicants quickly from provisional licenses to file licenses because, once a building is launched, revenue can be generated for the Commonwealth and the municipality. EMB received its Host Community Agreement in October 2018. Provisional licenses only last for one year, so one has to acquire a final license or apply for a renewal of the provisional license at least 60 days prior to the expiration date. In this case, the deadline was January 6. Before January 6, 2021, EMB submitted a renewal application and explained the reason for the delay, which was the change in construction plans and the need for additional approval from

city agencies. The CCC granted the one-year renewal of EMB's provisional license. EMB then needed to apply for an amendment of the special permit from the City Council, which was granted. They were told that they needed approval for a demolition permit, which would need to be reviewed by the Historical Commission because of the age of the building, as well as approval from the Planning Board and the Stormwater Authority.

The original plans in 2020 arranged for an employee parking lot at 1 Cabot Street, but the owner of that property changed his mind over time. As a result, EMB negotiated a lease with option to purchase a property owned by Dale Unsderfer (Western MA Demolition) through him and his attorney, Tom Griffin. This opportunity for parking would give EMB the opportunity to expand to the 160 Middle Water Street property for non-cannabis cultivation in a few years. Unsderfer explained to Eddie Fernandez, EMB's principal, the circumstances under which he had purchased the property and took down what had been left of the existing building at 160 Middle Water Street, leaving only the foundation. Middle Water Street is not owned by the city. The abutting property owner is 150 Middle Water Street, which is owned by Uni-Pac, and the owner (George LeClair) raised no objection to EMB's proposals and even helped design the parking lot in a way that will benefit Uni-Pac's employees.

On November 15, 2021, the Stormwater Authority approved the plans with the help and oversight of City Engineer Bob Peirent. The Historical Commission approved the demolition proposal, and demolition took place. With Jeffrey Burkott's help and oversight, on November 16, 2021, the Planning Board approved both the construction at 140 Middle Water Street and the parking lot at 160 Middle Water Street with the agreement that EMB would create a walkway along Middle Water Street and plant some grass and shrubs on unused parts of the property to limit runoff. The only approval that they have yet to gain is of the Conservation Commission. However, EMB only has until January 6, 2022 to submit their application for another provisional license renewal to the CCC, and the timeline is very tight. Attorney Dannenberg requested on EMB's behalf that the Commission consider approval of a 100-foot buffer zone from the 160 Middle Water Street property line to the river, which would essentially match up with the property line between Unsderfer's lot and the Pioneer Valley property line and the river. EMB hopes to purchase 160 Middle Water Street and erect a building similar in location to the one planned for 140 Middle Water Street, both being close to the southern border on the river side of the building, just outside of the 100-foot buffer zone.

Vice Chair Bowler wanted clarification on whether EMB needed a building permit for the building at 140 Middle Water Street for January, and Attorney Dannenberg confirmed that this is the case. Vice Chair Bowler then asked why the lots could not be split. Attorney Dannenberg explained that Assistant Director of Planning Jeffrey Burkott stated that the building permit will not be issued until EMB has the approval of the Conservation Commission, which has 140 and 160 Middle Water Street tied together because they are both in the Notice of Intent. If they could be split up and EMB could get the Commission's approval for 140 Middle Water Street right away, that would alleviate the problem as to urgency, as the parking lot plans for 160 Middle Water Street are less important and will not be pursued until after the building plans for 140 Middle Water Street are completed.

John Furman confirmed this and explained how the properties got linked together. Vice Chair Bowler reiterated that it would be simpler to discuss the parcels separately and asked for clarification on what EMB is looking to achieve. Furman wondered aloud whether the applications can be split with the condition that 160 Middle Water Street is not reviewed or discussed and that any development on that property would require a new Notice of Intent. Chairperson Dodge responded that Attorney Dannenberg said that the city will not issue EMB a building permit without the parking situation first being resolved, and part of 160 Middle Water Street is needed for the parking lot. Furman clarified that the Planning Board would not approve the site without the parking, so EMB opted to file the application for both parcels together. However, Furman added that neither the Planning Board nor Stormwater Authority approval stated that the two sites must be developed together. He then requested that the Commission separate the two properties for purposes of focusing on 140 Middle Water Street at the hearing.

Commissioner Horan believed that the issues could be addressed through conditions as they have done in the past. Chairperson Dodge stated that there are logistical questions. He reiterates that the Notice of Intent is for both properties, but EMB asked to focus solely on 140 Middle Water Street. Chairperson Dodge then asked if they were trying to separate the properties on the application without filing a new Notice of Intent for 160 Middle Water Street. Commissioner Horan opined that the properties could not be split at this point since all of the previous approvals were for both properties. Vice Chair Bowler suggested that they begin with 140 Middle Water Street, see what they can do with 160 Middle Water Street, and see what would need to be conditioned for approval. Commissioners Horan and Moriarty agreed.

John Furman displayed the site plans on his screen and shared them with the Commission. Furman explained that the DEP asked if the buffer zones for 160 Middle Water Street were defined off the high water mark of the river. He said that they are inaccessible due to their location, but VHB have done their best to represent the buffer zone accurately based on what can be seen. The DEP also pointed out that 140 Middle Water Street appears to have had vegetation removed. Furman clarified that it is actually a huge mound of debris. The DEP asked if the large cottonwood on the property would have to come down, and Furman responded that it would. Furman then shared the utility plan with the Commission. As far as the debris pile, Furman stated that VHB will remove whatever needs to be removed from Pioneer Valley Railroad's property in order to establish a temporary working easement. However, VHB does not plan to remove anything on Pioneer Valley Railroad's property that does not interfere with their plans as it is not EMB's responsibility. He addressed the drainage system for 140 Middle Water Street, which was approved by the Stormwater Authority.

John Furman opened up the floor for discussion. Vice Chair Bowler asked approximately how many square feet of debris are on the Applicant's property. Furman estimated that there are roughly 2,100 square feet of debris. Vice Chair Bowler asked if that whole area is to be paved, and Furman stated that part of that area will be the location of the building. Chairperson Dodge asked if there are any other questions, and Commissioner Horan asked what will happen to the homeless encampments currently located at the location of the debris pile. John Furman responded that they will not simply bulldoze the area without warning the occupants of the cleaning plans. He then stated that there is no specific plan as to how to help the homeless find another arrangement. Commissioner Perdrizet asked about what will happen on the southwest side of the property between the green line and the dotted black line on the site plans. Furman explained that it is currently all gravel and that it will remain that way.

Commissioner Moriarty asked if the Commission needs to vote on a variance in regards to the area between the high water mark and where the work is to be completed. Vice Chair Bowler opined that they only need the variance for the 50-foot buffer on the other property. Furman agreed. Commissioner Moriarty then asked what they would need to permit in regards to 140 Middle Water Street. Furman explained that they would be permitting the building, the utility work, the drainage work, and the clearing of the debris. He shared the Layout Materials Plan. Commissioner Moriarty asked if they have what they need to permit work within the buffer zone on 140 Middle Water Street. Furman explained that there would be a manhole that extends into the 100-foot buffer zone but that all of the other work would be outside of it. Commissioner Horan pointed out that the Commission may want to mitigate something to make up for the inevitable loss of a healthy cottonwood tree, as there is no other natural vegetation in that area.

Vice Chair Bowler added that they will want to condition that area between the green line and the dotted black line to be pervious up to the paving on the right side. John Furman pointed out that the property is owned by Pioneer Valley Railroad and that Attorney Dannenberg is still working with them to secure the easements to do that work. Commissioner Moriarty asked if EMB plans to plant grass or do anything additional to the property. Furman stated that the contractor is required to cover any disturbed area with 4 inches of topsoil and seed it to stabilize it and prevent erosion. Commissioner Moriarty then asked the Commission if they have the information they need to confirm if the buffer zone dimensions are correct. Commissioner Horan stated that he believed that the proposed work would be a benefit. Vice Chair Bowler agreed. Commissioner Moriarty asked if

it is too early to vote to accept the proposal. Commissioner Horan stated that he would first want to discuss the plans for 160 Middle Water Street, and Vice Chair Bowler added that she wanted to discuss the variance.

Chairperson Dodge stated that he believed the Commission would need to issue an Order of Conditions before a building permit could be issued by the Building Commissioner. Attorney Dannenberg added that they would need the building permit in order to submit their application for design approval by the CCC, which has a January 6 deadline. Because of this, it would be beneficial to them to receive approval from the Commission at this hearing rather than wait until December 16. Chairperson Dodge and Commissioner Horan speculated as to how quickly an Order of Conditions could be created, settling on the idea of two weeks.

Chairperson Dodge asked the Commission if they are ready to discuss 160 Middle Water Street, and Commissioners affirmed that they were. John Furman displayed the site plans for 160 Middle Water Street and shared his screen. Chairperson Dodge asked for clarification as to whether the lease-to-purchase option was on 160 Middle Water Street. Furman confirmed this and that it is currently owned by Western MA Demolition, who are represented by Tom Griffin. Furman gave a summary of the site walk.

Commissioner Moriarty stated that, while out for a walk the previous weekend, she noted that the pile of debris looked larger. She asked if the owner, Eddie Fernandez, was present and if anybody had been working on the pile. Furman stated that the attorney for the property owner might have been present and asked him to clarify. Attorney Tom Griffin stated that he believed that no work was being done on that site and was happy to work with the Commission to help move the project forward. Commissioner Moriarty reiterated that no work should be done on that site until permitted. Attorney Griffin assured the Commission that he would tell his clients that no work shall be done. Chairperson Dodge asked if Eddie Fernandez had anything to share. Fernandez said that Unsderfer stopped doing work on that property over three months ago. Moriarty asked if Unsderfer had started doing any removal, and Fernandez stated that he had begun the process. Moriarty stated that she believed all work needed to stop and asked the Commissioners if they agreed. Chairperson Dodge agreed but said that the Commission did not issue a Work Stop Order on that site.

Chairperson Dodge went on to explain that, when a site is out of compliance, work stops, and it has to be addressed by the Commission before moving forward. He wondered if they would be creating a different precedent for future projects that are out of compliance if they were to grant a variance at this hearing. Commissioner Horan reiterated that they did not issue a Work Stop Order, but they did create an Order of Conditions. He believed more conditions had to be made before moving forward. Commissioner Moriarty believed an Enforcement Order must be put in place to stop the work. Chairperson Dodge stated that the issue was that the Applicant is a lessee, not an owner. Vice Chair Bowler stated that, if they were to do an Enforcement Order, they would not be able to get anything else done until all of the tasks were completed. She suggested mitigation for the project instead. Commissioner Horan agreed that an Enforcement Order would be too great a barrier and suggested that they condition activities on 160 Middle Water Street that would satisfy the Commission. Commissioner Moriarty reiterated that the condition must be that no work be done on that site at all. Attorney Griffin agreed to instruct his client not to do any work on the site.

Glogower stated that an Enforcement Order is a great tool to bring a property into compliance. However, with the proposed plans for the site, it would be too much of a hindrance. Commissioner Horan and Vice Chair Bowler discussed the 50-foot buffer to the canal line and the variance. Commissioner Horan stated that they need to decide what kind of mitigation would be appropriate. Glogower pointed out that work was being performed in a small portion of the 50-foot buffer zone and was discussed in the variance. John Furman talked about the work being done in the 50-foot buffer. Vice Chair Bowler asked for clarification on the dimensions of impervious land, and John Furman stated the permanent area was 607 square feet.

John Furman discussed the DEP's comments. He shared aerial photos of the site from his screen to show historical changes due to fire. In response to the DEP's question as to whether the riverfront area were

disturbed, Furman said that they classified it as disturbed. He showed the Request for Waiver. Chairperson Dodge mentioned that the requirements of a variance is that you have to discuss the possible options and why you chose this one. He asked Furman if that was in the description. Furman said that VHB paved the entire front of the property and included it in the initial filing, which can be provided to the Commission. Chairperson Dodge asked if this satisfied the Commission as to the variance. Vice Chair Bowler stated that this variance information was needed in writing for this meeting. Furman stated that he can get that for the Commission as soon as possible, but he did not have anything to present at this hearing.

Vice Chair Bowler asked Furman what VHB's mitigation proposals were, and Furman stated that they do not have any mitigation proposals prepared for the riverfront. Attorney Dannenberg wanted to consider having the 100-foot buffer set as the mitigation area. Vice Chair Bowler specified that she meant the 50-foot buffer, and Furman said that they had planned a reduction in paving, as well as loaming and seeding, for mitigation for that area. Aside from that, because it is a roadway, there was nothing else to be done. Commissioner Horan wondered if more trees could be planted in unused areas. Furman said that they could add that to their plans. Eddie Fernandez voiced his concern about additional pollen being generated in that area and how it may affect the marijuana being cultivated. He then added that it should be far enough away from the building to not pose a problem.

Commissioner Moriarty wondered if the Commission could ask that John Furman put together an alternative proposal before the meeting ends. Commissioner Horan pointed out that the options were limited because it is a demolition area. Commissioner Moriarty said that the goal was to enhance the riverfront area. Commissioner Perdrizet suggested removing one of the entrances to the parking lot, but John Furman believed that would result in a loss of parking spaces.

Chairperson Dodge asked about whether the lower part of 160 Middle Water Street could be included in the variance or whether a separate variance would have to be created. Vice Chair Bowler suggested that the Order of Conditions could indicate that VHB needed to file a variance for the 50-foot buffer to the canal regarding the cleanup. Glogower did not see how it could be included in the Order of Conditions because that would have to be a precursor to work being performed. Commissioner Horan agreed.

John Furman asked if the Commission had come to a decision as to whether they could split up the properties, move forward with 140 Middle Water Street, and condition 160 Middle Water Street. Chairperson Dodge asked if not having approval for both properties would impact their ability to get a building permit. John Furman said that their chances of receiving a building permit would be better with the 140 Middle Water Street site approved. Vice Chair Bowler suggested that they put in writing that they are not ruling on 160 Middle Water Street because there is a violation and the Applicant is not the owner of the property. Commissioner Horan worried that they would not have any control over 160 Middle Water Street in that case unless they issued an Enforcement Order.

Director Glogower asked John Furman if he would be the one filing the building permit application. He stated that Sage Builders was going to be the firm filing the application. Furman explained that, in his experience, the Order of Conditions and decisions from all applicable departments have accompanied the building permit application. Director Glogower wondered if the Commission could write a letter to the Building Commissioner explaining that the dimensions and the layout for 140 Middle Water Street are unlikely to change; that way, they could start the process before the Order of Conditions was finalized by December 16. John Furman did not know whether the Building Commissioner would accept a letter of that kind. Vice Chair Bowler suggested taking a formal vote to approve the project if the dimensions of the building would not change. John Furman affirmed that the building would not get any bigger than proposed.

Chairperson Dodge asked Attorney Dannenberg if the Commission could save the variance conversation for the end of the meeting. John Furman said that he would need about a half hour to discuss the plans with Eddie Fernandez and Attorney Dannenberg and create supplemental graphics.

3. Roll Call Vote

The Commission voted unanimously to table the matter until the end of the meeting.

4. Item No. 3 - Public Hearing (DEP file number still pending)

Applicant: Holyoke Energy Storage 1 LLC c/o Conversion Energy and Power

Representative: Stantec Consulting Service Inc.

Location: Sergeant Street with parcels identified on the agenda

Description: Battery storage construction of an existing paved lot within the 100-foot buffer zone of banks.

Director Glogower explained that this was a new Notice of Intent submission from two weeks earlier, but because of the Thanksgiving Holiday, they did not yet give a five-day public notice. Director Glogower would advise the Applicant to attend the next public hearing. Chairperson Dodge asked if anyone was present for that matter and, hearing no response, continued the matter to the next meeting.

5. Item No. 4 - Discussion of Notice of Intent to Sell Lot 2

Location: 50 Mountain Road with the parcel numbers identified on the agenda

Director Glogower shared the Notice on his screen. He explained that this land was enrolled in the Chapter 61A program, the Massachusetts Current Use Program which incentivizes keeping land in farmland agriculture. Under this program, if one transfers land out of 61A, there are penalties incurred, such as having to pay back taxes, and the municipality is offered a 120-day Right of First Refusal for the property. He noted that there are Purchase and Sale Agreements included in the packet. A municipality could also transfer the Right of First Refusal to an approved land conservation organization, such as a land trust. The Mayor, City Council, Planning Board, and Conservation Commission receive it for review and decide how they want to proceed.

The Planning Board reviewed it the previous Thursday, and Development and Government Relations Subcommittee reviewed it the day before. It was now the Commission's turn to review the documents. Director Glogower shared one of the Purchase and Sale Agreements and the MapGeo of the property.

The landowner, Adam Mulcahy (of 42 Shawmut Avenue), introduced himself. Director Glogower pointed out the parcels, which are currently farmland, on the map. He said that the Planning Board stated that they wanted more time to review all available options for the Right of First Refusal on the parcels. They also cited the importance of protecting farmland in this part of Holyoke, as well as respecting the needs for development and the right of the property owner to sell their assets. DGR tabled the matter to allow for the Conservation Commission to comment.

Prime soils are determined by the U.S. Department of Agriculture Natural Resource Conservation Service. Commissioner Arnold asked Commissioner Gazillo if there were prime soils present on the parcels, and she doubted that there were. Commissioner Arnold then asked the landowner if he would be open to having a discussion on options for protecting the property as farmland while continuing to be the owner. Mulcahy responded that, if the city could offer the same amount of money that the seller is offering, he would consider it. Commissioner Arnold clarified that it would be through the Conservation Commission rather than the city,

using American Farmland Trust and Kestrel Land Trust. Mulcahy did not believe that a land trust would be interested in only four acres of the land. Commissioner Arnold suggested that the Commission discuss the larger portion of the land, but Mulcahy stated that the remaining land is not on the table. Commissioner Gazillo thought it might be worth finding out whether a land trust would be interested in buying the four acres given the limited amount of farmland in the city. Commissioner Arnold suggested again that the landowner consider selling a larger portion of land, to which Mulcahy stated that there is a conflict of interest because Commissioner Arnold is an abutter to his property. Chairperson Dodge asked Director Glogower if a Commissioner who is an abutter of a property at issue must recuse rather than make decisions on the property. Commissioner Horan stated that, as an abutter, he was recusing from participation in the case.

Vice Chair Bowler asked what the total request was for the two parcels, and Director Glogower stated that it was \$175,000 for each of the parcels. Vice Chair Bowler doubted that the city would want such a small amount of land and wondered if anyone would be interested in conservation. Director Glogower shared that Kestrel Land Trust stated that the land was too small to protect on its own. He then explained that, if the landowner were interested, he could pursue a conservation restriction.

Chairperson Dodge asked what Director Glogower needed from the Commission at this meeting. Director Glogower stated that DGR wanted the Commission's recommended course of action before the City Council's December 23 meeting. He recommended a letter or email communication. Commissioner Perdrizet asked whether any decisions must be made about a stream visible on the map. Director Glogower responded that it was not part of the property at issue.

Chairperson Dodge asked the Commission if there were recommendations for Director Glogower. Commissioner Perdrizet pointed out that many people would like to see more open land in the area. He wondered how to protect the land at issue while respecting the owner's rights. Commissioner Arnold opined that the landowner should consider his options. Mulcahy stated that he spoke to Kestrel multiple times. Vice Chair Bowler stated that Commissioner Arnold should recuse as she is an abutter to the land. Chairperson Dodge asserted that, at this point, it is unlikely that a land trust would be interested in the smaller parcels of land. He stated that the Commission should not stand in the landowner's way if he wants to sell his own property. The Commission discussed the possibility of encouraging the city to purchase the property for conservation purposes.

Chairperson Dodge called the meeting to order as Mulcahy and Commissioner Arnold argued about the land in question. Commissioner Gazillo stated that this was a good opportunity to broaden city understanding of Chapter 61A and possibly protect more parcels of farmland. Chairperson Dodge asked if there was a motion. Vice Chair Bowler stated that she was not sure how to make a motion at this point. She believed that the Commission must let the City Council and the Mayor determine if buying the land would be an appropriate use of funds or see if a land trust would be interested. Commissioner Gazillo agreed.

#### 6. Roll Call Vote - Motion to Write Letter to City Council

Commissioner Moriarty moved that the Commission write a letter to the City Council imploring them to do something to protect the land. Chairperson Dodge took a roll call vote on the motion, and the Commission voted five (5) in favor, zero (0) in opposition, with two (2) abstentions (Commissioners Arnold and Horan). Chairperson Dodge stated that Director Glogower would work to draft the letter.

#### 7. Formal Vote - Approve Minutes from 9/2, 9/23, and 10/14

Vice Chair Bowler stated that she did not have a chance to review all of the minutes. Commissioner Moriarty requested that they vote on the matter at the next meeting.

A two-minute break was taken.

## 8. Continuation of Public Hearing

Chairperson Dodge asked John Furman to update the Commission on VHB's progress. Furman asserted that the numbers he showed to the Commission would not change. He shared his screen to show them the property lines. The temporary disturbance within the 50-foot buffer zone was 2,011 square feet. VHB said that they eliminated a couple of the proposed parking spaces on the site. They also made the parking lot one-way, moved spaces around, and reduced the curb cut from 25 to 18 feet. The permanent paving was reduced from 607 square feet to 371 square feet. Additionally, they proposed to plant arborvitae within planter areas as they do not have the type of pollen that can affect cultivation.

The work proposed for the rear of the 50-foot buffer zone would be to remove the remaining foundation. As far as mitigation, the first option would be to leave it as dirt. Another option would be to take the area within the 50-foot buffer zone, loam and seed it, and then put arborvitae in a staggered row within that. As far as the riverfront mitigation, John Furman requested that they do nothing with it right now. Commissioner Horan asked what trees are present in the 50-foot buffer area. Furman responded that they would plant arborvitae about 20 feet from the property line. He then said that they plan to restore about 2,846 square feet of currently-disturbed buffer zone. Commissioner Moriarty asked if Director Glogower and Commissioner Horan could be part of the decision-making as to the arborvitae, as they have a lot of expertise in that area. Attorney Dannenberg explained that the reason they chose arborvitae was to minimize the amount of pollen and other disturbances in case they wanted to build another agricultural facility in the future. Director Glogower and Commissioner Horan suggested other vegetation that could work in that area. Commissioner Horan pointed out the importance of a setback from the 100-foot buffer. The Commission agreed to include a 10-foot setback as an Order of Condition.

John Furman told Eddie Fernandez and the Commission that he spoke to the landowner of 160 Middle Water Street, and he agreed to stop doing work on the property. Commissioner Moriarty said that they will be conditioning the removal of the debris in the future. She then reminded Fernandez and Attorney Dannenberg that they must still follow all of the Commission's conditions and communicate with Director Glogower before any work begins. Attorney Dannenberg said that he understood.

Director Glogower asked John Furman if he had any recommendations for erosion and sedimentation controls. Furman pointed out the erosion and sediment control that VHB had proposed and stated that it would need to be updated to include the mitigation. Commissioner Perdrizet asked if VHB planned on removing the retaining wall that Commissioners saw during the site walk. Furman believed that part of the mitigation would be to remove it because it could interfere with future building plans. Vice Chair Bowler stated that they needed a revised waiver including the second 50-foot buffer.

Chairperson Dodge asked if the Commissioners were ready to vote on the variance and close the public hearing. Director Glogower first wanted to explain the riverfront regulations and how different types of existing land cover were treated differently in the Rivers Protection Act. He also pointed out that, in this plan, the Commission would be agreeing to consider any remaining bare area as degraded. John Furman stated that, when he submits the updated plans, he could identify the area as being previously degraded; explain that it is being topsoiled and seeded for stabilization, as requested by the Planning Board and the Stormwater Authority; and define the 10-foot area on the bottom and the 20-foot area on the side as the mitigation area. Eddie Fernandez asked for clarification as to whether he could still buy the property in the future and build upon the grassy area. Director Glogower stated that the Conservation Commission would agree to that, but they could not predict what the DEP's response would be. Commissioner Horan stated it would be both in the plan and in the Order of Conditions.



Commissioner Perdrizet asked for clarification on what mitigation would involve. Director Glogower said it would be to provide a restored naturalized area for work in the riverfront and by Middle Water Street for work in the 50-foot buffer. Commissioner Perdrizet asked if the Commission could request mitigation offsite for the current project. Chairperson Dodge explained that the Applicant and VHB had already done sufficient mitigation for a degraded site.

John Furman stated he would update the plan set with revision dates and solidify the sketch and figures. He told Director Glogower that, later that night, he would email him a figure that stated what was discussed at the meeting. He then said that the only thing VHB needed was Director Glogower and Commissioner Horan's recommendations for plantings, if the arborvitae were not sufficient. Director Glogower and Commissioner Horan stated that they were okay with the arborvitae.

9. Roll Call Vote - To Close Public Hearing

The Commission voted unanimously to close the public hearing.

10. Roll Call Vote - Motion on the Variance

Chairperson Dodge asked if Commissioners were ready to vote on the variance. Commissioner Horan moved that the Commission allow a variance that would enable the project to move forward while allowing for paving cuts within the 50-foot buffer. Vice Chair Bowler added that it must meet all four conditions of the Holyoke Wetlands Protection Ordinance. Chairperson Dodge did a roll call vote, and the Commission voted unanimously in the affirmative. The variance was granted as amended and noted.

11. Roll Call Vote - Motion to Approve the Broader Project on 140 and 160 Middle Water Street

The Commission voted unanimously to approve the project. At the next meeting, the Commission would work on the Order of Conditions. Director Glogower would then work on drafting it. The Commission agreed that what they have passed at the meeting should help prevent a delay in the issuance of a building permit.

12. Upcoming Items for Next Meeting

Chairperson Dodge proposed upcoming items for the next meeting. He stated that the Commission will deal with the Order of Conditions and vote on it. They confirmed the December 16 meeting date. They planned to have a public hearing for Holyoke Energy Storage 1. They would also take a formal vote on the aforementioned meeting minutes.

13. Mail/Other Items Not Reasonably Anticipated by the Chair

Director Glogower and the Commissioners confirmed there were no other items to discuss.

14. Adjourn

The Commission voted unanimously to adjourn the meeting.