

CONSERVATION COMMISSION
MINUTES of MEETING
Tuesday, November 17, 2020
TOWN HALL ANNEX, 39 CENTRAL STREET
APPROVED: 12/8/2020

Present: Chair Daniel Shinnick, Vice Chair Sam Streiff, Jena Haag, Howard Terrien,
Howard Vogel and Ann Witzig
Absent: Robert Garner
Attending: Brent Baeslack, Conservation Agent

Opening Statement: Authorized by Wetlands Protection Act, Town of Rowley Wetlands Protection Bylaw, and the Stormwater Management and Erosion Control Bylaw. Meeting convened at 7:30 PM (all Legal ads were read to open new agenda items at time noticed).

Consistent with the Governor's orders suspending certain provisions of the Open Meeting Law and banning gatherings of more than 10 people due to the COVID-19 pandemic, this meeting was conducted by remote participation to the greatest extent possible. The Commission and the public did not physically attend this meeting, but every effort was made to allow the public to view the meeting in real time. Persons who wished to do so were invited to watch the meeting on Rowley Community Media TV or to join the meeting from a computer, tablet or smartphone by using a link for GoToMeeting, or by dialing in by phone.

Administrative: The Commission approved the payroll and vendor bills which had been presented for review prior to the meeting.

Acceptance of Minutes:

After the Commission reviewed the minutes, Haag moved to accept the Minutes of October 27, 2020. Terrien seconded and the motion passed unanimously by roll call vote.

After the Commission reviewed the minutes, Streiff moved to accept the Minutes of July 15, 2008. Haag seconded and the motion passed unanimously by roll call vote.

Administrative: The Commission reviewed the proposed meeting schedule for 2021 and approved with minor edits.

Terrien moved to approve the 2021 meeting schedule with discussed edits. Witzig seconded and motion passed unanimously by roll call vote.

Encroachment/intrusion on Cooper's Pond Conservation Area (Map 1, Parcel/Lot 6) at 136 Newbury Road (Map 1, Parcel/Lot 4) James S. and Kelly J. Murphy – The

Commission discussed the encroachment onto the Cooper's Pond Conservation Area. Agent Baeslack gave a brief review of the encroachments which he had observed directly after access to the conservation area was granted from a neighboring property. He also explained that there did not appear to be any wetland resource areas near these encroachments. This situation had been discussed with Town Counsel Thomas Mullin, and Chairman Daniel

Shinnick. Attorney Mullin advised that the property owners should be contacted to initiate a discussion about steps to remedy/restore the disturbed areas. Agent Baeslack advised that a Notice of Encroachment letter would be drafted and reviewed with the Chair and Vice Chair before sending to the property owners. The Commission would receive a copy of the final letter at time of issuance. The Commission agreed to this approach.

Abbreviated Notice of Resource Area Delineation at 90 Glen Street (Map 21, Lot 8) filed by Marchionda & Associates, LP for Donald P. Lippoldt, Jr. - review of delineated wetland resource areas. Mr. Adam Marchionda of Marchionda & Associates, LP was in attendance to present and answer questions from the Commission. Agent Baeslack gave a brief report of his review of the plans and field review of the delineation. He recommended the Commission consider issuance of an Order of Resource Area Delineation approving Bordering Vegetated Wetland flags #A4-#A19. The Commission reviewed Agent Baeslack's memo dated November 17, 2020 with recommendations for plan revisions.

Streiff moved to issue an Order of Resource Area Delineation contingent upon receipt of revised plans subject to office approval within 14 days. Witzig seconded and the motion passed unanimously by roll call vote.

Continued Abbreviated Notice of Resource Area Delineation at 510 Newburyport Turnpike (Map 19, Parcel 8, Lot 4A) filed by Norse Environmental Services, Inc. for Robert Nixon of Bitterroot LLC owned by 510 Newburyport Realty Trust, Edward Moore, Trustee: review of delineated wetland resource areas. Ms. Maureen Herald of Norse Environmental, Attorney Jill Mann of Mann & Mann and Mr. Robert Nixon of Bitterroot LLC were in attendance. Ms. Herald explained that the plan had been revised based on comments from Agent Baeslack. A follow up memo noted two omitted revisions and requested a further change but these changes were minor and would be completed as soon as possible. Agent Baeslack asked about the missing flag #49. Ms. Herald advised that she would be researching this missing flag. The Commission reviewed Agent Baeslack's memo dated November 13, 2020.

Haag moved to issue an Order of Resource Area Delineation contingent upon receipt of revised plans subject to office approval within 14 days. Terrien seconded and the motion passed unanimously by roll call vote.

Continued Notice of Intent application at Subdivision Lot #2 Taylor Lane (Maps 9 & 12, Parcel/Lots 2, 3, 4, & 23) filed by ASB design group LLC for Robert Nixon of Falcon Ridge Associates LLC: Proposed construction of a single family dwelling, garage, driveway, subsurface rooftop infiltration, landscape wall, associated grading and utilities possibly within the 100' Buffer Zone of Bordering Vegetated Wetlands. Ms. Maureen Herald of Norse Environmental, Attorney Jill Mann of Mann & Mann and Mr. Robert Nixon of Bitterroot LLC were in attendance. Ms. Herald advised that the application forms and plans had been revised to reflect Falcon Ridge Associates LLC as the applicant. She advised that no other changes had been made. Agent Baeslack reviewed his memo with the Commission. The Commission discussed the marking of the Open Space area abutting the property. There was a consensus amongst the Commission that a split rail fence for the 25' No Cut/No

Disturbance Zone was appropriate due to the plant community being a grassy field and lacking woody stemmed vegetation. It was agreed that posts with signage delineating the Open Space Area along the property line would be sufficient.

Witzig moved to close the public hearing and issue an Order of Conditions with conditions typical for a single family home and other conditions discussed contingent upon receipt of revised plans subject to office approval within 14 days. Terrien seconded and the motion passed unanimously by roll call vote.

Continued Notice of Intent application at Subdivision Lot #5 Taylor Lane (Maps 9 & 12, Parcel/Lots 2, 3, 4, & 23) filed by ASB design group LLC for Robert Nixon of Falcon Ridge Associates LLC: Proposed construction of an exterior stairway, subsurface rooftop infiltration, deck, and associated grading possibly within the 100' Buffer Zone of Bordering Vegetated Wetlands and 100' Vernal Pool Habitat. Ms. Maureen Herald of Norse Environmental, Attorney Jill Mann of Mann & Mann and Mr. Robert Nixon of Bitterroot LLC were in attendance. Ms. Herald advised that the application forms and plans had been revised to reflect Falcon Ridge Associates LLC as the applicant. She advised that no other changes had been made. Agent Baeslack reviewed his memo with the Commission. Agent Baeslack reviewed the non-compliance issue with the cutting that had already been done in the No Cut/No Disturb Zone. He advised that this issue was being addressed by the applicant and would be replanted. The Commission discussed the marking of the three protected areas on the lot. Agent Baeslack explained that the 25' No Cut/No Disturb Zone on this lot would be delineated by the tree line once the area had been restored. This area could be marked by posts with signage instead of a split rail fence. Agent Baeslack also advised that due to the vernal pool habitat on the site, restrictions should be included on the use of rock salt, herbicides and pesticides, and fertilizers. After a question from the Commission, Agent Baeslack explained how future property owners would be made aware of the restrictions on the lot.

Terrien moved to close the public hearing and issue an Order of Conditions with conditions typical for a single family home and other conditions discussed contingent upon receipt of revised plans subject to office approval within 14 days. Witzig seconded and the motion passed unanimously by roll call vote.

Continued Notice of Intent application at Subdivision Lot #35 Taylor Lane (Maps 9 & 12, Parcel/Lots 2, 3, 4, & 23) filed by ASB design group LLC for Robert Nixon of Falcon Ridge Associates LLC: Proposed construction of a single family dwelling, garage, subsurface rooftop infiltration, and associated grading possibly within the 100' Buffer Zone of Bordering Vegetated Wetlands and Vernal Pool Habitat. Ms. Maureen Herald of Norse Environmental, Attorney Jill Mann of Mann & Mann and Mr. Robert Nixon of Bitterroot LLC were in attendance. Ms. Herald advised that the application forms and plans had been revised to reflect Falcon Ridge Associates LLC as the applicant. She advised that no other changes had been made. Agent Baeslack advised that a request had been received from the applicant's representative to continue the hearing.

Shinnick moved to continue the public hearing, with the applicant's permission, to the meeting of December 8, 2020. Haag seconded and the motion passed unanimously by roll call vote.

Continued Notice of Intent application at Subdivision Lot #38 Taylor Lane (Maps 9 & 12, Parcel/Lots 2, 3, 4, & 23) filed by ASB design group LLC for Robert Nixon of Falcon Ridge Associates LLC: Proposed construction of a single family dwelling, garage, driveway, and associated grading possibly within the 100' Buffer Zone of Bordering Vegetated Wetlands and Vernal Pool Habitat. Ms. Maureen Herald of Norse Environmental, Attorney Jill Mann of Mann & Mann and Mr. Robert Nixon of Bitterroot LLC were in attendance. Ms. Herald advised that the application forms and plans had been revised to reflect Falcon Ridge Associates LLC as the applicant. She advised that no other changes had been made. Agent Baeslack reviewed his memo with the Commission. The Commission agreed to apply the same guidelines for fencing, posts and signage as discussed for Lots 2 and 5. Agent Baeslack also recommended that the condition allowing property owners to control invasive plant species be added as an ongoing condition.

Vogel moved to close the public hearing and issue an Order of Conditions with conditions typical for a single family home and other conditions discussed contingent upon receipt of revised plans subject to office approval within 14 days. Terrien seconded and the motion passed unanimously by roll call vote.

Certificate of Compliance Request(s):

Request for a Certificate of Compliance DEP #63-652 at 510 Newburyport Turnpike (Map 19, Parcel 8, Lot 4A) Bitterroot LLC owned by 510 Newburyport Realty Trust - proposed construction of a 5 acre 650 kW solar photovoltaic system, new gravel access drive, utilities, grading, and stormwater facilities. The Order of Conditions expired and work never commenced. Agent Baeslack verified that no work had commenced on site.

Vogel moved to issue a Certificate of Compliance declaring the Order of Conditions invalid. Streiff seconded and the motion passed unanimously by roll call vote.

Request for a Certificate of Completion SMP #20-2016 at 510 Newburyport Turnpike (Map 19, Parcel 8, Lot 4A) Bitterroot LLC owned by 510 Newburyport Realty Trust - proposed construction of a 5 acre 650 kW solar photovoltaic system, new gravel access drive, utilities, grading, and stormwater facilities. Stormwater Management Permit expired and work never commenced. Agent Baeslack verified that no work had commenced on site.

Vogel moved to issue a Certificate of Completion declaring the Stormwater Management Permit invalid. Streiff seconded and the motion passed unanimously by roll call vote.

Request for a Partial Certificate of Compliance Bylaw RCC #9-2018 at 1000 Haverhill St. (Map 4, Parcel/Lot 20) Ruby Holdings LLC c/o Said Abuzahra - proposed construction of four (4) commercial self-storage buildings 20' to 30' wide and 215' to 255' long within areas subject to regulation (local Bylaw) as the final phase of a commercial

development project begun on this property circa 1998. Agent Baeslack requested that this matter be continued to the next scheduled meeting.

Streiff moved to continue this matter to the meeting of December 8, 2020. Witzig seconded and the motion passed unanimously by roll call vote.

Status Reports: Permits & Enforcement

600 Newburyport Turnpike (Map 19, Parcel/Lot 15) William H. Stanley owner Jay C. Stanley – Notice of Noncompliance for failure to obtain a Certificate of Compliance for DEP #63-326 for proposed installation of a tight tank and the abandonment of a cesspool within 200' Riverfront Area of the Mill River. Mr. Jay Stanley was in attendance to answer questions from the Commission. Agent Baeslack explained the process for resolving this issue by applying for a Certificate of Compliance. Mr. Stanley agreed to take the necessary steps.

600 Newburyport Turnpike (Map 19, Parcel/Lot 15) William H. Stanley owner Jay C. Stanley - Enforcement for failure to obtain valid written permit and DEP file number for paving of expanded truck parking area 72 feet wide by 52 feet deep. DEP deemed Notice of Intent filing incomplete due to lack of notice to Natural Heritage Endangered Species Program. Placement of fill covering 3744 sq. ft. of Inner Riparian Zone of the 200' Riverfront Area of the Mill River 310 CMR 10.58 Bordering Vegetated Wetlands 310 CMR 10.55 and 100' Buffer Zone to Bordering Vegetated Wetlands. Ownership consistent to July 2020 sold to Jay Stanley, work apparently done spring 2004. Mr. Jay Stanley was in attendance to answer questions from the Commission. Agent Baeslack gave a brief overview of the current situation reviewing the options of after the fact permitting or removal and restoration of the area. He also reviewed the Enforcement Order with the Commission. Mr. Stanley advised that his father, William Stanley, had told him that the paving had been done in 2001 not 2004. The paving had been done to move runoff to the catch basin near the main road. The office file showed the Notice of Intent was submitted November 3, 2003. Mr. Stanley agreed to comply with the Enforcement Order. Agent Baeslack requested that this be submitted in writing to the Commission office.

Haag moved to ratify and confirm the issued Enforcement Order. Terrien seconded and the motion passed unanimously by roll call vote.

465 Main Street (Map 27, Parcel 43, Lot 1) George Stergios & Gaye Gentes – Enforcement for cutting and application of herbicides (altering) Phragmites or Common Reed in the Salt Marsh and ACEC without a valid permit (approx. 3000 sq. ft.). Mr. George Stergios was in attendance to answer questions from the Commission. Agent Baeslack gave an overview of the current situation. Mr. Stergios explained that he realized he had been working in a restricted area but was not aware that this work was not allowed since it was beneficial to the resource area. At this time, the recommendation is for a wetlands professional to assess the treatment that has already been completed and ascertain if the native salt marsh plant community is unharmed or has benefited. If the work was done in accordance with appropriate treatment protocols, and present assessment and then subsequent

assessment in late spring shows no negative effects, no further action would be required. If Mr. Stergios wishes to do further work in the future, a permit would need to be obtained. Mr. Stergios agreed to forward confirmation of his intent to comply with the Enforcement Order.

Streiff moved to ratify and confirm the issued Enforcement Order. Haag seconded and the motion passed unanimously by roll call vote.

Adjournment:

Accomplished at 10:13 PM by a motion made by Streiff. Terrien seconded and the motion passed unanimously by roll call vote.

Submitted by Brent Baeslack, Conservation Agent