

CONSERVATION COMMISSION
MINUTES of MEETING
Tuesday, July 12, 2022
TOWN HALL ANNEX, 39 CENTRAL STREET
APPROVED: 8/2/2022

Present: Chair Daniel Shinnick, Vice Chair Sam Streiff, Jena Haag, Howard Terrien,
Howard Vogel and Ann Witzig
Absent: NA
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). The remote meeting was held pursuant to Governor Baker's March 12, 2020 Order, as Extended on June 15, 2021, with the Governor's signing of Senate Bill # 2475, suspending certain provisions of the Open Meeting Law. The public may not physically attend this meeting, but every effort will be made to allow the public to view the meeting in real time.

Administrative: The Commission approved the payroll and/or vendor bills which had been distributed and reviewed prior to the meeting.

Acceptance of Minutes: After the Commission reviewed the minutes, Witzig moved to accept the Minutes of June 21, 2022. Haag seconded and the motion passed unanimously by roll call vote.

Acceptance of Minutes: After the Commission reviewed the minutes, Terrien moved to accept the Minutes of May 30, 2006. Haag seconded and the motion passed unanimously by roll call vote.

Administrative Discussion(s):

Terrien **recused** himself from the next agenda item.

Notice of Intent To Convert Land from Chapter 61 Status To Residential Use At Land Off Daniels Road (Portion of Map 9, Parcel 23), Emily Lane (Map 9, Parcel 23, Lots 24 and 25) and Wethersfield Street (Map 11, Parcel 6) – Mr. James Decoulos of Decoulos Engineering was in attendance to discuss the conversion of land from Chapter 61 to Residential Use on behalf of Rowley Farms LLC. He reviewed the parcels which would be converted. Approximately 118.8 acres were included in the Purchase and Sale Agreement for \$5,775,000. The Town had the right of first refusal to purchase the land. Vogel reported on the Open Space Committee's discussion and recommendation to waive the right of first refusal. The Commission reviewed Agent Baeslack's memo which also recommended the waiver of the right of first refusal. The Commission agreed and asked the Agent to communicate the recommendation to waive the right of first refusal to the Board of Selectmen.

Streiff moved to make a recommendation to the Board of Selectmen to waive the right of first refusal. Witzig seconded and the motion passed by roll call vote of five (5) yeas.

Howard Terrien **returned** to the meeting.

Expiration of Remote Meetings - The Commission held a brief discussion on the July 15, 2022 expiration date of the use of remote meetings. At this time, there are two different proposals being reviewed by the Massachusetts House and Senate. Unless an extension is put into place before the next meeting on August 2, 2022, the meeting will need to be in-person. To allow for more distancing, the Commission discussed changing the venue for an in-person meeting. Agent Baeslack will inquire about the meeting rooms at the library and the Town Hall auditorium.

Chairman Shinnick requested that those who would potentially be attending the August 2, 2022 meeting be advised that there was the possibility that the meeting could be held in-person.

The next two hearings were opened concurrently:

Notice of Intent at 236-240 Newburyport Turnpike (Map 13, Parcel/Lot 11 and Parcel 12, Lot 2) Filed by Kristin Carlson of Harborlight Community Partners:

Proposed construction of an infiltration basin, walkway, fencing, removal of invasive plant species, and restoration planting of native species with grading associated with a Supportive Senior Housing Development possibly within the 100' Buffer Zone of Bordering Vegetated Wetlands. Agent Baeslack submitted a request from the Applicant's representative, Ms. April Ferraro, to continue the public hearing to the meeting of August 2, 2022 pending receipt of the third party review of the Stormwater Report.

Haag moved to continue the public hearing with the Applicant's permission to the meeting of August 2, 2022. Terrien seconded and the motion passed unanimously by roll call vote.

Stormwater Management Permit at 236-240 Newburyport Turnpike (Map 13, Parcel 11 and Parcel 12, Lot 2) Filed by Kristin Carlson of Harborlight Community Partners:

Proposed construction of a Supportive Senior Housing Development with demolition of an existing structure, four new buildings (20,550 sq. ft.), a garage, terraces, associated parking, access way, utilities and grading. Total site disturbance is approximately 115,000 square feet with approximately 800 square feet at a slope greater than 15%. Agent Baeslack submitted a request from the Applicant's representative, Ms. April Ferraro, to continue the public hearing to the meeting of August 2, 2022 pending receipt of the third party review of the Stormwater Report.

Haag moved to continue the public hearing with the Applicant's permission to the meeting of August 2, 2022. Terrien seconded and the motion passed unanimously by roll call vote.

Notice of Intent at 1-25 Heritage Way (Map 025, Parcel 098, Lot 01-5) Filed by Rowley Village Green: Proposed construction of a 216 square feet retaining wall to replace a failing wall with 1300 square feet disturbance possibly within Bordering Vegetated Wetlands and 100' Buffer Zone to Bordering Vegetated Wetlands. Mr. Thorsen Ackerley of Williams & Sparages was in attendance on behalf of the Applicant and advised that the DEP number had been issued and the knotweed suppression problem had been addressed with DeRosa Environmental Consulting who had provided the office with a treatment sequence. Agent Baeslack reported on conversations with Mr. Greg Hochmuth of Williams & Sparages and Mr. Michael DeRosa of DeRosa Environmental Consulting where an agreement had been reached about continuing the knotweed suppression this August and September under the original 2013 plan as part of Charles Construction's effort to obtain a Certificate of Compliance for the outstanding Order of Conditions for the complex construction. The Order of Conditions issued for the repair of the retaining wall would include ongoing suppression efforts which would be managed by the Condominium Association and carry forward in 2023 and 2024 depending upon results on the ground. If the Commission was in agreement with this plan, Agent Baeslack recommended that the hearing be closed and an Order of Conditions be issued.

Witzig moved to issue an Order of Conditions with conditions as discussed. Haag seconded and the motion passed unanimously by roll call vote.

Terrien **recused** himself from the next agenda item.

Request to Amend Order of Conditions DEP #63-0725 at Land Off Daniels Road (Map 9, Parcel/Lot 23) Filed by James Decoulos of Danielsville LLC: Proposed amendment to issued Order of Conditions for protection of proposed Open Space in an OSRD project. Mr. James Decoulos of Danielsville LLC was in attendance on behalf of the Applicant to request that DEP #63-0725 Order of Conditions be struck or modified regarding condition #33 addressing the Open Space. Mr. Decoulos advised that he had issued a response letter to Agent Baeslack's appearance before the Board of Selectmen. Mr. Decoulos stated that Attorney Jill Mann was drafting the Conservation Restriction in conjunction with the Condominium Association. He requested a hearing continuance to the August 2, 2022 meeting to allow for the draft submission. The Commission agreed that until the drafted documents were received any discussion was premature.

Vogel moved to continue the public hearing as requested by the Applicant to the meeting of August 2, 2022. Streiff seconded and the motion passed by a roll call vote of five (5) yeas.

Howard Terrien **returned** to the meeting.

Reopened Hearing for Notice of Intent DEP #63-0734 at 40 Independent St. & 47 Summer St. (Map 15, Parcel/Lots 3 & 16) Filed by Deborah Eagan, Town Administrator, Town of Rowley: Proposed construction of stormwater infiltration Best Management Practices (BMPs) and fill and stabilize an area of eroded bank at an outfall possibly within 100' Buffer Zone to Bordering Vegetated Wetlands and 200' Riverfront Area of Ox Pasture Brook. Agent Baeslack reported on a meeting with Mr. Nick Cristofori of CEI and Ms. Pamela Merrill of DEP to discuss

the comments issued by Ms. Merrill. Mr. Cristofori was preparing revised plans in response to the comments and discussion with Ms. Merrill. The plans would not be available for review until the meeting of August 2, 2022. Agent Baeslack requested that the hearing be continued to that date.

Terrien moved to continue the hearing with the Applicant's permission to the meeting of August 2, 2022. Haag seconded and the motion passed unanimously by roll call vote.

Certificate of Compliance Request(s):

Continued Request for Certificate of Completion SMP #25-2017 at 34 Dodge Road (Map 5, Parcel 104, Lot 3) Giuseppe Giugliano – Proposed construction of a residential dwelling, subsurface sewage disposal system, and access driveway, grading, well and other utilities. Agent Baeslack reported that efforts to resolve this matter seemed to have stalled. The required work had been completed but the final paperwork had not been submitted to the office. Information has been obtained that the home had been sold and was again being put on the market. The office does not have contact information on the new owner other than the property address. Contact information has been obtained for Mr. Giugliano's children and they could be contacted. Agent Baeslack recommended that the Enforcement Order be recorded at the Registry of Deeds to make all parties aware of the outstanding issues. The Commission discussed other options and reached a consensus to record the SMP Enforcement Order.

Haag moved to record the SMP Enforcement Order at the Registry of Deeds. Vogel seconded and the motion passed unanimously by roll call vote.

Request for Certificate of Compliance DEP #63-0579 at 63 & 79 Main Street (Map 25, Parcels 97 & 98) Charles Construction Company: Proposed construction of an access driveway, multi-unit dwellings, with associated garages, parking, utilities, village green common area, and site grading. As previously discussed, the knotweed suppression would be conducted as required under the Order of Conditions. Agent Baeslack recommended that pending the Suppression Report the matter be continued to the meeting of October 25, 2022.

Streiff moved that this matter be continued to the meeting of October 25, 2022 pending the Suppression Report. Witzig seconded and the motion passed unanimously by roll call vote.

Request for Certificate of Compliance DEP #63-0161 at 47 Oyster Point Road (Map 28, Parcel 91) Stephen Burtt: For the 1995 replacement sewage disposal system due to a Certificate of Compliance being issued with an incorrect file number. Agent Baeslack advised this was the best way to correct the error since an Order of Conditions had been issued under the incorrect DEP number. To clear DEP #63-0161 from the title, the issuance of a new or corrected Certificate of Compliance was needed. The Commission agreed to the issuance of the corrected Certificate of Compliance.

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

Enforcement Order 20 Central Street (Map 25, Parcel/Lot 7) TRS Ox Brook Real Estate TRS Gerald N. Fandetti, Trustee: Alteration (cutting vegetation) of bank and 100' Buffer Zone to stream 310 CMR 10.02, placement of fill in Bordering Land Subject to Flooding 310 CMR 10.57, altering 200' Riverfront Area of Ox Pasture Brook 310 CMR 10.58. Agent Baeslack reported on a site inspection which showed that the bordering land Subject to flooding had not been impacted. Work had been conducted in regulated areas and he recommended that the Commission require that a Notice of Intent be submitted.

Terrien moved to amend the Enforcement Order to require the filing of a Notice of Intent Application. Haag seconded and the motion passed unanimously by roll call vote.

Loss of Forest Canopy - Chairman Shinnick opened a discussion regarding the loss of forest canopy due to land development. The Commission expressed agreement and reviewed various options that could be utilized to maintain the canopy. Names of organizations to be contacted that could offer guidance and/or recommendations on protection were suggested. Haag offered to bring the matter to the Planning Board. Shinnick suggested closing the discussion and follow-up after further research. The Commission agreed and moved to adjourn the meeting.

Adjournment:

Accomplished 9:10 PM by a motion made by Haag. Terrien seconded and the motion passed unanimously.

Submitted by Brent Baeslack, Conservation Agent