

**MINUTES**

**CALL TO ORDER**

Meeting called to order by Ms. Robb at 7:05 p.m.

**ATTENDANCE**

Robb, Baker, Allen, Gerber, Kaplan (arrived at 7:15), Manire-Gatti, (Stein absent)  
Ziomek, Ciccarello  
Larry Archey, Ann Marton

**CONSERVATION COMMISSION'S ACTION**

**Approve Minutes**

**VOTED** unanimously (5-0), to approve the Conservation Commission minutes of August 22, 2007.

**PERMITS/CERTIFICATES**

**Notice of Intent – NOI 06-1042: Hampshire College – Veridian Village (hearing continued from 6/13/07)** – Discussion of Special Conditions for Veridian Village, for construction of a “Lifelong Learning Community” consisting of 57 two-story town-homes with attached garages, 72 flats over first floor parking within 3 multi-story buildings, a community building, a private loop roadway and several cul-de-sacs; all supported by utility infrastructure and site grading located on West Street..

- Opened the public hearing at 7:37 p.m.
- Closed the public hearing at 8:43 p.m.

Larry Archey, Dir. Of Campus Planning and Support Services for Hampshire College and Ann Marton of LEC Environmental presented and answered questions regarding the order of conditions that were being discussed.

**VOTED** Baker, Allen, Gerber voted Aye, Robb-recused, Kaplan and Manire-Gatti-abstained to close the public hearing and to issue an Order of Conditions as discussed:

**Order of Conditions - Special Conditions – NOI07-1084**

**Issued to: Hampshire College & Beacon Communities Development, LLC**

**For: Construction of Veridian Village Life Long Learning Community**

**Date of Issuance: September 28, 2007**

**This Order of Conditions pertains to the construction of a life-long learning community consisting of 57 townhomes with 72 units within the buffer zone of the bank and bordering vegetated wetland resource areas. A replication area will be constructed as mitigation for a wetland crossing. An Administrative Consent Order has been issued by the Massachusetts Department of Environmental Protection (see attachment A).**

**A. GENERAL CONDITIONS:**

1. A member of the Conservation Commission or its agent may enter and inspect the property and the activity that are the subjects of this Order at all reasonable times, with or without probable cause or prior notice, and until a Certificate of Compliance is issued, for the limited purpose of evaluating compliance with this Order (and Town Bylaw and Bylaw Regulations).
2. The term "Applicant" as used in this Order of Conditions shall refer to the owner, any successor in interest or successor in control of the property referenced in the Notice of Intent, supporting documents and this Order of Conditions. The Commission shall be notified in writing within 30 days of all transfers of title of any portion of property that take place prior to the issuance of the Certificate of Compliance.
3. Items 5 – 15 under Section III. Disposition and Order of the Administrative Consent Order (ACO), ACO-WE-07-6W001 dated May 25, 2007 from the Massachusetts Department of Environmental Protection, shall be adhered to in its entirety (see attachment A) and as it may be amended.
4. All general and special conditions as outlined in the MA Endangered Species Act (G.L. c.131A) Conservation and Management Act permit dated May 21, 2007 shall be adhered to in their entirety and as it may be amended by NHESP .
5. The applicant shall provide a copy of this Order to the person or persons supervising the activity that is the subject of this Order, and will be responsible for ensuring that all persons performing the permitted activity are fully aware of the terms and conditions of this Order.
6. Any person performing work on the activity that is the subject of this Order is individually responsible for understanding and complying with the requirements of this Order, the Act, 310 CMR 10.00 (and Town Wetland Bylaw and Wetland Bylaw Regulations).
7. A permanent 100 foot no-disturbance area shall be maintained from the delineated boundary of the vernal pool except as indicated on the approved plans.
8. All construction materials, earth stockpiles, landscaping materials, slurry pits, waste products, refuse, debris, stumps, slash, or excavate may only be stockpiled or collected in areas as shown and labeled on the approved plan(s), or if no such areas are shown must be placed or stored outside all resource areas and associated buffer zones under cover and surrounded by a silt barrier to prevent contact with rain water unless approved by the Commission or its agent.
9. All waste products, grubbed stumps, slash, construction materials, etc. shall be deposited at least 100 feet from wetland resource areas and 200 feet from rivers, unless specified in this Order unless approved by the Commission or its agent.
10. No fuel, oil, or other pollutants shall be stored in any resource area or the buffer zone thereto, unless specified in this Order.
11. No trash dumpsters will be allowed within 100 feet of areas subject to protection under the Massachusetts Wetlands Protection Act or the Town's Bylaw.

**B. PRE-CONSTRUCTION:**

1. Before any site work begins, the applicant shall record the Order of Conditions at the Hampshire County Registry Deeds within the chain of title for this property and submit proof of recording to the Commission.

2. No activity may proceed until the applicant has received all other permits required by law, including but not limited to any permit required by Health Inspections, Planning Board, Zoning Board of Appeals, Department of Environmental Protection, and/or the Army Corps of Engineers.
3. Before any work begins on the site, **a performance deposit of \$20,000** shall be submitted to the Commission. Half of the deposit will be returned upon completion of Phase 1. An additional \$5,000 will be returned upon completion of Phase 2. The remaining deposit shall be returned with any accumulated interest upon completion of Phase 3, to the satisfaction of the Commission, together with the issuance of a Certificate of Compliance.
4. Prior to the Pre-construction Meeting and any work commencing on the site, the applicant shall display the DEP file number for this Order on a sign with minimum dimensions of two feet by two feet at a location clearly visible from the street. The sign shall remain in place and visible until a Certificate of Compliance is issued for the activity.
5. Before any site work begins, a site meeting scheduled by the applicant shall be held to review the Order of Conditions and verify placement of the erosion control. Representatives of the applicant, the Commission, and the contractor in charge of site work shall be present.
6. The Wetlands Administrator shall receive forty-eight (48) hours advance notice, before the commencement of any activity within, or within the 100 foot buffer zone of, the resource area(s), including installation of erosion control, site preparation and construction.
7. The Wetlands Administrator shall be provided the name(s) and telephone number(s) of all person(s) responsible for compliance with this Order.
8. Erosion controls shall be installed one hundred feet from the vernal pool and thirty-feet from the bordering vegetated wetland boundaries and shall serve as the limit-of-work/no disturbance boundary. No work, with the exception of the creation of footpaths and installations of enhancement plantings may occur beyond this boundary including, but not limited to, grading and storage of materials except as indicated on the approved plan.
9. Before any work begins, erosion control shall be installed along the limit-of-work line. Extra materials shall be kept onsite for use as needed. Such controls shall remain in place and be maintained until all disturbed areas have been stabilized to the satisfaction of the Commission and a Certificate of Compliance has been granted.
10. Immediately after installation of erosion controls, the Wetlands Administrator shall be contacted in order to conduct a follow-up inspection to ensure that erosion controls have been properly installed.
11. Prior to commencing any activity on the site, the applicant shall submit a set of photographs depicting the project site in pre-activity condition to the Conservation Commission.
12. Prior to commencing any activity on the site, the applicant shall submit a construction sequencing plan for each phase of construction.
13. Prior to any work, a qualified biologist shall search the work zone, interior to the fencing, for any state listed species encountered. Any species encountered shall be reported to Natural Heritage and moved away from the work zone. The biologist must be in possession of a valid collection permit for this site.

**C. DURING CONSTRUCTION:**

1. Work shall conform to revised plans and information submitted to the Commission in the Notice of Intent, the erosion control plan and the accompanying revised Stormwater Management Report subject to revisions required by the Conservation Commission.
2. Monitoring shall be conducted by an independent reviewer following major storm events and a report submitted to the Commission which includes photographs.
3. Work shall proceed in strict accordance to the revised plan(s) or plan(s) referenced in the Permit, and to information submitted in the Application. For any change in the approved plans, the applicant shall inquire of the Commission in writing whether the change is substantial enough to require an Amended Order of Conditions or the filing of a new Notice of Intent.
4. No grading, operation of machinery, storage of materials, stockpiling of fill or brush or other work shall occur on the wetland side of the erosion control. The area between this line and the wetland edge shall be kept as a permanent vegetated buffer for the purpose of minimizing any potential negative wetland impacts except as indicated on the approved plans.
5. The storm drainage system, detention basins, and compensatory storage areas shall be constructed and functioning as part of the initial project phase except as indicated on the approved plans.
6. No fill or topsoil shall be stored within 20 feet of the silt fence.
7. Equipment for fuel storage and refueling operations shall be located outside all areas within the jurisdiction of the Commission unless indicated otherwise on the approved plan.
8. The burial of stumps and any other type of construction refuse or other waste material is prohibited in the buffer zone.
9. Dewatering activities shall be conducted as shown on the approved plans and shall be monitored daily to ensure that sediment-laden water is appropriately settled prior to discharge toward the wetland resource areas. No discharge of water is allowed directly into an area subject to jurisdiction of the Wetlands Protection Act or the Town of Amherst Wetlands Protection Bylaw.
10. A copy of the Permit shall be kept on-site at all times during construction. All contractors and sub-contractors engaged during construction shall be provided with a copy of the Permit, and should be prepared to produce said Permit upon request of the Commission or its agent.
11. All structures, facilities, and equipment as part of the project shall be continually operated and maintained so as to comply with the Permit. This provision applies specifically to all heavy equipment used on the project. Any leakage of oil, hydraulic fluid, gasoline, or any other pollutant must be cleaned up immediately, and the defective equipment responsible for said leaking shall be repaired immediately or taken off-site.
12. All work shall be completed in such a manner as to prevent eutrophication or sedimentation in wetlands, water bodies, or public or private water supplies.
13. The area of construction shall remain in a stable condition at the close of each construction day. Erosion controls should be inspected at this time, and repaired, reinforced or replaced as necessary.

14. All existing and proposed catch basins and oil traps on the site or on the streets adjacent to the project shall be protected by Silt Sacks to prevent sediment from entering the drainage system. Silt Sacks shall be maintained and regularly cleaned of sediments until all areas associated with the work permitted by this Order have been permanently stabilized and the Commission and/or Staff has formally approved their removal.
15. Cement trucks shall not be washed out in any wetland resource or buffer zone area, or into any drainage system. Any deposit of cement or concrete products into a buffer zone or wetland resource area shall be immediately removed.
16. Erosion and sedimentation control devices shall be inspected after each storm event and repaired or replaced as necessary. Any accumulated silt adjacent to the barriers shall be removed.
17. Site grading and construction shall be scheduled to avoid periods of high surface water. Once begun, grading and construction shall continue in an expeditious manner to minimize the opportunity for erosion.
18. Grading shall be accomplished so that runoff shall not be directed to the property of others.
19. All disturbed areas in the Buffer Zone shall be loamed, seeded, mulched and stabilized within 48 hours of project completion.
20. Any substantial changes made or intended to be made in the plans shall require the applicant to file a new Notice of Intent or to inquire of the Commission, in writing or by certified mail, whether the change is so substantial as to require the filing of a new Notice.
21. An on-site supervisor shall walk the perimeter of the limit of work boundary on a daily basis and remove wetland dependent species outside the construction site.

#### **D. WETLAND REPLICATION**

1. Replication of vegetation shall be "in-kind", i.e., generally similar to the lost area in terms of species composition, and cover and structure of dominant species, unless modified by the Commission. Only native plant species may be planted as indicated on the approved plans.
2. The Wetlands Administrator shall be given 48 hours notice prior to the beginning of the replacement area.
3. The replication area shall be constructed in the following manner:
  - a. The Applicant shall create a Wetland Replacement Area encompassing a total of 3,000 s.f. generally adjacent to BVW flagging stations B82 through B84. Access to construct the Wetland Replacement Area shall be via the hayfield in the northern portion of the site.
  - b. Silt fence for construction of the Wetland Replacement Area shall be installed between the existing BVW and the proposed area of wetland replacement and along the upgradient limit of the proposed wetland replacement area to ensure sediment from the staging area does not migrate into the Wetland Replacement Area. The single row of silt fence between the existing BVW and the replacement area shall remain in place *throughout* establishment of the wetland replacement area and will be removed once the replacement area has been stabilized. The single row of silt fence upgradient of the replacement area will be installed once construction of the WRA is complete and will remain in place until the staging area has been stabilized with vegetation.

- c. Plants from the altered wetland shall be transplanted in their original organic material to the replacement area **if possible**. Wetland plants shall be carefully dug and their roots balled and/or burlapped, temporarily stored in a shady area and watered on a daily basis. If not possible, existing vegetation within the Wetland Replacement Area shall be removed and stockpiled for off-site disposal.
  - d. prior to excavation proposed grades shall be staked by a licensed land surveyor indicating cuts necessary to achieve grades as shown on the plans.
  - e. Soils from the Wetland Replacement Area shall be excavated to a sub-grade elevation approximately one-foot below the proposed final elevations. The topsoil from the altered wetland shall be stockpiled separate from other soil for **reuse in the replication area if possible**. If not possible, excavated soils shall be sorted (topsoil separated from subsoil) and stockpiled for removal from the site. Following creation of the appropriate sub-grades, the areas must be inspected by a wetland scientist/botanist to ensure appropriate interception of ground water hydrology to achieve the desired hydrologic regime. Sub-grades will be adjusted as necessary to achieve appropriate hydrology.
  - f. All stockpiled wetland soil shall be isolated from wetland resources and protected with canvas or plastic to keep from eroding or drying.
  - g. Prior to planting or seeding, final grades shall be surveyed by licensed land surveyors to ensure that grades have been achieved as shown on the plan.
  - h. Following approval of the sub-grades by the wetland scientist/botanist, the Wetland Replacement Area will be back-filled with approximately 1-foot of hydric soil (a mixture of peat or high organic content soil with suitable topsoil excavated from the Wetland Resource Area and/or other portions of the project site). This hydric soil must be inspected and approved by the wetland scientist prior to back-filling into the Wetland Replacement Area. Final grades and microtopography shall be similar to those within the adjacent BVW.
  - i. The Wetland Replacement Area shall be planted according to the plant list depicted on sheet 8 of 15 of the plans. Following planting of the woody stock, the Wetland Replacement Area, shall be planted with cinnamon fern and seeded with *New England Wetmix* (or equivalent). The temporarily altered wet meadow shall be planted with sensitive fern and seeded with *New England Wetmix*.
4. Additional silt fence shall surround the wetland replication area.
  5. Replication must be supervised by a wetland specialist.
  6. Four seasonal monitoring reports shall be prepared by the wetland specialist, including photographs, over a two year period. The monitoring reports shall be submitted at the end of two full growing seasons.
  7. At least 75% of the surface area of the mitigation shall be re-established with indigenous vegetation within two growing seasons. If this cannot be met, a corrective plan of action shall be submitted to the Commission.

**E. POST-CONSTRUCTION:**

1. Prior to the issuance of a Certificate of Compliance, permanent markers shall be installed along the limit-of-work/no disturbance boundary. The type and size of the markers shall be approved by the Commission prior to installation as indicated on the approved plan.
2. A Certificate of Compliance shall be requested from the Commission upon completion of the proposed work. Said request shall be accompanied by a written statement from the professional who prepared the plan certifying compliance with all plans, as well as an "as built" plan.
3. The Commission reserves the right to amend this Order of Conditions if changed conditions or new information so warrants.
4. Representatives of the Commission shall have the right to inspect the premises to ensure compliance with the Conditions and the Performance Standards applying to this Order and with the Massachusetts Wetland Protection Act and the Town of Amherst Wetlands Protection By-Law.
5. This Order shall apply to every successor in interest of the property described in the Notice of Intent and accompanying plans. In the event that this land changes ownership before or during construction, the current owner shall notify the new owner of this Order by registered mail prior to the transfer of ownership and shall forward proof of this notification to the Commission.

**F. PERPETUAL CONDITIONS:**

1. Pesticides, herbicides, fungicides, and fertilizers **shall not be used** within 100 feet of the wetlands. Organic pesticides, herbicides, fungicides and fertilizers may be used subject to the review and approval of the Conservation Commission. This shall be noted in the Certificate of Compliance and shall be an ongoing condition.
2. Only environmentally friendly de-icing materials may be used on driveways located in wetland resource areas and buffer zones. This condition shall survive the expiration of this Order, and shall be included as a continuing condition in perpetuity on the Certificate of Compliance.
3. Only slow-release organic granular type fertilizers shall be used within the wetland buffer zone. This condition shall survive the expiration of this Order, and shall be included as a continuing condition in perpetuity on the Certificate of Compliance.
4. Dumping Prohibited: There shall be no dumping of leaves, grass clippings, brush, or other debris into the wetland or stream/body of water. This condition shall survive the expiration of this Order, and shall be included as a continuing condition in perpetuity on the Certificate of Compliance.
5. Snow removal shall not be directed to, or deposited in, wetland resource areas or their associated buffer zones. This condition shall survive the expiration of this Order, and shall be included as a continuing condition in perpetuity on the Certificate of Compliance.
6. Maintenance of the stormwater system shall be done in accordance with the operations and maintenance plan and a report of such maintenance will be reported to the Conservation Commission on an annual basis. This condition shall survive the expiration of this Order, and shall be included as a continuing condition in perpetuity on the Certificate of Compliance.

7. Performance of the stormwater system shall be monitored by the Condo Association and reported to the Conservation Commission on an Annual Basis. In addition, in any month during the first five years following completion of construction, the effectiveness of the stormwater system shall be assessed following each 1-, 2-, and 100- year storm event and results shall be submitted to the Commission on a monthly basis. This condition shall survive the expiration of this Order, and shall be included as a continuing condition in perpetuity on the Certificate of Compliance
8. Documentation shall be provided to the Commission for use of any lawn care products or de-icing products on an annual basis. This condition shall survive the expiration of this Order, and shall be included as a continuing condition in perpetuity on the Certificate of Compliance.
9. The Condo Association shall provide notification of these Perpetual Conditions to all members on an annual basis. This condition shall survive the expiration of this Order, and shall be included as a continuing condition in perpetuity on the Certificate of Compliance.

**Notice of Intent – NOI 07-1089 – Christopher Bloom on behalf of Sotorios Anamisis (hearing continued from 7/25/07) - for re-grading and paving in the buffer zone of bordering vegetated wetlands located at 55 University Drive (Map 13B, parcel 21).**

- Opened the public hearing at 8:45 p.m.
- Closed the public hearing at 9:00 p.m.

**VOTED** unanimously (5-0), to issue an Order of Conditions with special conditions as stated by the Wetland Administrator pending receipt of a revised plan by the applicant.

## **MISCELLANEOUS**

### **Potwine Lane**

Brian Duval intends to build a deck and will be submitting an amended order of conditions. He would like to store sediment in an upland location with double silt fencing which does not currently show on the plan. Commission approved the location of the sediment storage with the proviso that the wetlands administrator check on the location and erosion control.

### **Lawsuits**

Stephanie Ciccarello was asked about the status of the Levi-Nielsen case. At present, nothing has happened. Material that was requested by Town Counsel was just mailed out and we are waiting for the next step. Nicki Robb noted that the Epsteins have also filed a suit. Stephanie indicated that the DEP decision is still pending for the superseding order of conditions. Comments made at the site by Karen Hirschberg implied that the DEP decision may not go in the Epsteins' favor and that the DEP seemed more inclined to support the Con Com decision. Ms. Ciccarello said that this is all speculation, as we haven't received the final notice from DEP yet. Commissioners were informed that appeals under the bylaw automatically go before the superior court.

### **Beaver Management**

Commission will review the memorandum of understanding with the Board of Health for approval at the September 26, 2007 Conservation Commission meeting.



### **Open Space & Recreation Plan**

Dave Ziomek spoke with Jennifer Soper, who indicated the Open Space and Recreation Plan that was recently submitted has been accepted. Dave has promised an improved draft by November 15. So far, two meetings have been held to gather input (one with LSSE, the Ag Commission and the Con Com and one other with the public), but at least three more town meetings need to be held in various spots around town. It is important to gather more input for this five year action plan about what land needs to be protected. The acceptance of OSRP draft, made us eligible for the self-help grant that was submitted for the Cushman Brook Corridor project. Kestrel Trust, Rattlesnake Gutter Trust and others are still working on preserving the other lots on East Leverett Road. Meetings with the Town of Leverett, the Kestrel Trust and the Rattlesnake Gutter Trust will be occurring to strategize for the next steps. Mr. Ziomek indicated to the Commission that it is important that they attend these meetings.

### **Master Plan**

Commission members will be sent a draft of the Master Plan. The Master Plan is being readied for approval at the Fall Town Meeting. Commissioners need to review it and provide comments to him as soon as possible, as time is running out to offer input.

### **Conservation Restriction – Veridian Village**

Brackett & Lucas are reviewing the proposed Conservation Restriction related to the Veridian Village project. The Town and the Conservation Commission have been approached by Hampshire College and proponents of Veridian Village to be a holder of a conservation restriction on that property (approximately 25-30 acres). Initial comments and a draft of the proposal will be provided to the Con Com for their review and discussion at the next Con Com meeting.

### **Water Levels**

Dave Ziomek reported that due to lack of rain and the low water levels, an individual noticed water coming thru the dam at Puffers Pond and was concerned that the dam was falling apart and called the Amherst Police Department, ABC news and the Governor's office. The dam is a "weeping dam" and constructed in such a way that "sluice gates" are built into the dam for water to escape. Engineers at Tighe and Bond inspected the dam and found no problems. DPW will be doing some routine maintenance on the dam in 2008.

### **Energy Task Force**

The Energy Fair is being held on Saturday, September 15 from 10:00 – 4:00, commissioners are urged to attend. They are also involved in an anti-idling campaign and will be posting "No Idling" signs at the ARHS on September 19 at 11:00 am.

## **ADJOURNMENT**

**VOTED** unanimously (5-0) to adjourn the open meeting at 9:15 p.m.