

**Conservation Commission Meeting  
November 23, 2015  
Town Room, Amherst Town Hall**

**MINUTES**

**CALL TO ORDER**

Meeting called to order by Ms. Angus, Chair at 7:00 p.m.

**ATTENDANCE**

Present: Angus, Boice, Allen, Brooks, Clark, Butler

Staff: Willson

**CHAIR, DIRECTOR & WETLANDS ADM REPORTS**

Willson stated we need two volunteers to be on the Wentworth Farm proposal review Committee. Allen, Butler and Boice volunteer. Willson stated there is a forest cutting plan in Con Com's packet for Amherst College. She has given a copy to Brad for his review and asked him to conduct a site visit during the cutting. Amherst College is taking down Red Pine which they feel will die shortly from disease. Willson stated the Con Com's packet also contains a letter from Eversource discussing their maintenance plan for 2016. Also, there are documents regarding the proposed solar installation on the town landfill. This includes a letter from a resident, document from the resident's consultant, and the Town's response to the consultant's document. Willson stated we won't be having a second meeting in December due to the holidays.

**MINUTES**

Review/approve Minutes of 11-13-13, 2-11-15 & 2-25-15

**Allen moved and Angus seconded. Commission VOTED (4-0-0)** to approve the minutes of 11-13-13.

**Boice moved and Brooks seconded. Commission VOTED (6-0-0)** to approve the minutes of 2-11-15.

**Clark moved and Boice seconded. Commission VOTED (5-0-0, Butler abstained)** to approve the minutes of 2-25-15.

**PERMITS/DISCUSSIONS**

**7:15 PM Request for Determination (cont'd from 10/28 mtg)** – Thomas Conte for brush hogging/mowing within Riverfront and buffer zone to bordering vegetated wetlands at 265 Potwine Lane (Map 23A, Parcel 40).

Tom Reidy, Bacon Wilson, and Tom Conte, property owner presenting. Reidy stated these lots were created from on larger lot, they share a common driveway and a piece of common land. A maintenance agreement for the driveway and common land was created as part of a Special Permit issued when the lots were developed which states that the common land shall be mowed. In addition, an RFD was filed with the Commission when the plots were developed in 2004 that conditions that the common land shall be annually mowed to control invasives. This RFD is to request to continue to mow a portion of Mr. Conte's property that is currently lawn, so has been historically mowed.

Angus asked if the figure provided with the second RFD is accurate in regard to property lines. She stated that the conditions in the 2004 Determination are mute because they have expired. She added that the maintenance agreement filed with the Special Permit has no influence on decisions made under the Wetlands Protection Act or Town Wetlands Bylaw, they are different laws.

Butler asked if there will only be mowing of the current grass area and not expansion by brush hogging the land to the west. Conte replied it will only mowing. Angus added the lawn is in Riverfront based on the older delineation. Butler asked if there will be any other maintenance such as fertilizers. Conte said no. Eric Gonzales, 261 Potwine which is the third lot along the shared driveway, stated that when they bought their house one year ago they understood there was a maintenance agreement that included mowing this portion of the lawn. Jesse Tilman, neighbor, stated he was in support of the mowing to keep ticks down and site lines for the road. Adam Sykes, neighbor, also in support for tick control. Maryjoe Moses, neighbor, stated that keeping the yard mown goes along with the general look of the neighborhood. Conte stated that all the neighbors who have spoken are abutters to the property.

Angus stated we should condition any permit that this is restricted to the existing lawn area, no expansion to the west, and must refer to the figure provided under the second RFD. Boice added a condition against using fertilizers, pesticides and herbicides.

**Boice moved and Allen seconded. Commission VOTED (6-0-0)** to issue a Negative 5 with minor activity exemption and conditions as discussed.

**7:30 PM Request for Determination (cont'd from 10/28 mtg)** – Thomas Conte for brush hogging/mowing within Riverfront and buffer zone to bordering vegetated wetlands on common land on Potwine Lane (Map 23A, Parcel 21).

Tom Reidy stated Mr. Conte is a one third owner of the common land. He re-stated that a Determination was issued in 2004 with the condition that the common area be mowed annually to control invasives but that Determination has expired and that Management Plans recorded at the Registry as part of the Special Permit also state that the area should be mowed. He stated they are looking to mow the area closer to Potwine Ln and brush-hog the back portion. He stated that Ms. Deighton, owner of one of the lots and part owner of the common land, has indicated she would like to donate some of her land to the Town. Therefore, the area proposed to be brush-hogged is smaller than originally marked in the RFD submittal. He provided revised plans to the Commission.

Angus asked if the donation of land was in formal discussions with the Town. Ms. Elizabeth Wroblika, Ms. Deighton's attorney, said no. She stated that the Town has told Ms. Deighton she needs to have full ownership of the land she is donating so they are working on purchasing her share of the common land. Angus stated the only thing provided is a GIS map with areas shaded, if the land is to change ownership there will be a survey. Wroblika said yes. Angus stated the applicant has provided a plan showing the updated wetland line by NEE and write up from NEE, all areas are in Estimated & Priority Habitat. Angus asked what the current state of area is. Conte stated it's a vegetated meadow and hasn't been cleared for the last 4 or 5 yrs. The portion directly west of Conte lot has been cleared in the last 2 yrs. Angus stated that cutting vegetation is an alteration in Riverfront and would need permitting, i.e. and NOI. Angus stated that anyone can file an RFD, doesn't have to be the land owner and signature from all landowners is not required. However, with an NOI all owners would need to sign the application. Reidy stated the goal is to maintain what's been maintained before and prevent invasives from taking over. He

said they are not looking to dig anywhere, change drainage, etc. just mow. Angus stated mowing is alteration. She stated she did consult with MADEP on this and they pointed out that the square footage of impact would trigger a Wildlife Habitat Study with NOI application. She added that with an NOI/OOC we would get a review by NHESP.

Mr. Gonzolas said he supports the mowing Mr. Conte is proposing. He added that the portion directly west of his property has always been maintained as lawn. Mr. Reidy asked if the Commission would review an RFD for just those portions of Riverfront to be mowed? Angus said yes.

**Boice moved and Butler seconded. Commission VOTED (6-0-0)** to issue a Positive 1 for the mowing and brush-hogging of Common Land on Potwine Ln.

**7:45 PM 7:45 PM Request for Determination** – Terry S. Johnson for installation of a sewer pipe within buffer zone to an intermittent stream at 15 Teaberry Ln. (Map 21A, Parcel 17).

Terry Johnson & TK?, owners of the property presented the project. TK stated they would like to run a sewer line from their house to a sewer stub located to the south along Woodlot Rd. If they connect there they can use gravity to drain their sewer vs a pump if they connected along Teaberry Ln. Resource area is an intermittent stream bed that ranges from 35' to 100' from the sewer pipe. A licensed excavator will do the work, the trench will be 3' W by 3.5' D and erosion control will be used. The job will only take a day or so to complete. Willson stated the location of the sewer pipe is actually downgrade from the intermittent stream.

**Brooks moved and Allen seconded. Commission VOTED (6-0-0)** to close the public meeting and issue a Negative 3 Determination with no conditions.

**8:00 PM Abbreviated Notice of Resource Area Delineation** – UMASS New Build, LLC/Trey Willis for confirmation of resource area boundaries on University Dr. (Map 13B, Parcel 33).

Angus stated that an Abbreviated Notice of Resource Area Delineation is only a confirmation of the resource area boundaries no work is proposed with this application. Commission will issue an Order of Resource Area Delineation that will either agree with the delineation or not.

Andrea Kendall, LEC Env. Consultants and Tom Reidy, Bacon Willson Attnys. Kendall stated she has delineated Bordering Vegetated Wetlands on the site. The site currently consists of areas in agricultural use, upland fields & forests, wetlands, and wet forested areas. Kendall presented the site plan showing site uses, drainage, and resource areas. Kendall stated that the plan Commission has tonight needs to be updated to connect some of the delineation points to show the intermittent stream that flows across the old farm road. She will be updating the plan. Willson stated we will need an updated plan. Kendall stated the current plan shows the estimated location for the culverts, the next phase of site investigation will include survey work at which time they will add the actual drainage fixture locations.

Angus asked if there really is a stream? Kendall said yes, but she only marked the outer line of resource area, so not Bank since the BVW was outside that. Willson asked how far into the ag fields were soil samples collected in determining the wetland line? Kendall explained how she did her soil sampling, she stated she could do more soil sampling prior to soils freezing. Angus stated the Commission may be interested in having a third party review of the delineation. Reidy said his client would want the peer

review done as fast as possible. Willson stated because the overall cost is relatively low the procurement process with the Town shouldn't take much time. She stated she doesn't have to issue an RFP, she can simply call some wetland scientists.

Michael Lahem (?) representing Ann Marley owner of the abutter to the south, wanted to confirm that the Commission's job for this ANRAD was to either confirm the delineation, disagree with it, or modify it. Angus said yes. Lahem asked what will that confirmation look like. Angus stated we will issue an Order of Resource Area Delineation on a standard DEP form which will reference the final plan and delineation. The Commission has conducted two site visits, and we may hire a peer reviewer to review the ANRAD on our behalf. Lahem asked how the peer reviewer would be selected. Angus stated for a small project such as this the Town has a list of qualified consultants that would be contacted. Lahem asked how many soil samples will you require. Angus stated we would provide guidance on where to collect them and the frequency but leave the method and exact number up to the consultant. They must follow the MADEP delineating guidance. Kendall stated she did collect more than one soil sample but only submitted one data sheet.

Member of public (name?) stated the current farmer of the land stated he doesn't have to water his fields because they are always wet. The land is all wetland, nothing should have been built in this area. Everyone is saying there isn't a proposed project but there is and they are going to destroy the wetland. Angus stated when she said no proposed project she was referencing the application before the Commission tonight which has no proposed project. She added that the presence of water does not make a wetland, we need to look at vegetation, soils and hydrology.

Commission decides to continue the hearing in order to hire a peer reviewer to review the ANRAD.

**Brooks moved and Boice seconded. Commission VOTED (6-0-0)** to continue the hearing until 12-9-16 at 7:30pm and hire a peer reviewer. Applicant agrees to continue.

#### **Miscellaneous Untimed Items:**

- Certificate of Compliance – 682 Station Rd.

Willson stated this is the property we visited and they didn't have the 30' line marked which the OOCs required and they had landscaped over it. Willson visited the site and they have marked the line with blue wetland markers and removed the landscaping fabric.

**Brooks moved and Butler seconded. Commission VOTED (5-0-0, Boice abstained)** to issue the Certificate of Compliance.

- Certificate of Compliance – UMASS Academic Bldg.

Willson stated the Commission had a nice tour of the new bldg from Mickey Marcus this morning. Willson stated all the plantings are in and almost full grown.

**Brooks moved and Butler seconded. Commission VOTED (6-0-0)** to issue the Certificate of Compliance.

- Certificate of Compliance - 68 Cowles Rd., Trolley Barn

Willson stated we did a site visit this morning, and all the vegetation is grown in. The area where the invasives were removed was re-planted and looks like lawn right now but will grow in they don't plan on mowing it. They marked the edge with bird boxes.

**Brooks moved and Butler seconded. Commission VOTED (6-0-0) to issue the Certificate of Compliance.**

- Topics not reasonably anticipated 48 hours prior to the meeting

### **Adjournment**

**Voted** unanimously to adjourn the open meeting at 8:38 PM.