

**Conservation Commission Meeting
September 27, 2017
Town Room, Amherst Town Hall**

MINUTES

CALL TO ORDER

Meeting called to order by Ms. Angus, Chair at 7:02 p.m.

ATTENDANCE

Present: Angus, Brooks, Allen, Clark, Butler

Staff: Ziomek, Willson

CHAIR, DIRECTOR & WETLANDS ADM REPORTS

Ziomek stated conservation staff continues to work on the Markert's Pond flow structure. It's holding most water but seems to be allowing some seepage underground. Staff with help from DPW is going to dig near structure and if necessary add some concrete on the face of the dam to prevent seepage. Ziomek and Willson to walk the upstream areas at Hampshire College to investigate impairment of flow. Ziomek stated we have some very strong applicants for the assistant land manager position hope to have that person on board by October. Wrapping things up at Puffer's Pond, will be removing porta-potties in the next couple weeks. We're working on the Land Management Plans, Jonathon Tucker, retired senior planner, has written preliminary drafts of all of them now staff needs to review and create figures and photos. The plans will all come before the Commission. They will be living documents to be changed over time. Butler states he is happy to help with the management plans. Staff is working on two land purchases the Kieras and Cole properties. Clark is the Commission's new representative to the CPA, first meeting is next Tuesday. CPA proposals are typically due in December. Ziomek suggested it would be helpful for a commissioner to volunteer to help with minutes, commissioners used to rotate with each commissioner taking minutes for a month. Butler suggested transcription software, usually works if each person has a microphone. Ziomek stated staff will be mowing over the month.

MINUTES

Reviewed 8-14-17 Minutes

Brooks moved and Clark seconded. Commission VOTED (4-0-1, Butler abstained) to approve the minutes of 8-14-17.

PERMITS/DISCUSSIONS

7:10 PM Request for Research on Cons Land - Jonathon Woodruff/UMASS

Francis Griswald, works with Jonathan Woodruff, stated they would like to core sediment from Puffer's Pond from canoes. Taking approximately three cores with an approximately 2" diameter tube (she had an example). Studying deposition in ponds and other chemical analysis. Angus asked if dates on applications are accurate. Griswald stated not first one. Griswald asked if they could have permission to do this coring every fall for a few years. Butler asked if there would be a report, maybe one of the students. Ziomek stated the application needs to be filled out annually, a person doesn't need to come to

a meeting, but at least the application needs to be submitted so we know the dates, etc.

Butler moved and Clark seconded. Commission VOTED (5-0-0) to approve the application with the request of a report and annual notice of the lab.

7:15 PM Notice of Intent – Adrian Fabos for construction of two single family houses and associated driveways, grading, and landscaping within resource areas at Canton Avenue (Map 11D, Parcel 189).

Angus opened the hearing. Bucky Sparkle, civil engineer working with the Fabos family on development of two flag lots at the end of Canton Ave., presented the changes to the project since the last meeting. Benjamin Bailey, abutter, called a Point of Order because no abutter notification had been submitted for the revised NOI. Angus stated it's a revision to an existing NOI not a new application, therefore, doesn't require abutter notification. Butler stated he was not at the last meeting. Angus stated you just read the minutes from the last meeting, and the applicant will provide a re-cap of what was discussed and where the project planning is at this point. Angus added you can choose to vote or abstain. Butler stated he read the minutes and feels comfortable voting.

Bucky Sparkle, applicant's consultant, presented changes made to the plans in response to comments from the Commission, staff, and the public at our last meeting. He presented the plans on the overhead. Sparkle stated they changed the sequence of construction, they reduced the cleared area, they moved the solar array to the roof, they will be using a snow fence to mark sensitive areas to the contractors, and they made it clear in the revised NOI that this is a limited project with access over a resource area to get to an upland area. The project does not need a variance for the stream crossing because it is a limited project. They added an additional area for replication, 380 square feet, for the buffer zone impact in Lot 2. They came up with a hypothetical crossing of the wetland to calculate the replication amount. Angus stated when we're looking at work in buffer zone we assess whether we think the work will impact the resource area. If the Commission believes it does impact the resource area we look to the performance standards of that resource area for direction.

Willson asked if there were other aspects of the plans that have been updated. Sparkle said a few other smaller changes were made, the shed on Lot 2 was moved outside the 50' setback. They moved the clearing limits so there was less area being cleared and tightened up the grading. They altered the pitch of the driveway made it a cross slope, the upper portion water flows to the west, the lower to the east.

Public comments were received in writing from a number of abutters. The following abutters spoke, most read the comments they submitted in writing: Benjamin Bailey, Julie Rueschmeyer, James Sweeting, David Haines, Amy Sweeting, and Leo Lucien.

Benjamin Bailey, abutter, presented some slides quoting the Amherst Wetlands Bylaw. He read sections of the bylaw where he believes the Commission is not following. Angus responded by saying Section F of the bylaw states Limited Projects as defined in the Wetlands Protection Act may be used. Bailey said the Commission needs to make that decision, under the bylaw the Commission is required to go with the stricter regulation. Angus said under the bylaw the Commission is allowed to use the performance standards, this section directs us to the standards for allowing a limited project. She read the section of the WPA discussing standards for limited project. Bailey said it sounded like the applicant decided this was a limited project. Angus said yes, the applicant has the ability to call a project a limited project. Julia Rueschmeyer, abutter, stated in a case in Lincoln, MA it was determined that the stricter regulation (the bylaw) had to be followed. Angus responded that our bylaw is no stricter than the state regs when it comes to requirements of a limited project.

Julia Rueschmeyer, abutter, stated that the ANR originally submitted in 2006 to divide Parcel 1 from the other parcels was never recorded. Therefore, the Commission cannot issue a permit until they have a plan that depicts the lots as they really are. Angus stated that is a legitimate concern, however, it's not the Conservation Commission's purview to comment on that. The Commission just needs to know that the lot lines aren't finalized and may change impacting the design.

James Sweeting, abutter, stated they would like to request a postponement of tonight's meeting because they (all neighbors) received a letter two days ago from the Fabos (property owner) asking if they would like to buy a one acre portion of the property. Neighbors would like time to assess this offer.

David Haines, Haines Hydrogeologic Consulting, hired by the abutters to review the NOI application presented his findings. He provided a review letter. He stated that under the Wetlands Protection Act a limited project needs to minimize impact to best extent. He stated the length of Bank being impacted was not discussed, it has to be <50' or <10% of total length on site. Sparkle said there is more Bank on site that didn't get flagged. Haines stated the application discusses an alternative location for the driveway to the east but states there is a telephone pole and Fabos' yard there so that location can't work. Haines stated moving the driveway there would decrease the wetland impacts by 512 square feet which decreases the amount of replication necessary. He stated he sees a conflict with the work sequence, soil excavated from a wetland area during driveway construction is supposed to be used in the replication area but there is no discussion of how that soil would be transported through uncleared wet areas. He questions the location of the culvert. In the work description the wetland is described as a scrub shrub marsh and wet meadow, however, in the RFD the wetland is listed as a wooded swamp. This makes a difference when you go to do replication. The description doesn't include larger plants or seed mix. The plan does not include cross sections of the replication areas, he thinks for one it will be hard to create the right hydrology. There is no discussion of how the stream channel within the box culvert will be restored. The bioretention area is located within the 30' no touch zone so would require a variance.

Angus stated the bioretention area/rain garden is located in the 30' similar to the driveway within the 25'. Under our bylaw if the Commission determines it impacts the resource area we can look to the BVW performance standards for direction. A variance is not needed. Angus asked if the replication proposed for the driveway includes the rain garden impact? Sparkle stated no. Sparkle added we talked about this at the last meeting, we can move the rain garden out of the 30' but then it won't be located in the optimal location to catch and treat the driveway and parking runoff. Angus stated the Commission can also determine that using BMPs and purpose of rain garden to protect wetland it is allowed in the 30'.

Amy Sweeting, abutter, stated the area is in addition to being an important wetland it's one of the last open forest areas in central Amherst. It's part of wildlife corridor for animals large and small. She listed animals they've seen in the area. She stated if you look at the Amherst conservation map you can see this land connects to forested land to the north and then to land mapped by NHESP as priority habitat.

Leo Lucien, abutter, stated the property owner to the north has talked about donating her land for conservation. He stated his concern is drainage, his house already floods. What's going to happen when more trees are taken down for this project, there will be more water coming down the hill to his property. This could bring down property values. He would like the Town Engineer to take a look at the project. Angus replied this project is not subject to the MA Stormwater Standards because it's single family homes. However, we have asked the Town Engineer to weigh in but haven't heard from him yet.

Applicant to address the following comment/concerns prior to next meeting:

1. Respond (in writing) to Haines Hydrogeologic review comments. No other abutter comments require applicant to respond.
2. Contact Jason Skeels, Town Engineer, to review the proposed stormwater/drainage design.
3. Provide additional information on ANR for lot lines (Lot 1). Commission can make a decision without this information but it would be helpful.

Brooks moved and Butler seconded. Commission VOTED (5-0-0) to continue the hearing to October 11, 2017 at 7:30pm. The applicant agreed to continue.

7:30 PM Notice of Intent – Kendrick Property Management for stormwater system improvements within resource areas at Salem Place on Main St. (Map 14B, Parcel 237)

Colleen Puzzaz, SWCA Environmental Consultants, presented the project. Currently the stormwater system detention basins are overgrown with vegetation. The system has not been managed for years, there was no O&M plan written for the drainage system when it was permitted and built in the 1980s. Part of this project is to write an O&M plan. There are culverts that connect the two swales along the western property boundary, therefore, they were determined to be part of the drainage system and not BVW. Puzzaz stated the MADEP comment was just that maintenance of a stormwater management BMP does not require filing. Willson stated she did not get a copy of the DEP comments and would like a photocopy.

Willson showed pictures from the site visit. Clark asked if they plan to re-vegetate. Puzzaz said yes, they will use a native seed mix. They plan to clear the vegetation, excavate any accumulated sediment and re-seed. Repair any damage to the culverts, and will grade to level of culverts.

Brooks moved and Clark seconded. Commission VOTED (5-0-0) to close the public hearing and issue an Order of Conditions.

7:45 PM Request for Determination – Jacob Miller-Mack for installation of a fence within Riverfront at 80 Chapel Rd (Map 26B, Parcel 83).

Jacob Miller-Mack, property owner, presented the project. He stated they would like to build a fence in their back yard to contain a dog and children. Angus stated the fence is a 4 ft high fence with cedar posts and railing with wire fencing. Post holes to be dug by machine in some areas and by hand in others. No trees will be removed, no grading or earth moving. Willson provided photos on the overhead. She provided a map showing both the Baby Carriage Brook and an unnamed stream.

Clark moved and Butler seconded. Commission VOTED (5-0-0) to close the meeting and issue a Negative 2 Determination work within a resource area but will not fill, remove, dredge, or alter that area.

8:00 PM Request for Determination – Hitchcock Center for the Environment for construction of two drainage swales within buffer zone to bordering vegetated wetlands and an intermittent stream at 107 Henry St. (Map 6A, Parcel 57).

Ted Watt, Hitchcock Ctr, presented the project. The drywells for the tunnels have been filling up with

water causing the salamanders to not use them. The proposal is to dig two drainage swales to the west from the tunnels to better drain the drywells. The swales will be four feet deep. Willson asked if the sides will be sloped and they will be seeded. Watt said they could seed them, good idea. Watt said they are thinking of doing the work with a bobcat. Brooks asked if the removed sediment will be taken off site. Watt said no, they're thinking of spreading it on site. Watt said the northern swale will end approximately 16' from the stream. The southern swale will end over 30' from the wetland.

Angus asked if erosion control will be used. Watt said yes. Willson shared pictures from the site visit on the overhead. Willson asked when the work will start. Watt said before the ground freezes.

Brooks moved and Allen seconded. Commission VOTED (5-0-0) to close the meeting and issue a Negative 3 Determination.

8:15 PM Notice of Intent – Ronald Bercume/Bercume Construction LLC for construction of a single family house within buffer zone to bordering vegetated wetlands on Lot 8 Concord Way (Map 21D, Parcel 132).

Willson said we are still waiting on information regarding the vernal pool.

Brooks moved and Butler seconded. Commission VOTED (5-0-0) to continue the hearing until October 11th meeting.

8:20 PM Notice of Intent – Ronald Bercume/Bercume Construction LLC for construction of a single family house within buffer zone to bordering vegetated wetlands on Lot 11 Concord Way (Map 21D, Parcel 132).

Willson stated we have the NHESP review letter and DEP number. Angus stated NHESP letter says it's OK and DEP had no comment.

Butler moved and Clark seconded. Commission VOTED (5-0-0) to close the public hearing and issue an Order of Conditions with condition to permanently mark the 30' setback.

Miscellaneous Untimed Items:

- Topics not reasonably anticipated 48 hours prior to a meeting.

Adjournment

Voted unanimously to adjourn the open meeting at 9:15 PM.