

The following Commissioners were present: Bob Elliott, Chairman; Emily Boeing, Stuart Lahtinen, Rob Rand, Pat Swain Rice, Pete Steeves. Absent: Tim Dinsmore.

6/6/2023 - Minutes

1. Public Hearings, Public Meetings & Appointments

- A. 7:00 PM - Continuation Of Public Hearing Re: Notice Of Intent Filed By Ken Tully Proposing To Cut Trees And Clear, Construct A Single-Family Dwelling, Porch, Deck, Walkway, Driveway, Well, Subsurface Sewage Disposal System, Retaining Wall, Grading And Associated Utilities Within The 100 Ft. Buffer Zone At 57 East Street.

Ms. Maureen Herald with Norse Environmental represented the owner of the property Mr. Ken Tully. A MassDEP file number and comments were received. Ms. Herald stated that the plan has been updated to reflect the square footage of upland area as well as permanent demarcation (in 7 locations) of the no-disturb buffer. Ms. Herald stated that the Board of Health held a meeting earlier this evening to discuss two waivers requested for this property and both waivers were granted. The property owner requested a reduction in the required distance of the well (30' rather than the required 50') to the property line and a reduction in the required distance of the well (33' rather than the required 50') to BVW. A request was made to move the erosion control line/limit of work in a straight line south to the road during construction, rather than include the septic reserve area, which won't be built until later. This reserve area will remain in a natural, undisturbed state until the reserve system is needed. Commissioner Boeing said she agrees with Commissioner Dinsmore's comments from the last meeting when he stated that the house shouldn't be built on this parcel but she understands it is allowed because it predates the Bylaw. Commissioner Rice agreed with Commissioner Dinsmore and Commissioner Boeing but recognizes this is a legal building lot under the current set of laws even though it is not the best situation for the environment. Chairman Elliott said the basin is 2' above where they are showing high ground water. Chairman Elliott said this is the last lot to be developed and it is last for a reason but there is nothing illegal and it meets State regulations. On a motion from Chairman Elliott, seconded by Rand, all

VOTED: to issue an Order of Conditions #3 and #6.

- B. 7:05 PM - Public Hearing Re: The Commission Will Consider A Notice Of Intent Filed By Richard Green/Green 1A Investments, LLC For A Re-Development Project Consisting Of An Office Building With Research And Development Space For An On-Line Automotive Instructional Business, Associated Parking Amenities, Grading, And Landscaping Within Riverfront Area, Bordering Land Subject To Flooding, And Bordering Vegetated Wetlands At 23 Mill St.

Mr. Matt Hamor with Landplex Engineering and Surveying represented the owners of the property 1A Investment. Other members of the Project Team, including Attorney Melissa Robbins, Ms. Maureen Herald with Norse Environmental, and Aho Construction, were present. A 2009 MassGIS plan showing the historic mill complex was shared. Mr. Hamor explained that the site was razed to ground level around 2011 and an earlier plan was approved, but never constructed. In 2014, an ORAD was issued. Varnum Brook is upgradient of the former Mill site and a 4 X 4 box culvert transports the brook under the former Mill site, which is then discharged to the Nashua River. An existing paved easement brings you onto the site. A diffuser is on the property that transported the water from the building to the Nashua River but it has been decommissioned. There are easements throughout the property including MA Electric, utility poles and overhead wires, and a sewer easement (an 18" sewer line from Mill St. through the property). Deep hole testing has been completed for subsurface infiltration design. Soil tests show a variation of 4-8' of fill before reaching a sand material. The site includes Land Under Water (water in Nashua River), BVW, Land Subject to Flooding (elevation 184), Mean Annual High Water (elevation 176.6 taken from stream gauge), bank, and Riverfront Area. Mr. Hamor shared a Conservation Plan and a plan showing the Historic Mill Complex. The Conservation Plan includes impervious areas and degraded areas. The proposal calls for a 2-story office space on the front portion of building and a one-story extension for a studio with production rooms to be used for on-line instructional repair

services. The grading and drainage proposed for the site was discussed in detail. All unsuitable materials under the infiltration basin will be removed and replaced with sand so infiltration and recharge can go to subsurface sand material, which is located 8' below grade. Town water and sewer are available for the project. A hydrant will be added. Mr. Hamor said the project meets all Stormwater Standards and there is an O&M Plan. A Stormwater Pollution Prevention Plan would be required because it exceeds over one acre of disturbance. A General Permit would be issued by the EPA. With significant amounts of fill material on site, a Licensed Site Professional will ensure any soils removed are in conformance with the MA Contingency Plan. A Soil Management Plan will be prepared. Areas of work outside of the degraded area will include additional parking and retaining wall work. Restoration and replication work are proposed on the downgradient side of the walkway for this disturbance. The pavement and existing debris and top 6" of soil will be removed and replaced with jute matting and seeded. There is a Natural Heritage overlay for the Creeper Mussel in the Nashua River and conditions will have to be included to avoid a "Take" of a state-listed species. Chairman Elliott stated the ORAD issued in 2014 did not agree to degraded areas. The Commission agreed the site was previously disturbed and previously developed prior to August 1996 but there was no detail on disturbed vs. degraded. Regulation 10.58(5) defines degraded as impervious surfaces from existing structures or pavement, absence of topsoil, junkyards or abandoned dumping grounds but the plan shows fill vs. non fill. Most commercial sites have fill because it is used to level the site. The process typically followed during construction includes remove top soil, grade, fill, cut, and put top soil back. There is top soil, trees, and shrubs. It might be easier to show what is within the 200', which is within the Commission's jurisdiction. Is there a plan showing the site before 1946, as required in the regulations for a Historic Mill Complex? There was a plan provided from 1989. There is some pavement but most of what is being shown is proposed. There is a clarifier, which was licensed in 1973, and a corrugated building. The whole lot is not protected under the Historic Mill Complex regulations. The area proposed for restoration is already restored. There are trees and shrubs and 3-5" of top soil. How is the site being improved? There is natural vegetation in the area by the retaining wall. There are 137 parking spaces shown and only 83 required. Stormwater management is not considered an improvement, it is required. Commissioner Rice had a question about the big picture and then a few smaller things. The big picture is that she is concerned about what the entirety of the project could be. The property owners own more property than what is proposed for development and if there are plans to develop the rest, and before calculating disturbances and corrections, it would be useful to look at the whole picture. The entrance is from an adjacent parcel, which should be dealt with, if it is. The proponent's planting list includes nice native species, but two of the species are state-listed, which NHESP said should not be used. Rhododendron Maximum and Magnolia Virginiana are not native to Middlesex county but are state-listed, and should not be used. This does include a nice effort to use native species. One of the ground covers, Green and Gold (Chrysogonum Virginianum) is not native to New England, it is native to North America, and the State letter says plants should be native. Commissioner Rice questioned whether cranberry is a good groundcover for upland areas? These are more minor points but not the most important points at this time, but things she knows about. Attorney Melissa Robbins requested permission from Chairman Elliott to respond. As far as MEPA and a review of the entire site, there are no plans for future development of the site at this time. They have contacted MEPA but they don't believe anything they are doing right now will trigger MEPA. They understand in the future if they do develop things, they understand that may trigger review of MEPA for the entirety of the site and considerations for segmentation. Attorney Robbins also stated Commissioner Rice is accurate that the access to the site is proposed through another site and it is shown on the Planning Board filing. They will be meeting with the Planning Board on June 21. They are showing it as a proposed access and they reviewed it with Fire Department. If that changes, they will be contacted. They will adjust plantings that were questioned. Commissioner Rice questioned whether there would be an opportunity to daylight Varnum Brook. That would be something of great benefit, if possible, and something that was brought up at the former public hearings for the earlier project. Chairman Elliott commented that when the main mill area was proposed years ago, the floodplain compensatory flood storage was proposed in the area currently proposed for development. All of the areas where the new paving is proposed are areas that were to be used for compensatory flood storage and this could put limitations on what could be done in the future on the front lot. Administrator Terrasi said the Commission encourages the use of the Native Plant Guide but NHESP has listed conditions including the clear delineation of the Limit of Work, even for any disturbance on the abutting lot where access is proposed. Use only native plants and seeds and very specific and not state-listed plants and seeds. NHESP has brought up MEPA. NHESP has also expressed concern with segmentation. Chairman Elliott said he, Commissioner Rand, and Administrator Terrasi visited the site and witnessed 3-5" of top soil. Chairman Elliott suggested a

meeting with Mr. Hamor and Ms. Herald. We are waiting on comments and a file number from MassDEP. Mr. Hamor said it would be dangerous to look into the culvert because of the flow in the river. Mr. Hamor said there were intentions of doing anything with the culvert. At the road it is 10' below the road and close to the outlet it is deeper. Mr. Hamor said a condition could be added to inspect the condition of the culvert before and after construction. The public hearing was continued to July 11, 2023 and Attorney Robbins said they would follow up to schedule a site visit.

- C. 7:15 PM - Public Meeting Re: The Commission Will Consider A Request For Determination Of Applicability Filed By The Town Of Pepperell/DPW To Realign An Existing Rotary And Remove An Existing Sidewalk And Move It Further Away From A Wetland Resource Area. Disturbed Areas Will Be Restored With Native Seeds And Plants.

Paul Brinkman with the DPW represented the property owner, which is the Town of Pepperell. The proposed work is to realign an existing rotary and remove an existing sidewalk and move it further away from the wetland resource areas. The proposal includes narrowing sections of the rotary and the approach to the rotary to slow traffic. Mr. Brinkman stated that they are pulling the asphalt back several feet away from the pond, which will make room for an increased buffer to the wetlands. The area will be restored with low native plantings to help stabilize the site and keep people from the bank of the pond. The Limit of Work is identified with an orange line. Commissioner Boeing asked if there would be flashing signs at the crosswalks. Mr. Brinkman said there are five proposed with two at the crosswalk in front of C&S Pizza and two by the schools (further down Hollis Street). Commissioner Boeing stated that the Invasive and Native Plant Advisory Committee (INPAC) will be removing invasive plants at the rotary and they would like permission to move forward with this work. On a motion from Chairman Elliott, seconded by Commissioner Rand, all

VOTED: to issue a negative Determination of Applicability.

The Commission discussed the invasive plant work planned by INPAC and have authorized this work.

- D. 7:30 PM - Public Hearing Re: The Commission Will Consider A Notice Of Intent Filed By Carl & Diane Cerullo To Raze An Existing Dwelling, Garage, And Shed And The Construction Of A New Single-Family Dwelling, Garage, And Driveway At 56 Jewett St. Within The 100-Ft. Buffer Of Bordering Vegetated Wetlands.

Mr. Bruce Ringwall with GPR represented the owners of the property Carl and Diane Cerullo. A MassDEP file number and comments were received. The proposed project will include razing an existing dwelling, garage, and shed, and construction of a new single-family dwelling, garage, and driveway. The resource area on site was identified as BVW but Administrator Terrasi, and then MassDEP in their comments issued on 6/2/2023, questioned Riverfront Area (RFA) associated with Sucker Brook. Administrator Terrasi met Mr. Matt Marro of Marro Wetlands Consulting onsite on 6/5/2023 and it was determined the Riverfront's closest proximity to the site was at the inlet of the culvert on Jewett Street. The plan was updated using riverfront development and performance standards, not Riverfront Redevelopment, including an Alternative Analysis. The project is proposed to alter 4,754 square feet, which is under the 5,000 square feet allowed. The work will take place further from the RFA than current conditions. Commissioner Rice asked why the plans did not show the garage as attached, given the benefits of having an attached vs. unattached garage. Mr. Ringwall stated that the garage, whether it is attached or not, will alter the same amount of area and the owner, who will be doing most of the construction, will be constructing the house and driveway and the garage will be constructed at a later date and he did not want the garage connected to the house. On a motion from Chairman Elliott, seconded by Commissioner Rand, all

VOTED: to issue an Order of Conditions #3 and #6

2. Review Of Draft Minutes

- A. Review Of Draft Minutes Of May 16, 2023

On a motion from Chairman Elliott, seconded by Commissioner Rand, all

VOTED: to approve the draft Minutes of May 16, 2023, as drafted.

3. For Signature: Schedule Of Bills Payable

None

4. Conservation Administrator's Report

A. Garlic Mustard Challenge - First Prize Two Meadowsweet Shrubs @ Keyes Parker

Administrator Terrasi was notified by Ms. Deb Fountain with INPAC that the Conservation Commission and the Nashoba Conservation Trust came in first place in the Garlic Mustard Challenge. Both groups spent time with other volunteers pulling garlic mustard from along the bank and in close proximity to the Nissitissit River. The group pulled enough garlic mustard plants to fill 54 bags. The award for this work includes two Meadowsweet shrubs, which will be planted at the Keyes Parker Conservation Area.

5. Matters That May Be Raised That The Chairman Didn't Reasonably Anticipate

None

6. Other Business

None

7. Master Plan Implementation Update

None

The next Conservation Commission meeting is scheduled for June 20, 2023.

Respectfully submitted,

Paula Terrasi/Conservation Administrator