

**HOLDEN CONSERVATION COMMISSION
1130 MAIN STREET, SENIOR CENTER
MINUTES
May 1, 2019**

Members Present: Rob Lowell, Anthony Costello, Ken Strom, David Nyman, Cathy Doherty, Mike Scott

Not Present: Luke Boucher

Others Present: Pam Harding, Director of Planning, Glenda Williamson, Conservation Agent, Pam Savage, Recording Secretary, Tara Kent, Cutler Road; George Kiritsy, Esq Julian Votruba, NEED, Craig Bacon, Martelli Construction, Greenwood Estates.

R Lowell called the meeting to order 7:04

NOTICE OF INTENT - CRA - Holden Baseball - DEP File# 183-0659. Assessors Map 15, Parcels 211-1 and 211-51. Removal of an existing parking lot for the construction of a new baseball field. Construction of a new parking lot and baseball field with assoc. grading and stormwater management system. Reps: Eaglebrook Engineering/Waterman Design.

The applicant requested a continuance to June 5th, 2019 meeting. The public hearing was not opened for this project.

R. Lowell asked G Williamson about alterations to the agenda. G. Williamson proposed moving on to ENFORCEMENT, Cutler Road.

ENFORCEMENT

Cutler Road - Assessing Map 84, Parcel 9 - Mark Kent

R. Lowell asked what the enforcement issue was with Cutler Road.

G. Williamson (photographs referenced) regarding tree cutting work that was done. Trees were removed from the 200 foot buffer of the perineal stream.

R Lowell read aloud, "A portion of vegetative wetland was cleared but not stumped. No trees or vegetation were moved and no disturbance occurred within 100 feet of the stream bank. The closet point of disturbance to the stream was 115 feet. Approximately 15 large hardwoods were cut at the base and approximately six smaller saplings. The approximate area of forest to wetlands cleared was 8,000 square feet. A large quantity of brush and ground cover remains on the cut over area. Minimum ground disturbance was apparent. Mike Harrington, the forester that did the work stated that he was unaware he was cutting in a resourced area or the 200-foot buffer. Mapping for the area indicates a stream that flows between Mr. Kent's lot and 50 Cutler Road as a perennial stream, aka a river. Commission has jurisdiction within 200 feet to the stream.

R Lowell said unpermitted work was completed. The forested wetland is classified as an Outstanding Resource of Water (ORW). R. Lowell asked what is being requested from the property owner.

G Williamson replied that she went out there and initially spoke with Mike Harrington. Mike told her that he didn't realize he was in a wetland area and was told by Mark to stay 100 feet away from the stream. He didn't realize the wetlands came up much further onto the lot. G Williamson said the site is in relatively good condition, still very little disturbance and ground cover is growing. Her recommendation is to have them pull out the majority of heavy brush, (referenced photo indicating much groundcover), to stay out of the 200 foot buffer and to let the area re-vegetate naturally. She said that the DCR is also concerned since the cut area is within DCR's primary zone.

R Lowell said the plan is to stop cutting the trees and if there is a need to cut in the future, they should seek permission from the Commission.

A Costello asked the reason for clearing. G Williamson said Mike wanted hardwoods for firewood. A. Costello recommended no more machinery at the location. R Lowell answered that Mike is a firewood dealer. R. Lowell asked about the future use of the property. Mike stated that they planned to leave this area alone and had no further plans for this parcel.

C. Doherty asked if a motion was needed for anything. R Lowell recommended to ratify the enforcement order the way it is written, if there are further considerations, and to cease activity. M. Scott asked G. Williamson if the removal of the brush is on the order. G Williamson replied yes, that it would be easier for the site to re-vegetate this way. The Commission discussed this and decided that it would be best to leave the brush on the site.

Motion by C. Doherty to let stand as written, seconded by K. Strom, it was UNANIMOUSLY VOTED TO RATIFY THE ENFORCEMENT ORDER FOR ASSESSING MAP 84, PARCEL 9, CUTLER ROAD OWNED BY MARK KENT.

GREENWOOD ESTATES

R Lowell read aloud, "A meeting at Holden Town Hall took place between Greenwood Estates Subdivision and a Town of Holden, Conservation Commission. Currently reviewing contents of a letter dated April 24, 2019, with a set of requirements for construction controls, with date specific deadlines on all of the requirements. Also in receipt of a May 1st letter, noting a number of items which were completed by the specified deadline. R Lowell asked if the applicant was willing to discuss the status of the requirements.

G Kiritsy, Esq, representing Jackson Woods, the applicant for Greenwood Estates, accompanied by Julian Votruba, from New England Environmental Design, and Craig Bacon who is the site foreman. G. Kiritsy, Esq said he only received the May 1st letter 90

minutes before the meeting and said Mr. Blair was unable to attend this meeting due to travel resulting from son's deployment.

G. Kiritsy, Esq. advised Mr. Blair and Mr. Bacon, that despite the fact that there may be some data missing, there are no current violations or breaches at the site. There are multiple layers of erosion control on site, and while some of those layers have been breached, they are located significantly outside of the work area. He claims there has been no violation of a resource, and the wetlands have not been breached. G Kiritsy, Esq. continued and said his position is to ask the Commission to provide a chance for him and his clients to digest the letter just received today, as opposed to going in a direction they may not be able to easily retract themselves from. He further requested that the board revisit the issue, and tonight address the issues they can. He said the board always has the right to stop the site, but to not do that now because that puts them in a situation which will require a resolution outside of this meeting and they don't want that. He does not believe a Cease and Desist is appropriate.

R. Lowell asked what G. Kiritsy, Esq. could tell the Commission, with respect to the requirements set forth from discussions with the town on April 23, 2019, and subsequent documents on the 24th. Those requirements have been set for at least a week and believe there have been some efforts to respond, but were not fully responded to.

G. Kiritsy, Esq answered from what he read in the May 1st letter, someone is unsatisfied with the degree of response. Some responses to the items were satisfactory. He said he was not part of the April 23rd meeting and asked if J. Votruba was part of that meeting.

J. Votruba said he was not part of the April 23, 2019 meeting, but had information from that meeting.

R. Lowell asked P. Harding who was part of that meeting.

P. Harding said they have weekly meetings with Frank, Clea, town staff, and the third party inspector Graves Engineering. She said a major issue is that since the January 1st project meeting, they have been requested to provide calculations for construction basins that are taking runoff from the site. They are holding water between rain events and being manually drawn down, that doesn't allow enough time for sediment to settle out of the basins. The turbid water is being discharged from the basins. Strict deadlines have been set to get a response and then the responses are not adequate. Engineers reviewed them, in house and Graves Engineering also. They had lengthy comments and she reiterated it has now been four or five months.

R. Lowell said those are supposed to be responded to before any site activity starts and asked if there were any comments from the Commission, to which there were not.

J. Votruba said SWPPP calculations were done and a SWPPP is an ongoing, constantly changing process in construction. He said they have come up with a general plan for the entire site which shows the disturbed area. (SWPPP Plan Shared with Committee).

J. Votruba said the red line (SWPPP referenced) shows the area has been cleared, not completely grubbed and the green line is the area of disturbance, which was cut, trees, vegetation removed and, in some areas, earth has been relocated, stripped away, and cut down. He showed area depicted on the plan and sub-sectioned each area the way the water is going, to meet a two year storm on the SWPPP. To completely make a basin to take care of the area for that storm would take up the whole area. He stated the need to regulate the way the water is going into the areas, and have calculated volumes, through Hydro-Cad program, to the area going into the detention ponds and calculated the volume, over the disturbed area coming down the hill.

G. Williamson clarified they did an across the board average of stormwater volumes.

J. Votruba confirmed an average and said there is no silt leaving site. He stated that the pond can handle the volumes going to it. They have to release the water. He also said all water can't be caught going in and out and expect it to evaporate.

R. Lowell said it's supposed to infiltrate, not evaporate.

K. Strom asked if there a way to intercept that and channel it off and he is concerned about the off-site contributory area now that is running into the construction area.

P. Harding said she has been saying that for three months.

J. Votruba said they are implementing that now and do have some cross pipes. The swale cuts right across the top, collecting the water that's coming off the site and it is crystal clear water. Then they piped it across from where the trucks are driving back and forth, so crystal clear water isn't being driven through anymore.

P. Harding clarified it being a dirt swale, un-stabilized and it is getting dirty.

J. Votruba said, to say they haven't followed the EPA SWPPP Program is an incorrect statement.

P. Harding said she didn't say the program wasn't being followed. She said she had an email from Clea that they are not sending people out on weekends, which is fine but follow up on Monday. Re-affirmed she didn't say SWPPP Program wasn't being followed, but that she is missing two reports.

J. Votruba said they are working hard to make sure the clean water is going across the site and not getting contaminated with the trucks in open areas. Did an 18-foot test pit and went down 28 feet. There are decent soils so they're not moving like they could be. Hoping to get section (referenced), as one of the contributing issues, and that they have been working the last couple of days. It is crystal clear, as long as no one touches it, and it does not need to be touched until the road is done.

R. Lowell asked to which basin does the water go, and if it is currently full or ready to receive water.

J. Votruba said it is not totally full, and they have a 4-inch discharge pipe so they cannot create a holding pond. Between storms, they discharge and then let it sit for a few more hours.

R. Lowell said there is a lot they could do. Recommended they may need more treatment units on site to deal with it or a series of detention basins as a way to remove the sediment, so when water leaves the basin it is clean.

P. Harding said clean water is getting put in the construction sites, getting dirty, eroding things and there should be a better method.

R. Lowell said it needs to be stabilized.

J. Votruba said it's not going to be very much to get it to run clean water and when they aren't de-watering, it is running clean and thinks they are at that point this week.

Craig Bacon asked where they are getting the information that the water leaving the pond is turbid. P. Harding stated that they have video from Saturday that shows cloudy water leaving the discharge pipe. Craig stated that Graves Engineering goes to the site every day and analyzes the discharge. He said if you look at their daily reports, they state that the discharge is relatively clean in every report. G. Williamson stated that under their CGP, they do not need to measure turbidity. The water has to appear relatively clean. G. Williamson stated that the rocks in the swale are sinking because of the sandy soils. Craig said that the swale is stabilizing the more it is used. He said that they have a settling area in the basin. G. Williamson stated that there has been no sedimentation to the 25 foot no-disturb zone.

R. Lowell asked if they had updated calculations on the temporary sediment basins. Julian stated yes, they have been updated.

R. Lowell stated that last month they talked about re-routing to the other system and verified that J. Votruba was going to provide some justification on why that was going to be okay and what was the design that would accommodate that?

J. Votruba said they talked to Quinn, they reviewed and said that changes the direction of the watershed and they won't allow that. P. Harding said that Quinn asked for calculations. J. Votruba said that they provided them with calculations. D. Nyman asked if they gave Quinn calculations showing the stability of the receiving swale. J. Votruba said that he gave Quinn calculations that the crossing pipes could handle the flow.

J. Votruba said from an engineering standpoint, they feel the rip-rap will dissipate the energy to an acceptable engineering practice amount and bleed 25 feet away toward wetland and work its way down to the same design point at the bottom of the hill.

R. Lowell asked if they need to anchor or stabilize those channels.

J. Votruba said he doesn't believe so because water velocity is small, this is very flat, one could do a profile of that. It's very viable that it did go to this direction so he isn't introducing anything new to the area.

R. Lowell said he didn't know if J. Votruba studied that in the course of his site design and that's what the Commission is trying to verify.

P. Harding referenced the response email from Quinn Engineering in regard to the re-direction of flow.

Quinn stated that the Commission should determine if this is a relocation of an existing outlet or if this is considered a new outlet. J. Votruba stated that he thinks it's reasonable for Quinn to ask for calculations that show that new location will not erode and said that they can't assume the velocity of the pipe is going to be the velocity of the slope. The Quinn review stated that there is no evidence that the flow ever entered the U-Series wetland.

R. Lowell said they might be on to better solutions, and through Quinn, help understand some flow modeling that show that you're not going to gauge out another issue there. R. Lowell stated that if there was not evidence of recent flow patterns and/or hydric soils, they would have to treat the re-direct as a new discharge to the U-Series wetland.

D. Nyman stated that it is not perfectly flat up on Lot 8R that they might end up displacing the erosion problem at the existing outlet to the new location and end up with a similar development. He stated that once the water exits the end of the apron, the slope is the slope and the erosion will result from the velocity of the flow and the volume. It is reasonable for Quinn to ask for calculations for the flow volume.

R. Lowell asked if the Harrington/Appletree Lane flow was causing any additional problems on the site. C. Bacon stated no, that he blocked the existing drainage ditch down from the outlet and re-directed the flow from the pipe to the flat forested upland area where the water infiltrates as opposed to flowing down the slope to the active construction site.

D. Nyman asked what the original plan to deal with this outflow was. C. Bacon stated that they had planned to construct a series of step-down manholes to contain and slow the flow.

R. Lowell referenced the letter dated April 24th, 2019 item #5, regarding a revised utility plan and storm water calcs for 48-60 inch culvert.

J. Votruba said those plans were submitted to Quinn Engineering.

R. Lowell asked if that crossing would now take this additional flow and if so, that needs to be reflected. J. Votruba said yes.

R. Lowell referenced April 24, 2019 letter, item #6 requesting an updated construction schedule. J. Votruba said there is not an updated construction schedule at this time. He said that it's changing by the day and that it is difficult to make an exact schedule. He anticipates end of June for major phase one infrastructure. May be delayed because of ground water, ledge issues, rain issues, weather issues, etc.

D. Nyman said the request information says "provide an updated, written consolidated schedule as of the date of deadline and provide a weekly update on that". That's a routine thing and asked what the difficulty it is by providing that.

G. Kiritsy, Esq. said he knows that Mr. Blair meets with the town very regularly and it might not have been documented, but there are no surprises to what's going on over there and not to say they shouldn't be documenting. He said he told Mr. Blair to document conversations and he may have thought saying things is how they do that, but everybody knows what's going on over there.

R. Lowell said he's not sure everyone knows what is going on and activities going on that don't seem to be under control. Whether they don't anticipate a storm event during frozen conditions or other contingencies, they should be able to expect a work schedule from Mr. Blair.

R. Lowell said there was a question about a silt sac at 154 Highland Avenue, regarding a catch basin and protective device. There is an impervious material instead of a real silt sac and that needs to be cleaned out.

C. Bacon said they have to acquire some silt sacs, there is no flow, and there is a 300 foot tracking pad. He said nothing is getting on the road and it is extremely clean.

R. Lowell referenced April 24, 2019 letter, item #9 floc logs and if they are desired, they need to be added to the plan as an EPA CPG requirement. G. Williamson asked if they could be added to the top of the swale as well as the bottom. C. Bacon stated that they would be most effective at the bottom of the swale.

R. Lowell referenced April 24, 2019 letter, item #12 regarding sediment beyond the perimeter barriers behind sediment basin 3-3. C. Bacon stated that the sediment flowed to an upland area and they planned to let it naturally re-vegetate and that there are erosion controls below it. G. Williamson stated that they could leave the sediment alone.

R. Lowell referenced the May 1st letter, item #13 through #18 that will need to be addressed with regard to the qualifications of their SWPPP monitor which need to be submitted to the Commission. J. Votruba said he will send again to G. Williamson.

R. Lowell said the last item has to do with peer review costs from additional funds, where a request was made on April 18th and if possible to pass that through and the town is still looking for that.

P. Harding asked if the construction fencing had been installed around the vernal pool. C. Bacon stated yes.

P. Harding said it was potentially marked as a vernal pool during the original filing, with the condition that it be re-evaluated in the spring. Art Allen went out to re-evaluate last month and found the qualifying species, so it could be certified. He submitted a report to the Commission and to Clea as well. She said they would forward it to them.

R. Lowell asked if there were any other considerations from the Commission based on the proceedings. P. Harding said they would like the information that has been requested for two to three months.

D. Nyman asked what date this information will be provided. J. Votruba referred to April 24th letter from the Commission and nine outstanding items. J. Votruba stated that they would have to resolve the Harrington Ave flow direction issues as that would make a big difference in the response.

J. Votruba referred to the plan and the only thing that changed from the phasing was the stock pile.

R. Lowell said the applicant did ask for permission to put a stockpile limited to the cul-de-sac only, into the Phase 2 area two meetings ago and we said that was okay. R Lowell said the level of frustration is increasing as far as communication of a schedule for and some requests have been sitting out there for some time. He proposed a two week period from now to be a reasonable period of time to get information back to the town, (May 15, 2019). Many dates were certain on May 1st and information has been going back and forth between your engineer and Graves. Would like to see that conversation continues in an active fashion, and that things requested by the town by May 1st to extend to May 15th with the idea that those get addressed.

G. Kiritsy, Esq. agreed and also said what they submit to the town, they will copy to the board to make sure the board knows that we are responding.

R. Lowell said other high precipitation events will occur and site controls will continue to be tested again and again and unless they are working well, will continually be chasing their tail and not doing the work they are trying to do. By the June meeting, would like to have some of the items checked off satisfactorily with respect to the town, and site controls working in a fashion as such that, when it rains, precipitation is contained and discharge going off-site is as clean as possible given the limitations.

Attorney agreed they would be back in June and inquired about the Cease and Desist?

R. Lowell said they haven't taken that action to ratify at this point; they are trying to make sure these items stay on track, but our expectation is that it gets addressed in the next two weeks so that we don't have to take any further action at the next meeting.

P. Harding asked if Commission would like to do a site visit. R. Lowell said yes, and asked if they can visit the site as a Commission with Craig and Julian present and it was agreed to and asked Glenda to coordinate a morning site visit.

REQUEST FOR CERTIFICATES OF COMPLIANCE - DEP File #'s 183-619,-620,-621. 41, 39, 37 Jordan Road. (Lots 43, 44, 45). Assessing Map 244, Parcels 58, 59, 60. Single Family Homes. Kendall Homes, Oak Hill Subdivision.

G Williamson said all three have grass, are all stable, no special conditions, no permanent demarcations required, and all three have been stabilized for a while.

Motion by D. Nyman, seconded by C. Doherty, one abstention by L. Boucher, it was VOTED TO ISSUE THE CERTIFICATES OF COMPLIANCE FOR 37, 39 and 41 JORDAN ROAD, OAK HILL SUBDIVISION.

REQUEST FOR EXTENSION - DEP File # 183-0618. 133 & 139 Fisher Road (Assessing Map 243, Parcels 21, 22). Common driveway, 2 single family homes, septic systems and wells. Kosta Realty, LLC. Quinn Engineering.

G. Williamson said they are requesting a one year extension to do a bit more stabilization. She said it looks completed, but there may need more work that she is unaware of.

Motion by C. Doherty, seconded by K. Strom, it was UNANIMOUSLY VOTED TO APPROVE A ONE YEAR EXTENSION OF TIME FOR 133 & 139 FISHER ROAD, KOSTA REALTY, LLC. QUINN ENGINEERING.

OTHER BUSINESS

105 Mixter Road

G. Williamson stated that the homeowner, Chris Galli at 105 Mixter Road is suing the town and neighbors for harassment, as his neighbor called in the violation to the Commission. Chris stated that when he built the home in 2003, he was told that there were no resource areas within 100-feet of the work. G. Williamson said they did not make him file then because he was far enough away from the wetlands at that time. She searched the records and found nothing saying there was a not resource area behind his home. She said that he is stockpiling soil next to the wetland and grading the lot further toward the resource area.

M. Scott asked if he filed with the Board of Health for a septic permit. G. Williamson stated yes and that there are no resource areas shown on the septic plan. She stated that there is an intermittent drainage that runs along the back of the property.

The homeowner won't let her walk the property without being threatening in his behavior so she cannot investigate. She received an email from Dennis Lipka, the former building inspector for the town that said the Board of Health was concerned with placement of septic and the well because there were resource areas within 100 feet.

M. Scott asked if the homeowner built the home himself. G. Williamson stated yes. She said she is positive there is a wetland and will be satisfied if he stops bringing fill in and expanding toward that resource. R. Lowell said he needs to understand it's a wetland before he will stop that.

G. Williamson referenced the mapping as there was discussion as to what is mapped and not mapped on the Town's database and the state mapping. C. Doherty asked what neighbor complained. G. Williamson stated Jack Kurtz at 217 Mixter Road had called several times.

80 Chapin Rd. (Lot 3)

G. Williamson (circulated and referenced photo) said that the driveway is cleared, they did an awesome job and not one bit of soil went into the stream. CK Smith is the contractor and they are waiting for the crane to come in and put the span on the footings. She said that WOLCS gave the homeowner permission to use their adjacent property to access their lot so machinery could clear the driveway.

R. Lowell confirmed with G. Williamson that 80 Chapin Rd is in good shape.

Holden Wetland Bylaw and Regulation - Revisions

G. Williamson said there are two small typos/minor changes in the vernal pool section of the bylaw that need to be fixed. The older version of the bylaw and regulations are posted on the Town's website under the DPW homepage. P. Harding stated that the older version should be removed from the Town's website.

R Lowell said this is website maintenance and no action needs to be taken. The website can be updated with the proper bylaws. All agreed.

Minutes

The Commission is still reviewing the Dec 2018 and Jan. 2019 meeting minutes and will provide revisions at the next meeting on June 5th.

Motion by L. Boucher, seconded by C. Doherty, it was UNANIMOUSLY VOTED TO ADJOURN THE MAY 1, 2019 CONSERVATION COMMISSION MEETING AT 8:43 PM.

APPROVED: _____