



CONSERVATION COMMISSION MEETING MINUTES – June 6, 2016

Present: Scott McIsaac- Chair, Eldon Abbott- Vice Chair, Bob Mosher, Laurie Freeman, Loni Fournier- Conservation Officer

Absent: John Morrissey

Meeting was called to order at 7:02 PM.

Approval of Minutes

Motion: Commissioner Abbott motioned to approve the minutes from the May 23, 2016 Commission meeting.

Second: Commissioner Mosher **In Favor:** All **Opposed:** None

Requests for Determination of Applicability

1 Oakcrest Road

Applicant: Eric Perakslis

Proposed: Installation of a fence and shed

Eric Perakslis presented the plans to the Commission.

The applicant is proposing to install a 6' high, approximately 100' long, cedar fence along the back of their property, as well as a 5' high and 90' long picket fence along the western side of their property, following the utility easement. The applicant is also proposing to construct a 12'x 8' (96 ft²) shed on the western side of their property near the proposed picket fence.

Staff visited site on 5/24/16. The property is flat with a slight slope from the back of the property towards the wetland. The utility easement, on the western side of the property, is evident. There is a small patch of ivy and some hedges located along the back of the property; there is no proposal to remove these hedges. With proper erosion controls, the installation of the fences and shed should not have an adverse impact on the wetland, which at the closest point, is located approximately 80' away.

The Conservation Officer stated that it would be most critical to have erosion controls installed along the back of the property and she does not expect any negative impact to the wetlands.

Motion: Commissioner Freeman motioned to issue a Negative Determination of Applicability for the work proposed at 1 Oakcrest Road and adopt the findings of fact a and b and conditions 1 through 3 of the staff report.

Findings:

- a. This project meets the requirements of Part 1, Section 7.1 of the Town of Hingham Wetland Regulations governing procedures for a Request for Determination of Applicability.
- b. The work described is within an area subject to protection under the Wetlands Protection Act (M.G.L. c. 131, § 40) and the Town of Hingham Wetland Regulations, and will not alter or adversely affect the area subject to protection under the Act or the Regulations.

Conditions:

1. Prior to the start of construction, erosion controls shall be installed and inspected by the Conservation Department; straw wattles and/or hay bales will not be used as a form of erosion control.
2. Erosion controls shall remain in place until construction is complete.
3. The Conservation Department shall be notified of any changes in plans prior to proceeding with said changed plans.

Second: Commissioner Mosher

In Favor: All

Opposed: None

2 Alice Walk

Applicant: Andrew Schlosberg and Hilleary Plummer

Proposed: Repair of existing seawall

Hilleary Plummer presented the plans to the Commission.

The applicant is proposing to repair the existing 40' long seawall, using the existing rocks and remaining within the existing footprint.

Staff visited the site on 5/24/16. The wall has been damaged and is in need of repair. A salt marsh is present, several feet away from the wall, but with proper erosion controls it should not be impacted by the proposed seawall repair.

The Conservation Officer stated that the only real concern is that there will not be any damage to the salt marsh which is approximately 8 feet from the wall.

Commissioner Abbott asked Ms. Plummer if they planned to bring in any machinery to repair the wall. Ms. Plummer stated that she was not aware of any machinery, but she planned to check with the contractor.

Commissioner Abbott requested that all work done with machinery be done on the landward side of the seawall.

Motion: Commissioner Abbott motioned to issue a Negative Determination of Applicability for the work proposed at 2 Alice Walk and adopt the findings of fact a and b and conditions 1 through 6 of the staff report, as amended by the Commission.

Findings:

- a. This project meets the requirements of Part 1, Section 7.1 of the Town of Hingham Wetland Regulations governing procedures for a Request for Determination of Applicability.
- b. The work described is within an area subject to protection under the Wetlands Protection Act (M.G.L. c. 131, § 40) and the Town of Hingham Wetland Regulations, and will not alter or adversely affect the area subject to protection under the Act or the Regulations.

Conditions:

1. Prior to the start of construction, erosion controls shall be installed and inspected by the Conservation Department; straw wattles and/or hay bales will not be used as a form of erosion control.
2. Erosion controls shall remain in place until construction is complete.
3. No activity, including the storage of any materials, shall take place within the existing salt marsh.
4. Any debris that falls into the resource areas shall be removed immediately by hand.
5. The Conservation Department shall be notified of any changes in plans prior to proceeding with said changed plans.
6. All mechanical equipment shall operate from the landward side of the seawall.

Second: Commissioner Freeman

In Favor: All

Opposed: None

117 Hobart Street

Applicant: Brian and Tatiana Cavanaugh

Proposed: Installation of a fence

Brian and Tatiana presented the plans to the Commission.

The applicant is proposing to install a 4’ high, approximately 128’ long, fence along the edge of the lawn behind the house, as well as a 3’ high and approximately 72’ long fence along Hobart Street.

Staff visited the site on 5/26/16. The area behind the house consists of a fairly flat grassy area with a steep drop off towards the lower portion of the property, where the wetlands and potential vernal pool are located. The area along Hobart Street is also maintained as lawn and it slopes towards the resource areas, including an intermittent stream that runs through a culvert under Hobart Street. With proper erosion controls, the fences should not have an adverse impact on the resources areas.

The Conservation Officer stated that her only concern was using erosion controls along the fence on Hobart Street. She asked the applicant to install the erosion controls on the lower fence area to protect the wetlands.

Motion: Commissioner Mosher motioned to issue a Negative Determination of Applicability for the work proposed at 117 Hobart Street and adopt the findings of fact a and b and conditions 1 through 4 of the staff report.

Findings:

- a. This project meets the requirements of Part 1, Section 7.1 of the Town of Hingham Wetland Regulations governing procedures for a Request for Determination of Applicability.
- b. The work described is within an area subject to protection under the Wetlands Protection Act (M.G.L. c. 131, § 40) and the Town of Hingham Wetland Regulations, and will not alter or adversely affect the area subject to protection under the Act or the Regulations.

Conditions:

- 1. Prior to the start of construction, erosion controls shall be installed along the limit of work for the lower fence (parallel to Hobart Street) and inspected by the Conservation Department; straw wattles and/or hay bales will not be used as a form of erosion control.
- 2. Erosion controls shall remain in place until construction is complete.
- 3. Any debris that falls into the resource areas shall be removed immediately by hand.
- 4. The Conservation Department shall be notified of any changes in plans prior to proceeding with said changed plans.

Second: Commissioner Abbott

In Favor: All

Opposed: None

Extension of Order of Conditions

Ward Street – DEP 034-0895

Applicant: Black Rock Residential, LLC c/o Northland Residential Corporation.

The applicant is requesting a six month extension to the current Order of Conditions for the residential development at Black Rock. The applicant was not present for the hearing and requested it be heard in his absence.

The original Order of Conditions was issued on 4/19/2007 for the residential development at Black Rock. An extension to this Order of Conditions was granted on 3/30/2010, which is set to expire on April 19, 2017.

Under the current Order of Conditions, 137 out of 138 homes have been constructed. Construction on the last single family home is set to begin this summer, and it will be built by a third party. Due to this fact, the applicant is requesting a six-month extension to the current Order of Conditions well in advance of its expiration date in order to provide the builder ample time to complete their construction.

Motion: Commissioner Freeman motioned to issue a six-month Extension Permit for the Order of Conditions issued to Black Rock Residential, LLC (DEP 034-0895).

Second: Commissioner Mosher

In Favor: All

Opposed: None

Commissioner Mclsaac read the Public Hearing Notice of Intent.

Due to a conflict with the Planning Board, the hearing for 895 & 901 Main Street was delayed and the hearing for 300 Linden Ponds Way took place first.

Notices of Intent

300 Linden Ponds Way – DEP 034-xxxx

Applicant: Jim Centola

Representative: Ting Chang

Proposed: 40B Development

David Cloutier, civil engineer, presented the plans to the Commission.

Linden Ponds is proposing to construct their 12th building, which will complete the second of three proposed neighborhoods on the property. The proposed building will be 7 stories high and contain 104 units of senior housing. The project also includes associated retaining walls, pedestrian walkways, curbing, a stormwater management system, utilities, and site landscaping. An existing paved area will be disturbed, due to the new construction, and repaved.

A portion of the proposed improvements fall within the 100 foot buffer zone. Only the proposed pedestrian walkway, an additional retaining wall, associated grading, and a portion of the existing paved area fall within the 50 foot buffer zone. Construction equipment will pass through both the 50 foot and 100 foot buffer zones. The total permanent impact within the 50 foot buffer zone is 4,230 ft², including the existing impervious area (4,020 ft²). The total permanent impact within the 100 foot buffer zone is 21,500 ft², again including the existing impervious area (17,870 ft²).

The Commission previously issued an OOC for the entire Linden Ponds development in 2003. That OOC was appealed and the DEP issued a Superseding OOC in 2008. The DEP recently denied a Certificate of Compliance, due to outstanding mitigation work, however the denial does not preclude the applicant from filing a separate NOI. An existing comprehensive permit for the development waives the conditions of the local wetlands bylaw. The proposed disturbances remain within the limits of the design previously approved under the comprehensive permit and the Superseding OOC.

Staff met with the applicants on 5/3/16 to review the minor changes that were made to the building and stormwater management system plans. Provided that erosion and sedimentation control Best Management Practices are utilized during construction, the resource area should not be negatively impacted by the construction.

The Conservation Officer stated that she referred to the old Order of Conditions to make sure that she captured anything that the Commission was reviewing and considering at that time; however quite a few of the special conditions were more appropriate for the scale of the original development. She further stated that proposed building is mostly out of the 100 foot buffer zone and it appeared that the applicant was doing everything they could to limit the impacts on the wetlands, including proper erosion and sediment controls and an O&M Plan. In addition, given the existing infrastructure that was already in place, she felt it was reasonable to issue an Order of Conditions.

Commissioner Mclsaac asked Mr. Cloutier whether the stormwater management system was adequate, given that it had been in place for many years. Mr. Cloutier stated that he was not involved with the original design, but he was familiar with the current conditions. He further stated that he knew it was designed for the entire build out for the two constructed neighborhoods, and based on what he observed from walking around the site, the system appeared to be operating as designed.

Commissioner Freeman asked the Conservation Officer if there were any concerns regarding the denial of a Certificate of Compliance from the previous Order of Conditions. The Conservation Officer replied that the DEP stated that it does not preclude them from filing another Notice of Intent; however they have wetland mitigation and replication issues to clean up on the site. She further stated that they are actively working with the DEP to come into compliance.

Commissioner Abbott asked Mr. Cloutier if the drainage systems had been maintained and the maintenance plan followed. A representative from Linden Ponds replied that they maintain it twice a year and detention basins reports are written annually and submitted to the Conservation Department.

Commissioner Freeman asked if any other updates needed to be made to the O&M Plan, aside from replacing the use of hay bales with silt fence, such as other best practices or new technologies. The Conservation Officer stated that she did not think any other changes or updates were necessary. She further stated that even though the O&M Plan calls for hay bales, mulch logs have been proposed as the erosion control, which are preferred.

Commissioner McIssaac opened the hearing to public comment.

George Deloren, representing 19 Clubhouse Drive, asked about the permitting process and what the next step was after they received the Order of Conditions. Mr. Cloutier stated that Linden Ponds was subject to a Comprehensive Permit from the Zoning Board. He further stated Linden Ponds requested an insubstantial modification to that existing permit, which would need to be approved by the Zoning Board, and Linden Ponds would also need a Building Permit.

Commissioner McIssaac closed the hearing to public comment.

Motion: Commissioner Freeman motioned to issue an Order of Conditions for the proposed work at 300 Linden Ponds Way, as shown on the submitted plans, and adopt the findings of fact a and b, and conditions 1 through 7 of the staff report.

Findings:

- a. The project meets the requirements for issuance of an Order of Conditions under the Wetlands Protection Act (M.G.L. c. 131, § 40) and the Town of Hingham Wetland Regulations.
- b. Provided that erosion controls remain in place until the disturbed areas are permanently stabilized, work will not adversely impact the wetland values of the Town of Hingham Wetlands Regulations.

Conditions:

1. The applicant shall adhere to the Erosion Control Plan, dated May 18, 2016, during all phases of construction.
2. The applicant shall adhere to the Stormwater Management System Operation & Maintenance Plan, dated June 20, 2003, during all phases of construction. Hay bales will be replaced with a mulch log or other suitable form of erosion control as approved by the Conservation Department.
3. Prior to the start of construction, erosion controls shall be inspected by the Conservation Department; straw wattles and/or hay bales will not be used as a form of erosion control.
4. Erosion controls shall remain in place until construction is complete and a final vegetative cover is established.
5. Any debris that falls into the resource area shall be removed immediately by hand.
6. Stockpiling of soils, if necessary, shall be located beyond the 100 foot buffer zone and surrounded by erosion controls; straw wattles and/or hay bales will not be used as a form of erosion control.
7. The Conservation Department shall be notified to any changes in plans prior to proceeding with said changed plans.

Second: Commissioner Mosher

In Favor: All

Opposed: None

895 & 901 Main Street – DEP 034-1258

Applicant: Gerry Rankin

Representative: Gary James

Proposed: Subdivision

Gary James submitted new plans to the Commission that reflect changes that were requested by the Planning Board. Mr. James stated that John Chessia will be providing an updated peer review report.

Motion: Commissioner Mosher motioned to continue the Notice of Intent hearing for 895 & 901 Main Street to June 20, 2016.

Second: Commissioner Freeman

In Favor: All

Opposed: None

24 Shipyard Drive – DEP 034-xxxx

Applicant: Hingham Shipyard Marinas, LLC

Representative: Michael E. Count

Proposed: Maintenance dredging

Michael Count, of CLE Engineering, presented the plans to the Commission.

The applicant is proposing to dredge in two areas within the Hingham Shipyard Marina in order to restore safe navigation, tidal flushing and marina access/use of the water. The first area (Site A) is located on the eastern side of the marina and the second area (Site B) is located on the western side of the marina; boat slips are currently located in both areas.

The proposed dredging will remove approximately 10,800 cubic yards of sand and fine materials (7,800 cubic yards in Site A and 3,000 cubic yards in Site B), which will be disposed of offshore or at a suitable upland facility, depending on the results of additional chemical and biological testing. The dredging will be to a depth of -7.0 feet MLLW, with an allowable 1 foot overdredge to -8.0 feet MLLW.

If the dredge sediments are disposed of at an upland location, dewatering will be performed via geotubes or a mechanical belt press system. The geotube method uses a synthetic “bag” to contain the sediments, which are then chemically treated with a polymer that facilitates the separation of solids within the bag and allows for the discharge of free water. If this method is chosen, a containment area will be established in order to collect and pump the free water into the harbor. The water that will be discharged into the harbor is anticipated to contain minimal solids, meeting DEP water quality standards. The sediments in the geotubes will be disposed of off-site after they have dried.

The mechanical belt press system is similar. Instead of a bag, a holding tank equipped with mechanical mixers, which keep the solids in suspension, is used. The sediments are then pumped through a macerator and conditioned with a chemical polymer before entering a belt press. The polymer allows free water to separate from the solids as they are mechanically pressed. A supplemental water source is required for this process, and will be provided by the marina. The resulting free water, meeting DEP water quality standards, will be discharged into the harbor. The sediments will be collected into trucks for hauling and off-site disposal.

Provided that all regulatory approvals are obtained, the applicant plans to implement the project during the fall 2016 – winter 2017 season.

Mr. Count raised a concern about the draft condition that limited the proposed dredging to the mid to high tide cycle. He further stated that there was enough water at the site to avoid vessel grounding during low tide. Mr. Count also stated that turbidity monitoring would be a requirement of the DEP as part of the Water Quality Certification Permit. The Conservation Officer stated that the restrictions on the tide cycle came from the certificate issued by EEA as part of the Environmental Notification Form process.

Mr. Count stated that the proposed dredging area is not a suitable shellfish area. He further stated that the Marina owns the water sheet and pays taxes on that land. He questioned whether the draft condition to contribute to the shellfish mitigation fund was appropriate. The Conservation Officer stated that she requested contributions to the shellfish mitigation fund for any shellfish impact project, whether the area was suitable for shellfishing or not. She further stated that she was willing to speak to the Harbormaster regarding his opinion on the appropriate contribution for a privately owned area.

Commissioner Abbott asked Mr. Count if he performed off shore disposal whether it will include clam shell dredging or hydraulic dredging. Mr. Count stated that if they do off shore disposal and they will likely use mechanical dredging. He further stated that the dredged material is 84% fines and that the DEP regulates the upland disposal.

Commissioner Mclsaac asked Mr. Count about the core sample test results. Mr. Count stated that they sent the samples to the Army Corp of Engineers, who stated that biological testing would be necessary before it could be determined whether the material was suitable for off shore or upland disposal. Mr. Count further stated that the chemical tests revealed materials common to marinas, such as elevated mercury levels.

Commissioner Abbott asked Mr. Count if they performed the upland disposal whether the excess water will be treated before it is released back into the harbor. Mr. Count stated that the DEP tests the water before it can be released back into the water. He further stated that if they do upland disposal they will submit a more detailed plan to the Commission showing the requirements from the DEP for testing.

Christine Player, of CLE Engineering, stated that the dewatering process is regulated through the 401 Water Quality Certification that will be issued. She further stated that the DEP's regulations require certain chemical testing and based on the results, they will approve an upland site. Ms. Player also stated that the DEP also regulates the effluent and whether it requires monitoring or further testing before going into the harbor.

Commissioner Abbott asked whether the Commission would be provided with a copy of all the permits and approvals for the project. Ms. Player stated that it was common practice for them to do so. Commissioner Abbott requested that a condition be added to require copies of permits and approvals to the Conservation Department.

Commissioner Mclsaac asked Ms. Player if she had any experience with dredging projects that had a high percentage of fines. Ms. Player stated that she recently completed a project with 98% fines and used the geotube technology for disposal.

Commissioner Abbott, the Conservation Officer and Ms. Player discussed the condition for vessels not to ground out.

The Conservation Officer asked Mr. Count about the timeline moving forward. Mr. Count stated he should get the memo from the Army Corp regarding the biological testing within the week and then a decision about disposal should be made very quickly.

Commissioners Abbott and Freeman and Ms. Player discussed the biological testing process.

Commissioner Mclsaac opened the hearing to public comment.

Cherie Rudinsky, of Hingham Shipyard Marinas, LLC, asked how the shellfish mitigation fund contribution was calculated. The Conservation Officer stated that the calculations were based on a formula that used the square footage of impact. She further stated that the Division of Marine Fisheries and the Harbormaster use the same formula.

Commissioner Mclsaac closed the hearing to public comment.

Motion: Commissioner Abbott motioned to issue an Order of Conditions for 24 Shipyard Drive as shown on the submitted plans, and adopt the findings of fact a and b, and conditions 1 through 8 of the staff report, as amended by the Commission.

Findings:

- a. The project meets the requirements for issuance of an Order of Conditions under the Wetlands Protection Act (M.G.L. c. 131, § 40) and the Town of Hingham Wetland Regulations.

- b. The work described is within an area subject to protection under the Wetlands Protection Act (M.G.L. c. 131, § 40) and the Town of Hingham Wetland Regulations, and will not alter or adversely affect the area subject to protection under the Act or the Regulations.

Conditions:

1. The applicant shall utilize Best Management Practices to limit turbidity during dredging.
2. Dredging shall take place outside the time of year restriction of February 15 to September 30, as identified by the Division of Marine Fisheries, and vessels shall not ground out while dredging.
3. The applicant shall notify the Conservation Department, in writing, of the plans for sediment disposal as soon as they are known.
4. If upland disposal is pursued, and prior to the start of work, the applicant shall submit plans to the Conservation Department detailing the dewatering site, including the location of erosion and sediment controls.
5. If upland disposal is pursued, the applicant shall place the dewatering pipe outside of any salt marsh areas and access the dewatering site via an existing boat ramp on the western edge of the property, near Site B.
6. If upland disposal is pursued, and prior to the start of work, the applicant shall establish a truck traffic management plan in consultation with the Town's Planning and Police Departments.
7. Prior to the start of work, and in consultation with the Town's Harbormaster, who also functions as the Town's Shellfish Constable, contribute a sum of money to the shellfish mitigation fund in accordance with the formula for contribution established by the Harbormaster.
8. Copies of all federal and state permits, certifications and approvals shall be submitted to the Conservation Department prior to the start of work.

Second: Commissioner Mosher

In Favor: All

Opposed: None

Other Business

The Conservation Officer described a requested field change to a recently approved project at 37 Bel Air Road. The applicant would like to add a three foot splash pad along landward side of the seawall (approximately 100 feet long). The Commission agreed to the field change and the Conservation Officer requested two hard copies of the revised plan from the representative, Michael Count.

The Conservation Officer provided an update on the Lehner Property and the LAND Grant, and asked the Commissioners sign the grant's signature page.

The meeting adjourned at 8:35 PM.

Submitted,

Elizabeth Berry, Administrative Assistant

Approved on June 20, 2016.