

Hoyts Wharf Parcel (Parcel 249-51)

(Including some info about town-owned parcel 249-57 on Cow Pond Brook Rd)

The triangular 10.4-acre parcel commonly referred to as the “Hoyts Wharf Parcel” was purchased by the Town of Groton in 1988. The Town purchased the undeveloped land as part of a larger conveyance of contiguous parcels owned by the Cronin family and V.H. Shea Corporation, who conducted earth removal activities extracting sand and gravel from these lands.

The Town’s 2020 Housing Production Plan lists the Hoyts Wharf Parcel as one of seven (7) Town owned parcels with development potential for affordable housing.¹ At the 2021 Spring Town Meeting, the Town of Groton Affordable Housing Trust received \$75,000 in Community Preservation Committee funding to expend on site assessment activities.²

In October, 2021, the Affordable Housing Trust met with developer representatives for the undeveloped parcel 248-42, an approximately 15-acre site on the easterly side of Cow Pond Brook Rd (legal ownership is DefCon 1, LLC). The developer intends to build a MGL Chapter 40B development on his parcel and expressed interest in cooperating with the Trust in order to build affordable housing on the Hoyts Wharf Parcel. Further, the developer will bring town water down Cow Pond Brook Road to his site. The Affordable Housing Trust learned from developer representatives that, due to the extensive graveling, the Hoyts Wharf Parcel may not have adequate soils to support a Title V compliant septic system.³ Since there is no town sewer in the area, residential development will depend on on-site waste water treatment.

The Affordable Housing Trust decided to contract for site assessment services to determine the feasibility of residential development on the Hoyts Wharf Parcel. If parcel 248-42 on Cow Pond Brook Road is developed in the near future, then town water will soon be available to the Hoyts Wharf Parcel. If the Hoyts Wharf Parcel cannot support septic, then building affordable housing on this parcel may still be possible if cooperation with the Def Con 1 developers allows the septic for housing to be sited on the privately owned Def Con 1 parcel.

Based on a review of GIS maps and later confirmed by MassWildlife’s Natural Heritage and Endangered Species Program, the Hoyts Wharf Parcel is located within a Priority Habitat for Rare Species and an Estimated Habitat for Rare Wildlife. The Blanding’s Turtle is a state-listed rare species that is considered threatened and has been found in many areas of Groton. No development can occur without a review by Natural Heritage.⁴ For these reasons, the Affordable Housing Trust contracted for a rare species habitat assessment.⁵ Obtaining such a report is a useful precursor before meeting with Natural Heritage staff who oversee development of land in environmentally sensitive areas.

Based on a review of GIS maps, the Affordable Housing Trust noted that there are wetlands and vernal pools in the area. Also, a portion of the site is located in the Petapawag Area of Environmental Concern (ACEC).⁶ For these reasons, the Trust contracted for a wetlands delineation to help find the uplands portion of the site.⁷ With the flagged concern about the extent of prior earth removal, the Trust contracted for soils testing to determine if the soils will support septic.⁸

¹ Montachusett Regional Planning Commission, *Housing Production Plan* (Approved August 3, 2022), page 23 and Appendix B.

² 2021 Spring Town Meeting Warrant, Article 14, Proposal D Site Assessment Study summary reading “The Affordable Housing Trust (AHT) is exploring possible locations for the development of affordable housing. As part of this process, the AHT is seeking \$75,000 in CPA funds to pay for investigatory pre-development and engineering work and/or expert advice in order to assess the costs and feasibility of any potential site for development. Funds may also be used to prepare grant applications to support the creation of affordable housing. Either town-owned or privately-owned parcels may be considered and evaluated. The full amount to be paid from the Community Housing Reserve.”

³ Title V standard set forth in 310 CMR 15.103 (4) reading “[t]he Soil Evaluator shall indicate on the soil log whether four feet of naturally occurring pervious materials exist in all areas observed throughout the area proposed for the soil absorption system”.

⁴ All projects and activities must comply with the Massachusetts Endangered Species Act (MESA) (MGL Chapter 131A and the Wetlands Protection Act (MGL Chapter 131, §40).

⁵ LEC Environmental Consultants, *Rare Species Habitat Assessment Report* (December 8, 2021).

⁶ ACECs are designated due to the quality, uniqueness, and significance of the area’s natural and cultural resources. An ACEC increases state permitting standards through elevated performance standards and lowered thresholds for review. While ACECs comprise less than five percent (5%) of the land in Massachusetts, eighty-eight percent (88%) of Groton land is in an ACEC. For more information, see [state](#) map of ACECs.

⁷ Dillis & Roy Civil Design Group, *Existing Conditions Cow Pond Brook Road* map (February 2, 2022).

⁸ Test holes dug March 22, 2022. Soils testing report produced April 6, 2022.

The adjacent 23.6+/- acre parcel (Parcel 249-57) to the north of the Hoyts Wharf Parcel has frontage on Cow Pond Brook Road, is owned by the Town, and was also purchased in 1988 from the same owners of the played-out gravel operation. A portion of this Cow Pond Brook Rd. parcel is used for Town playing fields and there is a driveway off of Cow Pond Brook Road that allows access to the southern part of the Town's athletic fields. The probable uplands of the Cow Pond Brook Road site are adjacent to the probable available uplands on the Hoyts Wharf Parcel. Due to the adjacent uplands and the potential for access to the Hoyts Wharf Parcel through the Cow Pond Brook Road parcel, the Affordable Housing Trust asked contractors to investigate all of the Hoyts Wharf Parcel as well as portions of this Cow Pond Brook Road parcel.

Summary of Hoyts Wharf Parcel and undeveloped portion of Cow Pond Brook Road parcel 249-57 site characteristics:

1. Access: Hoyts Wharf Parcel has frontage on Hoyts Wharf Road. Parcel 249-57 has frontage on Cow Pond Brook Road. Roads create a road mortality issue for turtles. For this reason, a cul-de-sac or non through road is preferred. For Natural Heritage, accessing the site through Cow Pond Brook Road is more sensitive from an endangered species standpoint. Therefore, Natural Heritage encourages access to the site via Hoyts Wharf Road.⁹
2. Topography: gentle slopes, some uplands and a lot of varied wetlands¹⁰.
3. Land cover: dominant land cover type is forest land of White Pine and Oak that covers 20.8 acres+/- of the approximately 34-acre (combined parcels) site.
4. Soils/Septic: No Town sewer available. Soils report shows 7 possible locations for septic mostly on the Hoyts Wharf Parcel with 3 other possible septic locations on the Cow Pond Brook Road parcel 249-57 much closer to the Town's athletic fields.¹¹
5. Water: Residential development requires access to water. Town water may be extended to the site. If not, then the development must rely on well water.
6. Flooding: Westerly portion of the site toward Cow Pond Brook is within a designated FEMA flood plain. However, none of the uplands areas under consideration for development are subject to flooding according to FEMA records¹².
7. Wetlands: extensive wetlands of various types including certified vernal pools, intermittent streams, marshes, and swamps. Dominant wetland cover type is deep emergent marsh which covers 4.7 acres+/- of the site.
8. ACEC: The westerly portion of the site is located in the Petapawag Area of Critical Environmental Concern. However, none of the uplands areas under consideration for development are within an ACEC.
9. Protected species issues: potential Blanding's turtle habitat is abundant at this site per habitat assessment.¹³

Issues Encountered/Development Considerations

Soils/Septic: On site waste water treatment is required since there is no available Town sewer. Soils report shows 7 possible locations for septic mostly on the Hoyts Wharf Parcel with 3 other possible septic locations on the Cow Pond Brook Road parcel 249-57 much closer to the Town's athletic fields. Due to Natural Heritage concerns, residential development would be restricted to the area containing the 7 septic locations on and near the Hoyts Wharf Parcel.

Protected species issues: Protected species issues are the most significant constraint on the development of this site. Despite the many acres and the numbers of uplands acres, residential development would be greatly limited. During a preliminary meeting that Affordable Housing Trust representatives had with Natural Heritage, a staffer commented that this is one of the more challenging sites he has come across.

⁹ Per December 13, 2021 meeting with Natural Heritage staff.

¹⁰ See topographical information provided on Dillis & Roy Civil Design Group, *Existing Conditions Cow Pond Brook Road* map (February 2, 2022).

¹¹ Dillis & Roy Civil Design Group, *Existing Conditions Cow Pond Brook Road* map (February 2, 2022), updated on April 6, 2022 to show septic locations.

¹² See flood plain information provided on Dillis & Roy Civil Design Group, *Existing Conditions Cow Pond Brook Road* map (February 2, 2022).

¹³ LEC Environmental Consultants, *Rare Species Habitat Assessment Report* (December 8, 2021), page 3.

Natural Heritage does have evidence of Blanding's turtles on the site. Blanding's turtles use deep marshes to over winter. These turtles forage in shallow marshes. Blanding's turtles can migrate thousands of feet and up to two kilometers. It is believed that these turtles may migrate from the Town owned parcels on the westerly side of Cow Pond Brook Road and travel up to the road itself and perhaps move over to areas on the easterly side of the road. Much of the site is criss-crossed by migratory pathways.

The Natural Heritage staffer predicted that a MESA filing may result in a 'take' decision as development may harm the species and/or result in a loss of habitat. For a take, a conservation and management permit would be required. Development plans will be assessed, must result in a minimal take and there must be a net benefit – accomplished through ratios of mitigation. Mitigation ratio is 2:1 meaning two acres must be protected for every one acre used. For example, if a development proposed to use 3 acres of wooded upland, then a 'like to like' mitigation would mean that 6 acres of wooded upland would need to be preserved and barred from development.

The Affordable Housing Trust did not present a specific concept plan for development. Natural Heritage staff hypothesized that the Town may be able to build one single family home in the southerly pocket of the site but with anything more than that, the proposal would likely be considered a take requiring 2:1 mitigation.

Current Status

Based on the site assessment analysis done by the Affordable Housing Trust, the potential for construction of affordable housing on the Hoyts Wharf parcel is extremely limited. While there appears to be ample capacity for septic on site, the protected species issues significantly reduce the area that can be developed.

Therefore, the Affordable Housing Trust is no longer considering a joint project with the Chapter 40B developers across the street on parcel 248-42. (Those developers have proposed the Heritage Landing development for their site).

Given the limits of development on the site, the Trust may explore the possibility of locating a group home¹⁴ or a single family/duplex home that a nonprofit like Habitat for Humanity might build on the portion of the parcel with adequate soils for a septic system.¹⁵

Due to protected species issues, any future development plan requires Natural Heritage review. Natural Heritage advises that Town representatives convene another pre-development meeting with their staff once a concept plan has been produced.

Fran Stanley, Housing Coordinator
April 14, 2022

¹⁴ For group homes, the Department of Housing and Community Development (DHCD) provides an incentive by allowing each bedroom in a group home to count as an individual affordable unit on the town's Subsidized Housing Inventory (SHI).

¹⁵ Public procurement laws require an open bidding opportunity for prospective developers. That said, requests for proposals issued for small 100% affordable projects usually attract nonprofit developers who have the capacity to supplement an uneconomic project with other funds or grants.