

GROTON CONSERVATION COMMISSION

Minutes

December 14, 2004

Chairman Bruce Clements called the meeting to order at 7:00 p.m. Members Craig Auman, Marshall Giguere, and Evan Owen were present. Members Kris Corwin and Peter Morrison arrived at 7:15 p.m. Conservation Assistant Barbara Ganem was also present.

Upon a motion by E. Owen, seconded by M. Giguere, it was

VOTED: to continue the hearing for the Notice of Intent for Reedy Meadow Estates to January 25, 2005.

Upon a motion by C. Auman, seconded by E. Owen, it was

VOTED: to approve the minutes of November 20, 2004 as drafted.

Upon a motion by C. Auman, seconded by E. Owen, it was

VOTED: to approve the minutes of November 23, 2004 as drafted.

Upon a motion by C. Auman, seconded by M. Giguere, it was

VOTED: to approve the minutes of December 6, 2004 as drafted.

E. Owen abstained from the vote.

In discussion on the draft Order of Conditions for 49 Island Road, DEP #169-907, and upon a motion by E. Owen, seconded by C. Auman, it was

VOTED: to approve significant interests (excluding shellfish), regular conditions, and special conditions, striking the last two words in Condition #29, and issue an Order of Conditions for DEP #169-907.

Upon a motion by C. Auman, seconded by E. Owen, it was

VOTED: to approve significant interests (excluding shellfish) for DEP #169-904 for the retaining wall at Sargisson Beach

(K. Corwin and P. Morrison arrived at 7:15 p.m.)

Upon a motion by C. Auman, seconded by P. Morrison, it was

VOTED: to approve the regular conditions and special conditions, striking the last two words in Condition #29 and correcting the numbering, and issue an Order of Conditions for Sargisson Beach, DEP #169-904.

7:15 p.m. – Hearing on Bylaw Regulations

Chairman Clements explained that the Commission has been working on the Regulations for some time and is satisfied with the draft approved as of December 6, 2004. He asked if any members of the audience had any questions or comments about the regulations as proposed. Pierre Comtois, a reporter with the *Groton Landmark*, asked if there have been any problems in implementing the Bylaw. Commissioners assured him the Regulations are designed to provide further clarification of the

Bylaw, not to make changes in the Bylaw. Member Morrison observed that Regulations will allow the Commission to change things more readily as it becomes necessary. The Bylaw requires the Regulations to be approved at a public hearing, and the Regulations will provide clarifying details for applicants who may encounter difficulties in interpretation. E. Owen added that the Regulations allow the Commission to set fees.

Resident Jim Cullen (66 Boston Road) questioned whether the Regulations were published, and Commissioners explained that it is customary to publish the legal notice of the meeting in the newspaper and the hearing was posted in Town Hall by the Town Clerk as well. Mr. Cullen protested that most people have not read them. Members pointed out the Commission has had on-going discussions at well over 15 meetings, all of which were publicly posted. C. Auman advised that Groton residents had voted, when the Bylaw was accepted, to permit a public hearing for the purpose of approving the Regulations to accompany the Bylaw. J. Cullen, noting that the fee schedule was extensive, asked how the Commission arrived at the fees. Members commented these are maximums, but the Commission will get at least three bids before selecting a consultant to review a project.

Commissioners confirmed the Regulations will go into immediate effect once approved by the Commission at a public hearing. Tom Orcutt (Water Superintendent and Groton resident) said the Water Commission will continue hearings for water rate structure changes if there is low or no public attendance. Chairman Clements added this seems a reasonable approach since the Regulations can be changed at will and any concerns can be addressed at a later time if the hearing is continued. Mr. Cullen suggested it would be helpful to have copies available in the Clerk's office to encourage more public participation. Commissioners confirmed it was not stated in the legal notice that copies were available to the public. Members thanked J. Cullen for his suggestion, and upon a motion by P. Morrison, seconded by C. Auman, it was

VOTED: to continue the hearing on the Bylaw Regulations to 7:45 p.m. on January 11, 2005.

The legal notice will include a statement that copies of the draft Regulations are available in the Commission office.

Builder Michael Dermody was present to discuss his Request for a Certificate of Compliance for 256 Lowell Road. Members explained that they had visited the site on December 11th and noticed areas of erosion in the mounded area on the parcel. Mr. Dermody explained the homeowners did some work including grading in the buffer zone in order to place a swing set. Members did observe wetland flagging delineating the old wetland boundary line. Commissioners advised Mr. Dermody to contact them again once the site is stabilized. E. Owen recommended that As-Built Plans in the future should include retaining walls; the plan submitted with the Request for a Certificate of Compliance does show recharge areas and the gravel under the deck but is not specific regarding the two retaining walls on site.

Water Superintendent Tom Orcutt was present to explain the source of erosion and sedimentation that is visible near the culvert under north Main St. near Champney St. Much of it is associated with the work that is being done on the former Texaco station site at 318 Main St. However, Mr. Orcutt explained, a water main broke near the bank/credit union site and spilled over into the catch basins, and haybales were necessary to contain the flow. He feels that the silt in the wetland has derived from both of these activities and assured the Commission he would be willing to help take care of whatever is the Water Department's contribution. T. Orcutt indicated that the Water Department's consultant, Tighe and Bond, has also looked into the problem. He said that, although there are open areas of bare soil adjacent to the sidewalk on Main St., he did not feel silt was running into the wetland from the sidewalk area as there is a haybale barrier in place. He pointed out the Water Department does not have control of the underground pipe that carries the stream through 318 Main St. Mr. Orcutt agreed he could not assure the Commission that none of the silt originated with the work the Water Department contractor is carrying out.

Member Corwin noted the wetland needs cleaning up. A letter is to go to the Board of Health requesting assistance in determining whether there has been a hydrocarbon release as a result of the work at the Texaco station site. E. Owen reported the Earth Removal Committee has asked Tom Delaney to clean out the blocked catch basin on Champney St. Chairman Clements said it appears the different contractors share responsibility for the sedimentation reaching the brook. K. Corwin recommended the issues be dealt with separately with the owner of 318 Main St. responsible for work on his site up to the fence line but providing some assurance that nothing spills over. The issues can be outlined in a letter. P. Morrison observed there has clearly been siltation to the wetland resource areas, and measures should be taken to stop all siltation from leaving the site. Discharging water before de-chlorination to a brook or detention basin could present a problem if town water is being used. B. Ganem reported the empty fuel tanks on site have been filled with approximately 29,000 gallons of ballast water. Commissioners agreed the applicant should come to us with a proposal that includes the method for replacing the pipe, a design plan, construction sequence, a de-chlorination proposal, and timetable. This will establish Commission jurisdiction for

work that has occurred more than 100 feet from wetlands but has impacted the wetland, invoking the “unless and until” section of the WPA Regulations. Upon a motion by P. Morrison, seconded by K. Corwin, it was

VOTED: to issue an Enforcement Order requiring immediate resolution of the siltation problem and the submittal of a filing to the Conservation Commission that includes a design plan and a narrative describing pipe replacement, construction sequence, and a timetable for remediation work at 318 Main St.

Commissioners suggested they come to the meeting on December 28th. Upon a motion by C. Auman, seconded by P. Morrison, it was

VOTED: to send an explanatory letter to accompany the Enforcement Order.

E. Owen observed that T. Orcutt is not completely off the hook particularly in regard to the two catch basins. Some of the silt may have moved from the uphill section of Champney St. into the catch basins as well. M. Giguere asked about the potential hydrocarbon release, and T. Orcutt responded that a URAM (Utility-Related Abatement Measure) report on hydrocarbons detected on the Texaco station side of the water line excavation would be submitted to DEP. It was noted it may be best to remove the ballast water to a tank rather than require de-chlorination.

Commissioners next reviewed the draft Order of Conditions for 308 Townsend St. Upon a motion by P. Morrison, seconded by E. Owen, it was

VOTED: to approve all the interests except fisheries and shellfish.

The remainder of the Order was tabled due to incompleteness.

Landscape Architect Cindy O’Connell was present to discuss the proposed changes in the Academy Hill project that are outlined in the Notice of Project Change. She explained the proponents have gone through an extensive permitting process with MEPA and spent several years negotiating with the Natural Heritage and Endangered Species Program. Some of the work is within the jurisdiction of the Conservation Commission, and she requested Commission input on the process by which the modification will occur. Ms. O’Connell maintained the new plan has reduced impacts on the wetland resource area, partly through the reduction in number of housing units as there are ten fewer than originally proposed. She indicated the new access will be close to wetlands already delineated in the original ANRAD filing. Part of the modification process involves the filing of a Notice of Project Change with MEPA, in addition to the already filed draft and supplemental EIR. She explained that the curb cut on Rt. 119 in Pepperell put them into the MEPA process in the first place. It will also be necessary to revise the definitive plan.

Members asked how many acres were to be set aside as open space, and Ms. O’Connell stated she thought there were 350 acres proposed for permanent protection in an undeveloped state. She was unsure whether a conservation restriction was proposed, who would hold a CR, or whether the land would be donated in fee simple. C. O’Connell maintained it would be far simpler to have one file number to cover both the original and amended order of conditions for consistency of information and recording. The number of housing units has been reduced, there would be a turtle barrier, the Robinson Brook crossing in Pepperell has been eliminated, and there will be very little wetland filling due to the elimination of one of the wetland crossings. Ms. O’Connell assured the Commission that the wetland adjacent to the new access roadway has been delineated and approved under the earlier ANRAD in 2000. The topography is fairly abrupt in the area so the boundary is clear. Commissioners noted the original filing came in before the Bylaw went into effect. They would have to demonstrate that they qualify as a limited project. Members recommended the filing of a new NOI for the new work.

Chairman Clements said he had not seen anything definitive from Natural Heritage approving the new plan. C. O’Connell assured him a second letter has come in, and they have no problem with the number of housing units, providing the applicant provides a protective turtle nesting area and the turtle barriers. B. Clements asked if the project has received a Certificate from the Secretary, and C. O’Connell said she does not expect that until 7-10 days after the comments are due on December 28th. Chairman Clements encouraged the Commission to consider submitting comments. P. Morrison suggested that publishing a new legal notice and holding a hearing on the proposed modification and road alignment does not appear to be a big change. C. O’Connell confirmed that the state is ready to issue a Conservation Permit. In an informal poll of Commissioners, it was agreed that the applicant could apply for an amended Order of Conditions for the main portion of Academy Hill concurrently

with the submittal of a new Notice of Intent for the new access roadway from Townsend Road. The access is over a newly acquired (or under a purchase and sale agreement) parcel which is to be added to the Academy Hill parcels. Members also advised that the status of the boundary delineation (ORAD) should be determined. The new NOI will fall under the local wetlands bylaw.

8:30 p.m. – Wharton Row Request for Determination of Applicability

Landscape Architect Cynthia O'Connell distributed copies of the proposed guard rail and vegetation clearing. She explained the proponent applied for a Certificate of Compliance in the spring when the Commission expressed concerns about unstabilized areas. The Planning Board has requested the guard rail (safety concerns) and improvements to the drainage swale. Ms. O'Connell anticipates road acceptance at the upcoming town meeting. M. Giguere was concerned about the lack of room between the proposed guard rail and the sidewalk, and C. O'Connell responded a post hole digger will be used. The proposed clearing of saplings within the swale will promote better drainage. The culvert headwall is located 65' from the edge of wetlands. Members asked if it would be possible to remove the invasive canary reed grass that has become established in the swale, and Ms. O'Connell indicated she would attempt to do this. She explained that the whole drainage system, including culverts, manholes, and catch basins, will be cleaned in the spring. Upon a motion by C. Auman, seconded by P. Morrison, it was

VOTED: to issue a negative #3 Determination requiring: 1) the removal of reed canary grass located in the drainage swale and replacement with native plant species; and 2) the cleaning of culverts.

8:30 p.m. – Groton Dunstable Regional High School Request for Determination of Applicability

In response to a request from the applicant and upon a motion by P. Morrison, seconded by C. Auman, it was

VOTED: to continue the meeting to January 11, 2005.

8:37 p.m. Appointment/Josh and Steve Webber

J. Webber explained they are proposing to extend the parking area for the restaurant into a 23,000 SF area, effectively trading 36,000 SF of additional conservation-restricted land on the east side of the restaurant property. In addition, they would put in a permanent trail from the parking area to the existing trail. Designated trail parking would be included in the extended parking area, a measure to be permanently included in the deed. Also proposed is an easement allowing access from Rt. 40 to the parking area. In addition, J. Webber noted the Webber family reserved the right within the Conservation Restriction (CR) to close the top of Gibbet Hill for family functions twice a year. Under this disposition, the Webbers propose keeping the Hill open 365 days a year. J. Webber asked the Commission to consider sending a letter to the state in support of the above-noted changes in the CR. The DEM Land Committee appears to be philosophically opposed to changing the CR, and it may help if the Conservation Commission supports the concept.

P. Morrison said he felt the deeded access and permanent trail enhanced the CR. J. Webber clarified the proposed change in the parking area would not actually remove the land from the CR, but would allow parking to occur there. He indicated there were no intentions to pave or grade the extended parking area, and no buildings would ever be built there. C. Auman concurred that providing permanent parking is very important as there is currently no safe area to park. People walking from Main St. would also reach the trails sooner. Mr. Auman supported the idea, but questioned whether there would be any drainage issues associated with the parking area. E. Owen suggested these changes tie in with the Master Plan which recommends linking the downtown area with the Groton trail system. The proposed trail addition would move the trail system that much closer to the Rail Trail for instance. J. Webber indicated other alternatives have been explored, such as locating the parking east of the restaurant, and the Webber family agrees this is the most reasonable approach. Parking to the east would destroy views and interfere with the view from the restaurant. Upon a motion by P. Morrison, seconded by K. Corwin, it was

VOTED: to send a letter to the state in support of the concept to allow parking north of the site in exchange for inclusion of an additional trail segment, permanent parking, and an access easement.

8:45 p.m. – 656 Townsend Road Notice of Intent

Terry Gensel of Ross Associates, Inc. explained the applicant proposes a septic system upgrade. He noted that the wetland is a small, probably manmade, ditch-type swale with cinnamon and sensitive ferns and red maples. The swale joins a bigger wetland system on the other side of Townsend Road. The septic system is proposed on a knoll which is the most appropriate site for the parcel with a force main going uphill. M. Giguere indicated the Commission observed standing water in the test hole during the site visit on December 11th. Mr. Gensel stated no groundwater was observed at the time of testing, but frost may be holding water in depressions. He explained the homeowner did not want a retaining wall for the septic system. The current septic tank will be emptied and crushed or removed. The Board of Health has not yet approved the plan. The NOI was mailed to Natural Heritage on November 16 so their 30 day deadline is approaching. Upon a motion by P. Morrison, seconded by E. Owen, it was

VOTED: to close the hearing for 656 Townsend Road, DEP #169-906.

Upon a motion by K. Corwin, seconded by P. Morrison, it was

VOTED: to appoint Bruce Easom as the Commission's representative to the Growth Management Advisory Committee.

Upon a motion by K. Corwin, seconded by P. Morrison, it was

VOTED: to sign off on the final Conservation Restrictions for Lots A-1 and A-2 on the Eliades parcel on Culver Road.

In discussion on the e-mail from Ms. Fratto about laser tag games on the Northwoods Conservation Area, P. Morrison commented it does no harm to anything, and nothing is being destroyed. C. Auman questioned whether it would be considered passive recreation, but he felt okay with it. E. Owen noted it would be another matter if it was an organized group with a large number of people. He also pointed out it is very difficult to police such activities. K. Corwin felt paintball has more of an effect on the environment, and the laser tag guns are not firearms. The signal is picked up by responders worn by players. B. Clements opposed the idea of allowing war games on conservation land and suggested the Commission consider adding this to the rules and regulations for conservation areas. Members agreed to monitor the situation over time. Upon a motion by K. Corwin, seconded by P. Morrison, it was

VOTED: that no rule or regulation currently in place for the use of conservation lands has been broken.

Member Clements abstained from the vote.

9:00 p.m. – 160 Townsend Road Notice of Intent

David Kelley of Landtech Associates turned in the abutter notification information. He explained the topography of the site varied from an elevation of 144' in the northwest section to 94' at the lowest point along the westerly property line at Townsend Road. The wetlands on site consist of a vegetated swale. Twenty-four housing units are proposed with six buildings holding 4 units apiece. A 22' wide private access road is proposed. Underground telephone, electric, and cable lines are planned. In addition to the access way, a detention basin, visitor parking, and one building are within the 100 foot buffer zone. The site is currently grassed, but it will be necessary to trim some trees to provide space for a walkway around the buildings. The majority of the site will be maintained lawn with some screening provided to abutting properties.

Mr. Kelley stated the Stormwater Operations and Management plan was included with the NOI. He noted that all portions of the septic system are outside the 100 foot buffer zone. He reported the Zoning Board of Appeals (ZBA) has not made a decision on the Comprehensive Permit as yet. Mr. Kelley submitted the request for waivers provided to the ZBA. Specifically the applicant has requested a waiver from the Wetlands Bylaw requirement that all work be outside the 100 foot buffer. P. Morrison pointed out there are two driveways, three housing units, the site entrance, and portions of the detention basin within the buffer zone. He recommended moving units outside the 100 foot buffer zone or reducing the number of units proposed in the project. Mr. Kelley said there is currently a 12" corrugated metal pipe under the driveway. The drainage calculations show this will handle a 100 year storm event. There is currently some surface flow going over the driveway. The elevation of the current invert is unknown because the culvert is partially buried. The driveway will be widened, and Mr. Kelley agreed to add a trash rack at the entrances to the culvert. A homeowners association will be responsible for the drainage system and the

septic system, responsibilities to be recorded with the master deed.

D. Kelley reported the invert at the drainage basin is 2' below grade. A 5 foot wide, 3.5' berm, surrounds the basin. The elevation at the street is 99'. C. Auman questioned why the replication area was placed next to the access where it could be impacted by salt and sand used on the roadway. Mr. Kelley agreed to look at other alternatives. The replication will be on a 1.5 to 1 basis or 350 SF of replication vs. 200 SF of wetland alteration. Mr. Auman asked if the project would still be economical if units are moved or reduced. A copy of a letter prepared by Savos Danos, the Water Superintendent for Littleton, raised some issues about the potential impact of nitrogen and phosphorous on wetlands from the proposed septic system. The bottom line seems to be there are too many bedrooms for the size of the lot. Members suggested this should be addressed because the West Groton water supply well, the major well site for the village, is nearby.

Resident Tom Sommer (142 Townsend Road) said he has a number of environmental concerns about this project. He pointed out the site has a steep hill, creating an opportunity for sand and salt to enter the wetlands. The vegetation growing in the wetland gets quite high, and Mr. Sommer warned this will affect the sight distance for people exiting the property. Photographs demonstrating this issue were submitted to the Commission. T. Sommer agreed the site is not located within an ACEC but recommended checking to see if it is in a rare species polygon designated by NH&ESP.

Dr. Susan Horowitz, Chairwoman of the Board of Health, said her board has not seen the septic design plan. She noted the town counsel from Kopelman & Paige states the Town does not have to grant blanket waivers, and she urged the Commission to wait until the Ch. 40B meeting in January before making any decisions.

Returning to the question about the replication area, D. Kelley agreed with the Commission's concerns about sanding and salting. He suggested re-locating the replication area to the edge of the westerly wetland, making it thin to follow the wetland line. Members thought this would impact a larger area of wetlands. Mr. Kelley agreed to look into the details for the replication area, the financial figures for moving the buildings, and the proximity of the town well. M. Giguere suggested having the ZBA's consultant also review the financial impact of moving the buildings outside of the wetlands buffer. An abutter, Keith Hooper, asked whether the replication area would raise the height of wetlands, and Commissioners said this should not be affected. Upon a motion by P. Morrison, seconded by K. Corwin, it was

VOTED: to continue the hearing to January 11, 2005 for DEP #169-908.

9:15 p.m. – Shattuck St. Notice of Intent

Landscape Architect Cynthia O'Connell of Beals Associates explained the wetland is to be crossed at its narrowest point with a bridge. No replication is proposed because the bridge is to span the wetland. The wetland is channelized flow from a wet meadow that connects to a Bordering Vegetated Wetland across Lowell Rd. She said this lot is one of the areas in which the Angus cattle have been pastured for years. C. O'Connell indicated the trees were located by aerial photographs so there may be some discrepancy in what is shown on the plan. She suggested the Order could have a condition requiring the flagging of the center line in order to preserve mature trees. As a single family house, the project is exempt from the stormwater management policy. The driveway will parallel the existing slope which is to remain vegetated. Ms. O'Connell did not anticipate any erosion occurring in the implementation of this project.

K. Corwin said the wetland in question functions as a vernal pool as she has heard wood frogs croaking in there every spring. The presence of wood frogs is evidence of breeding obligate vernal pool species. The vernal pool is contained within the larger BVW. Ms. O'Connell said the edge of the pool could be investigated to determine the extent of the 100 foot protective zone. The house itself is within the 100 foot buffer zone, and C. O'Connell indicated the delineation was done when the ANRAD for Angus Hill was filed. E. Owen requested bridge details, and Ms. O'Connell agreed to provide additional specifications from the wooden bridge manufacturer. C. Auman noted that a significant part of the driveway is within 50' of the wetland although the site might be considered previously disturbed due to the pasturing. K. Corwin indicated she had a problem with considering anything farmed as disturbed and exempt from the Bylaw. P. Morrison observed there is no practical alternative to the placement of the house. E. Owen asked if this configuration was updated since the passing of the Bylaw as the Commission must determine if the applicant created his own hardship.

Robert Connally (171 Lowell Road) inquired as to the distance between the house and his lot line at the northeast corner, and Ms. O'Connell stated it would be 25'. The 2-story house will have a 65' by 35' footprint. Dr. Susan Horowitz (171 Lowell Road) said this project could have a significant impact on the water flow at certain times of the year. She asked if there would be any more flow as a result of this work. Dr. Horowitz also commented blue spotted salamanders have been observed in the

area. However, no polygon is identified on the most recent Natural Heritage map. P. Morrison assured Dr. Horowitz that one of the Commission's conditions will be that there be no increase in runoff from the site. Dr. Horowitz commented the driveway should infiltrate water. She also pointed out this was the site of an apple orchard at one time, and there is probably arsenic in the area. C. O'Connell agreed to look into ways to infiltrate roof runoff such as a rain cistern. She was unsure whether the driveway was to be paved or gravel, and she noted the wetland is not a certified vernal pool. She agreed to provide additional information, including how roof runoff will be handled, whether it would be possible to move the house out of the buffer zone, the surface material for the driveway, and bridge details. Upon a motion by P. Morrison, seconded by K. Corwin, it was

VOTED: to continue the hearing for Shattuck St., DEP #169-910 to December 28, 2004.

9:30 p.m. – Sandy Pond Road & Boston Road Notice of Intent (Whip-poor-will Lane)

Attorney Robert Collins explained this project involves a 650 acre site that includes parcels to be donated to the Groton Electric Light Co. and Massachusetts Audubon. Another 39 acres internal to the site will be donated to the Groton Conservation Commission. The remaining 97 acres will be developed with 84 house lots. There are only two places that require a filing with the Commission, and Mr. Collins anticipates a very minimal environmental impact. There is a channel crossing that involves a very small fill area with a 3-sided culvert to preserve flows. The wetland channel only flows during high water periods. Mr. Collins assured the Commission that no additional filings for individual homes will be necessary. In response to Mr. Morrison's question about buffer zone impacts, R. Collins indicated that 12,000 SF of disturbance will occur at the crossing and 8,000 SF at the detention basin. The top of the detention basin will be 264' with six feet of fill.

Commissions expressed concern that there be a hydrological connection between wetlands, especially with overlapping buffer zones. The site is in a secondary aquifer zone and in the middle of an NH&ESP area. There may be requirements limiting the use of salt. Mr. Collins indicated the site will make use of infiltration gardens to maintain hydrology and re-introduce water into the ground. There are no direct discharges. High sodium levels are a concern for the municipality. E. Owen inquired as to how the slopes will be stabilized, and Mr. Collins indicated a retaining wall is located on the other side, but staggered haybales with check damming will also be utilized. Drew Garvey from R. Wilson & Associates explained the specifications for steep slopes are on the detail sheet of the NOI plans.

Members also asked whether there were any openings for wildlife species to migrate through and if it was possible to move grading outside the buffer zone of the vernal pool. Mr. Collins explained that considerable effort has gone into designing for this site, and the bottom line is this is where the water flows. Assuring that water re-charges into the ground is a key element of the plan.

(P. Morrison left at 10:15 p.m.)

Members asked if the detention basin would be dry during the spring when rare species are apt to mistake it for a vernal pool. Mr. Collins indicated it was elevated above the vernal pool which will help it to drain quickly. Commissioners pointed out road mortality could impact the salamander population. R. Collins maintained design elements such as the limitation on curbing, breaks in berms to allow salamander passage, and minimizing density on site will help protect rare species. He added the culverts are oversized as well. C. Auman commented that salamanders tend to follow the same route from year to year. It may be necessary to have multiple retaining walls to funnel them toward the tunnel. A relatively small, but steep, grade change can re-direct them. Commissioners noted there are significant cut and fill areas on site. Mr. Collins stated the high point was at the culvert crossing, and water would run off in both directions. Members requested a plan profile of the crossing. Chairman Clements observed there is no perfect solution to protecting the rare species on site, but because so much land will be permanently protected, the development aspect becomes more acceptable. Mr. Collins concurred there is an absolute treasure trove of wildlife and plants that have been identified on the site.

The filing should include information on utilities as well as the applicant's response to Judith Nitsch Engineering, Inc. comments. Drew Garvin indicated the utilities would be located above the culvert. The NOI should be amended to correctly reflect that this is a limited project filing, and it would be helpful to have the response from Natural Heritage before the Commission considers closing the hearing. Upon a motion by K. Corwin, seconded by C. Auman, it was

VOTED: to continue the hearing to January 25, 2005.

Mr. Collins agreed to send the Commission copies of the definitive plan for the site, as well as provide details on the bridge.

Upon a motion by E. Owen, seconded by K. Corwin, it was

VOTED: to issue an Order of Conditions for DEP #169-905 for 106 Peabody St., as amended.

Returning to discussion on the Order for 308 Townsend Rd. and upon a motion by C. Auman, seconded by K. Corwin, it was

VOTED: to issue an Order of Conditions for 308 Townsend Rd., DEP #169-903, as amended.

In discussion on the Request for a Certificate of Compliance for 2 Shelters Rd., Commissioners felt the addition of at least 5 boulders at the back of the house was in order, if the intention is to prevent further encroachment into the wetland buffer. In addition, the plan should show the location of the dry well. When these issues are resolved, the Commission will re-visit the site.

Members noted the planting needs to be done at 8 Valley Road and a statement from the engineer/surveyor prepared on the size of the compensatory floodplain storage area. Upon a motion by C. Auman, seconded by K. Corwin, it was

VOTED: to not issue a Certificate of Compliance until the above-noted issues are resolved.

E. Owen abstained from the vote.

In response to a Request for Certificate of Compliance for 57 Old Ayer Rd., Commissioners visited the site on December 11th. It was noted that the new owner would like to know if the Commission would permit an organic garden on the wetland side of the post and rail fence. Commissioners agreed this would be acceptable provided the garden was in the buffer zone, not the wetland. B. Ganem will include a copy of the plan showing where the garden should be placed. Upon a motion by K. Corwin, seconded by C. Auman, it was

VOTED: to send a letter to the owner of 57 Old Ayer Rd. authorizing a garden.

Commissioners reviewed a request for Dr. William Eger to allow benthic barriers to be placed in Springy Cove before the July flowering period of Small Bur-reed. It was noted that Dennis Magee did not observe the species on September 28th, and the Commission has approved him as an appropriate environmental consultant. Members recommended checking with Natural Heritage to see if it would be appropriate to apply the barriers earlier in the season.

B. Ganem reported the Commission has received complaints about the fluctuating level of water in Wrangling Brook at the Sportsmen's Club. The owner, Bayard Underwood of the Shakerton Foundation, indicates that he wishes to keep the water from flooding the Sportsmen's Club or the driveway. Beavers are active in the area, and it may be appropriate to install a beaver flow leveling device. There is a manmade dam w/boards that control the water level, but it is uncertain who owns the area where the dam is located. Beavers periodically add to the sticks blocking the flow at the dam. Commissioners agreed to look at the site on Saturday, December 18th.

Regarding the New Entry Sustainable Farming Project, members agreed there are currently no sites that have a ready source of water, electricity, and parking for such a project. It was suggested that a letter go to the project proponents to this effect.

At 11:10 p.m., upon a motion by C. Auman, seconded by K. Corwin, and a roll call vote of M. Giguere, K. Corwin, E. Owen, C. Auman, and B. Clements, it was

VOTED: to go into Executive Session to return to Open Session to discuss the purchase of land.

At 11:15 p.m., the meeting resumed in Open Session.

B. Ganem explained the correspondence from Mr. Macy regarding land adjacent to the Baddacook Pond Boat Launch involves a landowner who proposes the removal of invasives while preserving the native species. She does plan to file with the Commission before this work is undertaken. A new owner of the land located on the opposite side of Martins Pond Rd. is interested in opening up a vista to the Pond.

In other business, member Corwin asked B. Ganem to check on the framing work being conducted on the Hooper land at 178 Townsend Rd. C. Auman mentioned the wetland behind 147 Gay Road is quite extensive and may be expanding; he warned of another culvert release that could impact the amphibians on site. B. Ganem reported New England Power is actually planning the replacement of several poles in the vicinity of the Raddin Rd. beaver impoundment. It is likely they will file a Notice of Intent with the Commission because of the sensitive nature of these wetlands which are associated with several rare turtles.

A Notice of Project Change has been filed for Academy Hill, but it shows little or no reduction in housing units. Chairman Clements questioned whether the high density has been approved by Natural Heritage. He noted he will be replying as an individual, but felt the Commission should weigh in on this issue as well. Upon a motion by K. Corwin, seconded by C. Auman, it was

VOTED: to send a letter to MEPA expressing concern that the continued high housing density could impact the rare species on the Academy Hill site.

There being no further business, the meeting was adjourned at 11:30 p.m.

Respectfully submitted,

Barbara V. Ganem
Conservation Assistant

Approved as amended December 14, 2004