

## GROTON CONSERVATION COMMISSION

### Minutes

August 23, 2011

Chairman Nadia Madden called the meeting to order at 7:00 p.m. in the 2<sup>nd</sup> floor conference room in Town Hall. Members Craig Auman, Bruce Easom, Marshall Giguere, Peter Morrison, Bill Neacy, and David Pitkin were present. Conservation Administrator Barbara Ganem was also present.

#### 7:00 p.m. – Farmers & Mechanics Forestry Cutting Plan

Whitney Beals, Director of Land Protection, and Hylton Haynes, Forest Director, from New England Forestry Foundation were present. Mr. Beals noted NEFF is probably the biggest landowner in Groton and sustainably manages its lands in accordance with Forest Stewardship Council guidelines. He estimated that 70% of NEFF's land in New England is managed while 30% is set aside. He pointed out every person in the U.S. uses 4 pounds of wood per day, and this wood has to come from somewhere. W. Beals applauded the Town for looking at its resource base and taking the initiative to develop a forestry management plan. He walked the property and observed it is predominately a pine forest which is a transitional species that typically comes in after some type of natural catastrophe such as an ice storm or hurricane. These pines have grown in the open at some point, and they have not been harvested for some time.

Mr. Beals said he had read Mr. Penko's (Upton resident) thoughtful letter. He commented managers have to consider a very large rotation for forestry activities, but he thought the forest had been very conservatively marked. Trees were judiciously identified that are suppressing oak seedlings in the understory. These depend on light openings for growth. Mr. Beals cautioned the Commission about encouraging a museum quality piece, and related the experience of The Nature Conservancy which had set aside a 200-ft. pine and hemlock forest in Cornwall, CT known for its cathedral-like trees. A tornado turned the entire forest into matchsticks. The management for the Farmers & Mechanics property is similar to what is done on NEFF's properties. The quality of the trees can deteriorate over time, and this stand is probably at its maximum economic value. The Commission has to choose which management track it wishes to take. There is no right or wrong way. Mr. Beals acknowledged there are competing forces, and the Commission must evaluate and decide what is appropriate to maintain as a relic forest. He pointed out the more diverse the forest, such as a good mix of oak and pine, the more sustainable and resilient the forest is likely to be. He noted the absence of stone walls on the property, attributing that to the fact it is in alluvial soils on a floodplain where there are likely to be few stones. Ditching and fencing were other devices used to demarcate boundaries, and these can disappear over time.

Member Neacy thanked Mr. Beals for attending the Commission meeting and providing insights on managing the Farmers & Mechanics parcel in a sustainable manner. In response to P. Morrison's question about the amount of wood used, Mr. Beals said the figure was from 2004, but at the time, Europeans were using about half that amount. His point was that Americans tend

to more intensively use resources. Mr. Hilton added there is no perfect answer to forestry management. There are competing interests, and you must consider whether you want a successional forest and then hard woods or is there another objective. White pine is susceptible to catastrophic events. This forest is not in climax form which would have a higher percentage of hard woods in the overstory. Old growth is not a well-defined term, and he suggested the Commission may wish to consult with experts in the field.

Member Giguere mentioned promoting old growth is one of the Commission's guidelines for forestry activities, and other parcels are under consideration. Altogether the foresters have evaluated 36 conservation parcels, and some of them are not practical for forestry because of access, wetland, or poor timber quality issues. The composition of the forest, both as to age and species, is important as well. Williams Barn Sorhaug Woods is an example where there is a good mix of species, but there are access issues, and promoting old growth characteristics is under consideration. Mr. Beals pointed out there was a 4000 yr. absence of hemlock in pollen records, and something like this could happen again with the advent of the woolly adelgid. Mt. Wachusett is our closest point where old growth occurs, and the trees there were probably nothing anybody wanted, access was difficult, and there was no market for the poor quality wood.

Mr. Giguere said the forestry planned for Farmers & Mechanics was conservative and the Commission is concerned about preserving a buffer next to the Nashua River and the vernal pools. More than 50% of the canopy will be retained, and this is in keeping with the recommended guidelines for the rare species (dragonfly) in the area. The dragonflies tend to patrol along the River, but then look for openings for perches. He pointed out the proposed forestry was sustainable while protecting rare species that may utilize the site.

State District Forester Laura Dooley was also present. She visited the site and approved the forestry cutting plan for the property. She agreed with the assessment that it was very conservative in nature. Ms. Dooley liked the idea the Commission was looking at other possible candidates for future old growth sites and pleased to see the cutting would address Natural Heritage concerns even though rare species are not currently identified at the site. She requested the Commission notify the people who stable horses next door to the property so they will be aware of when forestry activities are to commence.

Michael Downey, Forest Stewardship Program Service Forester, said he had looked at the cutting plan and management plan from the point of view of sustainable forestry. He agreed it was prudent not to cut along the Nashua River and that this surpassed regulatory requirements. He appreciated the fact the Commission had taken Natural Heritage recommendations and put them into practice. The cutting plan meets the goals outlined in the plan. He recommended the Commission look at the way in which it sets aside land to promote old growth characteristics. There are red spruces on Mt. Greylock which are over 350 years in age, but only 18 in. in diameter. One of the notable features of old growth forests is the heavy accumulation of coarse woody debris on the forest floor, and he expressed the hope the Commission understands the importance of this feature. M. Giguere asked whether he saw value in preserving legacy trees. Mr. Downey said the coarse woody debris provides habitat, and trees that provide mast, such as oak, are important. Noting the Commission cannot make a decision in a vacuum, he advised thinking about where the forest would be with an ice or wind event.

Marion Stoddart explained she was Chairman of the Greenway Committee, and they still have not met to discuss this. She asked whether the portion of the property in the floodplain has an adequate buffer to protect the River from pollution, sediment, and herbicides. H. Haynes said “Generally, 25 ft. is considered adequate to protect a stream, and that is for a clearcut.” The 50-ft. no cut buffer exceeds the regulatory guidance. D. Pitkin asked about the actual river bank, and Mr. Beals said the chance of erosion from this flat site is very small. Ms. Stoddart said they typically look for a 300 ft. buffer of natural vegetation to protect greenways along rivers, but it is unclear exactly what should occur within this buffer.

A. Burnett urged the Commission to look at the hydrology of the entire site, and member Neacy requested a point of information, noting the Commission has previously allowed Mr. Burnett two evenings of commentary. He maintained this was an opportunity for others to bring their opinions to the Commission and suggested comments be submitted in writing. Chairman Madden expressed concern about extending the proceedings out even further and asked if those present had anything new to add. Mr. Burnett said he had data from UMASS in which they identified the little brown bat on site, a species that often uses tree (>18 in.) cavities for roosting. He maintained the database at Natural Heritage is incomplete. He stressed that the Commission should read the letter from ecologist Mike Penko about the potential for emerging old growth. Ms. Madden noted there are a number of letters that have been submitted to the Commission which are part of the public record for this project.

Resident Ray Ciemny (54 Fitchs Bridge Rd.) questioned why the Commission was doing a timber harvest when prices are down. M. Giguere said we will not know what it’s worth until the project is actually put out to bid. Putting it out to bid does not assure it will be cut as that will depend on the bidding process. P. Morrison stated the Commission will review the decision once we have looked at the numbers. Aaron Green asked if the money derived from the cutting would go into the municipal general fund, and B. Ganem responded the Commission has a revolving fund, approved at Town Meeting, where funds gained through agricultural licenses or forestry management will be deposited to be used solely for the purpose of management of conservation lands owned by the Town.

B. Neacy commented the Commission has looked at the general aspects of the property, and biodiversity is certainly a goal. This is a chance to determine if we are managing assets appropriately. Reporter Pierre Comtois of the *Groton Landmark* asked the purpose of tonight’s meeting, and members said it is an opportunity to get more information from the visiting foresters. P. Morrison remarked “It appears this project has become a lightning rod for public comment.” N. Madden said the Commission will need to make an internal decision one way or the other, having heard from experts and received written comments. B. Easom stated he does not expect any information to come in that would dramatically change our point of view. He suggested the Commission authorize putting out the bids so that we have economic data before making a decision. Consulting forester Jeff Hutchins said this puts Baystate Forestry in an awkward position as they will be soliciting bids from loggers who go to the trouble of preparing a bid although he acknowledged the board has reserved the right to refuse any bid.

Resident Jack Petropoulos (18 Kemp St.) asked what kind of a financial impact the Commission is expecting. P. Morrison pointed out there are multiple purposes for doing a cut, and it would be a clear cut if it was solely for profit. M. Giguere summarized the Commission's goals as forest health, sustainability, diverse age and species of trees, generation of wood products, release of a new generation of trees, and the generation of some income to help us manage for an overall healthier forest on conservation lands. The Commission has developed forestry guidelines which outline the need to balance a number of different interests.

C. Auman requested more information on the 300-ft. greenway buffer. M. Stoddart explained it has not been fully defined, but in general it is thought of as a naturally vegetated area with no development. Mr. Auman said he wished to avoid a violation of any standard there may be to assure there is an adequate buffer to control pollution. W. Beals said the buffer is not going to change before and after the cut. There will be public access to the River and the forest will continue to provide wildlife habitat. The Commission failed to take action on a motion by B. Easom, seconded by P. Morrison, to instruct Baystate Forestry to seek and acquire a number of bids, in accordance with municipal bidding guidelines, to harvest the Farmers & Mechanics parcel based on the approved Forestry Management Plan and Forest Cutting Plan, reserving the right to reject any unsatisfactory bid. Mike Powers, forestry consultant with Baystate Forestry, noted Baystate cannot, in good faith, put the bid out to logging contractors if we can't move forward. The bid prospectus is quite extensive.

Chairman Madden commented this puts the Commission in an unusual position as there is also a need to make a timely decision. J. Petropoulos pointed out the Commission's forestry guidelines do not mention revenue as one of the interests to be balanced. State forester L. Dooley commented a healthier forest generally needs to have weak or dying trees removed, and the guidelines may not always have the expectation of a cash income. Due to a full agenda, members agreed to require that any further comments be submitted in writing prior to September 6<sup>th</sup> so the Commission will have an opportunity to review them prior to the September 13<sup>th</sup> meeting. P. Morrison stressed that money is not the prime mover in the Commission's decision making process. He urged those present to come to the next Town Meeting to support the Commission's requests for money to build up the Conservation Fund.

#### 7:15 p.m. – 129 Longley Rd. Request for Determination of Applicability

Resident Anna Eliot explained she wished to replace a culvert that is no longer functioning. The culvert conveys Nod Brook under a cart path leading to the back of her property. She recently granted a trail easement to the Groton Conservation Trust over the cart path to provide public access between Longley Rd. and Shepley. It is for passive recreational purposes. A hay baler also uses this for access to the hay field. Ms. Eliot said her land is in Ch. 61A, for agriculture (hay and firewood). M. Giguere said the size and placement of the culvert is very important. The culvert should follow the stream bed at both the inlet and outlet, and the work should be done at a dry time of year.

A. Eliot stated she may increase the size of the culvert from 12 in. to 14 in. C. Auman felt the biggest problem now is that the outlet is set too high. The culvert should follow the natural contours of the land. Erosion control measures should be in place to assure sediment and debris does not get into the stream. B. Easom pointed out it may be advisable to excavate below the

normal streambed elevation and then backfill the culvert bottom 20% to mimic the natural stream bed. A bigger pipe is probably the better choice. N. Madden asked whether the agricultural activities are done for a commercial purpose, and Ms. Eliot responded the hay and wood is harvested, but she doesn't make any money on it. D. Pitkin asked what the plans were for the logs that straddle the stream, and Ms. Eliot said she intends to remove them. Upon a motion by C. Auman, seconded by M. Giguere, it was

VOTED: to issue a negative #3 Determination with the following conditions: 1) Work shall be performed at a dry time of year; 2) Erosion control measures shall be in place to prevent materials from getting into the stream; 3) There shall be no increase in the width of the cart path; 4) Culvert shall be placed along the contours of the stream bed; 5) Culvert shall be 14 inches or larger in diameter; and 6) All large debris (logs) shall be removed from the area.

7:30 p.m. – Appointment Eagle Scout David Linzey

Boy Scout David Linzey said he has decided to do his Eagle Scout project on the Bertozzi Conservation Area to clean up the area around the monument which has become overgrown with shrubs and saplings. His presentation included a video showing the condition of the area and a PowerPoint depiction of his plans to replace a collapsed fence and install benches. Pressure-treated wood will be used for the structures. The trees will be cut and chipped to provide wood chips to define the area around the monument. Mr. Linzey anticipates the project will be carried out in mid-September. Chairman Madden commended him for taking on the project. B. Neacy said he was shocked at the amount of undergrowth at the site. He thought this was an outstanding project, and the monument will become a focus point for many users of the property. Members thanked D. Linzey for his work in pulling together a plan and indicated they would look forward to seeing the finished site.

7:45 p.m. – 583 Lowell Rd. Notice of Intent DEP#169-1065

Surveyor Stan Dillis turned in the abutter notification cards and explained this lot is located next to the Kiley property and power lines. The owners, concerned about trees falling on the house and power lines, cut 27 white pines and 5 red maples within the 100-ft. buffer zone on the property. The stumps are in place and are identified on the submitted Notice of Intent plans. Construction of the house was approved in a 2000 Order of Conditions which attorney Bob Collins said was still outstanding as far as receiving a Certificate of Compliance. He stated the property was, historically in his opinion, an open field where potatoes were grown within the last 70 years. It is not virgin forest, and this is recent overgrowth.

M. Giguere disagreed, stating some of the trees that were removed were 30 in. in diameter. The diameter suggests they were quite mature trees. Boulders marking the no-disturb zone were moved by the new owner. Mr. Collins said his client is considering placing a stockade fence along the wetland line. Members felt this was a significant disturbance and a more extensive restoration plan was in order, given how much of the tree canopy was removed. Mr. Dillis explained he clustered the trees and shrubs near the wetland to provide a buffer between the wetland and the area that has been cleared. Shrubs such as blueberry and dogwood are proposed, but the planting could be extended. C. Auman suggested adding dogwood where the stumps are located. B. Easom agreed that additional plantings on the east side were needed.

Attorney Collins said portions of the cluster could be moved further out into the buffer zone to duplicate the original canopy density at some point. It may be necessary to have a greater number of trees.

D. Pitkin questioned where a no-disturb line should be placed as he did not feel the fence would protect the buffer. B. Collins said the garage under takes in water, and they need to add another garage. N. Madden questioned how the original Order of Conditions could have been missed when a title search was prepared for the property. It seems as though the owner would have seen this encumbrance on the lot. The Commission has to enforce its Bylaw to protect the resources on the site, and she wasn't sure putting in trees and adding a stockade fence protected the wetlands as both require work within the resource and buffer itself.

The wetland is approximately 25 – 30 ft. behind the house. Mr. Collins indicated the donation of a conservation restriction on the back of the lot might be considered for mitigation. The land abuts the Kiley Conservation Restriction. Auman asked the size of the lot and pointed out a 2 acre minimum is probably required for zoning. B. Easom said a donation makes more sense than a restriction. Natural Heritage has not yet made comments on the restoration plan. S. Dillis asked if it would be possible to cut down the tree that has been partially cut as it poses a safety issue. P. Morrison said he has no problem with the cutting of the 2 pines closest to the house, and he thought the closer together the plantings are, the more impenetrable the barrier. C. Auman suggested a straw vote to clarify the Commission's position. Members recommended adding in more plantings as the shrubs will provide food and shelter for wildlife until the trees grow in. Upon a motion by P. Morrison, seconded by D. Pitkin, it was

VOTED: to continue the hearing to September 13, 2011.

8:00 p.m. – 290 Whiley Rd. Notice of Intent DEP#169-1063

Alternative locations for the septic system upgrade were limited on this .4 acre according to engineer Dan Wolfe. There is a small level area near the road that is suitable. A new septic tank and pump chamber will be placed below the 2 leaching trenches. The retaining wall will be replaced, and this separates the septic tank and leaching field. Mr. Wolfe explained 98% of the lot is within the 100-ft. buffer zone of Duck Pond. The existing concrete and railroad tie retaining wall will be removed and replaced with precast concrete blocks which can be quickly installed. An existing aboveground propane tank will be moved and replaced in the same location once the work on the septic system is completed. Members advised silt fencing and haybales would be required for this steep slope. Abutters have been notified, and the project has received a "no take" notification from Natural Heritage.

D. Pitkin asked whether a reserve area is necessary, and Mr. Wolfe stated that is only the case in new construction not a pre-existing house. He explained the existing retaining wall is in poor shape with no apparent tiebacks. It would be replaced with heavy blocks, forming a wall no more than 4 ft. in height. There being no further questions, upon a motion by M. Giguere, seconded by P. Morrison, it was

VOTED: to close the hearing for 290 Whiley Rd.

8:15 p.m. – 22 Birchwood Ave. Request for Determination of Applicability

With no applicant present, members described the work as the creation of a parking area across the street from the residence. This involved both tree cutting and the addition of fill. The work is within 100 ft. of Lost Lake/Knops Pond and an “Isolated Land Subject to Flooding” under the Bylaw. This is an after-the-fact filing, and members questioned the source of the fill. N. Madden noted it is a large area of fill and asked if the project had been reviewed by the Commission ahead of time, would members have approved it?

B. Neacy questioned how it came to Commission attention, and B. Ganem said somebody called about the tree cutting. P. Morrison did not think the Commission would have allowed the extent of filling in the buffer zone that has occurred. N. Madden observed the Commission needs to address both short term concerns, such as erosion control and stabilization, and long term issues such as restoration. Land Use Director Michelle said the Earth Removal & Stormwater Advisory Committee has reviewed the situation and decided the amount of fill is below their filing threshold. They are depending on the Conservation Commission to remedy the matter. Upon a motion by C. Auman, seconded by P. Morrison, it was

VOTED: to issue a positive #3 and #5 Determination of Applicability, requiring the filing of a Notice of Intent.

Upon a motion by M. Giguere, seconded by B. Easom, it was

VOTED: to issue an Enforcement Order requiring the removal of fill (logs) from the kettle hole, the restoration of the site, and the placement of erosion control measures to stabilize the slopes. A Notice of Intent shall be filed within 45 days of issuance of this Enforcement Order.

Members advised including the fine schedule from the Bylaw in the mailing.

8:30 p.m. – Station Ave. Infrastructure Request for Determination of Applicability

Engineer Tim McGivern of Nitsch Engineering, Inc. explained the filing involves a ¼ mile re-development of Station Ave. that includes paving, sidewalks, underground utilities, and improvements to the existing roadway. An ENF has been filed under the Massachusetts Environmental Protection Act. This filing does not include the crossing of James Brook. Land Use Director Michelle Collette said that property is owned by Buckingham Bus Co., and the Town is applying for a grant through MassWorks, formerly the PWED grants. The grant awards will be announced in mid-October. One of the requirements is that all permitting must in place with the project ready to go in the spring of 2012. The work would be dependent on receipt of the grant. The overall goal for Buckingham property is to eventually daylight James Brook.

M. Giguere asked if this involves additional pavement or outfalls to James Brook. M. Collette said this represented an improvement in water quality, noting the Town recently completed the retrofitting of 8 catch basins within Main and Court Streets as part of a grant received through the EPA-DEP 319 program. Town Manager Mark Haddad said this project falls under the MASS DOT ‘complete streets projects’, and the funding can cross fiscal years in the Town’s budgeting.

C. Auman asked about disturbances in the buffer zone and if erosion control measures will be in place. Mr. McGivern assured the Commission no materials would go into the wetlands and stockpile and staging areas will be located outside of sensitive areas. B. Easom asked about the layout of curbing and catch basins, and T. McGivern explained the planning documents were at 25%, and he anticipated having more complete plans in time for construction. It must meet low impact development and stormwater management standards. No coordination with the utilities has happened as yet. M. Collette suggested they could return to the Commission with updates on the construction plans. The grant application is due in early September, and the requirement is that the project be shovel-ready.

Mr. McGivern provided several pages that were missing from the RDA narrative for the project. P. Morrison inquired about the condition of the culvert carrying James Brook under Station Ave., and M. Collette said it is in surprisingly good shape based on a recent cleanout and inspection by the Highway Dept. The redevelopment of Station Ave. will result in crowning of the roadway and a width change at the crosswalks. No illicit connections will be made in accordance with the Groton bylaw. Upon a motion by M. Giguere, seconded by B. Easom, it was

VOTED: to issue a negative #3 Determination requiring: 1) updated plans shall be submitted to the Conservation Commission as they are prepared; 2) designs shall meet the Stormwater Management Standards promulgated by MA DEP; and 3) equipment shall be kept out of the 100-ft. buffer zone during construction.

8:45 p.m. – 134 Main St. Notice of Intent continuation, DEP#169-1062

Engineer Bruce Ringwall noted the Commission visited the site this past Saturday and observed where the buildings, retaining wall, and rain garden are proposed. Engineers from GPR, Inc. and Nitsch Engineering, Inc. met to review the details of the drainage modeling to show the removal of ‘total suspended solids’ (TSS) for the site. GPR expects to address the questions brought up in that meeting in a final review letter. Member D. Pitkin informed those attending that his wife is an officer of MassAudubon, and he will refrain from the discussion. B. Ringwall did not see this as a conflict, and M. Collette recommended he file a disclosure form with the Town Clerk.

Member Easom read into the record a letter from the Commission’s peer reviewer, MassAudubon Ecological Extension Services, dated August 19, 2011, reviewing mitigation proposed by Mt. Laurel Development for encroachment into the 100-ft. wetlands buffer zone. Wetland specialist Brian Butler of Oxbow Associates said there was a limited pallet with which to work given the limited landscape. He noted the dense hedge of multiflora chokes out other growth. As far as the conservation restriction having limited value and applicability, Mr. Butler pointed out environmental regulations may disappear. A deed restriction may be another option as this would protect the land for 30 years. B. Butler said he felt the removal of the multiflora hedge has merit in that it now permits easy access by predators on bird nests. Another alternative would be to leave down gradient areas intact. Future management of the invasive plants could be incorporated into the Operations & Maintenance plan and could require regular reporting to the Conservation Commission. B. Ringwall said he agreed with the suggestion of massing plantings rather than planting them on center as he indicated at the last meeting. The condominium association is a stronger mechanism for maintenance and upkeep, and the Commission can add



to the conditions in the O & M plan. It is likely conditions will be added as the project goes through the permitting process, and it will take the project well beyond the 5 years recommended by the peer reviewer. Mr. Butler said he would be happy to work with hand tools and hand plantings for the management of the old field area. He felt that monitoring in June and September with herbicide treatment as appropriate could be incorporated into the O & M plan.

N. Madden said she was happy to have the information the constructed wetland would provide additional habitat for birds and insects. B. Neacy felt the project was a non-starter since it immediately challenges the validity of the Groton Wetlands Protection Bylaw. He did not feel that low impact development techniques, such as the constructed wetland, represented an improvement. He urged the applicant to handle stormwater management in another manner and to get the buildings out of the buffer zone. This concern was previously raised by D. Pitkin, C. Auman, P. Morrison, and M. Giguere.

Mr. Ringwall provided the Commission with calculations showing the pre- and post-construction impervious surfaces. While environmental elements are the Commission's primary concern, he urged the Commission to consider public benefits and the collaborative efforts that made this a priority development site in the Town Center Overlay District. The TCOD allows higher density but has a strong scope of rules such as public views and affordable housing. B. Neacy said the Commission's charge is to protect resources, and the applicant should recognize the obligation of our charge. There is no disturbance within 50 ft. and no building within 75 ft. for good reason because this represents a loss of protection for the resource area.

M. Giguere echoed B. Neacy's comments and urged the applicant to be more creative about getting things out of the buffer. The Commission has to see that this project provides adequate mitigation. The public benefit may be affordable housing, and there could be 50 – 60 units under a Ch. 40B proposal, but the Commission cannot consider the project under a different standard.

C. Auman said he sees more density and did not feel invasive control was enough mitigation. He too urged a more creative approach. B. Ringwall commented the condominium association could build these into the master deed which is a perpetual document enforced by the condominium association. Mr. Auman stated he would prefer to see an escrow account set up. B. Easom agreed that it is inadequate to use invasives control for mitigation. He read from the MassAudubon letter: "Our opinion is that the proposed invasives control and establishment of the proposed conservation restriction would not be adequate mitigation for the proposed work in the buffer zone." He felt that getting structures away from the wetland rather than dealing with minutia would be more productive.

D. Pitkin said he was wrestling with economic feasibility vs. public benefit, TCOD, 43D designation, a tight site, and economics. N. Madden said this sets a precedent for dense projects in Town. How we move forward will affect future development in the Town center. P. Morrison said he did not have an issue with the density, but he would like to see at least 1 structure moved out of the buffer zone. B. Ringwall pointed out the original plans had 4 buildings in the buffer zone while the current plan has 1.5 buildings. Public access will be provided in the 50 – 100 ft. buffer, and there will be an open public vista. He maintained impacts on wetlands have been

reduced and the low impact development techniques incorporate drainage measures which provide a massive amount of treatment before the runoff reaches the wetland.

Attorney Scott Eriksen said the Commission has found these techniques acceptable on other sites such as 34 Kemp St. and Island Pond Rd. P. Morrison pointed out a donation is easier than a conservation restriction which has to be monitored. A deed restriction has to be re-signed and recorded every 30 years. Mr. Eriksen emphasized that 42 units could be built on this site, and only 18 are proposed. Selectman Peter Cunningham pointed out residents attending the last Town Meeting approved the Town Center Overlay District (TCOD) and expedited permitting by a 2/3's majority vote. He disagreed with Mr. Collins on his point about the proposed trail, pointing out the public access offered by the applicant would afford the Trails Committee an opportunity to link trails in the future. P. Morrison said the adjoining properties were privately owned. B. Ringwall said the applicant does not intend to build a trail but to offer the approximate location of a trail easement which would allow for a future trail connection.

Selectman Josh Degen explained he also serves on the Affordable Housing Trust which is planning to invest in this project as a partner. The density of this project is well below what is allowed. The project could have a higher density and could pull it out of the buffer zone, but it then may not be economically viable or meet the standards for the TCOD. He suggested the Commission look at what is proposed, recognizing it is a known quantity whereas a Ch. 40B project could far exceed the current density. P. Morrison said an approximate 10 – 15 ft. encroachment at Shaw's Supermarket resulted in the permanent protection of a 400-acre parcel. Mr. Neacy mentioned the Magee parcel on Townsend Rd. in which the applicant pulled disturbances out of the buffer zone. D. Pitkin noted 34 Kemp St. was highly contentious and involved a previously disturbed lot that had been permitted, but then new wetlands were discovered. J. Degen underscored the vital importance of this project which could spark economic development in the Town center. He asked the Commission to consider what other alternatives may be proposed for this site. B. Neacy pointed out there was a 2/3's vote of Town Meeting to pass the Groton Wetlands Protection Bylaw.

Resident Karen Corey (150 Main St.) said she was not bothered by the threat of 40B and urged the Commission to stick to the Wetlands Protection Bylaw. She stated she understood this could be precedent setting for other projects and it is done on a case-by-case basis. She hoped the Commission was not getting away from the conservation of buffer zones.

M. Collette cautioned the Commission to follow the discussion in the context of the larger TCOD discussion which includes the Prescott School and former Station Ave. Overlay District. She suggested a conservation restriction would serve a public benefit in that it would make it easier to connect other pieces and enable the Commission to negotiate with adjoining landowners to create a trail network. Ms. Collette urged Commissioners to look at this mitigation in the broader scope of protecting open space. Noting that Brown Loaf has previously been considered an important open space parcel, she encouraged further discussion on this point.

C. Auman said the points brought out in the peer review are important. He might say yes if mitigation is adequate, the applicant is willing to amend the invasives control plan, and offer other things. C. Auman emphasized that his first concern is that this is the first of many projects

in this area. He suggested the developer look at available acreage and consider broader protection of other properties.

Developer Bob France said that good points have been raised, but he would like to particularly address the peer review. He said he was willing to adopt the mitigation procedures suggested in the letter, including minimizing intrusions into the buffer zone for invasive control. He also was amenable to the idea of an escrow fund. He indicated, however, that it was not economically feasible to move the house out of the buffer zone. Mr. France stated the density allows him to meet economic factors but also to be sensitive to other comments such as concerns about maintaining the viewshed.

C. Auman said the amount of land does not feel adequate. The proper offset should be a benefit that offsets the loss. J. Degen said it was inappropriate to consider the use of Brown Loaf as leverage on this project. The Commission can certainly have a discussion with the Board of Selectmen in the future on this. Town Manager M. Haddad pointed out a Town entity, the Affordable Housing Trust, is acting as a partner in this project.

K. Corey noted she was informed at Town Meeting that Brown Loaf was not under consideration for mitigation, and Mr. Degen concurred that this was the case. Members questioned what it will take to finalize a decision. N. Madden agreed with the points outlined in the MassAudubon letter, but felt it was still valuable to address concerns around the margin and perhaps see whether more creative ideas could help with the management of other properties. P. Morrison said he was closer to acceptance than the rest of his colleagues with the exception of the one building in the buffer zone. Upon a motion by M. Giguere, seconded by C. Auman, it was

VOTED: to continue the hearing to September 13, 2011.

Upon a motion by D. Pitkin, seconded by B. Neacy, it was

VOTED: to approve the minutes of July 26, 2011 as drafted.

Upon a motion by B. Neacy, seconded by D. Pitkin, it was

VOTED: to approve the minutes of August 9, 2011 as drafted.

B. Easom abstained from the vote.

Upon a motion by B. Easom, seconded by D. Pitkin, it was

VOTED: to approve and issue an Order of Conditions for 6 Redskin Trail, DEP#169-1061 under the Wetlands Protection Act.

Upon a motion by B. Easom, seconded by B. Neacy, it was

VOTED: to amend and issue an Order of Conditions for 6 Redskin Trail, DEP#169-1061 under the Wetlands Protection Bylaw.

C. Auman was absent from the room for this vote, but the remaining members voted unanimously in favor.

Upon a motion by D. Pitkin, seconded by P. Morrison, it was

VOTED: to issue a Certificate of Compliance for 35 Whitney Pond Rd. DEP#169-1036.

D. Pitkin reminded members we agreed on site to allow the owner to remove several dead trees, and this should be acknowledged in the cover letter.

B. Ganem reported Natural Heritage has notified the Commission of several changes in the location of certified vernal pools, as well as the certification of a new vernal pool adjacent to the abandoned railroad bed at Spencer Circle.

Noting that the developer of Academy Hill has failed to respond to the Commission's request for funding for a peer review of the north entrance wetland crossing culvert, members questioned whether there are financial problems with the project. The Commission has previously selected Comprehensive Environmental, Inc. to do the peer review. Members thought the clock was no longer running on the previous Enforcement Orders issued to Mr. Wheeler. The NPDES inspector, Mary Trudeau, has documented significant erosion and siltation at the site during the past two storms. These problems should be immediately mitigated with the removal of silt and improvements to the erosion control barrier. B. Easom said the Commission has previously warned of impending fines, but he felt this was done as a courtesy. Upon a motion by B. Neacy, seconded by B. Easom, it was

VOTED: to issue an Enforcement Order for the failure to comply with the Groton Outside Consultant Bylaw and continuing erosion and sedimentation problems on the site. Fines will be implemented, effective upon the mailing date of the Enforcement Order, at \$50 for the first day, \$100 for the second day, and \$300 for the third and subsequent days.

The vote passed by a majority with N. Madden abstaining.

Members agreed to advise DEP that they wished to see the fence section closest to Lost Lake/Knops Pond removed as agreed to in the Determination of Applicability issued to Michael Mavilia for work across the street from his residence at 21 Redskin Tr. DEP is in the process of developing a Superseding Determination of Applicability for the more recent filing that was appealed by Richard Mavilia.

In response to a request to place acoustic testing equipment on Town-owned conservation land, B. Easom made a motion, seconded by C. Auman, and it was

VOTED: to temporarily allow the placement of acoustic sensors on Fletcher Hill, Batten Woods, Groton Woods, Woodland Pond, and Flavell Crossing conservation areas until the end of an acoustic study by Weston Geophysical on September 11, 2011.

Given the late hour, members agreed to hold off on discussion of the remaining land management tasks. The meeting was adjourned at 11:20 p.m.

Respectfully submitted,

Barbara V. Ganem  
 Conservation Administrator

**Approved as drafted 9/13/11.**

**EXHIBITS**

Document	Source	Date
Farmers & Mechanics Forestry Cutting Plan	Bay State Forestry	7/18/11
Farmers & Mechanics Land Management File	Conservation Commission	Land acquired by eminent domain in 1967
Forest Stewardship Plan	Bay State Forestry/Farmers & Mechanics	5/11
Bertozzi Land Management Plan	Conservation Commission	Land donated in 1963
Notice of Intent	Iovino/583 Lowell Rd.	Filed 8/4/11
Letter to Conservation Commission re: Farmers & Mechanics forestry cutting	Michael Penko/1 Grafton Rd., Upton, MA 01568	Received 8/22/11
Notice of Intent	Mann/290 Whiley Rd.	Filed 8/1/11
Request for Determination of Applicability	Town of Groton/Station Avenue Infrastructure	Filed 8/9/11
Request for Determination of Applicability	Stark/22 Birchwood Av.	Filed 8/5/11
DEP#169-1062 continuation	Mt. Laurel Development/134 Main St.	Filed 7/18/11
Minutes	Conservation Commission	7/26/11
Minutes	Conservation Commission	8/9/11
DEP#169-1061 Order of Conditions	Veduccio/6 Redskin Tr.	Filed 7/22/11
Certificate of Compliance	MacMillan/35 Whitney Pond Rd.	Notice of Intent filed 2/19/10
Vernal Pool Certification location corrections #56,	Natural Heritage & Endangered Species Program	6/30/11

#2303 – 2307, & #1740-1742		
Vernal Pool Certification #6523	Natural Heritage & Endangered Species Program	8/3/11
Academy Hill DEP#169-970 Enforcement Order	Habitec, Inc./Townsend Rd.	NPDES reports dated 8/12/11 & 8/19/11
Determination of Applicability	Across from 21 Redskin Tr.	Appeal filed 7/12/11
Letter	Weston Geophysical, 181 Beford St., Suite 1, Lexington, MA 02420	8/16/11