

GROTON CONSERVATION COMMISSION

Minutes

September 13, 2011

Chairman Nadia Madden called the meeting to order at 7:00 p.m. in the 2nd 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.

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

VOTED: to approve the minutes of August 23, 2011 as drafted.

Upon a motion by C. Auman, seconded by D. Pitkin, it was

VOTED: to approve the minutes of August 30, 2011 as drafted.

B. Easom abstained from the vote.

Upon a motion by P. Morrison, seconded by B. Easom, it was

VOTED: to approve and issue an Order of Conditions for 290 Whiley Rd. under the Wetland Protection Act for DEP#169-1063.

Upon a motion by P. Morrison, seconded by B. Easom, it was

VOTED: to approve and issue an Order of Conditions for 290 Whiley Rd. under the Wetland Protection Bylaw for DEP#169-1063.

Member Pitkin reported the Greenway Committee met on September 7th and is planning a Riverfest celebration in 2012. They are interested in finding new volunteers for this effort which includes such events as cardboard canoe races. Nashoba Paddler is celebrating 10 years of operation and the closing on the purchase of the property along the Nashua River on October 2nd. B. Neacy noted the Greenway Committee has submitted a letter on the Farmers & Mechanics forest cutting plan in which they remain neutral.

Commission members and the Greenway Committee visited for former Nod Rd. landfill this past Saturday. D. Pitkin said the Greenway Committee is interested in seeing this land maintained as grassland bird habitat, but there is a question about who manages it. An abutter appears to be mowing a path into the area that may see some ATV use. C. Auman said he saw great potential value in the property which would need brush hogging to keep it in an open state. It is Town-owned land, but does not appear to have been designated park land. B. Easom asked why the Commission would not want to own it, and members mentioned liability because of the questionable cleanup in 1975. It is an unlined landfill near wetlands. Mr. Easom felt that if it is

under the care and custody of the Conservation Commission, people would be less likely to come in and disturb it. P. Morrison commented there are limits on what you can do with it. Cleaning up an unlined dump could be expensive. D. Pitkin said he would not like to see the Conservation Fund used for a cleanup. P. Morrison asked “Who is going to pay for management or remediation?” He suggested leaving it the way it is. M. Giguere mentioned it has value as grassland habitat if it is kept clear and mowed.

7:15 p.m. Appointment – Robert Collins – Woodle Conservation Restriction

Mr. Collins stated this was the largest privately owned property on Lost Lake, and it has been in the Woodle family for six generations. They have almost completed the approval process with the Planning Board. Twelve acres will be associated with the existing log cabin, 8.2 acres of which will be committed to a conservation restriction. The cabin itself will be subject to a preservation restriction. B. Collins said he was here to solicit the Commission’s support and willingness to accept the conservation restriction. There are three vernal pools on the property, as well as a portion of the shore line. Arrow Trail is a paper street to Balsam Walk which leads to a 10-ft. wide trail easement. Mr. Collins said the topography is challenging. Because of the sensitive ecology of the area he thought it better to discourage public access.

He commented the draft conservation restriction is drawn from the standard language the Division of Conservation Services recommends, but is customized to this particular property. Mr. Collins did not believe the property would be widely used. He acknowledged the Commission may wish to have bounds at specific corners, especially those adjacent to new property owners. The owners are willing to contribute \$500 to the review of the conservation restriction by the Groton Town Counsel. He also will need the municipal certification for the restriction.

M. Giguere felt there was generally limited access to the property. The Conservation Commission has the right as a monitor, but the public may run into difficulty. He thought the existing trails are quite nice, but probably not the ones envisioned on the submitted plan. For instance, the entrance from Arrow Trail looks like a cliff. D. Pitkin noted it is possible to come over from trails on Boathouse Rd. The owner has tried to discourage travel, particularly by motorized vehicles, over the existing trails.

Member Auman said he was pleased to have public access to the lake, but has a problem with the steepness of the trail. He thought the trail easement should be marked in the field so the Commission will know its location. Mr. Collins said the septic systems have not yet been approved by the Board of Health. Mr. Pitkin stressed the need to show the trail easement on the plan and thought it would be easier to do this when dealing with just one owner rather than multiple owners.

Member Easom mentioned the Conservation Restriction on Gibbet and Angus Hills prohibits public access except on specific trails. B. Collins pointed out people have the right to go on the paper streets and on the 10-ft. wide trail easement. Access is not granted for any other part of the property.

Resident Virginia Bennett (34 Arrow Trail) asked where the trail starts, and Mr. Collins replied "On Arrow Trail." He stated it is really primarily for the use of local residents. Ms. Bennett said she would like to see signage and a physical barrier to discourage the use of motor bikes in the area. B. Easom asked, if the paper streets are public roads, who has the right to post signage at the end of the existing road. Land Use Director Michelle Collette explained this project has been subject to a special permit for flexible development and two shared driveways. In 1989, the Town took Tavern Rd. to the intersection with Harding Rd. She thought it likely the paper streets were private ways. The Woodles have title to the internal paper streets. B. Easom questioned if this was comparable to the situation on Jenkins Rd. where it is owned subject to the rights of others. Do the Selectmen have the legal right or does the public? He thought it would preserve what needs to be preserved, but it may be a charade to say there is any public access. Mr. Collins agreed to give the Commission more time to review the conservation restriction.

7:30 p.m. 22 Redskin Trail Notice of Intent DEP#169-1066

Rob Oliva, engineer with Ross Associates, submitted the abutter notification cards. The proposed work is the upgrade of an existing septic system. The wetland coincides with the edge of the lake. A new leaching bed, septic tank, and pump chamber are proposed, giving consideration to the 50-ft. offset to existing wells. A filter sock will be used for erosion control. Attorney Collins said the Board of Health has issued a permit for the septic upgrade. They plan to do the work late this year or early next year. Mr. Oliva indicated the design will accommodate the parking of vehicles in the existing parking area which will remain gravel. A large tree will be removed, but the telephone pole will remain as is. The infiltration trench in the front of the home will not be affected by the septic installation. Upon a motion by B. Easom, seconded by P. Morrison, it was

VOTED: to close the hearing for DEP#169-1066 for 22 Redskin Trail.

In discussion on the proposed mock fox hunt at Surrenden Farm, upon a motion by M. Giguere, seconded by D. Pitkin, it was

VOTED: to allow the Old North Hounds mock fox hunt at Surrenden Farm on October 25, 2011 (with a rain date of November 1) subject to approval by the MA Department of Fish and Wildlife.

Under land management questions, Commissioners agreed to ask DPW Director Tom Delaney if it would be possible to repair the culvert where the trail on the Sawtell Conservation Area is located. In addition, he will be asked to spread bark mulch to demarcate the trail to Batten Woods off Orion Way.

7:45 p.m. 134 Main St. Notice of Intent continuation DEP#169-1062

Engineer Bruce Ringwall explained they have been working through the review by the MassAudubon Ecological Extension Service and have agreed to a number of things. He submitted a memo outlining their responses to the review letter. This includes such items as planting in groups and an escrow account to be associated with an invasive plant monitoring and follow-up program. Brian Butler of Oxbow Associates has recommended monitoring in June and September with follow-up treatments at the appropriate time of year. This would be incorporated into the condominium association documents. It will be necessary to maintain the plant material

in the stormwater management system, and this could involve periodic reports to the Conservation Commission. Attorney Rob Antcil added the Conservation Commission could be granted the right to monitor invasives control. This would include recouping funds spent by the Town from the condominium association should their responsibilities not be carried out. The Planning Board will also require the incorporation of language in the condominium association agreement that deals with drainage issues.

Another facet of the mitigation effort would be to deed an approximately 1.56 acre parcel at the back of the parcel. This includes wetlands, all of the 50-ft. buffer, and a portion of the 100-ft. buffer zone. In addition, the proponent proposes a cash contribution of \$50,000 to the Conservation Fund. Landscape architect Lorayne Black offered a change in the landscaping plan proposed at the north corner of the land to leave that area as lawn rather than converting to a native mix of wildflowers.

Attorney Antcil said it was his understanding the Commission preferred an in fee interest rather than a conservation restriction on the land. He acknowledged written rights and obligations to maintain the stormwater management features. C. Auman commented some type of performance standard should be developed on what is to be done and not done. D. Pitkin asked how the Commission can accept the donation of that land, including the procedures and performance standards that the homeowner will be obligated to fulfill on land the Commission is to own.

Member Easom acknowledged there are a number of items to which the proponent agrees in the memo, but the Ecological Extension Service review letter goes on to state the mitigation options offered were insufficient. Even if all the steps were done, they may not be adequate. This is too big a development on a small property near a wetland. B. Ringwall said the Commission has previously requested the proponent to be creative and think outside of the box. As follow up, the proponent has come up with additional funding for the Conservation Fund, proposed establishing an escrow account, offered a minimum of 5 years of monitoring invasives, and provided a trail easement for a future trail connections. N. Madden observed it's the Commission's obligation to take feedback and she felt the developer had thought creatively outside the box. The project is currently in review before other boards so there may be changes in what is being proposed here. R. Antcil suggested the hearing not be closed tonight as the Planning Board has a hearing continued to October 6th.

B. Ringwall said they will confirm pipe slopes and review drainage to and from the point of view of maintaining the flow to the wetlands. B. Neacy said the key issue is that the proposed mitigation is inadequate. He felt the donation of land in the buffer zone worked, but it's hard to put a value on the resource area. The buffer zone is essential to protect the resources, and this would impact every resident in Town. He expressed reluctance to set a precedent for a cash donation to offset encroachment into the buffer. He felt the resource area is beyond value to a certain extent, this has not been on the table before.

B. Ringwall pointed out much of the buffer zone where structural changes are proposed has already been totally disturbed as it is manicured lawn. While there will be 4,700 square feet that are impervious, the proponent is actually building a wetland, planting native plant material, cleaning the runoff water, and controlling fertilizers. This will result in an improvement to

wildlife habitat over what exists there now. He mentioned the proponent has looked at other Orders of Conditions issued over the past few years in which the Commission has accepted conservation restrictions or donations so these mitigation steps appear to fall within Bylaw guidelines. The donation to the Conservation Fund can be used for restoration of conservation land or purchasing other land.

Member Morrison expressed a preference for the donation of land rather than a conservation restriction, and he liked the idea of a donation to the Conservation Fund. He would still like to see the building moved. M. Giguere congratulated the proponent for thinking outside the box and added the management and maintenance issues for the invasives and stormwater structures must be addressed before donating the land to the Town as it would then become subject to Article 97. He felt that following the MassAudubon guidelines and setting up an escrow account to cover 5 years of management were good steps. Attorney Antcil envisioned that as each unit is sold a fee would be paid into the escrow account with a total of \$5000. Mr. Giguere pointed out that accepting money for the Conservation Fund is not without precedent as the Commission did it in the case of the Eliades property. He also could see a public benefit in the development of affordable housing. C. Auman thanked the proponent for their work to improve the plan. He said a donation to the Conservation Fund was a positive, and he liked the idea of setting up an escrow account for the management of invasives. He stressed that the plan should address performance standards. The addition to the Conservation Fund will allow the Commission to protect other land, and he felt the plan has made progress.

Josh Degen explained he serves on the Affordable Housing Trust. He pointed out that MassAudubon was the Commission's consultant, but the Commission is charged with making the final decision. The Affordable Housing Trust is a one-third partner in this project and has agreed to put in \$25,000 to the Conservation Fund once a profit is recognized on the project. Mass Audubon did not weigh in on the contributions to the Conservation Fund because the idea had not been brought forward at that time. He felt the donation would allow the Commission to acquire land that would suffice for the intrusion into the buffer zone. The double tiered retaining wall will recharge water before outletting to the wetland and this improves conditions for native species. Mr. Degen felt the consultant needs to look at the big picture and how they are improving what is on the ground today. He noted the Planning Board may have conditions in conflict with those of Conservation Commission. B. Neacy said he appreciated Mr. Degen's comments and understands the public good in that three of eighteen units will be affordable in exchange for the \$25,000 put up by the Affordable Housing Trust. Mr. Degen added the developer has agreed to offer another affordable unit bedroom so the units will include two 2-bedroom units and one 3-bedroom unit , one more than originally proposed.

Selectman Peter Cunningham expressed concern about MassAudubon editorializing when the Commission was asking them for a technical review, likening it to Fox News critiquing the Obama administration. The decision rests with the Conservation Commission, and he suggested the proponent has offered a number of good points that the consultant is not aware of.

Resident Karen Corey (150 Main St.) noted the Commission is discussing precedents set in the past. She stressed that other properties should not be considered, protesting this is a cash buyoff and questioning whether things would be better off than they are today. She urged the

Commission to look at the Town's efforts to protect Gibbet Hill, Half Moon swamp, and James Brook and to examine it from a conservation viewpoint. Attorney Antcil asked how the Commission wished to proceed. M. Collette advised submitting the draft condominium association documents to her so that she could work with Mark Haddad for review by Town Counsel. The Operations and Maintenance Plan would also be incorporated into this document. Deeding the property, access for care, and the establishment of an easement through deed would be addressed. C. Auman questioned at what point the donation would be triggered and how to incorporate this into the Order of Conditions. Upon a motion by P. Morrison, seconded by D. Pitkin, it was

VOTED: to continue the hearing to October 11, 2011.

8:00 p.m. 583 Lowell Rd. Notice of Intent continuation DEP#169-1065

At the applicant's request and upon a motion by P. Morrison, seconded by B. Easom, it was

VOTED: to continue the hearing for DEP#169-1065 to September 27, 2011.

8:15 p.m. 2 Loomis Lane Notice of Intent continuation DEP#169-1064

At the applicant's request and upon a motion by P. Morrison, seconded by D. Pitkin, it was

VOTED: to continue the hearing for DEP#169-1064 to September 27, 2011.

8:30 p.m. Farmers & Mechanics Forestry Cutting Plan

M. Giguere reported a barn owl would be at the northern edge of its range in Groton, and they tend to be more frequent visitors along the coast. They hunt at night in open fields. To encourage breeding, nesting boxes can be placed in secluded areas where there are few people to disturb them. Farmers in the area could consider nesting boxes to help keep their crops free from voles. Member Giguere read a statement on the history of managing New England forests, followed by a motion that the Commission authorize Baystate Forestry to place the cutting for the Farmers & Mechanics parcel out to bid, subject to the following conditions: 1) the Commission reserves the right of final refusal and any and all bids deemed unacceptable; and 2) a final walk-through by the Commission to allow for minor adjustments to the plan, such a walk-through to take place no later than two weeks from today. The motion was seconded by C. Auman.

In discussion on the motion, Chairman Madden said she was torn as she felt the forestry team had done a good job in developing a sustainable forestry plan which was strong and observed the present requirements. Opponents of the cutting had presented compelling arguments as well although some of their comments were better than others.

Member Pitkin questioned whether anyone had joined the Stewardship Program particularly for this parcel. M. Giguere and B. Ganem were not aware of any recent volunteers for Farmers & Mechanics. Member Giguere pointed out a significant number of the older trees were to be retained, and there are other parcels which the Commission can consider for encouraging old growth characteristics. P. Morrison thought Sorhaug Woods had been logged within the past 20 years. B. Neacy said he had gotten out of the earlier discussion on the parcel the fact that this parcel has limited potential for going in the direction of old growth because of the dominant

white pine species. He maintained other parcels can be appropriately considered for this treatment.

D. Pitkin observed that the Commission's interaction with the public might have been handled differently. B. Easom said he would like to see this as the second parcel harvested as he would not want to see Baystate botch this project. P. Morrison placed weight on feedback from the public. The Commission is charged with maintaining the land for the good of the public, and the public has shown an interest. He is not taking it off the table forever, but he felt residents should have a chance to join in stewardship of the property. B. Neacy suggested moving the question, and P. Morrison seconded the motion. The motion failed with B. Neacy, M. Giguere, and C. Auman voting in favor, and D. Pitkin, P. Morrison, B. Easom, and N. Madden voting in the negative.

B. Neacy urged the Commission to move forward, pointing out it is a good plan conceptually and is a healthy way to go forward.

D. Pitkin clarified that this would be the first parcel the Commission authorizes to go forward for bidding. M. Giguere said, in terms of overall management of our land, it would enable us to begin more active management. He expressed concern that, if the Commission fails to do anything now, it is a vote to do nothing forever. N. Madden noted the motion specifies an additional site visit within two weeks to allow the Commission to make minor adjustments. She suggested the Commission could look at the wetland delineation. Baystate forester Dan Cyr explained a filter strip is along wetlands while a buffer strip is along a road. He used 3 dots to define the harvest boundaries. While 50% of the basal area can be cut in wetlands, the plan is to have no cutting within 50 ft. of the river and the vernal pool. Mr. Cyr noted the Commission had approved the plan quite some time ago.

M. Giguere said this could be an appropriate time to make adjustments. B. Easom suggested making the decision in the field. B. Neacy objected to holding technical decisions and negotiations in the field. P. Morrison and N. Madden suggested looking at the filter strips. B. Easom said the open meeting law means the meeting should be open to the public and an opportunity to direct our foresters. B. Ganem advised Town Clerk does not allow posting of a public meeting in the field because of accessibility issues. Member Easom suggested the Commission request an exception for a special case, and he was willing to arrange transportation. He felt the trees under discussion should be marked.

Water Superintendent Tom Orcutt was present and explained he worked with M. Giguere and B. Ganem to develop a request for bids for a forestry consultant for the Town. He suggested the Commission review the work in the field and then come back to Town Hall to hold a public meeting. He pointed out we engaged the forester to make recommendations for the management of forests in Town. B. Neacy offered an amendment to eliminate the site walk, with a second by M. Giguere. Member Neacy pointed out the foresters have the training and expertise to make appropriate recommendations. Whit Beals thought it was a well-conceived plan, and we are paying Baystate for a reason. They are our experts. Mr. Neacy did not think it makes a strong case continuing this discussion for a number of times, and it is time to move forward. The motion failed with M. Giguere and B. Neacy voting in favor, and N. Madden, B. Easom, D.

Pitkin, and C. Auman voting in the negative. Chairman Madden called for a vote on the original motion, and it was

VOTED: to authorize Baystate Forestry to place the cutting plan for the Farmers & Mechanics parcel out to bid, subject to the following conditions: 1) the Commission reserves the right of final refusal and any and all bids deemed unacceptable and 2) A final walk-through by the Commission to allow for minor adjustments to the plan, such a walk-through to take place no later than two weeks from today.

The motion passed by a majority vote with P. Morrison and B. Easom voting in the negative.

Members reviewed a statement from Baystate Forestry for services rendered thus far on blazing boundaries and preparing management plans on Baddacook Field, Williams Conservation Area, and Farmers & Mechanics. The statement is rendered for informational purposes, but the Commission may choose to pay it or not at this time. Upon a motion by P. Morrison, seconded by M. Giguere, it was

VOTED: to pay the itemized bill for Baystate Forestry services as of August 24, 2011 in the amount of \$3,678.00.

The motion passed by a majority vote, with B. Easom voting in the negative.

In discussion on the mowing at 77 Hidden Valley Rd., B. Ganem distributed aerial photographs available on Google Earth and Bing which seem to show a difference in the treatment of the trail vs. the lawn. B. Easom noted people come by car or on foot, and it is not apparent the trail is not part of the guy's lawn. He felt it was time to change the process which has not been working. We can go in with a brush hog twice a year. The owner should be informed the Commission does not feel the previous process has been working.

There being no further discussion, the meeting was adjourned at 9:35 p.m.

Respectfully yours,

Barbara V. Ganem
Conservation Administrator

Approved as drafted 9/27/11.

First a bit of a history lesson.

*Rec'd
9/13/11*

The Groton that we see today is not the Groton that was, even in the recent past as can be attested to by many of our senior residents. The forests that surround us today are second, and third, growth woodlands, a product of the great westward migration in the early and late 19th century. Even before the first Europeans arrived on the shores of New England the Native Americans (NA) had been heavily managing the forests of the north east for some 5,000 years. Then the tool of choice was fire. NA's burned once, or twice, yearly to clear the understory of litter and undesirable growth. This promoted an open parklike forest of large mast (nut) trees, and grasses. The purpose, to attract wildlife and make hunting easier. Large parcels were often cleared completely for settlement and agriculture. These open areas where referred to by the earliest English settlers as "intervalles". Whole towns in MA now occupy these "intervale" sites: Springfield, Greenfield. The colonists to the new world inherited a world largely made habitable by the NA population over centuries.

Many accounts from diaries, journals and books of the 17th century tell of a world we can scarcely imagine from the view we see today. Imagine a view that is more open and parklike, with grasses, large nut trees, but essentially open. William Wood wrote in his 1634 book "New England's Prospect":

"And whereas it is generally conceived that the woods grow so thicke, that there is no more cleare ground then is hewed out by the labour of man, it is nothing so; places divers acres being cleare, so that one may ride a hunting in most places of the land, if he will venture himselfe for being lost; there is no underwood saving in the swamps and low grounds... for being the custome of the Indians to burn the wood in November, when the grass is withered, and the leaves dried, it consumes all the underwood and rubbish, which otherwise would over grow the country, making it unpassable, and spoil their much affected hunting so that by this meanes in those places where the Indians inhabit, there is scarce a bush or bramble, or any cumbersome underwood to be seene in more champion ground."

There are many other similar accounts that attest to the open and managed conditions that greeted the first European settlers in the 17th and 18th centuries. Much of the entire New England coast was clear cut by the NA's to a distance of six miles inland. Such that the early colonists in Boston were obliged to import wood for their building from the harbor islands.

The NA forest ecology remained relatively intact throughout the early to late 18th century. This was due to the essential stalemate of the French & Indian Wars. Although greatly outnumbered and decimated by introduced European diseases NA's continued to put up fierce resistance to English settlement, that ended with the defeat of the French at Montreal in 1763. The gates were open and English settlers flooded into the lands once held and managed by NA's.

Wholesale clearing of NE was triggered at the end of the 18th and early 19th century with the advent of the "great sheep craze". The need for wool to feed the, new hungry, mills of the river valleys lead farmers to clear every available patch of land, whether rocky knob, or low lands. Nothing was safe from clearing. The craze collapsed seemingly as soon as it had begun with the opening of the Ohio Valley and the great migration westward. Many farmsteads were abandoned for the richer agricultural prospects of the Ohio. However, by the time the great sheep craze had ended over 80% of NE had been cleared. Industrialization became more important to the NE economy further depressing agriculture. Farming continued but on a smaller scale and secondary forests began to encroach on the once opened fields and pastures. A process that continues to this day.

It is astonishing to think that with nothing but the simple tool of fire our NA predecessors managed untold thousands of hectares. Our picture of a New England covered by impenetrable forest is largely a myth. The land was already heavily managed by NA's up and down the NE coast, and the river valleys: Merrimack, Nashua, Connecticut. It is upon this foundation that our European ancestors built their settlements. And it all happened within the historical blink of an eye.

I believe that moving forward with the sustainable forestry program will enhance our forests, habitat, openspace, provide local products for local use and local employment, and provide resources that will enhance the overall health of All of our lands, for now and into the future.

It is my belief that the commission has been diligent in seeking advice from various sources. Natural Heritage, the experience of the Dunstable Con Com, State foresters, UMass, and NEFF. We have retained the services of expert foresters (Baystate), who have been sensitive to the Commission's requirements and the needs of the lands we manage. The Commission has exceeded all of the standards and requirements far beyond those that could have been imposed.

Finally I believe we will be working in the spirit of our predecessors.

I therefore respectfully move that the Commission authorized Baystate to place the cutting plan for F&M out to bid. Subject to the following conditions:

1. The Commission reserves the right of final refusal and any and all bids deemed unacceptable.
2. A final walk-thru by the Commission to allow for minor adjustments to the plan. Such walk thru to take place no later than two-weeks from today.

Respectfully submitted by:
Marshall Giguere, member
September 13th, 2011

Barbara Ganem

From: Loriann Elmali [loriann_elmali@charter.net]
Sent: Tuesday, August 09, 2011 8:09 PM
To: Barbara Ganem
Subject: Letter Dated July 27, 2011

Barbara V. Ganem
Conservation Administrator
Groton Conservation Commission
173 Main Street
Groton, MA 01450

Dear Ms. Ganem,

Regarding the letter you sent on July 27, 2011, I would like to remind you and the Commission of the outcome and agreement of the meeting in 2004 regarding the maintenance of the conservation land in question.

http://www.townofgroton.org/xml/town/conservation_commission/meeting_minutes/2004/minutes_2004-11-20.htm

You will see when reading the minutes of this meeting that an agreement was reached among several stakeholders present to allow mowing of the area, with consideration of the height of 4" between the posts. This is precisely what has occurred.

Also, during August of 2005 after receiving the last correspondence from you, I related in a phone conversation with the Commission that the lawn service we contracted told us they were using the maximum height adjustment of the mowing equipment, and that it was also the setting they needed to use on our lawn during periods of high heat stress due to the fact that we are on a hill and get full sun exposure. I also informed you that, in addition to the height setting, the lawn service was attempting to mow the area on alternating mows and that the area would possibly appear different depending on the timing of the visit. The subject was then dropped, and no issues with the maintenance plan have been raised since. As 6 years have passed since this time, you can certainly understand that we believed the issue was satisfactorily resolved.

I will also comment that the aerial photograph you reference in your mailing is extremely old as noted by the scarcity of vegetation in the property adjacent and missing present features of ours and the houses surrounding us (additions, pools, etc.). The photo does not have a date, but my guess is that it is taken well before the 2004 timing of the meeting and does not reflect current visual status.

I will assure you that the area in question is VERY HIGH TRAFFIC; I see pedestrians and bicycle riders making use of it daily. I believe this is due to the fact that it is maintained and easy to walk through. This is not the case with the area across the street from us that is not maintained.

I will reconfirm with my present lawn service that they are continuing to use the maximum setting of their equipment to achieve the 4" height, and if no height difference in mowing areas is confirmed to be achievable, ask again that they insure there is an every other time mowing of that area to attempt to achieve the visual dissimilarity requested. I respectfully look forward to the Commission's continuing acknowledgment of the agreement they entered into.

Sincerely,

Loriann Elmali
77 Hidden Valley Road