

GROTON CONSERVATION COMMISSION

Minutes

March 19, 2012

Vice Chairman David Pitkin called the meeting to order at 7:00 p.m. in the 1st floor conference room in Town Hall. Members Craig Auman, Bruce Easom, Marshall Giguere, and Bill Neacy were present. Peter Morrison arrived at 7:05 p.m. Nadia Madden was absent. Conservation Administrator Barbara Ganem was present.

7:00 p.m. – Groton Electric Light Department Abbreviated Notice of Resource Area Delineation ANRAD DEP#169-1079 continuation

Surveyor Stan Dillis submitted a revised plan, dated 3/15/12, from which he has removed the errant wetland line although it is shown on a smaller scale in an inset. M. Giguere mentioned members were not able to verify wetland flags #1 and #2 in the field, and it was agreed these flags would not be ratified in the Order of Resource Area Delineation. B. Easom requested a copy to review and noted the plan was originally dated July 18, 2011 with a revision date of 3/15/12. With no questions from the audience, upon a motion by P. Morrison, seconded by B. Easom, it was

VOTED: to close the public hearing for DEP#169-1079 for the Groton Electric Light Department Abbreviated Notice of Resource Area Delineation.

Members explained the Order of Resource Area Delineation was likely to be issued at the next Conservation Commission meeting. Reporter Connie Sartini asked if an ANRAD is required prior to the filing of a Notice of Intent, and Vice Chairman David Pitkin responded, “No, it is typically used as a planning tool.”

P. Morrison raised the question of whether the Commission would cover the cost of webinair training sessions sponsored by the Massachusetts Association of Conservation Commissions for Conservation Commissioners. Members M. Giguere, C. Auman, B. Easom, and D. Pitkin agreed this was an excellent training opportunity and would save the Commission money in the long run, adding the cost of training should be covered within the Commission operating budget.

Mike Roberts of the Historic Commission has asked if the Commission is interested in working together to produce maps or brochures that would identify environmental and historic features to help residents learn about both cultural and natural resources in Groton. B. Easom agreed to attend a Trails Committee meeting on March 20th to further discuss this idea. P. Morrison reported that the brush mower is ready to go anytime the Trails Committee needs it.

7:15 p.m. – Groton Electric Light Department DEP#169-1073 continuation

Attorney Bob Collins reviewed the proposed project which involves the replacement of the GELD building with a new facility. The site is disturbed and includes the location of 2 former homes which been demolished. It is probably a quasi-manufacturing type facility under zoning.

The intent is to replace the current collection of buildings with a more efficient structure with increased storage. The design will resemble an old railroad station. Pole storage will be transferred to the Rt. 40 property. Mr. Collins maintained runoff that sheets off Station Ave. flows into this wetland, and the new project will manage stormwater through the addition of rain gardens and drainage swales to treat runoff.

Attorney Collins noted both the Wetlands Protection Act and Bylaw give the Commission some discretion in considering how wetland interests are protected when reviewing projects that are somewhat different. He pointed out the Station Ave. area includes a bus company and gas and oil distribution center. Rehabilitating the GELD land will improve the situation next to the wetland through the pre-treatment of stormwater and the elimination of outside pole storage. The site is constrained by the presence of wetlands on 3 sides, and there are going to be buffer zone issues no matter what. The alternative is to maintain the status quo which is a not a good alternative because of previous disturbances. Mr. Collins said the 2003 Massachusetts Buffer Zone Manual suggests ways for managing buffer zones around lakes and rivers, and he felt these were applicable for this degraded site as well, particularly in the areas choked by invasive weed species. He stated this could be rectified by improving the quality of runoff to the wetlands. He asked the Commission to consider the degree to which this proposal will improve the situation.

Engineer Sue Carter of Places Associates, Inc. explained the buffer line has changed slightly to reflect the changes in the wetland line. The new plan shows the re-location of 5 parking spaces outside the 100 ft. buffer zone. The runoff from snow storage will be directed into rain gardens. The rain gardens perform a dual duty in that they improve water quality and their construction and future maintenance will control invasive plants without the use of herbicides. The building itself has been shifted toward Station Ave. with the ground floor at street level to assure compliance with the American Disabilities Act. The knoll at the front of the building lot will be cut down, all roof runoff will be recharged through subsurface drainage pipes, and runoff from the parking lot will outlet to a grassed swale draining to the rain gardens.

In response to the Commission's previous questions about whether the building can be changed, re-oriented, or shrunk, Ms. Carter cautioned this would result in more parking in the 50-ft. buffer zone, and she showed a sketch of the possible layout. Mr. Collins said the size of the building has also been reduced slightly. Ms. Carter identified the 50 ft. and 100 ft. buffer zones on the Notice of Intent plan. M. Giguere pointed out the Commission has previously requested before and after calculations on the impervious surfacing at the site. Mr. Collins said 1,703 SF of the new building is within the 50 ft. buffer zone. Previous residential buildings occupied 3,944 SF in the 100 ft. buffer zone. Kevin Kelly commented, in response to questions about moving the building, that GELD has signed a Memorandum of Understanding with the Board of Selectmen to move the GELD facility as far as possible from the Rail Trail to create a parcel that can be used for something else. The purpose of the MOU was to create the space to later sell.

C. Auman pointed out that in prior meetings and also reflected in the Commission's minutes, there has been discussion about the impact of alterations in wetland buffer zones. He read a quote from the preamble to the Massachusetts Wetlands Protection Act: "Since the buffer zone was adopted as a regulatory mechanism in 1983, research on the functions of the buffer zones and their role in wetlands protection has clearly established that buffer zones play an important

role in preservation of the physical, chemical and biological characteristics of the adjacent resource {wetland} area...Extensive work in the inner portion of the buffer zone...is likely to alter the physical characteristics of resource {wetland} areas by changing their soil composition, topography, hydrology, temperature, and the amount of light received...These alterations from work in the buffer zone can occur through the disruption and erosion of soil, loss of shading, reduction in nutrient inputs, and changes to litter and soil composition that filters runoff, serving to attenuate pollutants and sustain wildlife habitat with resource {wetland} areas. ”

Member Auman added that the Groton Wetlands Protection Bylaw provides, in Section 215-7 Presumptions. “A. Adjacent upland resource areas are presumed significant to the protection of wetland resources and interests because activities undertaken in close proximity to resource areas have a high likelihood of adverse impact upon the wetland or other resources, either immediately, as a consequence of construction, or over time, as a consequence of daily operations or maintenance of such activities. Such adverse impacts from construction and use include, without limitation, erosion, siltation, loss of groundwater recharge, degradation of water quality and loss of wildlife habitat.”

Mr. Auman summarized prohibited activities or uses within the 100 ft. buffer zone of wetland resource area under Section 215-7 (1) of the Bylaw: 1) Disturbance of any existing vegetation within 50 ft. of wetlands, except removal of invasives, 2) erection of permanent structures and parking lots, 3) storage of petroleum or hazardous materials, 4) location of dumpsters or refuse containers, 4) construction driveways and retaining walls, and 5) grading except for minor grading. C. Auman commented the standard for altered areas (Section 215-7 (3) is that there will not be an increase in adverse impacts on that specific portion of the adjacent upland area or associated wetland and that there is no technically feasible construction alternative. He questioned whether asphalt is better than a grassy area or better than invasives. The Commission has not pushed for maintaining an intact 100-ft. buffer zone, but has asked the applicant to take the work out of the 50-ft. buffer zone. C. Auman said it is the Commission’s mission to be consistent about protecting wetland resources.

Member Easom thanked the applicants for resolving the issue of where the wetland is located on the plan. He felt the section of the Bylaw read into the record by C. Auman clearly outlines what is prohibited. The removal of invasives is okay, but he expressed a preference for no other disturbance in the 50-ft. buffer. As currently designed the structure and parking spaces/lot are still within the 50 ft. buffer, and the applicant appears unwilling to change, shrink or spin the building. He said he was willing to give on B, C, G, and H in the Bylaw, but in his opinion, the plans had not changed enough.

P. Morrison asked Ms. Carter what the change in the distance from the building to the wetlands has been, and she replied that the first iteration of the plan showed the structure within 12 ft. of the wetland, and in the current plan the building is 21 ft. from the wetland. Part of this change was the change in the delineation. Mr. Morrison felt the plan was better than the one presented at the start of the hearing.

B. Neacy said the only way he would vote for the plan is if a conservation restriction is placed on the area where the linemen's building now stands. Attorney Collins said his client does not have the legal ability to do this due to the Memorandum of Understanding.

Land Use Director Michelle Collette questioned whether the project meets the Town's stormwater and low impact development regulations, as well as compliance with the Station Avenue Overlay District regulations. Ms. Carter said the project was designed with those criteria in mind. She mentioned a representative of Nitsch Engineering had witnessed the test holes for the drainage system although the plan has not been reviewed by any other committees or boards.

C. Auman asked if it would be feasible to consider construction alternatives such as adding a second story in order to reduce the footprint of the building. The need for an elevator to meet accessibility standards and a stairwell meant enough space could not be realized with a second story to move the facility out of the buffer zone. Mr. Collins maintained the Wetlands Protection Act and Bylaw give the Commission the ability to stand back and see the overall improvements. Much of the buffer zone has been previously disturbed and in deplorable condition. This plan is a decent compromise between the ideal and the possible.

P. Morrison asked if it would be possible to move more of the parking spaces toward the northeast, and Ms. Carter replied "This could be done."

Groton Electric Light Commissioner Chris Christie said he would continue to consider a second floor. He stated the cost of purchasing the MacGregor and Downes properties was high. It was his personal opinion that the addition of the second story could reduce the footprint of the office and at least move the project out of the buffer zone by several feet. B. Collins suggested this may be an appropriate discussion or meeting with the architect and the design engineer. GELD manager Kevin Kelly protested this could be done but at a cost of \$400,000 to \$500,000, and the building would still not be completely outside the 50 ft. buffer zone.

Selectman Peter Cunningham pointed out that Section 215-5 C of the Wetlands Protection Bylaw states "The Conservation Commission may grant an order of conditions for projects within wetland resource areas if it determines that the granting of such an order of conditions will result in a significant public or environmental benefit and that, because of the characteristics of the land, the proposed alterations, and/or proposed mitigation measures, the interests of this chapter will be maintained." He said that the service GELD provides is of significant public benefit, and it is one of the most respected town departments. He stated "We all benefit from its services." This is an opportunity to expand their facilities while at the same time limiting the runoff into the wetlands. He encouraged the Commission to grant the Order of Conditions. He felt the remaining land was just part of the process.

Member Giguere spoke to the functioning of the buffer zone and commented "It may not be pristine, but it does provide wildlife habitat." Bob Collins indicated the soil probes revealed construction debris. Mr. Giguere said he would like to see the building moved southwest at least 12 ft. K. Kelly said "Regarding could it be 12' closer. How I was able to get the Light Board to agree to purchase the Downes parcel was that when we sell the portion to be declared surplus we would recoup the cost. The Board's position is if we don't have land to recover we build on our

current footprint right where we are and then we would sell the Downes parcel and hope we are able to recover that cost. So the option for the Light Department that I was trying, is to pull off the rail trail. Lowest cost option is to stay where we are. Yes there are options in the middle but the Light Board is not going to throw away the investment in the Downes parcel if we don't go to where we are here, on the Downes parcel we are going to stay where we are and sell the Downes parcel back and if we stay where we are that changes a lot of other possible plans that could happen with this area and beautify the area." B. Neacy recommended putting a conservation restriction on that property. M. Giguere said he would have no problem with GELD building within the existing footprint.

Attorney Collins said a CR would be in violation of the MOU, and he noted the 12 ft. would have to be 75 ft. according to S. Dillis. M. Giguere said even a little bit might help providing some mitigation was added. Sue Carter said that moving the building out of the 50-ft. buffer zone would mean putting a similar parking lot on the southeast side. Kevin Lindemer suggested selling a conservation restriction on the lot providing GELD can negotiate its way out of the MOU. He felt GELD had answered all the Commission's questions, added rain gardens, and had done everything it can do.

Josh Degen said he understood Commission concerns about the 50 ft. buffer zone, but he argued the stormwater treatment measures could improve the quality of the water draining to the wetlands. The Commission's decision could also affect the Town's decision on the fire station. He acknowledged a park or parking for the Rail Trail could go in there. Mr. Degen suggested perhaps the intrusion into the buffer zone could be mitigated with Brown Loaf. P. Morrison said he liked the idea of storage of poles and transformers in the new building. K. Kelly estimated the poles were currently stored between 15 ft. and 20 ft. from the wetlands. They could be moved with a new facility although it's more convenient to have them stay there.

P. Morrison said he was unsure whether the Commission can close the public hearing. Attorney Collins said he felt the matter of the ANRAD was completed, but perhaps a meeting with the architect and designed to resolve the issue Chris Christie brought up is in order. At 8:15 p.m., the Commission agreed to a 10 minute recess to allow the applicant and consultants to confer.

The meeting re-convened at 8:25 p.m. Attorney Collins explained GELD also had a posted meeting. C. Christie's comments were discussed, and it was decided GELD did not wish to pursue the second story option as they did not feel they could get the facility out of the 50-ft. buffer zone. It would be a false savings as the structure would require a stairwell and an elevator. GELD does propose 2.7 acres of their Rt. 40 property as additional mitigation. The Board of Selectmen is also discussing other land down there. Mr. Collins maintained this is a significant pristine resource area and within the watershed of both Lost Lake/Knops Pond and the Whitney well. P. Morrison asked if this would preclude the moving of pole storage, and Mr. Collins said 'No'. They may consider moving the Morton building for storage at the Rt. 40 site. Anna Eliot explained the Selectmen did not take a vote during the recess, but they could entertain a discussion about the Brown Loaf property to help mitigate for work in the 50 ft. buffer zone.

M. Giguere mentioned the land proposed for mitigation on Rt. 40 is actually the power line easement on the property. Mr. Collins said this would eliminate the possibility of a separate

building lot and takes everything off the development table. He maintained this does qualify as a building lot and removing the 2.7 acres would eliminate that possibility. M. Giguere pointed out the Commission had participated in a joint deal with GELD for the purchase of the Fuccillo properties in order to re-locate the GELD facility. Selectman Anna Eliot said GELD wished to protect the substation by purchasing the surrounding land. She mentioned there have been several Requests for Proposals issued for their existing property. GELD Manager Kevin Kelly said the cost of moving out there would be \$700,000 for site preparation, and they wished to protect the Town from liability. Bill Neacy said he realized the applicant was suffering from a negative economy. He questioned how the Commission was to weigh GELD's debt costs against the costs to the environment. He explained it's difficult to put this in perspective. Other applicants have staggered economic impacts over time. K. Lindemer said the debt service impacts household costs rather than percentage costs. Mr. Neacy argued the Commission is upholding a statute to protect land and the character of the community. He questioned how one decides what is too expensive and to what should it be compared? B. Neacy also asked exactly what kind of impact will there be on rates.

D. Pitkin said technically cost does not factor into the Commission's decision-making. K. Lindemer said GELD does have alternatives that cost less. P. Cunningham asked that the Commission consider the public benefits and investments over the years. A. Eliot maintained that, according to the MOU, there is a value to the surplus land to be used.

Resident Jack Petropoulos (18 Kemp St.) asked Commissioners if they felt the wetland was better off before or after the proposed project. GELD suggested a straw vote. Selectman P. Cunningham reminded those present there are 3 sites under consideration for a new central fire station: Prescott School, Station Ave., and the Lawrence Homestead property on Farmers Row. B. Neacy said the Commission is guided by standards in science and biology, and it is a complex subject which must be distilled. This includes the 8 interests protected under the Wetlands Protection Act which are incredibly important. A lot of the 50 ft. buffer zone is to be disturbed under the proposed project, and it represents a significant intrusion into the 100 ft. buffer zone. Mr. Neacy pointed out it is the Commission's one and only mission to protect these resources in order to assure biodiversity, clean drinking water, aesthetics, and the protection of flora and fauna. The Commission will decide as a group. Any changes must be balanced with the requirements of the statutes.

C. Auman asserted there are missing pieces in examining feasible alternatives. D. Pitkin pointed out the response is complicated by the fact that the proposed facility could affect future viability of the wetland, and this is not a good thought. P. Cunningham said this is a public entity that the Town relies upon. J. Petropoulos asked his question again. B. Easom responded it would certainly not be a better situation in his opinion. He stated nature engineers a functioning wetland better than an engineer can make improvements. There are public benefits for flood control and for stormwater control. He felt the problem has been created by artificial economic constraints that went into the development of the MOU with the Board of Selectmen. Mr. Easom said he was ready to vote. He pointed out GELD could rectify the existing bad conditions now.

P. Morrison said the project would get the trash, bicycles, and garbage out of the wetland, and he saw a huge benefit in removing creosoted poles to another site. He stated the improvements

outlined in the plans give better control than the continued eradication of the wetland. C. Auman asked exactly what is on the table in terms of Brown Loaf. A. Eliot said this would have to be discussed further between the Selectmen and the Commission as to the amount of acreage. B. Collins agreed this would be something for the Selectmen to act on. M. Giguere suggested keeping the hearing open. P. Cunningham asked if the acreage would have a bearing, and Commissioners thought the total amount of intrusion into the buffer should be considered in deciding on adequate mitigation.

P. Morrison indicated he would vote for the plan with the addition of the 2.7 acres from the GELD Fuccillo land. B. Neacy said he preferred not to participate in the straw vote. M. Giguere also abstained. C. Auman stated he could approve it with the 2.7 acres protected. B. Easom said, with the structure, driveways, and parking areas within the 100 ft. buffer zone, he would vote against the project. D. Pitkin agreed to the mitigation of 2.7 acres with the current plan. K. Lindemer urged that the public hearing be closed, acknowledging the Commission would accept no further information. P. Morrison said, in other words, no further discussion about Brown Loaf. Upon a motion by P. Morrison, seconded by B. Easom, it was

VOTED: to close the hearing for DEP#169-1073 for the GELD facility on Station Ave.

There being no further business, the meeting was adjourned at 9 p.m.

Respectfully submitted,

Barbara V. Ganem
 Conservation Administrator

Approved with amendments 4/24/12.

EXHIBITS

Document	Source	Date
DEP#169-1079 ANRAD	GELD	Filed 2/13/12
DEP#169-1073 Notice of Intent	GELD	Filed 12/1/11

PUBLIC ATTENDANCE

Robert Collins
Stan Dillis
Sue Carter
Kevin Lindemer
Kevin Kelly
Peter Cunningham
Connie Sartini
Stuart Schulman
Chris Christie
Anna Eliot
Rob Hersh
Berta Erickson
Josh Degen
Fran Dillon
Jack Petropoulos
Joe Bosselait
Pierre Comtois
Mike Bouchard
George Barringer
Michelle Collette
Mark Haddad
Bob Hargraves
Tammi Lemire
Sue Ragusa
Elaine Johnson