

GROTON CONSERVATION COMMISSION

Open Session Minutes

August 14, 2012

Chairman Craig Auman called the meeting to order at 7:00 p.m. in the 2nd floor conference room in Town Hall. Members Bruce Easom, Marshall Giguere, Nadia Madden, Peter Morrison, John Smigelski, and Rena Swezey were present. Conservation Administrator Barbara Ganem was also present.

7:00 p.m. – Mann/Request for Determination of Applicability – 290 Whiley Rd.

Engineer Dan Wolfe of Ross Associates was present on behalf of the homeowner. He explained the project involves a change in the configuration of the stairs, a slightly enlarged shed, and paving along Whiley Rd. all within the 100-ft. buffer zone of Duck Pond. Some of this work is required to follow up on the recently completed septic repair (DEP#169-1063). The edge of Whiley Rd. has deteriorated, and Mr. Wolfe acknowledged road runoff drains off at the north end of the paved area. He maintained the area behind the retaining wall was backfilled with stone and would drain well. Although the hillside appears to be stable, B. Easom pointed out the road runoff is causing erosion.

Owner John Mann expressed concern about this previously existing condition. D. Wolfe thought a load of stone could slow the water flow. Mr. Easom also noted some of the pavement is located within the Whiley Rd. right-of-way. N. Madden asked if pervious pavement was possible. Mr. Wolfe said the septic tank is 6 ft. down, and there is reservoir of stone on top of the system which will allow for excellent drainage. Upon a motion by B. Easom, seconded by N. Madden, it was

VOTED: to issue a negative #3 Determination providing 1) stone shall be installed on the northerly side of the newly paved area; 2) applicant shall check in with the DPW Director prior to the commencement of work for authorization to do work within the Town right-of-way.

(R. Swezey stepped out at 7:10 p.m. to attend an Earth Removal Stormwater Advisory Committee meeting.)

Upon a motion by B. Easom, seconded by J. Smigelski, it was

VOTED: to approve the minutes of June 26, 2012 as drafted.

N. Madden abstained from the vote.

Upon a motion by B. Easom, seconded by N. Madden, it was

VOTED: to approve the Open Session minutes of July 24, 2012 as drafted.

M. Giguere abstained from the vote.

Upon a motion by B. Easom, seconded by N. Madden, it was

VOTED: to approve the Executive Session minutes of July 24, 2012 as drafted.

M. Giguere abstained from the vote.

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

VOTED: to issue a Certificate of Compliance for 26 Anthony Dr./DEP#169-1080.

The vote was unanimous.

The disclosure process has come into question in relation to the sale of electricity by B. Easom to GELD. In Mr. Easom's conversation with the Ethics Commission, they recommended the filing of two forms with the Selectmen and with the Town Clerk. The greatest concern seemed to be with Form 19 which acknowledges that all ratepayers pay into a GELD building fund when paying their bills. C. Auman stated that he too was advised to file the Form 19 disclosure, and this applies to all members of the Commission. Commissioners have been designated as special municipal employees, but it is an individual decision to file the disclosure statement. P. Morrison protested that this is a minuscule amount, and every Groton resident is paying it.

Town Counsel has recently reviewed the language for the Conservation Restriction and the Trail Easement for 134 Main St. for Boynton Meadows. Chairman Auman recommended there be a more comprehensive description of the land, an address, and a plan with metes and bounds.

Attorney Bob Collins mentioned he has recently submitted the proposed deed language and plan for the donation of the Iovino land on Lowell Rd. The two-acre donation will leave them with the right amount of land to meet zoning requirements. He plans to submit an ANR plan to the Planning Board.

7:30 p.m. – Groton School/Request for Determination of Applicability – Farmers Row

Attorney Collins spoke on behalf of Groton School. He noted they would like to clean out a drainage swale that is choked with invasive weeds. The swale passes between two athletic fields. He included several photographs with the submittal. J. Smigelski asked how much disturbance is anticipated, and Mr. Collins responded they will pull stuff out by hand and rake it up. To keep the invasives out in the future, the plants will be removed on a more regular basis.

N. Madden questioned whether erosion control measures are proposed, and Mr. Collins indicated nothing was planned as it is a well-defined channel. He added haybales could be added down gradient of the work area as necessary. In response to questions from Mr. Giguere, Mr. Collins said they were not planning to remove any trees. The work will take place as soon as possible. Upon a motion by B. Easom, seconded by R. Swezey, it was

VOTED: to issue a negative #3 Determination with the following conditions: 1) invasives are removed by hand; 2) no removal of trees with the exception of common buckthorn;

and 3) vines can be removed from trees.

Mr. Collins stated he had faxed a copy of the revised Conservation Restriction for The American Baptist Church of Massachusetts (TABCOM) to the Division of Conservation Services.

B. Ganem reported Town Counsel David Doneski had reviewed the request from Jack Petropoulos to allow grazing behind 34 Kemp St., as well as a bridge on his own property, 18 Kemp St. He suggests a dual Notice of Intent, with sign off from the neighbor, to allow both activities. If there is urgency in mowing the field, Mr. Doneski recommended the filing of a Request for Determination of Applicability. The filing under the Massachusetts Endangered Species Act is likely to guide how this project goes forward so this would be the first step. Selectman Petropoulos happened to be in the audience and asked if Commissioners saw value in doing a bridge to keep the animals out of the stream. C. Auman and B. Easom agreed there was a definite benefit, and N. Madden added it would improve water quality.

In other business, P. Morrison reported there has been no movement toward the Memorandum of Understanding for Ames Meadow. B. Ganem said the required changes to the *Open Space & Recreation Plan* have been made, and she anticipates submittal of the revision version within the next week.

7:45 p.m. – Groton School/Notice of Intent (DEP#169-1084) continuation on soil and groundwater remediation

Attorney Collins explained his client wished to continue the hearing to the last meeting in September. Upon a motion by P. Morrison, seconded by B. Easom, it was

VOTED: to continue the hearing for DEP#169-1084 for Groton School to September 25, 2012.

7:45 p.m. – Groton Electric Light Department Notice of Intent continuation

Member B. Easom read a statement in which he apologized for the use of the word ‘deceptive’ in characterizing GELD’s description of the funding to build their new facility at the hearing on July 24th. He added the Town is extremely well served by GELD.

Chairman Auman stated the review process would differ slightly for tonight’s hearing. He would like to review open action items before the presentation, as well as the Memorandum of Understanding between the Selectmen and GELD. Attorney Bob Collins indicated Stan Dillis and Sue Carter from Places would be making a presentation, and he hoped to avoid duplication. Mr. Auman read into the record a list of outstanding items the Commission needs in order to review the project.

Member Smigelski asked how much extra land will be gained next to the Rail Trail as a result of moving the facility closer to the wetlands. Mr. Collins said this will be addressed in Mr. Dillis’ presentation. M. Giguere added that he did not feel the Oxbow letter adequately dealt with impacts to wildlife. While there are eight interests in the Act, B. Collins felt that water quality was especially important. He noted his letter incorporated the alternatives GELD has considered. He pointed out that wildlife habitat at both the Lowell Rd. and Sandy Pond locations were more

pristine than that on Station Ave. Not only is it less expensive, but there will be fewer environmental impacts if the facility is located on Station Ave.

The Earth Removal and Stormwater Advisory Committee earlier tonight voted to approve the submitted plans. Mr. Collins maintained the environmental engineers have found an effective way to handle things. Members noted the Butler letter (dated 8/3/12) addresses buffer issues, not wildlife. C. Auman suggested putting in writing the ways in which the situation will be improved.

CEI has suggested some changes in the planting plan. Another proposed mitigation measure is the treatment of invasives on the adjacent Jackson property. Mr. Collins expressed concern that the hearing had been closed under the Act and this would require re-opening that hearing to amend the Order of Conditions. He suggested submitting a subsequent filing to deal with the invasives removal off-site; he said the alternative would be to deal with it now.

Another mitigation measure offered by GELD is the donation of a part of the GELD Fuccillo property on Lowell Rd. B. Collins provided a letter (dated 8/14/12) and a sketch showing approximately 2 acres of land. Mr. Collins noted this would add to the Commission's holdings in this area and help protect Lost Lake/Knops Pond and the Whitney well. He pointed out the Station Ave. buffer zone has developed out of neglect and is not providing the functions that a buffer zone should. He felt that wildlife was overshadowing the other interests of the Act. B. Easom expressed concern that utilizing the Commission's entrance to the Fuccillo property would require the cutting of trees. N. Madden questioned whether parking would be available under the power lines on the GELD property, and Mr. Collins thought this possible.

One of the on-going questions from the Commission is the amount of impermeable surfacing pre- and post-construction at the GELD site. Sue Carter of Places explained this was outlined on Sheet C2 of the plans, but then acknowledged it had been omitted from the August 7th plans submitted to the Commission. She noted the landscaping involved with the construction of the rain gardens would bring value to the buffer in that invasives would be removed. She offered an overview of the changes made in the revised plans. Snow storage would take place in the swale, and guard rails would be added around the rain gardens. The rain gardens have been excluded from the infiltration calculations, but the net result of the construction of the facility is a decrease in runoff. The entire roof will drain into underground pipes. She also prepared mounding calculations because there is a less than a 4 ft. offset to groundwater.

Some tweaking on the invasives has been incorporated into the revised plans. Ms. Carter noted the same active ingredient as is in Crossbow is in one of the herbicides proposed for invasives control. Stephanie Hanson of CEI concurred that the active ingredient is triclopyr which is listed on the state-approved 'Rights-of-Way Sensitive Area Materials List'. She said CEI was satisfied with the review of responses from Places and the revised plans. David Nyman of CEI noted the herbicide response can depend on how sensitive the site is to manipulation. He agreed the infiltration measures are sited at the best location.

Mr. Nyman presented several sketches showing alternative locations for the facility. S. Dillis said the alternate bringing the building parallel with Station Ave. would put a massive building

right on Station Ave., and it would be necessary to re-locate the drainage. B. Collins also pointed out it would interfere with the plan to develop a cul-de-sac at the end of Station Ave. and the possibility of pervious surface parking for the Rail Trail. K. Kelly maintained GELD has looked at the fit of multiple alternatives but all of them eliminate the amount of surplus land and the road to Broadmeadow. S. Dillis has prepared a table of the decreasing amount of land available as surplus upland with the various alternatives. S. Carter said Station Ave. slopes away and one of the requirements is to meet ADA accessibility standards. Mr. Auman said the Commission would like to have these reasons in writing. Ms. Carter added that the facility design must take into consideration the turning radius for very large trucks, some of which are carrying poles.

N. Madden said the analysis of alternatives show some sitting closer to the floodplain, and she did not favor that option. S. Hanson stated the plan for the GELD facility is a stand-alone redevelopment project. Removing existing paving is counted as a plus and re-development standards are lower than those for new development. She pointed out the surplus land would be subject to new development stormwater standards and was likely to be closer to the groundwater table as revealed in the testing GELD has done.

C. Auman thanked both groups for working together to resolve the issues. Selectman Anna Eliot then explained the purpose of the Memorandum of Understanding signed by GELD and the Board of Selectmen in 2010. The Town owns the former MacGregor property and GELD bought the Downes property. The agreement is to do a partial swap of these parcels to memorialize the exchange of property. The Town has applied for several grants to bring the cul-de-sac and infrastructure in line with the design of the Station Avenue (now Town Center) Overlay District. Because the plans were not shovel-ready, the Town was not successful with its applications. Ms. Eliot said that, at some point, there may be some type of connection between Station Ave. and Broadmeadow, perhaps a walkway, and parking to enable other properties to claim parking spaces.

Ms. Eliot maintained it would be a public good to provide access and parking in conjunction with other businesses planned for the Town Center Overlay District. Access to the Rail Trail also figures into the parking calculations. C. Auman asked about the effect of the groundwater at or near the surface. A. Eliot said this impacts the elevation of any building there. P. Cunningham said it was his understanding that parking would be provided in the District. He noted public process was very much a part of planning for the Station Avenue Overlay District. May & Hally and Buckingham Bus will re-locate, and this would provide an opportunity for other businesses. Selectman Cunningham stressed that the lengthy public planning process involved with the Station Avenue Overlay District was a public benefit.

N. Madden said this is a much clearer submission than the previous one, and there seem to be opportunities for further restoration B. Collins said this would be a separate discussion and submittal. There is room for an improvement in the alternatives analysis for the site. Mr. Collins emphasized that the Town has been very well served by CEI.

With 26,000 SF of permanent disturbance proposed all possible alternatives were considered before this location was selected. GELD Commissioner Kevin Lindemer remarked that the enhanced removal of invasives must be addressed in the GELD budget. Based on past experience

he felt that responses to the Conservation Commission are likely to generate further questions. Those members of the Board of Selectmen who were present had no further questions. GELD Director Kevin Kelly said the Jackson invasive option is rather open-ended, and GELD may decide to reduce the size of the donated property behind the sub-station on Lowell Rd.

S. Carter commented it is more complex to deal with invasive removal in wetlands than in the buffer zone. Phragmites is particularly tricky to control. The standard and scale of 75% re-vegetation could be very difficult to meet.

R. Swezey asked if it would be the Jacksons who have to file since they are the owners of the property. B. Collins said they have expressed a willingness to participate. He acknowledged there will have to be some parameters and amounts to be discussed. There could be a separate submission but referencing this filing. C. Auman said the Commission would like specific times and types for the deliverables and what is practical for the Jacksons is also a concern. It was agreed B. Ganem, N. Madden, and S. Hanson could meet to discuss the Jackson invasive removal plan. K. Lindemer reminded those present that every initiative costs GELD money, and GELD has already provided tons of information to the Conservation Commission. He argued that we are ten months into this with no results. C. Auman pointed out the Commission has provided a list of requested items. Upon a motion by P. Morrison, seconded by B. Easom, it was

VOTED: to continue the GELD hearing to August 28, 2012.

The vote was unanimous.

Upon a motion by N. Madden, seconded by J. Smigelski, and a roll call vote of R. Swezey, M. Giguere, P. Morrison, N. Madden, J. Smigelski, B. Easom, and C. Auman, it was

VOTED: to enter Executive Session for the purpose of discussing a land acquisition, not to return to Open Session at adjournment.

There being no further business, the meeting was adjourned at 9:10 p.m.

Respectfully submitted,

Barbara V. Ganem
Conservation Administrator

Approved as drafted 8/28/12.

EXHIBITS

Document	Source	Date
Minutes	Conservation Commission	6/26/12
Minutes Open Session	Conservation Commission	7/24/12
Minutes Executive Session	Conservation Commission	7/24/12
Request for Determination of Applicability	Mann/290 Whiley Rd.	Filed 7/26/12
Request for Determination of Applicability	Groton School/Robert Collins	Filed 7/19/12
Notice of Intent under the Wetlands Protection Bylaw	GELD	Filed 6/26/12
List of questions for GELD	Conservation Commission	8/14/12 (attached)

Questions for GELD

The Commission considers 3 criteria in evaluating impacts to wetlands and the Adjacent Upland Resource Area (identified in the Wetlands Protection Bylaw as a separate resource): AVOID, MINIMIZE ADVERSE IMPACTS, and MITIGATION

1. To answer the avoid question, the Commission needs to know if there are reasonable alternatives:
 - a) The alternative sketches should include a narrative stating how much (square footage within 50 ft. and within 100 ft.) buffer zone is disturbed under each scenario.
 - b) Provide documentation (specifically square footage) of impermeable surfacing prior and post-development. Also provide square footage of disturbance in the 50-ft. buffer and in the 100-ft. buffer. Previous submittals provide differing numbers so the information should be clarified, signed, and stamped.
2. To answer the minimize question, the Commission should have a separate, Word (Commission may change items in the final Order) version of the long- term pollution prevention and operation and maintenance plans.
 - a) The long-term pollution prevention plan should provide for the use of emergency shut-offs where appropriate to isolate the system in the event of an emergency spill or other unexpected event.
 - b) The O & M plan should include 3-year and 5-year invasives monitoring and control.
 - c) Commissioners expressed concern about impacts to wildlife habitat as a result of this project. There is no discussion of this issue in the Oxbow letter.
3. To address the mitigation question, it is generally best to consider measures on or near the site first:
 - a) The species list, plan, and number of plantings in the BUFFER ZONE are best submitted as a separate Word document.
 - b) If invasives control is to occur on the Jackson property as mitigation for work within the 50 ft. buffer zone, written plans should be submitted showing where this will occur, when, species and control method, and how long monitoring will continue, along with a letter of authorization from the Jacksons.
 - c) Mitigation has been offered in the form of a land donation – this should be in writing and include a plan w/specific location and acreage.