

TOWN OF GROTON

Conservation Commission

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**Groton Conservation Commission**

Tuesday, April 26, 2022 @ 6:30 p.m.

Virtual Meeting – Zoom

## **Present:** Larry Hurley, Chair; Bruce Easom, Vice Chair; Olin Lathrop, Peter Morrison, Eileen McHugh, John Smigelski

## **Absent:** Alison Hamilton, Clerk

**Others Present:** Nikolis Gualco, Conservation Administrator

6:30 PM L. Hurley called the meeting to order.

**1. APPOINTMENTS AND HEARINGS\***

6:30 PM – RDA#2022-11, 315 Lost Lake Drive, for the installation of a deck. Applicants: Lawrence Hurley & Cathy Berse-Hurley

L. Hurley proposed constructing a deck on helical piers and installing a gutter system onto his dwelling that would be piped into a dry well up gradient from the resource area. C. Berse- Hurley added that there would be straw wattles placed around the entire site to encompass any staging materials.

The Commission commended C. Berse-Hurley on the skillfully drawn architectural plans that were submitted.

O. Lathrop questioned where the wetland buffer zones were located and reminded the applicant that the 50-foot buffer zone is restricted to a no touch area and recommended that there be mitigation for the compensation of wetland loss. L. Hurley explained that the entire site is within the 50-foot buffer zone and proposed installing gutters to capture the dwelling's roof runoff and the stone wall would provide additional infiltration.

B. Easom questioned if there was any additional mitigation being proposed. L. Hurley said crushed stone would be laid underneath the deck and the hill would be planted with a natural ground cover.

P. Morrison questioned if the deck was permitted in the previous filed NOI. L. Hurley replied yes, the deck had been approved in 1992. O. Lathrop commented that the Town’s Wetland Bylaws were not in effect at that time.

O. Lathrop requested that the area between the dwelling and the rock wall be stabilized.

Upon a motion by P. Morrison, seconded by E. McHugh, it was: Voted to issue a Negative 3 Determination under the conditions: 1. Crushed stone is placed underneath the deck. 2. The area between the house and the stone wall is stabilized. 3. Gutters to be installed as described in the plan. **The motion passed by a roll call vote. (Yes: EM, JS, PM, OL, BE)**

6:45 PM – Discussion on appointing Deb Collum, Kim Kuliesis, Lisa Theall to the Stewardship Committee.

E. McHugh said that there are three interested parties in being appointed to the Stewardship Committee and briefly discussed their backgrounds. The Stewardship Committee is recommending that the ConCom accept all three parties and requested approval to increase the number of members from 7 to 9.

B. Easom asked Deb Collum what her interests are for becoming part of the Stewardship Committee. D. Collum said she has learned an extensive amount of information from being involved with the Hayes Wood property and has been approached to run for political positions. She would like to ensure that land is being preserved for all residents and would like to be part of maintaining conservation properties. D. Collum currently works in renewable energy and feels that the Stewardship Committee would be consistent with her career.

E. McHugh said the other two appointees were not in attendance and were not required to attend the meeting.

Upon a motion by E. McHugh, seconded by O. Lathrop, it was: Voted to increase the number of Stewardship Committee members from 7 to 9. **The motion passed by a roll call vote. (Yes: EM, PM, JS, OL, BE, LH)**

Upon a motion by E. McHugh, seconded by P. Morrison, it was: Voted to appoint Lisa Theall, Deb Collum, and Kim Kuliesis to the Stewardship Committee. **The motion passed by a roll call vote. (Yes: BE, EM, OL, JS, PM, LH)**

7:00 PM – NOI (MassDEP#169-1234) **(continued)**, 161 Kemp Street, for the installation of a parking area and attached deck and the restoration of the wetlands buffer zone. Applicant: Austin & Jeff Gordon

J. Gordon briefly discussed the revised stabilization plan and displayed photographs of the existing driveway. He explained that the stone dust closest to the resource area would be removed and reused for the newly constructed driveway closer in proximity to the dwelling. The area would be loamed and seeded with Virginia Wild Rye. The head of the driveway identified as area D would be planted with a conservation mix.

L. Hurley clarified that the existing stone dust would be excavated out and the loam from the lawn would be transferred over to restore the existing portion of the driveway. J. Gordon said that was correct and there may be a necessity for additional loam to raise the grade. L. Hurley informed the applicant that any erosion controls installed would be required to be removed prior to approving the OOC.

J. Gordon questioned if there were any objections to file a request for a burn permit to clean up the yard debris. The Commission granted permission to allow the applicant to proceed and request the burn permit.

N. Gualco informed the ConCom that he is waiting for documentation from Natural Heritage.

Upon a motion by P. Morrison, seconded by B. Easom, it was: Voted to grant the applicant permission to burn the debris subject to a burn permit. **The motion passed by a roll call vote. (Yes: PM, BE, EM, OL, JS, LH)**

Upon a motion by B. Easom, seconded by J. Smigelski, it was: Voted to continue the public hearing to the next scheduled meeting on May 10, 2022. **The motion passed by a roll call vote. (Yes: EM, JS, OL, BE, PM, LH)**

7:10 PM – Discussion **(continued)** with Atty. Collins about the Maple Avenue development (a.k.a., Hayes parcels) – Re: in-fee holdings, public access restriction, and turtle nesting area.

Attorney Bob Collins had conversed with the review biologist and the existing logging roads can be continued to be maintained and suggested that the ConCom develop a maintenance plan and forward it to Natural Heritage for any comments. Additional trails would require a filing for approval by Natural Heritage. B. Kiley was in disagreement to adjusting the restriction line for the public access. There is no obligation on the ConCom to police the area and it would not be noted in the deed. Attorney Collins suggested if there was any hesitancy it might be beneficial for the Conservation Trust to accept the land, he did however forward the letter to Natural Heritage in regards to the ConCom’s willingness to accept the land as fee in holding.

The Commission was in agreement that the offer presented was very satisfying and were willing to accept the land.

E. McHugh asked if a survey was performed on the existing logging roads. Attorney Collins said that S. Dillis possesses a plan that clearly marks the logging roads. E. McHugh requested that the plan be shared in its original format and asked for clarity on the third comment Attorney Collins had made. Attorney Collins explained that O. Lathrop had asked if the restricted public access line could be ascended to the power line easement at the previous meeting and B. Kiley was very reluctant to make any adjustments. There are three areas highlighted as restricted areas and are subject to a declaration of restriction in perpetuity by Natural Heritage. E. McHugh questioned if the existing logging roads would be closed off to the public. Attorney Collins confirmed that there is no public access permitted on parcel A1. There is an existing trail on the right hand portion of parcel A that would allow for public access and would obtain appropriate signage.

O. Lathrop commented that in his experience it is very difficult to ask for any requests with the Fisheries and Wild Life once they become CR holders. He requested permission to enter the property for mapping purposes of the current ground truth. Attorney Collins stated that the ConCom has permission to access the site and suggested waiting for the existing maps to be provided by S. Dillis. Attorney Collins assured that he would make it very transparent in the record that the ConCom has authorization to access and maintain the logging roads. He suggested that the map and a maintenance plan be provided to Natural Heritage. E. McHugh recommended that O. Lathrop include the ground truth.

L. Hurley commented that the general public would not be allowed to enter Parcel A1 up to the power lines. Attorney Collins replied that is correct and the restriction would be recorded in the deed as he was unsuccessful in the effort to move the restricted area. L. Hurley asked if Natural Heritage would be required to post signage to enforce the restriction of public access. Attorney Collins replied no, B. Kiley would be obligated to post signage around the perimeter of the site and install any boundary markers.

Attorney Collins informed the ConCom that they would be receiving an $11,000 endowment to maintain the turtle nesting area for the next 36 years.

**2. GENERAL BUSINESS\***

Permitting

**COC, 27 Chicopee Row, MassDEP#169-0737**

N. Gualco said that the property has been vacant for a couple of years and the owner is pursuing to sell the property. He briefly summarized the OOC that was issued in 2001 and explained that the wrong vegetation was planted and the replication area had not been maintained and was overrun by invasive species. The delineation of the Conservation Area was never marked and the applicant is requesting that this requirement be removed as it devalues the home.

E. McHugh recommended that the homeowner hire a professional that is knowledgeable about invasive species removal. She commented that there is an abundant amount of debris on the conservation land.

B. Easom stated that the conditions need to be in compliance in order for the ConCom to approve the COC request.

O. Lathrop commented after reviewing the scaled drawing there had been a significant amount of encroachment. He agreed that the markers should be installed and the invasive species be removed.

P. Morrison commented that the most recent property owner may be unaware of the conditions. N. Gualco said that the information was documented on the deed. P. Morrison suggested that conservation markers and posts be installed along the wooded edge and that the replication area be cleaned. He was unsure on the extent of work that should be completed.

L. Hurley agreed with the Commissioners and reiterated that the debris needs to be removed.

N. Gualco read the minutes from September 2001 and noted that the condition states that the wetland would be excavated down to grade and native plants would be grown. There was no authority written to keep the replication area clear in perpetuity. N. Gualco asked the Commission if they are requesting for the entire wetlands to be cleared, and suggested a pragmatic solution. There is an extensive amount of invasive species that would require the assistance of machinery. O. Lathrop wanted to ensure that being noncompliant is not a recurring formula. P. Morrison assured that this occurrence is infrequent, the ConCom checks sites periodically and the current orders provide significant review. He commented that installing markers is imperative.

L. Hurley commented that the original COC was denied for planting invasive species. E. McHugh said clearing the area may entice the next homeowners to keep the appearance up and maintain the land. L. Hurley noted that there was Honeysuckle, Bittersweet, and Multiflora identified on the property. N. Gualco informed the ConCom that the replication area is outside of the applicant's property. J. Smigelski questioned if the applicant has permission to conduct work on the neighbor’s property in perpetuity.

Upon a motion by E. McHugh, seconded by P. Morrison, it was: Voted to deny the Certificate Of Compliance and that the applicant is required to install conservation markers on wooden posts as shown on the plans and remove the debris from the conservation land. **The motion passed by a roll call vote. (Yes: EM, PM, OL, JS, BE, LH)**

Discussion: O. Lathrop stated that the markers should be installed precisely on the conservation property line due to the language documented on the deed. N. Gualco said that it is the homeowner’s responsibility to install the signs.

Upon a motion by B. Easom, seconded by E. McHugh, it was: Voted to require the removal of invasive species from the replication area. **The motion failed by roll call vote. (Yes: BE/ NO: PM, OL, JS, EM, LH) 1-5**

Discussion: O. Lathrop commented he was in favor of observing the invasive species being removed; however, there is no long-term guarantee. L. Hurley stated that the neighbor may not authorize the applicant to access their property to treat the replication area.

**COC, 291 Old Ayer Road, MassDEP#169-1121**

Upon a motion by E. McHugh, seconded by P. Morrison, it was: Voted to issue the Certificate of Compliance for 291 Old Ayer Road, MassDEP#169-1121. **The motion passed by a roll call vote. (Yes: BE, PM, JS, OL, EM, LH)**

**OOC, 2 Island Road, MassDEP#169-1233**

Upon a motion by P. Morrison, seconded by B. Easom, it was: Voted to issue the Order of Conditions for 2 Island Road, MassDEP#169-1233. **The motion passed by a roll call vote. (Yes: OL, PM, BE, JS, EM, LH)**

Upon a motion by P. Morrison, seconded by B. Easom, it was: Voted to issue the Orders of Conditions under the Groton Wetlands Protection Bylaw for 2 Island Road, MassDEP#169-1233.

**Discussion on motion:** The Commission agreed to change the restriction of yard waste within the 50-foot buffer zone on condition #13.

**The motion passed by a roll call vote. (Yes: EM, JS, OL, PM, BE, LH)**

General Discussions/Announcements

**Update on renaming a conservation property in honor of the Nipmuc people.**

N. Gualco said that a site walk is scheduled for May 21, 2022.

**Spring Town Meeting, FY23 CPA Warrant Article**

O. Lathrop will be presenting the FY23 CPA warrant article at the Town Meeting.

**COVID Town Policy, discuss meeting virtual vs. in-person**

Upon a motion by E. McHugh, seconded by B. Easom, it was: Voted to remain virtual until June 14, 2022 and to reevaluate every meeting. **The motion passed by a roll call vote. (Yes: BE, PM, EM, OL/ NO: JS, LH) 4-2**

Land Management

**Update of Priest Hill Habitat Restoration (slash management, recent site visit)**

N. Gualco said he accompanied a site walk with the Stewardship Committee and he had observed that there were some remaining stumps, larger slash that imposes potential risks to wheeled machines, and rutting at the bottom of the field. He had reached out to Mike Barry who then contacted the logger. He was informed that the chipper had broken and was not able to complete the project and is in the process of purchasing new equipment. The road has been repaired. N. Gualco said that he wrote to Natural Heritage to request permission to complete a turtle sweep to allow for the logger to finish his work on Thursday. B. Easom volunteered to assist in the turtle sweep. L. Hurley questioned if there was signage posted at the access point of the site. N. Gualco said that the Stewardship will be working on the outreach to the public. E. McHugh recommended a notification be posted to inform people that there is poison ivy on the property.

**Flavell Crossing, discuss trail blazing**

N. Gualco was notified by Paul Funch, Trail Committee Chair, regarding a concern about trail blazing and the resident inquired if there were any logging or clearing activities planned. The answer was no. P. Funch conducted an assessment and the trail blazing proceeded for a mile from the trailhead and he had suggested painting over the marks.

P. Funch was present for the discussion and said he is unsure of who caused the destruction to the Town property and when it had occurred. He said that the marks serve no purpose and that the trail is already properly marked by the Trails Committee.

B. Easom stated that the action is vandalism and that they need to identify who conducted the act and why. He suggested that the offender(s) need to be educated and be required to clean the area.

P. Morrison agreed that the person(s) needed to be identified and questioned their motive. He suggested that the paint located on the ground be raked.

L. Hurley asked P. Funch if there was any idea who blazed the trail. P. Funch said no and would contact the local organizations that utilize the trail. E. McHugh commented that the Nashoba Dirt Organization Mountain Biking Club frequently utilizes the trails and the club should be contacted.

J. Smigelski questioned the white marks observed in the photographs. P. Funch said that there were only two trees that obtained the white marks and the white plastic signage belongs to the Trail Committee. N. Gualco noted that the white markings may delineate the beginning of a loop trail; he has observed the identical markings with the snowmobilers. E. McHugh commented that any type of trail marking is unauthorized.

L. Hurley reiterated that it is sensible to speak to the NDO Mountain Bike Club and notify them that they are not authorized to create their own trails. B. Easom noted when the Fox Run event is held the group utilizes temporary signage for the event and when it is complete they remove the markers.

O. Lathrop commented that people will become defensive if they are questioned about destroying property and recommended that the Trails Committee be granted permission to proceed and spray paint over the markings with a medium brown color, close the Special Ops Trail, and design a 1’x1’ sign that states, markers and new trails are not permitted. O. Lathrop was willing to design the sign.

E. McHugh disagreed with O. Lathrop and said the approach is slightly aggressive. She suggested reaching out to the offender(s) and informing them of the conservation trail policies. She preferred that the problem be resolved within the Town Hall. O. Lathrop commented that the rules and regulations already exist and that this is not the first occurrence. L. Hurley asked if a sign was posted would it be honored. O. Lathrop said the sign potentially will not halt the usage; however, it may provide a strong response and stated that they should not be crossing over into private property. L. Hurley agreed that the trails would be continued to be utilized regardless, however the organizations need to be informed that they cannot blaze their own trails and cross over into private property.

P. Morrison suggested receding the small portion of the trail that crosses into private property. P. Funch explained that the mountain bikers enjoy crossing over the boundary line which happens to be a stone wall. O. Lathrop reiterated that the trail should be closed due to the Town not sanctioning a trail that enters private property. P. Funch and L. Hurley agreed that posting a closed sign would alleviate the Town’s liability.

B. Easom questioned who mapped the area. O. Lathrop said that had originally mapped the area and then it had been deleted and entered by someone.

Upon a motion by P. Morrison, seconded by O. Lathrop, it was: Voted to direct the Trails Committee to post the trail as closed. **The motion passed by a roll call vote. (Yes: BE, JS, PM, OL/ NO: EM/LH)** **4-2**

Discussion: E. McHugh stated the only reason the trail should be closed is due to crossing into private property and the mountain bikers should be welcomed to using trails on public property. P. Funch said he would inform the organizations that the trail is temporarily closed until the issues are resolved. B. Easom commented he was in favor of closing a trail that the ConCom never approved. P. Morrison commented if the mountain biker's desire a trail obtaining rocks, then that can be achieved.

E. McHugh requested that the motion be amended to include, unless the trail is rerouted to remain on public property. The request was denied and the Commission voted on the original motion.

Upon a motion by O. Lathrop, seconded by P. Morrison it was: Voted to authorize the Trail Committee to overpaint or otherwise obliviate the unauthorized markers on the trees. **The motion passed by a roll call vote. (Yes: OL, PM, EM, JS, BE, LH)**

Upon a motion by E. McHugh, seconded by P. Morrison it was: Voted to grant the Stewardship Committee permission to review the trail use on conservation properties to assure that the policies are clear and develop a communication plan to the public for those policies. **The motion passed by a roll call vote. (Yes: BE, PM, JS, EM, OL, LH)**

Discussion: O. Lathrop commented that the Trails Committee is better suited to converse with the organizations. E. McHugh disagreed and stated that it is the ConCom’s responsibility due to the Trails Committee not resolving the issues and bringing it to the Commission's attention. The policies need to be clear and advertised to the appropriate people and achieved in a polite way. The Commission briefly discussed both approaches and agreed that the trail needs to be rerouted from private property and closed until the issues are resolved. E. McHugh strongly expressed that a solution can be achieved by working collaboratively with the organizations.

The Commission questioned how the public would be notified of the policies at each property. E. McHugh suggested a QR code that would be placed on some of the Conservation properties, not all. P. Funch agreed to compose a letter cohesively to the NDO Mountain Bike Organization. E. McHugh explained that her motion was intended to not sound antagonistic and that the policies need to be clearly communicated.

**Updates on on-going maintenance of conservation properties**

N/A

Committee Updates

B. Easom said that he discussed the Schofield acquisition with the CPC and they were very enthusiastic.

Approve Meeting Minutes

Upon a motion by B. Easom, seconded by O. Lathrop, it was: Voted to approve the meeting minutes for April 12, 2022 as amended. **The motion passed by a roll call vote. (Yes: JS, EM, OL, PM, BE, LH)**

Invoices

Upon a motion by E. McHugh seconded by P. Morrison, it was: Voted to approve and pay the invoice from Dillis & Roy for marking of the conservation restriction area in the Olivia land swap in the amount of $1,500.00. **The motion passed by a roll call vote. (Yes: BE, PM, OL, EM, JS, LH)**

**3. Open Session for topics not reasonably anticipated 48 hours in advance of meeting**\*

**4. (IF NECESSARY)** Executive Session pursuant to MGL Ch. 30A, Sec. 21(6): \* “To consider the purchase, exchange, lease, or value of real estate, if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body.”

N/A

**5. Adjournment**

**8:51 PM**

Upon a motion by J. Smigelski, seconded by P. Morrison, it was: Voted to adjourn the public hearing. **The motion passed by a roll call vote (Yes: PM, BE, JS, EM, OL, LH)**

**Minutes Approved: May 10, 2022**