



TOWN OF MERRIMAC
CONSERVATION COMMISSION
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Conservation Commission Meeting Minutes

Tuesday, July 26, 2022

Merrimac Public Library – Library Meeting Room

Members Present: Jon Pearson, Chair; Jerome Mathieu, Vice Chair; William Andrulitis; Greg MacLean; Greg Hochmuth; Arthur Yarranton; and Michelle Greene Conservation Agent

The meeting was called to order at approximately 7:03 PM.

Public Hearing: Notice of Intent (under Wetlands Protection Act only): 0 West Main Street, Map 49-1 Lot 7 (across from Kenoza Vending), The Flats @ Merrimac Square, Applicant: Ray Cormier – AA @ Merrimac Square LLC, Re: Construction of a main access road, secondary access road, grading and infrastructure including underground utilities, parking areas, and installation of stormwater management features, DEP# 045-0315, The Public Hearing on the 6/28/2022 agenda was not opened and was continued to the 7/26/2022 meeting at the applicant's request.

Applicant Ray Cormier and his attorney Mark Bobrowski appeared before the Commission and introduced the project which proposes to build two apartment buildings with a total of 180 units off West Main Street across from Kenoza Vending.

The total amount of filled wetlands is proposed at 4,925 sq. ft. due to the proposed entrances to the site through wetlands off West Main Street and Currier Avenue however, this amount may increase or decrease depending on the width of the entrances required by the town. The project proposed a wetland replication ratio of 2:1. The project is not seeking Limited Project status as it proposed to fill under the threshold of 5,000 sq. ft. of wetlands. A vernal pool that is estimated to have an area of approximately 2,000 sq. ft. is located on the site and Mr. Bobrowski advised at this time, he is unsure what waivers to the Commission's wetland bylaw will be requested from the ZBA as they relate to the vernal pool. Mr. Bobrowski indicated he will work to get a list of all requested waivers to the ZBA.

Mr. Bobrowski advised that Janet Bernardo, of Horsley & Witten is currently reviewing the project for stormwater for the ZBA and that she will be attending the Commission's August meeting to review this and the ZBA's meeting on August 24 to review with them as well for their comprehensive permit review.

Ms. Greene questioned if the fees provided to the state and the town for the NOI filing were correct and Mr. Bobrowski advised to follow up with their wetland consultant, William Manuel, and any outstanding fees owed will be paid.

Mr. Pearson advised that the Commission would like a peer review to be conducted and would be open to using Horsley & Witten as they are familiar with the project. Mr. Bobrowski agreed to this and advised the Commission to get an estimate of costs from Horsley & Witten so the applicant can fund an escrow account for the review.

Ms. Greene asked if plans could be revised to also show temporary wetlands impacts. Mr. Pearson raised concerns with the height, width, and footprint of the proposed retaining walls and questioned if they would add additional wetlands impacts since they were not detailed on the plans. Ms. Greene also asked if an alternatives analysis could be done for the intermittent stream crossing at Currier Avenue and the retaining walls used in this area, Mr. Cormier advised he will address this.

Mr. Pearson inquired why access from Mountain View Avenue was not considered as it will avoid the wetland crossing and associated impacts in the buffer zone that the access way from West Main Street will have. Mr. Cormier advised he will provide an alternatives analysis for access from Mountain View Avenue.

Ms. Greene questions why the clubhouse, pool, and tot lot were proposed so close to a vernal pool and suggested an alternatives analysis that looks at shrinking the footprint of these amenities and moving them away from the vernal pool or relocating the amenities to an upland location. Ms. Greene also requested that details for the proposed facilities and the critter passage located near the vernal pool be provided.

Ms. Greene inquired if snow storage locations were proposed and Mr. Cormier indicated they were and were proposed at least 50' away from all wetlands.

Mr. Pearson indicated that the original plan set to the ZBA included sheet WM1 for the replication area but that the plan set submitted to the Commission with this filing does not have this sheet. Mr. Cormier advised he will add it to the plan set and submit it.

Mr. Hochmuth inquired what the plan was for the existing clay pipe that drains from the vernal pool wetland to the other wetland on the site. Mr. Cormier advised a control structure is proposed on the upland side. Mr. Hochmuth requested that instead of this, the clay pipe should be replaced in kind.

Ms. Greene inquired if a wildlife habitat survey has been done or is planned. Mr. Cormier advised that this was considered and that Mr. Manuel advised there were no wildlife corridors on the site. He added he will have Mr. Manuel send the Commission his info for the Commission's review so they can determine if they believe a wildlife survey is needed.

Mr. Pearson questioned the erosion control proposed for the site noting the plans reference both straw wattles and silt socks. Mr. Cormier advised they are working on this and it will be addressed. Mr. Pearson also questioned the proposed methodology which indicates the site will

be grubbed first and then erosion control will be installed. Mr. Cormier responded that this was a typo and that the order will be revised.

Ms. Greene asked if Mr. Cormier had reviewed MA DEP's comment that test pits be done on site. Mr. Cormier advised that test pits are scheduled to be done next Thursday in the presence of Ms. Bernardo. The test pits will be done outside of any wetland resource area and the data on the test pits will be provided to the Commission.

David Cressman, an abutter at 30 Nancy Ann Lane shared a list of questions and concerns with the Commission and the applicant about the project including whether an alternatives analysis for wetland resources had been done indicating that the project as currently proposed only considers the impacts to the wetlands on site and that access to the site via Mountain View Avenue may have less wetland impacts; noting that the existing site condition plan shows an elevation at the southwest corner of the site at 226' and the proposed conditions plan shows building B in this location at elevation 169', he inquired how this area will be excavated noting that if proposed excavation involves dynamite over mechanical excavation, there is a risk of perchlorate contaminating the groundwater; if an analysis has been done to determine if the amount of fill removed from the site is equal to the amount being brought in and if it is not, has potential impacts to the groundwater level of this fill been reviewed; and what deicer will be used on the roadway near the wetlands as the applicant is proposing to not use roadway salt.

Mr. Cormier responded to the deicing question advising that calcium chloride will be used for deicing, which Mr. Cressman noted is salt. Mr. Cressman advised that MA DEP has concerns about the impact of salt on wetlands.

Mr. Cressman also commented that no snow storage areas are shown on the plans and questioned the location of the proposed wetlands replication area wondering if there is a place where the water runoff will not enter at such a high velocity.

Ms. Greene shared an email she had received from a resident, Heather Burkett at 32 Birch Meadow Road. Ms. Burkett's email voiced concerns about the impacts to wetlands in general as well as the impacts to wildlife habitat and removing the acoustic buffer that trees provide to the neighborhood. Mr. Pearson advised that non-wetlands concerns should be voiced to the ZBA for their review of the comprehensive permit application.

Mr. Bobrowski requested a continuance on behalf of the applicant to the Commission's August meeting to give the applicant and his team time to address the Commission's comments.

Mr. MacLean motioned to continue the public hearing to the Commission's August 23rd meeting. Mr. Yarranton seconded the motion and the motion passed unanimously.

Discussion (continued): 0 West Main Street (across from Kenoza Vending), The Flats @ Merrimac Square, Re: Update on ZBA hearing

Ms. Greene shared that the ZBA's next hearing on the comprehensive permit application for The Flats is scheduled for Wednesday August 24th at 7PM via Zoom.

Public Hearing: Notice of Intent for an Ecological Restoration Project (continued): 7 Mill Street Map R 16-2, Lot 8 and adjacent to 16 East Main Street, Applicant: Town of Merrimac, Re: replacement of the Mill Street culvert, improvements to Cobblers Brook stream channel, and removal of a jersey barrier dam in Cobblers Brook, DEP# 045-0314

Mr. Pearson introduced revised plans which the town's engineer, Matt Lundsted of CEI, Inc. had provided ahead of the meeting which addressed the Commission's concerns from their June meeting. Ms. Greene advised that at the June meeting the Commission had requested an invasive species management plan for Japanese knotweed at the site which had not been provided, she suggested that this plan could be conditioned into the Order of Conditions.

Mr. Mathieu motioned to close the public hearing. Mr. Andrulitis seconded the motion and the motion passed unanimously.

Ms. Greene shared a draft list of Special Conditions with the Commission. The Commission requested that Ms. Greene confirm proposed plantings for the site with Mr. Lundsted.

Mr. Mathieu motioned to issue an Order of Conditions with the Standard Conditions and the Special Conditions as proposed. Mr. Andrulitis seconded the motion and the motion passed 5-0-1 with Mr. Hochmuth abstaining.

Public Hearing: Request for Determination of Applicability: 2-4 Highland Road, Applicant: Michael & Ariel Matthews, Re: Removal of hazard trees and landscaping improvements

Mike Seekamp of Seekamp Environmental Consulting, Inc. appeared before the Commission with the property owners, Michael & Ariel Matthews. Mr. Seekamp provided an overview of the Commission's site visit and indicated that there is only one tree proposed to be removed that is located closer than 50' to the wetlands. Mr. Seekamp added that in total, 23 white pines will be removed at the site and the Matthews intend to replace them with native evergreens at a 2:1 ratio within 2 years. Mr. Andrulitis asked if the stumps of the removed trees will remain in place and Mr. Seekamp advised that they would.

In addition to tree removal, Mr. Seekamp advised that the Matthews plan to regrade the side yard where a pool used to be, create a retaining wall in this area along Highland Road, and in the steep area near the porch at the back of the house build a log retaining wall 22' away from the house and fill and level the area. This work is proposed 20'-25' from the Commission's 25' no build buffer. Mr. Hochmuth questioned the log retaining wall's longevity due to the likelihood of rot, Mr. Matthews advised it will likely rot and he will replace it when it does.

Luke Gulezian, an abutter at 6 Highland Road shared concerns about a crushed culvert pipe under the trail in the Town Forest behind the 2 homes. The failure of this culvert has cut off the connectivity between a larger wetland system and what has become an isolated wetland prone to flooding located behind Mr. Gulezian's and the Matthew's homes. Mr. Pearson indicated that the Town owns the Town Forest but that he is unsure what body within the town its maintenance is under jurisdiction of. Bob Sinibaldi, DPW Director for the Town advised he has leftover 10" and

12" ADS pipe and can replace the crushed pipe and regrade. Ms. Greene advised she can assist with the RDA filing for this work and will seek Open Space Committee's input on the proposed work.

Mr. Mathieu motioned to issue a Negative 3 Determination. Ms. Greene shared draft Special Conditions for the Determination. Mr. Andrulitis seconded the motion and the motion passed unanimously.

Public Hearing: Notice of Intent: 75 Hadley Road, Applicant: Brendan & Ilona Sands, Re: Raze and rebuild a barn, DEP# 045-0316

Mr. Hochmuth recused himself from the Commission and explained that another consultant, Thor Akerley, from his firm Williams and Sparages was the consultant for the applicants but Mr. Akerley had a personal matter to attend to and could not attend the hearing.

Mr. Hochmuth of Williams and Sparages appeared on behalf of the applicants and explained the project which proposes to raze and rebuild an existing barn. Mr. Hochmuth noted that the existing barn does not meet the current zoning setbacks and the proposed new barn will be located further from the lot lines, further from the wetlands, and square with the existing house. The project proposes a temporary stone access road to the barn during construction and after construction, the road will be removed, loamed, and reseeded.

Mr. Pearson indicated that while the plan proposes not to remove any trees, a dead elm tree overhanging the existing barn was observed during the site walk and that the Commission would grant permission for its removal subject to the stump and roots remaining in place. Ms. Greene questioned if trenched utilities were proposed to the barn and if so, indicated they should be shown on the plan.

Mr. Sinibaldi advised that the barn should meet the zoning requirements as it is not being replaced in kind on the same footprint. He added that if the barn will remain non-conforming, he wants it further than 20' away from the lot line. Mr. Hochmuth advised he will revise the plans to relocate the barn 21' from the lot line at its closest approach.

Mr. Yarranton motioned to close the public hearing. Mr. Mathieu seconded the motion and the motion passed 5-0-1 with Mr. Hochmuth abstaining.

Ms. Greene reviewed draft Special Conditions for the Order of Conditions.

Mr. Mathieu motioned to issue an Order of Conditions with the Standard Conditions and Special Conditions as proposed. Mr. Andrulitis seconded the motion and the motion passed 5-0-1 with Mr. Hochmuth abstaining.

Public Hearing: Request for Determination of Applicability: 26 Church Street, Applicant: Holly Moran, Re: Removal of trees

James Moran of 26 Church Street appeared before the Commission and indicated that there is an oak street near Church Street and a black walnut in the back of the property with damaged limbs

that need to be pruned. There are also two dead or dying spruces trees to the side of the property near the driveway that they would like cut down. Mr. Pearson confirmed with Mr. Moran that the tree stumps will be left in place. Mr. Mathieu confirmed with Mr. Moran that wood chips would be removed from the site.

Mr. Mathieu motioned to issue a Negative 3 Determination conditioned that stumps and roots of the cut trees remain and that woodchips are removed from the site. Mr. MacLean seconded the motion and the motion passed unanimously.

Partial Certificate of Compliance: 4 Abbey Road, DEP# 045-0261

Ms. Greene advised that there are no wetlands on this site and that the property is encumbered by an Order of Conditions for the entire subdivision; based on this she recommends the Commission issue a partial Certificate of Compliance to release this property.

Mr. Hochmuth motioned to issue a partial Certificate of Compliance. Mr. MacLean seconded the motion and the motion passed unanimously.

Partial Certificate of Compliance: 10 Hansom Drive, DEP# 045-0038

Ms. Greene advised that this property was encumbered by an Order of Conditions for the entire subdivision. Ms. Greene noted that the Order conditioned that it was only for the roadways and utilities and that any house lot to be developed with wetlands or buffer zones was to file a separate Notice of Intent prior to construction. In her review, Ms. Greene noted that there may be wetlands on the property and that portions of the home and driveway may have been constructed within the 100' buffer zone without an Order. Ms. Greene shared that she asked the MA DEP Circuit Rider, Alicia Gelien, how the Commission should proceed and her response was that although as the issuer of the Order for the subdivision it is their discretion to require after-the-fact permitting, it is likely not the best use of their time. Based on this, Ms. Greene advised that she recommends the Commission issue a partial Certificate of Compliance and that she would include a memo to the new homeowners advising them to check in with the Commission before doing work on the property to determine if a filing is needed or not.

Mr. Sinibaldi requested that all Orders issued by the Commission be sent to the Building Department. Ms. Greene suggested that all building permits in PermitLink get sent to her and that she will upload the Orders as the Commission issues them.

Mr. Hochmuth motioned to issue a partial Certificate of Compliance. Mr. Yarranton seconded the motion and the motion passed unanimously.

Insignificant Change Request: 99 River Rd, Applicant: Tyler & Pam Drolet, Re: Add stone fire pit, steps, walkway, and other landscaping changes, DEP# 045-0306

Mr. Hochmuth recused himself from the Commission as he was hired as the Drolet's consultant prior to his appointment to the Commission.

Mr. Hochmuth of Williams and Sparages appeared before the Commission on behalf of the Drolet's and explained that work is well underway at the site and that based on how things are

taking shape, there are some proposed updates to the landscaping. Mr. Hochmuth advised that none of the updates will increase the amount of filling or grading at the site. The proposed updates include adding steps to the backyard due the slight change in elevation of the building, a walkway and retaining wall to allow passage from the backyard along the side of the garage to the front of the house, a fire pit area with stone patio, and native evergreens for privacy. Mr. Andrulitis inquired if the addition of the patio will change the permeability of the site and Mr. Hochmuth explained it would not and it would still be sheet flow from the site.

Mr. Yarranton motioned to accept the proposed changes as insignificant. Mr. MacLean seconded the motion and the motion passed 5-0-1 with Mr. Hochmuth abstained.

Other Business

Ms. Greene introduced Alejandra Chandler, newly appointed Associate Member of the Commission and she was welcomed to the Commission

Old Business

None

Informal Discussion

Mr. Andrulitis reported that he observed clearing had been done at a property on River Road at the end of Broad Street. Ms. Greene advised she would look into it.

Community Input

None

Approval of Minutes: April 26, 2022

Mr. Andrulitis motioned to approve the minutes as amended. Mr. MacLean seconded the motion and the motion passed unanimously.

Approval of Minutes: June 28, 2022

Mr. Mathieu motioned to approve the minutes as amended. Mr. MacLean seconded the motion and the motion passed 4-0-2 with Mr. Hochmuth and Mr. Yarranton abstaining.

Correspondence

Ms. Greene shared that a resident had sent an email to the Commission regarding combined sewage overflows (CSOs) into the Merrimack River. Ms. Greene advised she shared resources with the resident on CSOs and information in the EPA which oversees these discharges. The Commission agreed that this is a matter of concern, but it was out of their jurisdiction.

DEP Comments

None

Next Meeting: August 23, 2022

Adjourn

Mr. Pearson motioned to adjourn the meeting and Mr. Mathieu seconded the motion. The motion passed unanimously and the meeting was adjourned at 9:18 PM.