

CONSERVATION COMMISSION  
AGENDA  
FEBRUARY 15, 2006

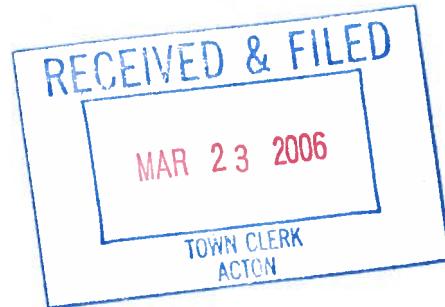
7:15 Notice of Intent - 100 Powdermill Road – Powdermill Plaza - Atlantic Acton Realty LP  
Replacement of a gravity sewer and extension to connect to public sewer within an existing paved area within 100' of a wetland.

7:30 Continuation - Notice of Intent 1 – Woodlands  
Continuation - Notice of Intent 2 - Woodlands

8:00 Extension Permit – 531-537 Mass Ave & 3 Spruce Street - M. Rosenfeld  
Certificate of Compliance - 348 (filed as 340) Pope Road (Lot 8C) 85-781

Minutes

January 4, 2006	comments rec'd by	JA, ME, TM
January 18	" " "	JA
February 1	forthcoming	



CONSERVATION COMMISSION  
MINUTES  
FEBRUARY 15, 2006

**MEMBERS PRESENT:** Terrence Maitland, Julia Miles, Janet Adachi, William Froberg, Linda Serafini

**CONSERVATION ADMINISTRATOR:** Tom Tidman

**RECORDING SECRETARY:** Andrea Ristine

**VISITORS:** Joseph Shea, Justin DeMello, Brian Butler, Sue Sullivan, David Hale

7:18 Mr. Maitland called the meeting to order.

Notice of Intent - 100 Powdermill Road – Powdermill Plaza - Atlantic Acton Realty LP

Joseph Shea from Woodard & Curran presented plans for the construction of the High Street sewer extension, pump station and replacement of a gravity sewer within an existing paved area within 100' of a wetland. Powdermill Plaza currently has its own treatment facility that meets its permit requirements but new regulations will require an upgrade to their facility. The current proposal is to connect to the Middle Fort Pond Sewer District. The owners of Powdermill Plaza are funding the extension and the construction of the proposed pump station to be located at the corner of Powdermill Road and High Street. Once the pump station has been constructed Powdermill Plaza will replace their existing sewer line to reverse the flow so that it goes to the town's sewer facility and drain the current treatment facility and take it off line.

Upon query by Ms. Miles, Mr. Shea reported the contractor is currently working on the extension on High Street but it is outside of the 100' buffer zone.

Upon query by Ms. Miles, Mr. Shea reported that the new sewer line will be following the existing sewer line to keep the same alignment; the existing Sewer Man Hole #4 is 25' from wetlands.

Upon query by Mr. Froberg, Mr. Shea reported that the sewer line in Powdermill Plaza will be gravity fed; they want to keep with the current alignment.

Upon query by Ms. Miles, Mr. Shea reported that groundwater was not encountered at the test boring locations. He also noted if groundwater is encountered the standard contract wording states that the contractor must dewater through haybales to eliminate silt and then direct flow through the drainage system. All catchbasins will also have silt fencing around them.

Upon query by Mr. Froberg, Mr. Shea reported that stockpiling of excavated materials within the 100' buffer zone is not allowed, and the contractor must decide how to make that work on site. Mr. Shea noted that there currently is no specific contract requirement regarding disposal of existing pipe; he will note this in his file as an addition to the contract.

Upon query by Ms. Miles, Mr. Shea stated that they will start pipe replacement and connection will start at the lowest point and progress incrementally to connect to the high point. There will be no storage of waste during connection activity work on the existing treatment plant would be the last step.

Upon query by Ms. Miles, Mr. Shea stated that if there is contamination involving a pipe break a local septic hauler must vacuum up the materials and any soil surfaces contaminated will

also be vacuumed. There will always be an active flow to one of the two treatment locations; new pipe flow will be directed to the town treatment facility and existing (old pipe) will still flow to the Powdermill Plaza treatment facility until the project is completed. The project will be put out to bid in March 2006.

Upon query by Mr. Froberg, Mr. Shea reported that Powdermill Plaza will always be in operating condition. If necessary a temporary plug will be placed in the line to stop flow for the time period needed; a man-hole or a trench will serve as a temporary reservoir to take temporary backflow.

Upon query by Ms. Adachi, Mr. Shea reported that he expects the contractor to be able to replace 100' of pipe per day and hopes to be done within two weeks; the challenge will be working with the other utilities involved.

Upon query by Mr. Froberg, Mr. Shea stated that it will be a challenge for the contractor, but it is clear in the Bylaw that no stockpiling is permitted within 100' of wetlands.

Ms. Miles expressed concern about the possibility of an unscheduled event of contamination during construction activities and the need for notification to the Commission.

Upon query by Mr. Tidman, Mr. Maitland stated that the Commission would not require a copy of the contract between the town and the awarded contractor.

Mr. Shea noted that bid documents have not yet been released and that he would be open to special conditions imposed by the Commission that could be added to the contract; to best ensure that concerns of the Commission are met in the contract since bid documents have not yet been released.

Mr. Froberg inquired about dewatering procedures in the event of contamination. Mr. Shea stated that the industry contract language has provisions to address this issue. He also noted that in his past experience, during the construction of the Middle Fort Pond Brook Sewer District, the contractor provided a tank-truck on a work site where material was pumped into the truck during construction activities in order to be able to continue working.

7:47 Hearing no further comments or questions, Mr. Maitland closed the hearing.

7:48 Woodlands @ Laurel Hills NOI 1 & NOI 2

Sue Sullivan from Places Site Consultants presented noting that a site walk was conducted in the utility connection area of adjacent to Bickford's (20 Nagog Park Drive) and the other proposed connection to Nonset Path.

Ms. Sullivan addressed the list of questions provided by the Commission. In response to stormwater, the intermediary controls vary with the stage of construction work being done and what the expected weather. The controls must meet the performance standards and are not optional. A project of this magnitude will involve many inspections that will be inter-related and possible erosion will easily be monitored. The reason that runoff from the landscape catch basin is directed to Basin D is that it is only taking surface land flow from the landscape area; water from any paved surfaces will be directed to Catchbasin C then to D after treatment. The property management company will be responsible for monitoring tenant activities and ensuring that they are in accordance with the conservation restriction; the Applicant does not want to demarcate the resource areas with permanent monuments as they feel that it would be akin to an "attractive nuisance". Building 10 will have a physical barrier of boulders installed at the edge of 25' natural buffer.

Upon query by Mr. Froberg, Ms. Sullivan reported that the residents will have foot access to the conservation-restricted land but will not be allowed to expand their yard or lawn. The management on site be responsible for preventing children from constructing forts etc. and

addressing other problems in the conservation-restricted areas as they arise. The proposed townhouse units on Lot 4 will have a retaining wall. The architects have not finalized the design for those units so she cannot provide the detailed information that the Commission has requested regarding what landscaping and other activity will occur behind these units within the 100' buffer zone; therefore the Applicant requests the continuance of the hearing for NOI 2 for this reason.

Lot 4 as filed within the comprehensive permit is a proposed senior housing development. If this portion of the project is pulled out of comp permit they will reapply to Commission under the Bylaw

Upon query by Mr. Maitland, Ms. Sullivan stated that an impoundment could be created at the low point of Flag D1 but such an impoundment would create a buffer/resource on abutting property and they don't want to create impacts on abutting property.

Mr. Tidman reported that the abutting property is already developed at this time; creating a 100' buffer for an impoundment on woodlands would not affect the abutting property drastically unless the abutters were to strip and redevelop the parcel. Ms. Sullivan also noted that a certified vernal pool has issues with Natural Heritage and Endangered Species Program has more protection whereas an isolated wetland is only subject to the setback of the local Bylaw.

Mr. Maitland stated that he felt that to attempt to create a vernal pool in that area seemed like forcing the issue.

Upon query by Mr. Tidman, Mr. Butler stated that if the retention basins were constructed to temporarily hold water breeding frogs would find them but the basins may not function correctly. It is not a situation he would want to create because it can lead to other issues. Ms. Sullivan noted that the applicant will need the full drainage capacity of the basins as they are designed.

Ms. Miles expressed concern about fragmenting big forested areas. Ms. Sullivan pointed out that the 31.4 acres of conservation restricted land were within the known areas of breeding amphibian populations and would also be a wildlife corridor between the abutting property and this proposed development.

Mr. Froberg stated that there is a need for resource areas and upland areas outside of the Commission's jurisdiction but he is not feeling a strong need to look into creating additional resource areas for a lot of development in upland areas. He is encouraged to hear that populations are being looked after in a sense, there are impacted areas that will have access restricted or cut off although it seems like there is enough resource area set aside as much as to be expected.

Ms. Miles stated that the value of upland is becoming more important, it would be a precedent-setting for the Commission to ask for something outside of the Commission's jurisdictional area.

Ms. Sullivan reported that Natural Heritage wants 200' of area preserved around Spoon Pool. The end of Durkee Lane will be allowed to naturalize but the Applicant cannot cut off access to the abutting property as it is the legal access for that parcel.

Upon query by Ms. Miles, Mr. Butler reported that one of the vernal pools in Westford historically was lowered by cutting a notch out of the bank; this bank will be reestablished to increase greater depth. The pool associated with Bobby's Ranch is a breeding site and there is a mosaic of breeding sites throughout the property and the conservation-restricted upland in Acton is also adjacent to Westford conservation land.

8:20 Hearing no further comments or questions, Mr. Maitland closed the hearing for NOI1 Woodlands at Laurel Hill.

NOI 2 Woodlands at Laurel Hill

Upon request by the applicant, Mr. Maitland continued the hearing for NOI2 until March 15, 2005 at 7:30 PM.

Request for Extension – 531-537 Mass Ave – 3 Spruce Street DEP File No. 85-847

Michael Rosenfeld stated that he is asking the Commission for an extension on his existing OOC due to expire July 2006. Mr. Rosenfeld gave an overview of the site proposal noting that Town Meeting had approved rezoning this area of town to be residential/commercial. The original NOI was filed in 2003 just before the effective date of the increased setbacks from wetlands under the Bylaw. The OOC approved a building footprint but at that time he didn't know what he really wanted to do. He now has option to buy the abutting property and town sewers are proposed in this area potentially by 2009. Although Mr. Rosenfeld is requesting an extension he wants to modify the proposal previously approved. At this point he would not be proposing the same plan as previously approved by the Commission.

Mr. Maitland reported that the Commission does not have to grant an extension if work has not commenced within the time frame of the OOC.

Mr. Rosenfeld stated that he is starting the process with the Historic District Commission and should know within the next year if town sewers will be approved in this area.

The Commission noted that significant changes to a previously approved NOI plan requires a new NOI filing.

Mr. Maitland noted that if there are small plan changes, the Commission could accept them as a red line change. The Commission cannot grandfather significant changes under the OOC. Significant changes require a new NOI filing that would be applicable under the current bylaw from which and waivers can be requested pertaining to public or historic benefit.

Mr. Rosenfeld stated that it is not critical to him to receive an extension permit if the process can be accomplished quickly with the proposed amendments.

Mr. Maitland and Ms. Miles stated that they personally were not comfortable voting to approve an extension for this OOC. Mr. Maitland noted that the current wetland setbacks are the challenge for this project; a new NOI would be subject to the new setbacks. If there were some public benefit and historical basis the Commission could grant waivers.

Mr. Rosenfeld stated that he could proceed with the plan as approved but he feels that the changes he wants to make to the plan would be more environmental sound.

The Commission suggested that Mr. Rosenfeld have his engineer come before the Commission. The engineer would know more precisely the waivers needed and how to present and explain the rationale behind them for this project.

Mr. Tidman agreed that the onus is on the applicant to prove to the Commission that the proposed amended plan has environmental improvements, or if a waiver is requested, what public benefit there might be.

Mr. Froberg noted to the applicant that there is an element of risk involved; there is some leverage under the approved plan. The new plan that Mr. Rosenfeld has brought to the Commission is completely different with no logical connection between the two plans.

Mr. Rosenfeld agreed and stated that he will have his engineer come before the Commission regarding his proposal.

8:57 Ms. Miles excused herself from the meeting.

9:00 Certificate of Compliance – 348 (filed as 340) Pope Road (Lot 8C) 85-781

Mr. Tidman reported that a certificate has been requested for the noted site. Upon his inspection for compliance with the OOC he discovered that that row of boulders required as a special condition were not placed and written explanation has been submitted with the request for a certificate. The letter submitted with the request for certificate states that dense vegetation has grown in at the toe of slope therefore the applicant did not install the row of boulders.

The Commission agreed to not issue a Certificate of Compliance until the row of boulders is installed. Staff shall draft a letter in response to the applicant stating the Commission's position of this issue.

Minutes

Ms. Adachi moved that the Commission approve the minutes for January 4, 2006. Ms. Serafini 2<sup>nd</sup>; unanimous.

Decision – 100 Powdermill Road – Powdermill Plaza

Ms. Adachi moved that the Commission to issue an Order of Conditions with the following special conditions:

- 1) In the event of groundwater contamination all dewatering must stop until appropriate back up measures are in place to prevent discharge of any contaminated water into the resource area.
- 2) All groundwater pumped from the excavated trench(s) must be free of silt before entering [or discharged to] a storm drain.

Ms. Serafini 2<sup>nd</sup>; unanimous.

Decision - Woodlands at Laurel Hill NOI 1

Mr. Froberg moved that the Commission issue an Order of Conditions for the plans as presented with the following special condition:

- 1) The conservation restriction, in perpetuity, must be accepted and signed by all state and local authorities and must be recorded with the property deed at the Middlesex South Registry of Deeds prior to the issuance of a Certificate of Compliance for the project.

Ms. Serafini 2<sup>nd</sup>; unanimous.

Discussion - 26 Grasshopper Lane

The Commission discussed the situation and will conduct a site walk and compose a letter to the applicant based on their findings.

9:55 Meeting adjourned.

Terrence Maitland  
Terrence Maitland  
Chair