



Norton Conservation Commission  
70 East Main Street  
Norton MA 02766

NORTON TOWN CLERK

FEB 23 2010

RECEIVED

Monday, January 25, 2010

**Attendance**

Ron O'Reilly (Chairman), David Henry (Vice-Chairman), Julian Kadish, Earl Willcott, Lisa Carrozza, Chris Baker and Jennifer Carlino, Conservation Agent

Kathleen Giblin was absent.

**Minutes**

The meeting started at 7:00 pm.

The members reviewed the draft minutes of **November 23, 2009**. Earl Willcott made a motion, seconded by David Henry, to accept the minutes as written. Approved.

The members reviewed the draft minutes of **December 14, 2009**. Lisa Carrozza made a motion, seconded by David Henry, to accept the minutes as written. Approved.

The members reviewed the Bills Payable Sheet (Misc.). David Henry made a motion, seconded by Earl Willcott, to pay the bill. Approved.

The members reviewed the Bills Payable Sheet (Dell Marketing L.P.). Lisa Carrozza made a motion, seconded by Earl Willcott, to pay the bill. Approved.

The members reviewed a request by Colonial Acres Condominium Trust– **for approval of Forest Cutting Plan in conservation restriction area** at Colonial Drive – cont. from the January 11, 2010 mtg.) Lisa Carrozza stated that she did not think that commercial harvesting of timber for profit was an allowable use within the Conservation Restriction and it does not meet the criteria under number 3. of the Conservation Restriction which reads: “selective pruning and cutting to control or prevent hazard disease or fire to preserve the present condition of premise.” She said the Conservation Restriction does not allow clear cutting on Conservation land for commercial profit. She then made a motion, that since the timber harvest project does not meet the criteria of the Conservation Restriction for this property, to deny the request for a timber harvest. She stated she agreed with the trail portion of the request which is an allowable practice within the Conservation Restriction.

Julian Kadish asked how many trees were proposed to be cut and Lisa Carrozza stated 261 for the selective harvest, but the request did not state how many trees would be cut for the trail route. Lisa Carrozza stated the timber harvest request does not meet the purpose, intention or requirements of the Conservation Restriction for this property. She said that, to her knowledge, the forest is not threatened nor unhealthy and the cutting project seems to be clearly for profit. Ron O'Reilly said the request shows that the cutting is for commercial profit. He suggested having the applicant submit a revised cutting plan from the forester.



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Lisa Carrozza stated that if the intended purpose of the cutting plan was for recreation, passive or active use, or maintenance of walking trails, the plan would meet the criteria of the Conservation Restriction.

Julian Kadish asked how many acres are involved with this project and Mr. Michael Thomas replied 15 to 20 acres of the total property which consists of 46 acres. He said the amount of trees proposed to be cut equals approximately 12 to 15 trees per acre. Lisa Carrozza made a motion, seconded by Earl Willcott, to deny the project on these grounds. Julian Kadish voted to oppose the motion. He stated that maintaining the health of the forest would be a good idea. Lisa Carrozza again stated that, according to the Conservation Restriction, the only items listed under the heading **Generally Accepted Forestry Management Practices** were selective cutting or pruning to control or prevent hazard, disease or fire. She stated she did not see any of these reasons listed in this proposed cutting plan and no good reason to cut down 300 trees. Julian Kadish stated that, in his opinion, some cutting would benefit the forest and suggested that a more positive response could be gotten by revising the project to reduce the amount of trees to be cut. He stated that raising funds, by harvesting some trees, that could be used in maintaining a healthy forest is a good idea. He said that cutting 12 or 15 trees per acre of land is not clear cutting if it is done properly.

Michael Thomas stated that if the amount of trees to be cut were reduced, there would not be enough profit to make it worth cutting. Lisa Carrozza stated finances are not a factor in this project because the conservation restriction is in place and has to be followed as written. Julian Kadish stated a conservation restriction was placed on the property to protect it and this project would be a conflict of interest where the health of the forest was concerned.

Mr. Thomas stated that the buffer between the condominium units and residents on Dean Street is quite dense and will remain that way. He said the cutting project would not affect this buffer or visual barrier in any way. Ms. Selma Riconscente of 83 Dean Street repeated what Lisa Carrozza stated which was that according to the Conservation Restriction for this property, a cutting project for profit is now allowed. Ron O'Reilly informed Mr. Thomas that he would get a letter from the Commission.

Discussion ensued regarding **Dam Maintenance Permits**. Jennifer Carlino stated a Notice of Intent should be filed for the maintenance work on Chartley Pond dam. She said she would prepare a "general" maintenance permit Notice of Intent application that can be used for each phase of the maintenance work. The commission members agreed with her suggestion.

Jennifer Carlino stated that 2 lots were being taken out of Chapter 61A on Fairlee Lane (lots 6-1 & 6-2) and asked the Commission if they wanted to use their "Right-of-First-Refusal". She said the Commission does not own any adjacent property. She stated that a reply has to be given to the Board of Selectmen. Earl Willcott made a motion, seconded by David Henry, recommending that the commission not exercise their right-of-first refusal for this property. Approved.

Ron O'Reilly read a letter by the Canoe River Aquifer Advisory Committee announcing the updated brochures with time lines of various accomplishments including a new map of the aquifer and inviting any of the Conservation Commission members to attend one of their upcoming meetings.

Discussion ensued regarding the **proposed bylaw**.

### **Section 1. General Provisions**

Jennifer Carlino stated she had not received any comments on Section 1 and if no one had any comments or revisions at this time, Section 1 could be approved. She said she is waiting until we are finished with the draft before asking The Horsley Witten Group about the following: a. using the word "review" instead of "protection" and b. removing any repeats from the resource areas. (items that are contained in both the bylaw and the Wetlands Protection Act). She stated other than these two items, all the other changes were made from the last meeting.

### **Section 2. Definitions**

Lisa Carrozza asked what items were different that the Wetlands Protection Act under "Alter" Jennifer explained that the following items were the same as the WPA;

2. Changing of preexisting drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns, or flood retention characteristics;
3. Drainage, or other disturbance of water level or water table;
8. Destruction of plant life including cutting or trimming of trees and shrubs or clearing herbaceous plants;
9. Changing temperature, biochemical oxygen demand, or other physical, biological, or chemical characteristics of any waters;

She said all the others were listed in the MACC model bylaw. Jennifer Carlino said "Agriculture" and "Bank" could be removed from the bylaw as they are already in the Wetlands Protection Act.

Discussion ensued regarding "Isolated land subject to flooding". Lisa Carrozza asked if the size would be limited and Jennifer Carlino stated that 400 s.f. would be the minimum size based on her research into certified vernal pools in Norton. She said that since we don't have a list of ILSF in Norton, she evaluated the 100 CVPs in Norton and it is the most reasonable estimate. She stated that she measured the square footage of the CVPs and 400 sf. was the smallest biologically functioning area. She said this could be used as the ILSF threshold but mentioned isolated wetlands perform more functions than just vernal pool habitat. She stated she isn't aware of other towns researching this size criteria and this was the only information she had to use for the determination of size. Lisa Carrozza stated that this will be the most difficult obstruction in the approving of the proposed bylaw.



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Julian Kadish stated the apprehension is due to not having a size and this should alleviate some fears. Jennifer Carlino said most towns don't have a size. Bob Kimball stated that, in his opinion, compared to other towns' bylaw criteria, a 400 s.f.-minimum is being very generous. Jennifer Carlino stated that a lot of towns in Massachusetts that have bylaws, do not have any minimum size listed in their bylaw. Brad Bramwell stated that we are using Norton-specific dates and he no longer has a question about it.

Under "No disturbance zone" David Henry suggested removing the word "whether" before "organic or inorganic" and Jennifer Carlino agreed to remove it.

Lisa Carrozza had questions regarding the definition for "Pond". She asked what the difference would be in relation to ILSF. Jennifer Carlino read the definition as defined in the Wetlands Protection Act. Earl Willcott suggested removing "Pond" from the proposed bylaw. It was agreed by the members to remove "Pond" from the proposed bylaw since it will remain the same as the Wetland Protection Act.

Lisa Carrozza had a question regarding " , or the aquatic habitat area" within the "Vernal pool depression" paragraph. Jennifer Carlino stated this wording can be deleted from the bylaw.

Discussion ensued regarding "Vernal Pool Habitat". Jennifer Carlino stated the proposed bylaw would now regulate vernal pools outside of a resource area. Ron O'Reilly suggested removing the words "of any size". The members agreed to remove the words.

### Section 3. Application Procedures

Ron O'Reilly stated that under **A. Application Forms**, in line 9, the word "located" should be deleted. The members agreed.

Lisa Carrozza suggested removing the word "additional" under **5. The Town of Norton Wetland Permit Application Form**. Jennifer Carlino stated that this form will be required along with the State forms for NOIs, RDAs and ANRADs but should be very short and needed to quantify impacts to areas that aren't listed on State forms. It was agreed that for a Request for a Certificate of Compliance would include the State form and a Norton Form (deleting the word COC). Jennifer Carlino stated that under **A. Required Plans and Information**, in line 7, the word "show" will be changed to "include".

Julian Kadish asked Jennifer Carlino if she helped non-professional applicant's fill out applications and she replied that if they have a plan, she regularly helps them fill out the applications, usually in three steps.

Lisa Carrozza suggested, that under **12., b.**, to capitalize the words "registered professional engineer. She suggested changing **12. d.**, to "SWPPP, including the EPA NPDES NOI, erosion sedimentation details and narrative.

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Jennifer Carlino suggested crossing out the column labeled "Checklist" from the table. She suggested all the checklists were consolidated into one on the next page. **One complete application package**, when referencing "plans", change to "plans submitted in accordance to Appendix A". Lisa Carrozza suggested combining the plan requirements with the **One complete application package** and call it all a "Checklist".

David Henry suggested adding a sentence that if the applicant needs help with the application to contact the Conservation office.

Brad Bramwell asked if there would ever be an instance where the state WPA forms would not be used, but only Norton's one-page application. Lisa Carrozza stated that if the Isolated Vegetated Wetland is not within jurisdiction of the Wetland Protection Act, the project can be filed under the local bylaw. Jennifer Carlino stated a sentence should be added stating that if an applicant is filing only under the local bylaw, the NOI should be filled out in order to obtain parcel information and signatures.

Bob Kimball stated he wants to make sure that everyone understands what the bylaw and rules and regulations are about and not just the developers.

Jennifer Carlino asked the members to review the Table of Contents section. She suggested that under Section 5 Project Review, Design Criteria and Construction Methods, the first three items Calculating Impacts to Resource Areas, Rare Species and Wetland Replication Areas should be listed under Section 6 Wetland Resource Areas and Performance Standards. She asked if the members would want them moved. Lisa Carrozza stated, in her opinion, it is easier to review a section and then name it. Jennifer Carlino stated the members have to review the sections before she can make the revisions. She asked Jennifer Carlino to give her Section 5 to review for the next meeting.

The members agreed to have a special meeting to be held next Monday, February 1<sup>st</sup> at 6:30 pm.

Jennifer Carlino asked the members if they also wanted to review Section 5 and the Plan Review pages at the Monday, February 1<sup>st</sup> meeting. Lisa Carrozza suggested reviewing the Plan Review pages at the Monday, February 8<sup>th</sup> regular meeting. Jennifer Carlino stated that the remainder of Section 3, Section 4 and Section 5 will be reviewed on Monday, February 1<sup>st</sup>.

Lisa Carrozza made a motion, seconded by Earl Willcott, to adjourn the meeting at 9:21 pm. Approved.

Respectfully Submitted,



Jennifer Carlino  
Conservation Director  
JC/pmb