



Norton Conservation Commission
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NORTON TOWN CLERK
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Monday, April 8, 2019
6:30 pm
2nd Floor Conference Room
Norton Town Hall

Minutes

Recorded by Melissa Quirk, Conservation Secretary

6:30pm Open meeting
The meeting was called to order at 6:30 pm.

Attendance: Gene Blood, Ron O'Reilly, Julian Kadish, Scott Ollerhead, Lisa Carrozza, Daniel Doyle Jr, Dan Pearson, Conservation Secretary Melissa Quirk, Conservation Director Jennifer Carlino

Absent:

WETLAND HEARINGS

Wetland hearings will be taken in order.

A. Request for Determination of Applicability. (DET#1082). Columbia Gas of MA. 200 Plain St. Map 19 Parcel 3). For proposed plans to install a new gas service connection within 100 feet of wetland and 200 feet of Canoe River.

Scott Ollerhead recused himself.

Dana Altobello, PE, attended the hearing for the applicant and reviewed the project narrative. Dana provided plans of the proposed work area.

JK questioned if this work was on an existing road and construction would be contained within existing gravel roadway. Also, how deep is the gas main and would there be dewatering. Dana replied the gas main is about 30 inches deep and all work would be contained within the existing gravel roadway. Dewatering is possible and has been provided for in the OOC.

LC questioned adding a note to the plan to show the upland area for dewatering which Dana said he would do.

This project is a negative 2.

Motion was made to close the public hearing by O'Reilly, second by Pearson. Motion passes. Motion was made to issue the negative 2 Determination for DET# 1082 by Carrozza, second by Doyle. Motion passes

- B. Notice of Intent (#250-1037). Next Grid Redwood LLC. 54 Plain St. (Map 18, parcel 9).** (continued from 1/28/19, 2/25/19, 3/11/19) For proposed plans to install a ground mounted solar array, driveway, stormwater, utilities within 100 feet of wetland in the Canoe River Area of Critical Environmental Concern.

The applicant requested a continuance to 4/29. Motion was made to continue the public meeting for DEP# 250-1037 to April 29, 2019 by Pearson, seconded by Doyle. Motion passes

- C. Notice of Intent (#250-1036). NextSun Energy LLC. 210 Bay Rd. (Map 6, parcels 6 and 11).** (continued from 1/28/19, 2/11/19 and 2/25/19) For a proposal to construct a 2MW dual use solar energy facility on existing cranberry bogs with 48 linear feet of Bank alteration, 17,900 square feet of floodplain alteration, 15,150 square feet of wetland alteration and 7,000 square feet of riverfront alteration within the Canoe River Area of Critical Environmental Concern.

Stacy Minihane and Pat Gallagher of Beals & Thomas, and Adam Schumaker of NextSun attended the hearing and submitted revised plans, and flood and mitigation information.

Minihane provided summary of new information submitted in response to 3/15 letter from conservation agent comments

- *revised plan was updated in response to letter and Planning Board comments to reduce the number of panels by 1400, eliminate conduit underground within the blocks of panels, flood storage information and detailed screening plans*
- *Floodplain and compensatory storage information*
- *Letter in response to con com's 3/15 letter*
- *Response to abutter comments*
- *3/19 screening plans revised to propose plantings that revert to wetland (bog #4)*
- *3/29 submitted revised hydrology conditions in response to peer review*

Alteration and Impact on resources areas were discussed in response to letter 3/19. Minihane confirmed alteration quantities per resource area per task.

- *Bank: limited to underground trench. Conduit raised from underground to above ground. There will be no permanent impact. 48 linear feet will be temporarily impacted but will be restored. No side casting. Directional drilling from gravel road, only calculated one side of the stream in the Bank quantity.*
- *BVW: Minihane states that the impacts are for trenching and insulation of piles/piers (piles and piers Stacy uses interchangeably). Everything will be restored. New WPA form was submitted. Approximately 4900 square feet will be impacted in total. 600 sf of piles will be impacted which is permanent. Trench impact is 2200 sf, and 2100 sf for timbermats. LC questioned details of how it would be installed. They did not have but will provide.*

- *BLSF: Increase of 1000 sf of permanent impact (2800 cubic feet). They are clarifying if it is bog 12 or 14. Change in impact from 15,215 to 44,000 sf is due to updated flood elevation and quantity now includes impacts from sidelaying materials*
- *Riverfront: LC questioned 9100 sf impact. Minihane states 8900 is temporary, (4870 to inner and 4030 to outer riparian). Is under the 10% threshold.*

Carlino questioned description of compliance of performance standards in each resource area. Requested they redo the description.

Asked again for them to provide regulatory citation or DEP decision regarding distinction between upland vs wetland bogs as they describe it. JK questioned what portion of site is wetland bogs. Response was about 40% of project. Carlino questioned was there a permit to construct those identified as "upland" bogs. They will check.

LC asked if they looked to avoid riverfront impacts. They stated they avoided putting panels in certain areas but said it could not be avoided all together. Carlino questioned riverfront redevelopment status. Minihane responded only the sand track access roads are considered redevelopment. Carlino asked for that to be quantified. LC questioned if they had looked to avoid riverfront impact. Adam states panel placement was avoided wherever possible. Minihane differentiated "flow through bogs" as an area where there is nothing separating the bog from the river and "non flow through bogs" as an area where there is an upland/berm/causeway or road separating the bog from the river.

Carlino questioned how the project contributes to the Canoe river ACEC designation/purpose and requested it be addressed in their application with the higher standard of environmental protection. LC questioned if they had addressed holding the project to the higher standard of the ACEC and avoided any alteration. Minihane said they have and it is not a destruction. JK requested summary of DEP written guidance, though the commission will be the authority on the decision.

Carlino asked if it is a limited project. Minihane say no. LC states with the DEP, she is not ready to jump to the conclusion that this does not constitute an alteration and should be held to a higher standard. Minihane states it does constitute an alteration. It's a question of whether you think it destroys or impairs the BVW. JK asks if this discussion is confined to just the area taken up by the piers. Minihane replies that yes, it is 600 sf cumulatively. It is 0.1617sf at every point in the ground where a pier enters. It is Minihane's understanding with DEP that because they are proposing driven piles or a screw system that minimizes ground disturbance where the cranberry bogs can grow around it, that is the distinction being drawn for destruction or impairment. SO questions that it will still be blocked. Minihane states just the 0.1617sf for each pier will be blocked. That is the difference considering the BVW system. In Minihane's opinion, the active cranberry bogs in this system where this project is proposed, those discontinue

impacts will not destroy or impair the BVW's ability to protect the Interests of the Wetland Protection Act. JK questions since some of these bogs are upland, if there is a consideration for building and replication, some of the figures should be broken down between wetland and upland. Minihane replies the 600sf she is referencing are just wetland bog impact. In Minihane's view of DEP guidance, if the Con Com finds that the work will not destroy or impair BVW, then the project would not be limited to 5000sf of impact. Though they are below that and replication is not required.

LC asked for B & T to quantify piers in "upland bogs" in BLSF.

This discussion with regard to piers questioned by JK. Yes. JK clarified it is only a 600 square foot wetland area that would be considered for replication. LC questioned quantifying the alteration of piers in the "upland bogs". Minihane responded they have in the BLSF, not BVW. LC questioned if there are any other components in the jurisdiction. Minihane & Schumaker state there are utility poles, an inverter and battery storage and that the equipment will be elevated above the floodplain.

Carlino asked them to quantify the maintenance area with regard to National Grid

- *clearing envelope*
- *3 new poles. Rest are existing to avoid removing vegetation.*
- *Carlino's letter asked B & T to address the alteration of wetland at the existing crossing between Bay Rd and Fairlee Lane. Minihane said it was addressed but Carlino pointed out she was looking at a violation area. Carlino will look at the location with land owner but it will need to be addressed. Adam asked about site visit – SO says yes. Carlino requested they stake areas first and the commission visit before next meeting. Carlino addressed the audience to explain that the site visit is for the commission only. If the landowner doesn't approve of abutters attending, they cannot attend.*
- *Carrozza asked if maintenance clearing envelopes were included in alteration amounts.*

Public comments:

- *Evelyn Houghton (338 S. Worcester St) – asked how they can put solar panels over agricultural area and still get required sun. Adam answered new smart program says cannot shade underlying ground more than 50%. Cranberries do not need full sun to grow and produce berries. Is 40 % shading. Carlino said will address continued operations and maintenance of bogs in one future meeting and do the impact portion first. LC also requested reporting requirements to state which Adam will address.*
- *Greg Shanehan (142 Bay Rd) - commented that the Smart program was developed for struggling farmers.*
- *Michael Wagner (211 Bay Rd) – asked if it will stay organic. SO says just impact now. Wagner then questioned the number of piers being used and ground becoming like swiss cheese. Concerned about well water. Schumaker states there are 21 feet*

between each row and within the rows, the piers are every 16 feet. Also, as we move into pre-construction phase, they will be doing a detailed geo-technical report and demonstrate not causing structural problems with soil and impact layers. JK questioned groundwater flows. Wagner questioned if we can test water now. SO questions if flow rate studies will be done. Schumaker says geo-tech tests will be done.

- *Joel Johnson (208 Bay Rd): asks if we should we test well/water quality before work is done. He has looked at EPA website for their recommendations. SO says we will address at a future meeting. Another abutter states same concerns.*
- *Deborah Knopf (5 Fuller Dr): asked how and where connecting panels would be on west side. Schumaker responded underground (#18 bog). Knopf asked how many utility poles are being installed. Schumaker says about 10. Resident questioned piles shifting over time. Schumaker says they are built not to shift. However, Schumaker says they have not done a project 10 feet above ground before.*
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Applicant requested a continuance to 4/29. Motion was made to continue the public meeting for DEP#250-1036 to April 29, 2019 by Kadish. Seconded by Pearson. Motion passes.

D. Abbreviated Notice of Resource Area Delineation (#250-1030). John Quattrochi. East Hodges Street (Map 36 Parcel 2-0) (cont. from 10/22/18, 11/19/18, 12/17/18, 1/28/19, 2/11/19 and 2/25/19). For proposed plans to verify wetland resource areas.

Motion was made to continue the public meeting for DEP# 250-1030 to April 29, 2019 by Kadish, seconded by Pearson. Motion passes.

E. Notice of Intent (#250-1032). Albert Faxon. Oak Street (Map 15 Parcel 9). (cont. from 10/22/18, 11/19/18, 12/17/18, 2/11/19 and 2/25/19). For proposed plans to construct a driveway associated with a new single-family house within 100 feet of wetlands.

Motion was made to continue the public meeting for DEP# 250-1032 to April 29, 2019 by Pearson, seconded by Kadish. Motion passes.

F-K Notices of Intent (#250-1023 through #250-1028).

Mark Dibb, Jeff O'Neill and Don O'Neill of Condyne, Brad Holmes of Environmental Consulting & Restoration and Susan Bernstein of Bernstein Law attended the meeting to update the commission on their progress with Commission letters and requests from the town's consultant, Horsley Witten (HW). Amy Ball, and Janet Bernardo of HW were present to review HW comments.

LC recused herself for all Condyne hearings.

Mark gave his response to lots 1 to 6. Peer review #3 and 4: comments were responded to with 4/8 letter with a revised NOI application. Plans were revised 4/10. Reviewed the 12 changes as noted in letter. At the request of HW, they provided a table with impacts by lot.

Bernardo and Ball submitted their peer review and touched on main points.

Bernardo requested applicant develop a contingency plan for the invasive species present on the property. There is a potential for spread of the invasive species with excavating and work being done.

Carlino went over 3/18 letter and the Commission's requests that were made.

- *NHESP and path*
- *vernal pool habitat on plans*
- *Summary table*
- *NDZ grading clarifications*
- *accurate table of alternatives*
- *wildlife habitat evaluation*
- *seed mix*
- *previously requested documentation of degraded areas*
- *no significant adverse impact statement*
- *path within Riverfront Area*
- *clarification on mitigation on lots 3, 5 and 6*
- *invasives monitoring and eradication plan*
- *mitigation prior to construction, compensatory storage must be done first*

Dibb states work is complete and is in the narrative and summary table by lot/impacts. Carlino asked if they had any other documentation to submit. Dibb replied no. Carlino asked Ball if she had any additional comments. Ball replied no.

SO explained that the next meeting is more than 21 days away. When that happens the commission typically asks the applicant to continue so the commission can stay within their regulatory timeframes but that they can have a draft OOC ready for the next meeting so that they aren't waiting an additional 21 days after the closing of the hearing then. Applicants agree to continuance so the commission can draft the order.

Motion was made to continue the public meeting with a draft order of conditions to be signed for DEP #250-1023 through #250-1028 to April 29, 2019 by Kadish, second by O'Reilly. Motion passes.

F. Notice of Intent (#250-1023). Condyne Capital Partners Lot 1 Leonard South Subdivision Plan (Map 11 Portions of Parcels 34 & 32) (cont. from 9/24/18, 10/22/18, 11/19/18, 12/17/18, 2/11/19, 2/25/19, 3/11/19, 3/25/19). Proposed plans to construct one 10,935 s.f.

commercial/retail building and associated parking and utilities discharging to wetland resources.

- G. Notice of Intent (#250-1024). Condyne Capital Partners Lot 2 Leonard South Subdivision Plan (Map 11 Portions of Parcels 32 & 35)** (cont. from 9/24/18, 10/22/18, 11/19/18, 12/17/18, 2/11/19, 2/25/19, 3/11/19, 3/25/19). Proposed plans to construct one 14,400 s.f. commercial/retail building and associated parking and utilities discharging to wetland resources
- H. Notice of Intent (#250-1025). Condyne Capital Partners Lot 3 Leonard South Subdivision Plan (Map 11 Portions of Parcels 32 & 35)** (cont. from 9/24/18, 10/22/18, 11/19/18, 12/17/18, 2/11/19, 2/25/19, 3/11/19, 3/25/19). Proposed plans to construct one 16,480 s.f. retail building and associated parking, grading, and drainage within 100 feet of a wetland and within 200 feet of the Canoe River.
- I. Notice of Intent (#250-1026). Condyne Capital Partners Lot 4 Leonard South Subdivision Plan (Map 11 Portions of Parcels 32, 33, & 35)** (cont. from 9/24/18, 10/22/18, 11/19/18, 12/17/18, 2/11/19, 2/25/19, 3/11/19, 3/25/19). Proposed plans to construct one 125,000 s.f. warehouse building, parking, grading, utilities and stormwater management within 100 feet of wetlands.
- J. Notice of Intent (#250-1027). Condyne Capital Partners Lot 5 Leonard South Subdivision Plan (Map 11 Portions of Parcels 32 & 66)** (cont. from 9/24/18, 10/22/18, 11/19/18, 12/17/18, 2/11/19, 2/25/19, 3/11/19, 3/25/19). Proposed plans to construct one 258,000 s.f. warehouse building and associated parking and utilities within 100 feet of wetlands, fill of 6 acres of the 100-year floodplain, and within 200 feet of the Canoe River.
- K. Notice of Intent (#250-1028). Condyne Capital Partners Lot 6 Leonard South Subdivision Plan (Map 11 Portion of Parcel 32)** (cont. from 9/24/18, 10/22/18, 11/19/18, 12/17/18, 2/11/19, 2/25/19, 3/11/19, 3/25/19). Proposed plans to construct an asphalt foot path and creation of compensatory storage area within 100 feet of wetlands, within the 100-year floodplain, and 200 feet of a perennial stream.
- L. Notice of Intent (#250-1039). Condyne Capital Partners Bldg 7 Leonard North (Map 11 Parcel 22).** (cont. from 12/17/18, 2/11/19, 2/25/19, 3/11/19, 3/25/19) Proposed plans to construct one 130,000 s.f. warehouse building and associated parking and utilities within 100 feet of bordering vegetated wetland, with alteration of 1,702 sf of riverfront area and 10,871sf/17,091cf of 100-year floodplain.

Mark Dibb, Jeff O'Neill and Don O'Neill of Condyne, Brad Holmes of Environmental Consulting & Restoration and Susan Bernstein of Bernstein Law attended the meeting to update the commission on their progress with Commission letters and requests from the town's consultant,

Horsley Witten (HW). Amy Ball, and Janet Bernardo of HW were present to review HW review comments.

Bernardo submitted peer review dated 4/8/19. Bernardo questions what was done to evaluate LID techniques, eg permeable pavement and water harvesting. Dibb responded rain gardens. Also, they will be installing an irrigation well in addition to drought tolerant plants. States area is designed to meet stormwater standards without porous pavements. There is adequate storm water management for the parking lot. Janet stated she is satisfied that the stormwater standards have been met.

Ball suggested two stormwater conditions be met: the development of a tenant manual and conditions for the storage of specific materials.

Ball discussed the wetlands review.

Riverfront: documentation was separately submitted for an alternative analysis, and is pieced together from previous files but it contained the information required. Ball suggested submitting all riverfront documentation from previous files for this particular file. States the project is just shy of the 10% threshold for no significant adverse impact. An updated NOI form has been received from the applicant. States the work in riverfront was not included in the wildlife habitat evaluation and defers to the commission about whether that is acceptable.

Ball states there are a couple of areas with alterations within the 25 –foot No Disturbance Zone policy at the entrance and grading in the flood zone which will be discretionary to the Commission.

Motion made to continue the public meeting for DEP#250-1039 to April 29, 2019 with draft order of conditions by Kadish, seconded by Pearson. Motion passes.

M. Notice of Intent (#250-1035). Condyne Capital Partners Leonard Street reconstruction (Rte 123 to west of house #54). (continued from 1/28/19, 2/11/19, 2/25/19, 3/11/19, 3/25/19) for proposed plans to widen Leonard Street, install utilities, replace culverts and stormwater management. Project involves alteration of 4,607sf wetland, 12,918 sf of 100-year floodplain and 2600 sf of Riverfront area within Canoe River Area of Critical Environmental Concern.

Mark Dibb, Jeff O'Neill and Don O'Neill of Condyne, and Cameron Lawson of Environmental Consulting & Restoration, LLC attended the meeting to update the commission on their progress with Commission letters and requests from the town's consultant, Horsley Witten (HW). Amy Ball, and Janet Bernardo of HW were present to review HW review comments.

Bernardo (HW) provided peer review letter dated 4/8/19 regarding wetlands review and stormwater management (1st peer review).

Wetlands review: Ball states the replacement of 3 culverts needs to be addressed. They must quantify and qualify the impact on the bank and land under water that is not included in NOI application. Must resubmit NOI page quantifying impacts. They revised the limited project provision to document allowance of this work under the Performance Standards for BVW in an ACEC. This is required for any portion of the work that alters BVW under regulation 10.55 and has not been addressed. Must address each standard one by one showing they have avoided alterations, minimized it and provided mitigation. Applicant has provided a replication narrative (sheet 14). She recommends applicant submit more documentation on existing hydrology, soils and plants that match existing areas. Dibb stated original replication plan was for grassland management. Due to the configuration of the replication areas and the difficulty to maintain them, she also recommends a different configuration. Inland replication guidelines require cross sections which should be provided. Invasive plant monitoring must be included.

Riverfront: Ball states she has same comments as on previous permits, applicant must quantify which area is new vs redeveloped riverfront area. Limit of work needs to be modified in the culvert area.

Bernardo discussed whether the compensatory flood storage work being done on the overall project on lots 1-6 will be adequate and appropriate compensation of floodplain alteration for this project. She deferred to the commission. She made it clear that the applicant is proposing no compensation for this project and has claimed the compensation provided on the other projects is sufficient to handle this project too. Plans must cross reference other permits if the commission accepts the compensation from other projects.

Ball addressed the 3 culvert replacements and the requirements to meet stream crossing standards. Applicant needs a hydraulic analysis. They must demonstrate how they meet each standard. The information must be quantified to the extent practicable, and documented as to how they meet each standard, and if not, document why. Dibb states they did respond in letter of 3/15, p.4. Ball states those comments were reviewed by a hydrologist and they (HW) made new comments. Ball states they should include a table showing the stream crossing standards and how the project meets each one. Carlino agrees that this is requested. Carlino also discussed the water main in the road and whether or not the utilities are a hindrance since they are below the existing culvert now. Bernardo states they must meet the standards and if they claim they cannot, they must prove the utilities are in the way. Dibb says they will review.

Bernardo discussed stormwater requirements under our town Stormwater Management Bylaw for widening the road. She questioned previous projects in town and what standards they were held to. No previous projects were done under the bylaw or recalled. All agree project is LUHPPL and in an ORW. SWPPP requires a double row of sediment control. O & M would be for town highway to maintain.

Dibb states Highway Dept. will not require full-depth reclamation. They were satisfied with the 6 to 7 inches of asphalt noted. Janet states town stormwater bylaws must be addressed as to whether

the requirements pertain to the whole road or just the piece being widened. Janet questioned if this is a DPW project or not as far as maintenance is concerned. GB questioned sewer line within culverts (17a). Dibb notes they will be installing a shallow sewer line based on their information from geotech.

Bernardo asked about the phasing within the whole development project.

Motion was made to continue the public meeting for DEP# 250-1035 to April 29, 2019 by Kaddish, seconded by Pearson. Motion passes

SIGN AND ISSUE ORDER OF CONDITIONS/ORDER OF RESOURCE AREA DELINEATION

REQUEST FOR PARTIAL/FULL CERTIFICATE OF COMPLIANCE

REQUEST FOR EXTENSION

REVIEW DRAFT MINUTES

3-25-19 - continued to 5/20 meeting

4-4-19 – continued to 5/20 meeting

OLD BUSINESS

Right of First Refusal discussion

- M.G.L. c. 61B-Re-Notification, Amendment to Purchase and Sale Agreement, 19 Leonard Street (Map 11- Parcel 66)
- M.G.L. c. 61A-Re-Notification, Amendment to Purchase and Sale Agreement, 235 East Main Street (Map 11 - Parcel 32), 0 Leonard Street (Map 11 Parcel 22), 0 Leonard Street (Map 11 - Parcel 25), 0 Leonard Street (Map 11 - Parcel 25-01)

Appeals

- 250-983 Island Brook, Goddard Response

Litigation

- 250-38 162 W Main St, request for information

Carlino said that Pesa submitted a public information request for the amount of funds spent on their litigation. Carlino said it was sent to town counsel for response.

NEW BUSINESS

Founders Day- June 15, 2019

List of volunteers needed

Site Inspections

Violations

211 Oak, 215 Oak, 219 Oak, 68 Dean, 54 W Hodges, 4 Kensington and 21 Kensington

Reservoir Update

Chartley Pond Update

Barrowsville Dam

Report from Staff

Waterbodies Committee update *new pond treatment schedule submitted.*

Grants

BILL SUMMARY

OPEN SESSION (TOPICS NOT REASONABLY ANTICIPATED 48 HOURS IN ADVANCE)

- *Town meeting called for June 3, 2019*

Motion to adjourn by O'Reilly, seconded by Kadish. Motion passes and meeting closes at 9:30pm.

Respectfully submitted by: _____ *Melissa Quirk* _____

Minutes approved by the Commission on 6/10/19 *(Date)*

Conservation Commission Signature:


Scott Ollerhead, Conservation Commission Chairman

6-24-19
Date