

Conservation Commission Minutes, 12/07/2017

Lenox Conservation Commission Landuse Meeting Room December 7, 2017 Minutes

Members present: Chair Neal Carpenter, (NC); David Lane, (DL); Joseph Strauch, (JS); Vince Ammendola, (VA); Rose Fitzgerald Casey, (RFC); Dick Ferren, (DF)
Staff present: Peggy Ammendola, Land Use Clerk, (PA)

Also present was Paul Bagnall of the Berkshire Record who recorded the meeting; Steve Mack and Phil Williams of Foresight Land Services, Inc.; and Thomas Gleason of Cumming Corporation representing Miraval.

The meeting was opened at 7:30 PM.

Notice of Intent filed by Alan Schiffman, Map 2 Parcel 7, Route 20 (Lee Rd.). DEP Wetlands File # 198-0301. The project is culvert and driveway replacement and proposed installation of a boardwalk. The first hearing was on November 16, 2017; continued to December 7, 2017 as waiting to receive comments from Natural Heritage Endangered Species Program (NHESP).

The NHESP determination letter dated December 5th from Thomas French was received via email on December 6th. The NHESP File number is 17-37305. It read in part:

WETLANDS PROTECTION ACT (WPA)

Based on a review of the information that was provided and the information that is currently contained in our database, the Division has determined that this project, as currently proposed, **will not adversely affect** the actual Resource Area Habitat of state-protected rare wildlife species. Therefore, it is our opinion that this project meets the state-listed species performance standard for the issuance of an Order of Conditions. Please note that this determination addresses only the matter of **rare** wildlife habitat and does not pertain to other wildlife habitat issues that may be pertinent to the proposed project.

MASSACHUSETTS ENDANGERED SPECIES ACT (MESA)

The Division notes that the dock, as shown, is proposed adjacent to a 2010 rare-species survey transect associated with the Laurel Lake drawdown proposed by the Laurel Lake Preservation Association.

Based on a review of the information that was provided and the information that is currently contained in our database, the Division has determined that this project, as currently proposed, **will not result in a prohibited Take** of state-listed rare species. This determination is a final decision of the Division of Fisheries and Wildlife pursuant to 321 CMR 10.18. Any changes to the proposed project or any NHESP additional work beyond that shown on the site plans may require an additional filing with the Division pursuant to the MESA. This project may be subject to further review if no physical work is commenced within five years from the date of issuance of this determination, or if there is a change to the project.

The Commission approved by consensus the following Special Conditions:

- Boardwalk-Will use techno metal posts and will be 28" above ground to decking which will be 48" wide with 3/4" spacing.
- Dock will be aluminum frame + legs and a minimum of 2' from water to top of deck with 3/4 inch spacing on deck boards.
- Dock cannot be installed until Lenox Conservation Commission has a copy of the Chapter 91 dock license.

DL made a motion to close the public hearing and approve as presented with the input from the Division of Fisheries & Wildlife (NHESP). JS seconded the motion and the Commission voted to approve 6-0.

Notice of Intent filed by MRG CRW Holdings, LLC, 55 Lee Rd., Map 3 Lot 55. Construction of a maintenance building and cart barn; new asphalt driveways/paths, parking, additional utilities, and demolition of staff house building on the west side parcel of Cranwell Resort and Spa. This is a buffer zone only project. Wetlands File # 198-0302.

There was a site visit on November 28th which was attended by the following: NC, VA, JS, DL and Steve Mack and Phillip Williams.

On December 7th the Commission received an email from Mark Stinson of MassDEP with the following comments:

[1] The Commission might consider utilizing some of the provisions of 310 CMR 10.53(1) where part of the language is "Where a Buffer Zone has already been developed, the Issuing Authority may consider the extent of existing development in its review of subsequent proposed work and, where prior development is extensive, may consider measures such as the restoration of natural vegetation adjacent to a Resource Area to protect the interest of M.G.L. c. 131, § 40.

[2] In the middle of the field, and a photo was sent in an earlier email to show this area, appears to show BVW that is being mown. If you look at 310 CMR 10.55(4)(a), that section prohibits a destruction or impairment to any portion of the BVW. Mowing a grassy or vegetated area, that in fact is actually Bordering Vegetated Wetlands, even if it has been historically done, it is still an ongoing violation. The commission may decide to investigate and take any action they deem appropriate.

Mr. Mack said that the NOI is being filed for the property that is on the west side of Route 20. He said that they have worked hard to keep 99% of the project outside of the buffer zone. He presented full size plans and reviewed them with the Commission. The maintenance building with mezzanine will be 20,000 square feet.

Regarding storm water, Mr. Mack said that there will be a series of catch basins that will be going to an underground storm water infiltration area and the roof leaders will go into another underground stormwater infiltration area. There are kept separate because of different treatment requirements for pavement and roofs. Both will then discharge into a swale. There will be a spreader and the discharge will be outside of the buffer zone. They have done test pits and it conforms to stormwater management.

There will be a new path that comes down to the cart barn where the carts will be kept at night. After the demolition of the staff house they will level off and grade for overflow parking. They are not expanding gravel beyond the footprint of the house, just squaring it off. There is plenty of room for snow storage. NC asked that the existing fence be extended to keep people from going beyond it. He doesn't want the gravel to be pushed to the top of the hill where the bank is which had to be replicated previously.

Mark Volk and Phil Williams of Foresight went to the site on December 1st and did an analysis of the area that Mr. Stinson had questioned. The conclusion is that there are no hydric soils in the middle area. There is high chroma mottling, but no low chroma mottling. Mr. Mack spoke to Mr. Stinson today and it is non-jurisdictional. NC, referring to email correspondence from Mr. Stinson of December 7th, said that DEP was leaving this up to the local Commission. Nothing is going to be built there. Foresight maintains that it is not a wetland and that it will be left as is.

RFC made a motion to close the public hearing and approve the project as presented with the condition that a fence goes in behind the building that is being demolished. JS seconded the motion and the Commission voted to approve 6-0.

Approve Minutes: November 16, 2017-DL made a motion to approve the minutes. RFC seconded the motion and the Commission voted to approve 6-0.

Certificate of Compliance-Macalin-Martha Land Map 18 Parcels 46,47,51,52,57,58-NC went to the site on Nov 29th and found that the work was in compliance. VA made a motion to issue a Certificate of Compliance for Macalin DL seconded the motion. The Commission voted to approve 6-0.

Other Business:

Field at Edith Wharton's-Liz Celli spoke to DF regarding the Edith Wharton field that has not been mowed. DL said that she was correct and it was because DL's mower had to be replaced, but it will be done in the next few days. DL asked DF if the field could be mowed earlier and suggested April 1st, but DF said that it shouldn't be done at that time of the year as it would disturb the bobolinks.

Laurel Lake-Ms. Celli asked DF about the drawdown this fall. NC advised DF that it was not being drawn down this year due to the fact that an NOI has not been filed. The Commission hasn't yet received a lake management plan which would be required to close out existing Order of Conditions.

Lenox Gateway, 55 Pittsfield Rd-Meadow-JS provided a copy of the Monitoring Report from July 6, 2017. He said that NHESP has come up an outline of a new management plan, but it has not yet been shared with the Commission. NC and JS, Town Planner Gwen Miller and Erica Deene of CT Management will be meeting in May with someone who will be doing the actual cutting of the woody plant invasives. JS said that he is still trying to find out who really owns this property. Mr. Ward has said that the homeowners' association owns it. A letter was received from a lawyer, but JS said that it doesn't really settle it. He said that he will continue research.

Notice of Intent, Edward Merritt, 139-2 Lime Kiln Road, Map 27 Lot 18-2-At the request of Rob Akroyd, NC went to the site to inspect the silt fence Mr. Merritt is putting in. He found that much of the fence had been placed, but it was not dug into the ground which rendered it ineffective. NC instructed Mr. Merritt to dig down at least five inches, roll the silt fence under and place the dirt back on top of the fencing, top it with hay and stake it. Mr. Akroyd again called NC to tell him that Mr. Merritt had now installed the fence. NC will check it tomorrow, December 8th.

David Ward, Stone Path Development, Inc., 241 Walker St., Map 8 Parcels 1 & 6-1. -NC said that updated plans will be submitted for this project. The hearing is continued to December 21st.

RFC made a motion to adjourn. DL seconded the motion and the Commission voted to agree 5-0. The meeting was adjourn 8:30 PM.

Respectfully submitted,
Peggy Ammendola