

## **Town of Ayer Conservation Commission**

Town Hall \* One Main Street \* Ayer, MA 01432 \* 978-772-8249 \* 978-772-8208 (fax)  
Minutes for **2/12/2015** – Approved 2/26/2015

Location: Ayer Town Hall, 2nd Floor

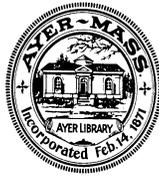
Members present: Bill Daniels (BD, Chair), George Bacon (GB, Vice-Chair), Takashi Tada (TT), Lee Curtis (LC), Jessica Gugino (JG, Clerk)

Not present: Vacancy: CA, Conservation Administrator

APAC taped: No

### **7:20 PM – Open Meeting**

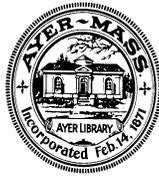
- **Confirmation of Agenda**
  - GB moved to confirm the agenda as posted; LC 2<sup>nd</sup>.
    - Motion approved unanimously.
  
- **Public Hearing (cont'd.): Request for Amended Notice of Intent (NOI) – The Willows Subdivision, Willow Road Development LLC, DEP # 100-0288: Relocation of triplex 56-58**
  - LC was not present, having recused herself.
  - Desheng Wang, of Creative Land & Water Engineering LLC, and Mark O'Hagan, of MCO Associates, were present.
  - Also present was resident Sheila Schwabe, whose unit 95 abuts the lot proposed for the relocation of triplex 56-58 under the Amended NOI.
  - Dr. Wang addressed responses made to the issues raised at the 1/22 Public Hearing.
    - Mitigation area
      - In the original OOC, the site of the proposed triplex relocation was intended as a mitigation area for invasive species.
      - Duncan Brown's assessment on 1/22 that the loss of this mitigation area needed to be compensated for elsewhere was upheld by ConCom.
      - The original mitigation area in this location was 4408 sq. ft.
        - The revision to plan L-9166 (sheet 9), dated 2/3/2015, provides a new area for 4950 sq. ft. of mitigation in an area encompassed by wetland flags 103A, 104A, 105A, 03-15A, 03-16A, 03-17A, and 03-18A.
        - Dr. Wang said the new area is more protected, will function better, and will be easier to maintain.
      - Ms. Schwabe asked how a mitigation area for her building (units 95-97) could be moved like that.
        - BD clarified that the original mitigation was required as mitigation for the whole project, not her building.
        - BD also said the elevation in this area is fairly flat and would not affect recharge capability.
      - In response to Ms. Schwabe's question about how the new mitigation area would be accessed for maintenance, Mr. O'Hagan said it was accessible through another mitigation area as well as by passing between the buildings housing units 38-40 and 35-37.
      - After Ms. Schwabe asked about when the mitigation area would be finalized with plantings, ConCom added a new condition to be added to Special Conditions Attachment A:



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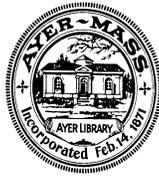
- “Plantings for all mitigation areas will be completed during the 2015 growing season.”
  - Future maintenance / restriction on use of sodium chloride for ice removal
    - On 1/22, Mr. Brown objected, on the basis of safety concerns, to the Special Condition barring the use of road salt, a condition lasting in perpetuity.
    - On reviewing the plans, Dr. Wang said the driveways for 56-58 as well as that section of the roadway all drain to the road’s drainage system.
      - This in turn drains to the detention basin and/or the drainage swale with check dams to the old siltation/detention pond.
      - Thus no runoff would directly drain into the wetlands without first being treated and diluted before recharge.
    - Dr. Wang also took water quality samples on 1/31/15 from Bennetts Brook, upstream of the Unit 56-58 location, and at the outflow from the old silt pond.
      - Salinity levels were 0, even given current deicing practices that use an 80% sand and 20% salt combination.
    - Dr. Wang therefore argued that the Special Condition regarding sodium chloride could be modified to read as follows:
      - No sodium chloride shall be used within 100 feet of a wetland resource area or within 200 feet of a perennial stream *if the area will drain to a resource area and regulated buffer zone without significant dilution*, and any contract or agreement for snow or ice removal shall so stipulate. This condition shall survive the issuance of the Certificate of Compliance.”
    - BD asked that this change be incorporated into ConCom’s Special Conditions template for general use.
  - There being no further questions on the part of ConCom or attendees:
    - GB moved to approve the issuance and sign the OOC for 100-0288 as amended; TT 2<sup>nd</sup>.
      - Motion approved unanimously (4-0).
  - GB moved to close the Public Hearing for 100-0288; TT 2<sup>nd</sup>.
    - Motion approved unanimously (4-0).
  - JG will mail the finalized OOC certified to MCO Associates in Harvard, MA.
- **Discussion: Pingry Hill development, follow-up to previous discussions on outstanding violations to OOCs**
    - A 2/12 email received from Steve Mullaney, of S.J. Mullaney Engineering, indicated nothing new to report from Attorney Eliopoulos’ office.
  - **Discussion: Open Meeting Law Complaint**
    - No additional comments.
  - **Discussion: MassDEP Wetland Regulation Revisions – part 1**
    - LC reviewed revisions to the section on “Activities Within the Buffer Zone,” 310 CMR, section 10.02b.
    - Activities classified as “minor” and not subject to regulation under M.G.L. chapter 131 (section 40) have been expanded to include:



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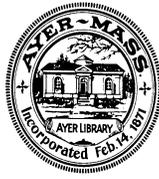
- unpaved pedestrian walkways, less than 30 in. wide for private use, less than 3 ft. wide for public use, on conservation property;
- fencing that does not obstruct wildlife movement; stonewalls, stacks of cordwood;
- vista pruning that is more than 50 ft. from the mean annual high-water line of riverfront or Bordering Vegetated Wetland (BVW);
- plantings of native species of trees, shrubs,, groundcover, but excluding turf lawns;
- conversion of lawn to uses accessory to residential structures (e.g. decks, sheds, patios, pools, bulkheads, ADA ramps) provided the activity (and material staging/stockpiling) is more than 50 ft. from the mean annual high-water line of riverfront or BVW, and erosion controls are implemented during construction;
- conversion of impervious to vegetated surfaces;
- activities that are temporary in nature, have negligible impacts, and are necessary for planning/design purposes (e.g. installation of monitoring wells, sediment sampling);
- installation of directly embedded utility poles and anchors, push braces, or grounding mats/rods along existing paved or unpaved roads, private roads/driveways, and within existing railroad rights-of-way – provided all work is conducted within 10 ft. of the shoulder, is a minimum of 10 ft. from a bank or BVW, and as far from resource areas as practicable, and with no additional tree clearing or substantial grading within buffer zone;
- installation of underground utilities (electric, gas, water) within existing paved/unpaved public/private roadways/driveways, provided that all trenches are closed at completion of each workday;
- installation and repair of underground sewer lines within existing paved/unpaved public/private roadways/driveways, provided all trenches are closed at completion of each workday;
- installation of new equipment within existing or approved electric or gas facilities, provided equipment is contained entirely within the developed/disturbed existing fenced yard;
- installation of access road gates at public or private road entrances to existing utility right-of-way access roads, provided all vehicles/machinery are located within roadway surface during work;
- removal of existing utility equipment (poles, anchors, lines) along existing or approved roadways or electric/water/gas facilities, provided all vehicles/machinery are located within roadway surface during work;
- vegetation cutting for road safety maintenance, limited to removal of diseased/damaged trees or branches; removal up to 6 ft. away of shrubbery/branches to maintain clear guardrails; removal of shrubbery/branches to maintain sight distances at existing intersections; removal of vegetation to maintain visibility of road signs and signals;
- installation, repair, replacement or removal of signs, signals, sign and signal posts, associated supports, braces, anchors, and foundations along existing paved roadways and shoulders, provided at a minimum of 10 ft. away from a resource area, excess soils removed from the location, and remaining disturbed soils appropriately stabilized;
- pavement repair, resurfacing, and reclamation of existing roadways within the right-of-way configuration provided that the roadway and shoulders are not widened, and provided that all disturbed shoulders are stabilized within 72 hours of completion of resurfacing or reclamation;



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- the repair or replacement of an existing and lawfully located driveway servicing not more than two dwelling units, provided all work remains within existing limits and all surfaces are permanently stabilized within 14 days of final grade.
- **Office Updates**
  - Conservation Administrator job posting
    - BD is working on this.
  - Wendy's project
    - JG attended a pre-filing meeting convened by Building Inspector Gabe Vallente on 2/10, regarding plans to raze and rebuild the Wendy's located on the rotary, off Barnum Road.
    - The consultants for Wendy's are aware they will need to file an NOI with ConCom, and JG was clear that ConCom would require a site visit.
    - No work is to be done on the west side that abuts the 100-ft. flood zone.
    - Some filling is planned, to level the lot to ADA compliance, but this will be done under already paved surfaces.
    - A portion of the lot falls within ACEC.
    - Wendy's currently has two old point-source discharges into the wetlands that it plans to upgrade and re-use.
    - BD said that given the ACEC piece, the stormwater issues, and the steepness of the lot down to the resource area, ConCom would almost certainly want to invoke the third-party consultant bylaw in this instance.
  - Nashua Street Extension Appeal of Appeal
    - Goldsmith, Prest & Ringwall (GPR) requested an Adjudicatory Hearing to contest the MassDEP ruling in favor of the abutter appeal.
    - The Adjudicatory Hearing is scheduled for May 12, at 9 a.m., presumably at MassDEP's Central Regional Office in Worcester.
    - Meanwhile, the scheduling of a prescreening conference (PSC) between concerned parties for the end of February is being worked out.
- **Meeting Minutes Approval**
  - GB moved to confirm the minutes for 1/22/15 as amended; TT 2<sup>nd</sup>.
    - Motion approved 4-0; LC abstained.
- **Accounts Payable**
  - Geosyntec: \$11,781, for continuing work on the Ayer Pond Assessment.
    - The invoice indicated that 15% of the pollution-loading analysis is now complete, and 80% of the aquatic management plan.
    - TT said it would be nice to see some tangible evidence of progress, e.g. draft material, besides the invoice.
    - BD asked JG to contact Robert Hartzel, of Geosyntec, and say that ConCom is prepared to sign off on the invoice at its next meeting (2/26) provided that some material is presented that brings ConCom up-to-date on the additional work that the invoice represents.
  - Budget Report:
    - BD asked JG to find out from Town Accountant Lisa Gabree why \$225 was transferred from ConCom's Public Hearings line item to its Other Charges line item.



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- **Committee Updates**
  - Community Preservation Committee
    - JG said CPC will be holding a Public Hearing on 3/4/15 to review a proposal from Fire Chief Pedrazzi for the restoration of historic Fire Station photos.
    - CPC is also considering an application for funding to assist in the restoration of the Old Central Fire Station building by GS Holdings; the initial application was incomplete.
  - Open Space & Recreation Plan Update Committee
    - JG said a Public Input Meeting scheduled for 2/9 was rescheduled because of weather to 2/18.
  - Stormwater Committee
    - LC said the Stormwater Committee will be holding a Public Hearing on 2/24 at 7 p.m. regarding the bylaw, ordinance, and the setting of fees.
  - Pond & Dam Committee
    - Nothing to report.
  - Greenway Committee
    - Nothing to report.
- **8:49 PM – Adjourn Meeting**
  - GB moved to adjourn; TT 2<sup>nd</sup>.
    - Motion approved unanimously.