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TOWN OF AYER  
TOWN CLERK

## Town of Ayer Conservation Commission

Town Hall \* One Main Street \* Ayer, MA 01432 \* 978-772-8249  
Minutes for 9/27/2018

12:15pm *[Signature]*

Location: Ayer Town Hall, 1st Floor

Present: George Bacon (GB, Chair), Jessica Gugino (JG, Member/Clerk), Jon Schmalenberger (JS, Member), Mark Phillips (MP, Member), Jo-Anne Crystoff, (CA, Conservation Administrator)

Not Present: Bonnie Tillotson (BT, Vice-Chair),

APAC taped: Yes

### 7:00 PM – Open Meeting

- **Confirmation of Agenda**

- JS moved to confirm the agenda as posted; MP 2<sup>nd</sup>.
  - Motion approved unanimously.

- **Approval of Meeting Minutes**

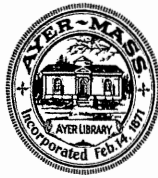
- JS moved to accept the minutes for 9/6/2018 as written; MP 2<sup>nd</sup>.
  - Motion approved unanimously.

- **Announcements**

- Forest cutting plan
  - CA received a copy of a cutting plan submitted by David Rogers, of 4 Pierce Avenue, to the Department of Conservation & Recreation, and to Fish & Wildlife.
    - The thinning of trees will take place on 7 acres of Ch. 61 land, but there are no wetlands or stream crossings involved.
- Amendment to Zoning Bylaw
  - A Public Hearing will be held at Town Hall on Tuesday, Oct. 9, at 6:15 p.m., to address the need for clarification in language pertaining to the new open space requirement for residential developments.
- MACC Conference
  - The fall meeting of workshops of the Massachusetts Association of Conservation Commissions will be held on Saturday, 10/20, in Leominster.
- CDBG state grant
  - Ayer's Community & Economic Development department was successful in getting a CDBG (Community Development Block Grant) for street work and infrastructure improvement.
    - This grant will be used for improvements in the Grove Pond neighborhood involving Prospect and Oak streets.

- **Accounts Payable**

- EcoTec Inc.: \$2584.80, for services rendered thus far (through 9/16/2018) by Paul McManus, as an outside consultant, for reviews of the Page-Hilltop School Oil Spill (MassDEP # 100-0425).
  - JS moved to approve payment of \$2584.80; MP 2<sup>nd</sup>.
    - Motion approved unanimously.
- Solitude Lake Management: \$21,085.00, for 2018 weed control treatments on Sandy, Flannagan and Pine Meadow ponds.
  - Additional invoices are expected.
  - JS moved to approve payment of \$21,085.00; MP 2<sup>nd</sup>.
    - Motion approved unanimously.

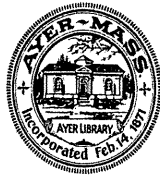


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- MACC: \$60.00, for additional annual membership for CA.
  - The invoice recently approved for payment was for commissioners only and had not included CA.
  - JS moved to approve payment of \$60.00; MP 2<sup>nd</sup>.
    - Motion approved unanimously.
- **Discussion: Town of Ayer DPW violation, High Street culvert replacement**
  - Representatives of the DPW were unable to attend this meeting.
  - CA reported that the culvert replacement has been completed, including paving.
  - ConCom decided to go no further in issuing a formal Violation Notice, but JG will draft a letter for GB to DPW Superintendent Mark Wetzel addressing and explaining the Commission's concerns about the lack of notification or filing review for this work, and for new work in jurisdictional areas by DPW going forward.
- **Public Hearing (cont'd.): Notice of Intent (NOI) –28 Harvard Road, Global Partners LP, MassDEP # 100-0429**
  - Assessor's Map 35, Parcels 52, 53 & 54
  - Devon Ward, of Bohler Engineering (Southborough, MA), was present on behalf of the applicant.
  - The draft Order of Conditions (OOC) has been reviewed.
    - CA said one thing has been changed in the OOC, reflecting a 'trade'.
    - A revised plan will be submitted showing that shrubs in the back will be replaced with 9 evergreen trees, at least 5 ft. tall at the time of planting.
  - JS moved to sign the OOC and close the Public Hearing; MP 2<sup>nd</sup>.
    - Motion approved unanimously.
- **Discussion (cont'd.): Abbreviated Notice of Resource Area Delineation (ANRAD) – Shaker Mill Pond, Aho Development Corp. (Daniel Aho), MassDEP # 100-[tbd]**
  - Assessor's Map 36, Parcel 18
  - John Boardman, of Places Associates, and Ron Strohsahl, of Oxbow Associates, were present on behalf of the applicant.
  - Owing to confusion on the part of ConCom, the ANRAD was not officially advertised for a Public Hearing.
  - ConCom performed a lengthy site walk on Saturday, 9/22, to review the wetland flagging.
  - While ConCom could not formally open a discussion, it did note that no issues of concern arose from the site walk.
    - Per JG's suggestion, CA will draft an OOC to be ready for signing at ConCom's next meeting on 10/11.
    - Unless new concerns arise at that time from abutters at the opening of the Public Hearing, the OOC could be signed at that point and the Public Hearing then closed, with no loss of time for the applicant.
  - Assuming the applicant moves forward with a new NOI for the planned subdivision, GB told Mr. Boardman that the Commission will likely require an outside consultant to review the NOI and environmental impact.
- **Public Hearing: Request for Determination of Applicability (RDA) – 76 Sandy Pond Road, Cannongate Condominium Association**
  - Having voted to issue a Negative DOA on 9/6, CA had the forms ready for signing.

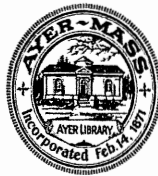


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- JS moved to sign the DOA and close the Public Hearing; JG 2<sup>nd</sup>.
  - Motion approved 3-0 (MP abstained).
- **Discussion: Request for Certificate of Compliance (COC) – 3 Iris Avenue, Attorney Stephany San Agustin for Robert P. Loughlin, MassDEP # 100-0234**
  - Assessor's Map 7, Parcel 54
  - CA performed a site walk and observed no issues of concern.
  - JS moved to approve the COC; MP 2<sup>nd</sup>.
    - Motion approved unanimously and the COC was signed at the end of the meeting.
- **Public Hearing (cont'd): NOI – 273 Woodland Way (Lot 143A), Ridge View Realty Trust (Richard Roper, Trustee), MassDEP # 100-0431**
  - Assessor's Map 36, Parcel 185
  - Steve Mullaney, of S. J. Mullaney Engineering, Inc., was present on behalf of the applicant.
  - The Public Hearing opened on 8/9/2018.
    - ConCom performed a site walk on 8/18/2018.
    - ConCom voted to issue an OOC on 9/6/2018.
    - The draft OOC has been reviewed by the applicant.
  - JS moved to sign the OOC for MassDEP # 100-0431 and close the Public Hearing; MP 2<sup>nd</sup>.
    - Motion approved unanimously and the OOC signed.
- **Public Hearing (cont'd.): Request for Amendment to Order of Conditions (OOC) – 130 Woodland Way (Lot 134A), Ridge View Realty Trust (Richard Roper, Trustee), MassDEP # 100-0275**
  - Assessor's Map 36, Parcel 176
  - Steve Mullaney, of S. J. Mullaney Engineering, Inc., was present on behalf of the applicant.
  - ConCom performed a site walk on 8/18/2018.
    - The Amendment Request was discussed on 8/9/2018 and then accepted by ConCom on 8/23/2018.
    - The Public Hearing opened on 9/6/2018, whereupon ConCom voted to issue an OOC.
    - The draft OOC has been reviewed by the applicant.
  - JS moved to sign the OOC for MassDEP # 100-0275 and close the Public Hearing; MP 2<sup>nd</sup>.
    - Motion approved unanimously and the OOC signed.
- **Public Hearing (cont'd.): Request for Amendment to OOC – 150 Woodland Way (Lot 135B), Ridge View Realty Trust (Richard Roper, Trustee), MassDEP # 100-0279**
  - Assessor's Map 36, Parcel 177
  - Steve Mullaney, of S. J. Mullaney Engineering, Inc., was present on behalf of the applicant.
  - ConCom performed a site walk on 8/18/2018.
    - The Amendment Request was discussed on 8/9/2018 and then accepted by ConCom on 8/23/2018.
    - The Public Hearing opened on 9/6/2018, whereupon ConCom voted to issue an OOC.
    - The draft OOC has been reviewed by the applicant.
  - This application serves as an example of how the procedure will work going forward in terms of accurately documenting which of the 11 house designs are chosen for actual construction.
    - In applying for a Building Permit, the applicant must submit a plot plan for the exact house design to the Building Inspector.

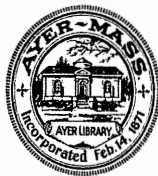


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- At the same time, Mr. Mullaney will automatically produce a revised and more detailed plan specific to the selected house design for ConCom's files.
  - CA will review and if it is deemed acceptable as a Field Change, CA will submit written notification of her approval to the applicant through Mr. Mullaney.
  - This same procedure will apply to the other recent Order applications from Pingry Hill asking for approval of the "most impactful" of the 11 eleven designs while retaining for the applicant the flexibility to offer buyers any of the 11 designs.
- JS moved to sign the OOC for MassDEP # 100-0279 and close the Public Hearing; MP 2<sup>nd</sup>.
  - Motion approved unanimously and the OOC signed.
- **Public Hearing (cont'd.): Request for Amendment to OOC – 186 Woodland Way (Lot 137B), Ridge View Realty Trust (Richard Roper, Trustee), MassDEP # 100-0280**
  - Assessor's Map 36, Parcel 179
  - Steve Mullaney, of S. J. Mullaney Engineering, Inc., was present on behalf of the applicant.
  - ConCom performed a site walk on 8/18/2018.
    - The Amendment Request was discussed on 8/9/2018 and then accepted by ConCom on 8/23/2018.
    - The Public Hearing opened on 9/6/2018, whereupon ConCom voted to issue an OOC.
    - The draft OOC has been reviewed by the applicant.
  - JS moved to sign the OOC for MassDEP # 100-0280 and close the Public Hearing; MP 2<sup>nd</sup>.
    - Motion approved unanimously and the OOC signed.
- **Public Hearing (cont'd.): NOI – 252 Woodland Way (Lot 138B), Ridge View Realty Trust (Richard Roper, Trustee), MassDEP # 100-0432**
  - Assessor's Map 36, Parcel 180
  - Steve Mullaney, of S. J. Mullaney Engineering, Inc., was present on behalf of the applicant.
  - ConCom performed a site walk in advance on 8/18/2018.
    - The Public Hearing opened on 9/6/2018, whereupon ConCom voted to issue an OOC.
    - The draft OOC was not ready at this time.
  - JS moved to continue the Public Hearing for MassDEP # 100-0432 to 10/11/2018; MP 2<sup>nd</sup>.
    - Motion approved unanimously.
- **Public Hearing: Request for Amendment to OOC – 169 Woodland Way (Lot 71A), Ridge View Realty Trust (Richard Roper, Trustee), MassDEP # 100-0413**
  - Assessor's Map 36, Parcel 113
  - Steve Mullaney, of S. J. Mullaney Engineering, Inc., was present on behalf of the applicant.
  - ConCom performed a site walk on 8/18/2018.
    - The Amendment Request was accepted by ConCom on 8/23/2018.
  - Mr. Mullaney submitted a revised and cleaned-up plan.
    - Per discussion on 8/23, the retaining wall has been pulled away from the wetlands and hooked around.
    - Trees have been added.
  - A Special Condition will be added requiring 3 signs on posts (denoting the presence of wetlands and limiting yard expansion).
  - JS moved to approve the Amendment Request and draft an amended OOC for Lot 71A (MassDEP # 100-0413); MP 2<sup>nd</sup>.
    - Motion approved unanimously.



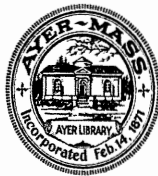
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- JS moved to continue the Public Hearing to 10/11/2018; MP 2<sup>nd</sup>.
  - Motion approved unanimously.
- **Public Hearing: Request for Amendment to OOC – 143 Hemlock Drive (Lot 146A), Ridge View Realty Trust (Richard Roper, Trustee), MassDEP # 100-0410**
  - Assessor's Map 36, Parcel 222
  - Steve Mullaney, of S. J. Mullaney Engineering, Inc., was present on behalf of the applicant.
  - ConCom performed a site walk on 8/18/2018.
    - The Amendment Request was accepted by ConCom on 8/23/2018.
  - A Special Condition will be added requiring 3 signs on posts (denoting the presence of wetlands and limiting yard expansion).
  - JS moved to approve the Amendment Request and draft an amended OOC for Lot 146A (MassDEP # 100-0410); MP 2<sup>nd</sup>.
    - Motion approved unanimously.
  - JS moved to continue the Public Hearing to 10/11/2018; MP 2<sup>nd</sup>.
    - Motion approved unanimously.
- **Public Hearing: Request for Amendment to OOC – 165 Hemlock Drive (Lot 78B), Ridge View Realty Trust (Richard Roper, Trustee), MassDEP # 100-0411**
  - Assessor's Map 36, Parcel 120
  - Steve Mullaney, of S. J. Mullaney Engineering, Inc., was present on behalf of the applicant.
  - ConCom performed a site walk on 8/18/2018.
    - The Amendment Request was accepted by ConCom on 8/23/2018.
  - A Special Condition will be added requiring 3 signs on posts (denoting the presence of wetlands and limiting yard expansion).
  - JS moved to approve the Amendment Request and draft an amended OOC for Lot 78B (MassDEP # 100-0411); MP 2<sup>nd</sup>.
    - Motion approved unanimously.
  - JS moved to continue the Public Hearing to 10/11/2018; MP 2<sup>nd</sup>.
    - Motion approved unanimously.
- **Public Hearing: Request for Amendment to OOC – 77 Woodland Way (Lot 68), Ridge View Realty Trust (Richard Roper, Trustee), MassDEP # 100-0408**
  - Assessor's Map 36, Parcel 110
  - Steve Mullaney, of S. J. Mullaney Engineering, Inc., was present on behalf of the applicant.
  - This lot was subject to an Enforcement Order discussed on 8/9/2018 and again on 8/23/2018.
    - ConCom performed a site walk on 8/18/2018.
    - Submission of a Request for Amendment to the OOC *after-the-fact* was agreed upon on 8/23/2018.
    - The Amendment Request was accepted by ConCom on 9/6/2018.
  - JS moved to approve the Amendment Request and draft an amended OOC for Lot 68 (MassDEP # 100-0408); MP 2<sup>nd</sup>.
    - Motion approved unanimously.
  - JS moved to continue the Public Hearing to 10/11/2018; MP 2<sup>nd</sup>.
    - Motion approved unanimously.

- **Conservation Commission Office Updates**



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- Orion Park COC
  - Regarding a previous question from Orion Park as to a possibly missing COC, CA has not been able to find much in the ConCom files, including any copies of a COC, plans, and other documents.
  - CA will check with Orion Park to see if they recorded any COCs at the Registry.
    - If not, it is possible ConCom could simply issue a new COC.
- Pingry Hill stormwater basins
  - CA reports that the contractor has fallen behind on the stormwater basin construction schedule, partly due to the wet weather of late.
    - i.e. the contractor is still pumping water out of basins 1127 and 1128.
    - Some of the basins will not be done this year, especially those by the water tank.
  - CA will be meeting with the contractor (Glen and Luke Pyburn) next week to evaluate the basins and get a realistic sense of what can and can't be done this year.
- Pingry Hill, 138 Littleton Road (MassDEP # 100-0423)
  - After a report from a concerned resident, CA reports that a 900 ft. swath for utilities has been clear-cut through the woods as well as clear-cutting on the house lot area.
    - No erosion controls are up, though fortunately the trees haven't been stumped.
    - No pre-construction meeting was held.
    - It also appears that the wetland crossing area and driveway have been clear-cut. CA will be confirming with Dr. Desheng Wang, the erosion control expert for Pingry Hill, as to whether vegetation that was to be transplanted into a replication area has also been cut down.
    - In addition, CA found a wetland flag way uphill that is supposed to mark a location downhill near the road, indicating the wetland flagging is being disturbed as well.
    - CA also notes it is really unclear who the site supervisor/contact person is supposed to be at this point.
      - It does not appear to be the Pyburns.
  - Enforcement action, including a Cease & Desist, will likely have to be taken once again.
    - ConCom will need a preconstruction meeting, as required in the OOC, an updated replication plan and schedule, and notification of who is accountable as site supervisor.
    - For MP's background edification, GB and JG provided past detail on other Commission enforcement actions for Pingry Hill, including the 2014 incident that resulted in MassDEP issuing its own Enforcement Order and requiring the developer to hire an erosion control specialist for the remainder of the project.
    - Sigh.
- The Willows
  - Dr. Desheng Wang (who also functions as the State-required erosion control specialist for this subdivision, following a series of enforcement actions) checked out the restoration area next to Unit 95.
    - He observed a lot of dead plants; residents or the Condo Association are evidently mowing the area.
    - Dr. Wang contacted Habitech, the developer, and they are going to contact the Association.
    - Replacement plants will need to go in this year under Dr. Wang's guidance.



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- This will have to be done by the Condo Association.
  - CA will check on the site next week.
- Page-Hilltop School Oil Spill (MassDEP # 100-0425)
  - Access agreements are now finally completed and in place.
  - CA did a site walk on 9/25 with Greg Morand, the Licensed Site Professional from Omni; Paul McManus, the outside consultant from EcoTec; and representatives from Trident Environmental as well as Dillis & Ducharme.
    - The site walk through heavy brush, and a yellow jacket nest, extended from Trevor Trail up to Washington Street.
    - Mr. McManus was able to convey to Dillis & Ducharme the kind of information he wanted when they do their wetland plant characterization.
      - He was also able to give guidance to Trident for how to handle invasive plants during the cleanup, so that invasives aren't dragged across the site and spread to other areas.
    - The planned location of the temporary matted roadway was discussed and will be re-routed in a few spots to adjust for now-completed house constructions in the Nashua Street Extension subdivision area.
  - Mr. Morand is looking for a detail plan from Goldsmith, Prest & Ringwall (GPR) showing the stream-crossing approved by the State under its Superseding OOC.
- 0 Washington Street
  - Trees have been cut on a lot at the bend leading to Groton-Harvard Road.
  - ConCom members recalled having issued an OOC a few years prior, but that the project had not gone forward.
    - It is obvious that ConCom hasn't been notified regarding the commencement of work or inspection of erosion controls.
  - CA also cannot find the file copy of the OOC that was issued (it having been before her time), but did find a copy of the NOI submission and the plan.
    - It is possible DEP will have an electronic copy of the full OOC on file if ConCom's copy cannot be located.
  - To be followed up on.
- **General Site Walk**
  - GB scheduled a site walk for Saturday, 10/27/2018, for the Commission to review several active sites as well as provide orientation to new member MP.
- **9:30 PM – Adjourn Meeting**
  - JS moved to adjourn; MP 2<sup>nd</sup>.
    - Motion approved unanimously.

**Minutes Recorded and Submitted by Jessica G. Gugino, Clerk**

**Date Minutes Approved by Conservation Commission:** 10/11/2018

**Signature Indicating Approval:** 