

**CITY OF FITCHBURG
CONSERVATION COMMISSION**

**DRAFT MEETING MINUTES
TUESDAY, OCTOBER 29, 2019**

COMMISSIONERS IN ATTENDANCE: Tracey Sarefield, Chair, Bryan Breau, John Cordio, Mike Donnelly, Mary Heline, Harry Karis, John Koutonen, Ralph Baker (associate member)

STAFF IN ATTENDANCE: Mike O'Hara, Tim Smith

CALL TO ORDER: Meeting called to order at 6:01 at the Fitchburg Municipal Airport, 567 Crawford St., Administration Building, Room 106.

Tracey read an introduction stating the mission statement of the Commission, and the role & responsibilities of the Conservation Commission and the eight interests of the Wetlands Protection Act.

MINUTES

Minutes of the September 26th meeting approved.

PUBLIC HEARINGS:

Request for Determination of Applicability - Williams, 1163 Rindge Rd. - Ground-mounted solar array in Buffer Zone of brook

David Williams described proposal to erect a 40' x 30' ground-mounted solar panel in his side yard. Area is within 100-feet of a stream that runs parallel to Rindge Rd. He estimates it'll be approx. 75-feet from the streambank. Excavation for the panel supports will be a lesser footprint, just holes for 4 or 6 Sonotubes. Closest support would be approx. at the edge of the collapsed garage on the site. Tracey & Mike D had visited site. They advised setting a line of erosion control barriers at the limit of work to protect the stream. Mr. Williams agreed that site work would not extend any closer to the stream beyond the path to the rear yard.

Motion made & seconded to issue a Positive Determination - - That the area is in an area subject to the Commission's jurisdiction and will require the filing of a Notice of Intent & plan. Vote in favor

Notice of Intent - Donell, Old Princeton Road, proposed 4-unit residential development by Saw Mill Pond
Hearing opened. Proof of mailings to abutters submitted.

Present: Jamie Rheault, Whitman & Bingham Assocs. for Bob Donell. This is a re-application of a project that had been approved by the Commission in 2005 (DEP #155-468) as an 8-unit Planned Unit Development issued to Richard & Joyce Green. Later, the property was acquired by Bob Donell but work never started. Both the OOC and the Planning Board's Special Permit have since expired. The current application proposes a 4-unit (two duplexes) on the two-acre parcel adjoining the pond.

Planning Board hearing on a new Special Permit was continued to November. Plan has been revised to reflect comments on Stormwater by DPW-Engineering. Jamie asked that Commission's hearing also be continued to next month so Commission can have a site walk. Also, a new DEP file # has not yet been issued.

In 2004-05 the question of whether the adjacent water body (Oak Hill Pond or Saw Mill Pond) was a 'pond' or a 'river' came up which would raise the issue of whether the 200-foot Riverfront Area applied. It is noted as a pond on available maps. The Commission had agreed at that time that it was a "pond."

The Commission agreed to hold a site walk Sat. Nov. 16th at 8:00 a.m.

Motion made & seconded to continue hearing to November 24th. Vote in favor.

Request for Determination of Applicability - Sawtelle, 16 Flicker Drive

Present: Jamie Rheault & Ray Sawtelle, property owner.

Jamie: Lot is on corner of Briarwood Dr. & Flicker Dr. When the wetland delineation for this subdivision was done ten years ago, Chuck Caron did a conservative delineation. The dwellings have been finished and site stabilized for several years. The reason for the RDA is to determine whether an area in the front & side yard of 16 Flicker Dr. is still jurisdictional.

Jamie: Prior to the subdivision, the wetland resource area was fed by street drainage from Westminster Hill Rd. Since the construction of the subdivision, this stormwater has been intercepted by its drainage system and directed to stormwater basins. End result of filing an RDA - - if the area is determined to be non-jurisdictional, there is enough room to split off another conforming house lot.

The filing is accompanied by a report from wetlands consultant Matt Marro stating that although there was some wetland vegetation on the lot, the majority of vegetation is not facultative, there is no water flow thru the site, there is no soil mottling and no hydric soils. Matt's conclusion is that "... if there ever there were wetland value or function, it is no longer present in the area," and that the area in question is no longer a qualifying wetland resource area.

Public comment: Bob Gardula, 50 Flicker Drive (next door) is concerned about how that happened, that a wetland area ten years ago is suddenly not a wetland now. There is a lot of water coming off the hill to the north of their subdivision and coursing thru yards of residents on the other side of Flicker Drive.

Tim: If the area in question included a portion of the wetland replication area installed as part of the subdivision, and it is determined that it no longer functions as a wetland, then there may be a net loss of resource area in the subdivision. Jamie advocated for letting Tim & the Commission view the site and see if the conclusion that it's no longer a resource area makes sense.

Commission agreed to hold site walk Sat. Nov. 16th after the Old Princeton Rd. site walk, so approx. 9:00 a.m.

OTHER BUSINESS:

Vice-chair position

Motion made (Mr. Karis) and seconded (Mr. Cordio) to formally nominate Bryan Breau to be vice-chair of the Commission. Vote 6-0 in favor. (Mr. Breau abstained).

Article 97 land swap - portion of Lowe Park for parcel adjacent to Coggshall Park/ Bird Sanctuary

Atty. Pusateri, City Solicitor present. Commission reviewed Law Dept's memo dated 10/29/19 outlining the Article 97 conversion process and the specific actions that are being requested of the Commission

Since the Article 97 issue was last before the Commission in 2018, NewVue has finalized the site plan for the former BF Brown School (Fitchburg Arts Community) project, and the portion of the Lowe Park parcel that is proposed to be conveyed to NewVue for parking for the project. An easement plan was part of the Law Dept. memo. An 18,619 sq. ft. access and parking easement is proposed to be conveyed to NewVue. As part of the Art'l 97 process, a .8 acre city-owned parcel (0 Battles Ave. - map 186-1-0) is proposed to be designated as Conservation land. The parcel is adjacent to Coggshall Park and the Bird Sanctuary, which is under the jurisdiction of the Conservation Commission.

Atty. Pusateri described EOEEA's criteria for conversion of land protected under Art'l 97. A positive vote of the City's Conservation Commission is required.

Ralph mentioned that part of the draft Fitchburg Trails Vision plan mentions a possible connection from Coggshall Park to Leominster thru a path underneath Rt. 2. Part of this connection could traverse the 0 Battles St. parcel, or an adjacent city parcel.

The Commission agreed to consider the requested actions one by one:

1. Motion made (Mr. Cordio) and seconded (Mr. Donnelly) **to release the described easement from the jurisdiction of the Conservation Commission.**

Vote 7-0 in favor.

2. Motion made (Mr. Donnelly) and seconded (Mr. Karis) **to declare the easement area to be surplus property and refer the same to the City Council for lawful disposition.**

Vote 7-0 in favor.

3. Motion made (Mr. Donnelly) and seconded (Mr. Karis) **to authorize the City of Fitchburg to pursue the formal release of the easement area from the protections of Article 97 of the Constitution of the Commonwealth of Massachusetts.**

Vote 7-0 in favor.

4. Motion made (Mr. Donnelly) and seconded (Mr. Karis) **to authorize the City of Fitchburg to pursue the formal release of the easement area from the protections of a charitable trust, if any, created by the Grant of the property by Arthur H. and Annie P. Lowe.**

Vote 7-0 in favor.

5. Motion made (Mr. Cordio) and seconded (Ms. Helene) **to accept land identified in City of Fitchburg Assessors' records as 186-1-0 as conservation land.**

Vote 6-1 in favor (Mr. Donnelly against).

Atty. Pusateri emphasized the need to have a unanimous vote in order to make a better case to EOEEA and the State Legislature that the City is in favor of the Conversion.

Motion made (Mr. Donnelly) and seconded (Ms. Cordio) to reconsider the vote on #5.

Vote 7-0 in favor of reconsideration.

Discussion: Mr. Donnelly questioned whether the .8 acre parcel being offered was enough to justify the proposed exchange. Atty. Pusateri and the Community Development Dept. will pursue if it's possible to also include other adjacent City-owned property to the proposed exchange.

Mr. Donnelly was satisfied with that.

Re-vote on #5:

5. Motion made (Mr. Donnelly) and seconded (Mr. Karis) **to accept land identified in City of Fitchburg Assessors' records as 186-1-0 as conservation land.**

Vote 7-0 in favor.

Benjamin Builders, Victoria Lane

Jamie Rheault, Whitman & Bingham & Gary Lorden, Benjamin Builders in to request Certificate of Compliance on the original OOC for the Victoria Lane subdivision (2001) and an Amended OOC for a revisions to one of the detention basins (2007).

Agreed: Find out status & ownership of three detention basins, whether they're functioning the way they're supposed to be, and whether areas in ConCom's jurisdiction has been completed per OOC plan. Commission will add this to the site visits on Nov. 16th.

Update on Airport runway expansion work

Nik Ippolito, Gale Assocs. present to give an update on work: Since a Commission site walk last year during the permitting phase of the project, the Riverbank has eroded approximately 11 feet closer to the new runway end. Commission reviewed photographs. Vegetation at the water's edge has been washed away, and the exposed soils are subject to additional erosion. If the riverbank is not stabilized, bank erosion will continue inward towards the new runway. Some riprap has already been installed to stabilize

this banking. Gale requests the Conservation Commission's approval to modify the original permit conditions to allow the installation of additional stone to prevent any additional erosion of riverbank closer to the newly constructed runway. They will also consider installing dormant woody species in the banking. Sheet metal piles have been installed per plan.

Motion made & seconded to approved stabilizing the banking w/ heavier large stone and re-visit the situation on the Spring of 2020. Vote in favor.

Update on David Vallee presentations

Several Commission members were able to attend one of the three presentations at various Fitchburg schools on Oct. 25th which was well received.

NRWA annual meeting

Commission was reminded of NRWA's annual meeting & 50th Anniversary this Saturday at Devens Commerce Center.

Certificates of Compliance

#155-660, 20 Damon Rd, septic repair. Replacement system installed in 2017-18. Board of Health has issued their Cert. of Compliance. Site is stabilized. As-Built plan shows systems almost exactly as per submitted plan. Commission agreed to issue Certificate of Compliance.

155-662, Cumberland Farms, 550 Kimball St. – update

Area of potential scouring still has to be addressed before Commission will sign off on Certificate.

Update Fitchburg Wetlands Ordinance

Tracey would like to start thinking about a review & update of the local Ordinance. It's been over ten years since it was adopted.

Procedure for review of grant applications

Deferred to a later meeting.

Updated boilerplate Special Conditions

Deferred to a later meeting.

Motion made & seconded to adjourn. Vote in favor.

Meeting adjourned: 8:20 p.m.

Next meeting: Sat. 11/16/19 (site walk)

Next regular meeting: Tuesday, 11/26/19