

CONSERVATION COMMISSION

AGENDA

SEPTEMBER 19, 2012

7:15 PM

TOWN HALL - 472 MAIN STREET

ROOM 204

7:15 Notice of Intent - Wheeler Lane - Town of Acton

Hybrid Farm License Agreement (020-023)

Site Reviews - Powdermill Road - Bertolami/Donohoe

MINUTES

February 29	osrp	outstanding			
August 1		comments rec'd by	FP, AG	} Signature	
August 15		" " "	AM, FP		
September 5		" " "	AG, AM		

CONSERVATION COMMISSION
MINUTES
SEPTEMBER 19, 2012
TOWN HALL – 472 MAIN STREET – ROOM 204

COMMISSIONERS PRESENT: Terry Maitland, Andy Magee, Bill Froberg, Tom Arnold, Amy Green, Fran Portante

RECORDING SECRETARY: Bettina Abe, Natural Resources Asst.

VISITORS: Wick McConnon, Rita McConnon

7:25 Meeting called to order.

Notice of intent - Wheeler Lane - continued to October 3, 2012 at 7:30pm. Dave Crossman will do the research for the NOI.

BUSINESS

29 Flint Road

Terry Maitland explained that a gentleman from 29 Flint Road had come before the Commission to see if he had room for a garage for his boat. However, there is a wetland cutting across the property on a bias and the nearest corner was approx 30-40 feet from wetland. There is currently a boat and paving stones at the site of proposed garage. Homeowner was told it will not be possible to add a new structure.

41 Esterbrook – Esterbrook Farm LLC

Mr. Maitland explained that 41 Esterbrook Road violation is beside the Kingman property. 1.5 acres of wetland has been clear cut for horse pasture. Tom has visited site and urged owners to hire an engineer to recreate wetlands. Andy Magee moves to issue an enforcement order and require the owner to submit an NOI against the homeowner of 41 Estabrook Road, Tom Arnold seconded. Unanimous.

Minutes

Mr. Magee moved to approve the minutes 8/15 and 9/5. Ms. Green 2nd. Unanimous.

Mr. Magee moved to approve 8/1 minutes, Ms. Green 2nd. Unanimous.

7:47 - Hybrid Farm License Agreement Discussion. Wick and Rita McConnon attending.

Andy Magee asked if the surety bond/security item were the only issue on the table to be discussed. In reply, Wick McConnon mentioned two other changes to Section 9.3 of the Agreement. The first change is to change the word "Licenses" in the 4th line to "Licensed" Premises... and the second change is to strike the word "only" from the 8th line.

Mr. Magee asked how was it decided that the number of horses permitted in the Agreement would be 32 and why were we increasing the size of the herd from the 28 that are there now. Mr. Maitland explained it was mutually arrived at. Rita McConnon submitted a *Massachusetts Department of Agricultural Resources Division of Animal Health Stable Inspection Report* for the Commission. She reports that the state inspector told her there are no

specifications limiting number of horses per farm or property, nor size of a stall. Mr. Magee explained that it is complicated to try and put numbers on herd size per acre due to variations in what they eat, but that the question was how many horses were we allowing be boarding, not just grazing, on the Town's property.

License Agreement section 9.4 Restoration Security. Mr. Maitland explained there are two different scenarios highlighted in yellow in the drafts drawn up by town counsel. Mr. Arnold reported that the bond company he spoke to will not issue a bond with an undetermined due date. Mr. Maitland and Ms. Portante asked about having a renewable 2-3 bond or a 5 year bond. Mr. Arnold will ascertain that with bond company. Shawn O'Malley's quote for removing fences and run-in sheds on the licensed portion of conservation land specified burning the wood debris. Citizen, Isabella Choate wrote a letter and an email today to the Commission that burning this wood would be illegal. The Commission agreed that if fences and run-in sheds were dismantled, they should not be burned. Mr. Maitland explained that in bankruptcy, the trustee would take care of the estate. Mr. Magee asked that if no money is held in security, how would the property + 32 horses get managed and paid for until it could be closed down? Amy Green added there would need to be monetary provision for restoration of vegetation. Rita McConnon states fencing is valuable white oak and could be given away. Mr. Magee stated that we are in a business we shouldn't be in: boarding horses. If something bad does happen, people will say, "What is the Conservation Commission doing with 32 horses!" Ms. Portante asserted you could get horses sold quickly or the MSPCA would come and get them fast. The McConnons agreed, saying that the SPCA would be there in a day to take the horses away. Bill Froberg stated that there are several points currently being addressed: whether surety is needed at all; if yes, how is an estimate created; and will it be a bond or some other form of monetary security. Tom Arnold explained that Steve Barrett in the Town Finance Dept. told him money can be held in a fund and would be governed by any conditions spelled out and approved by the Acton BOS. To that point, Rita McConnon added under the new Agreement, Hybid Farm Inc. is/will be paying the Commission \$1,000 annually, which in 20 years will amount to \$20,000. Mr. Maitland suggested creating a Town fund of some sort with an initial contribution augmented by \$1,000 per year. The consensus tonight is that some form of surety is needed. Tom Arnold explained that the Acton Planning Board sometimes holds checks from developers in escrow as surety. Other developers have an irrevocable line of credit from a bank, which is a cost-free option. The line of credit can be reduced each year by deducting annual fee.

Mr. Maitland summarized the surety choices discussed tonight:

1. Tom Arnold will ask bond salesmen about a variety of products/choices of amounts and premiums.
2. Rita and Wick McConnon will check with Rockland Trust if they can get an irrevocable line of credit.
3. Create a Town fund with an initial earmarked gift to which may be added Hybid Farm, Inc. annual fees.

Tom Arnold says that the bonding company will need an itemized list of what is being bonded (i.e. fence and shed removal, removal of wetlands crossing materials) and an estimate of work to be done for the cost of the bond.

Wick has drawn a line across "Area C" on the map and explained to the Commission that he has bought fence to install and is ready to clean up the area, plant grass, and segregate the area to prevent overgrazing.

Conditions of restoration of wetlands were discussed relative to a NOI to be filed.

Tom Arnold moves that the *existing license* be amended to allow:

1. A fence to be built separating "Area C" into two paddocks;
2. Commencement of re-vegetation of Area C and adding lime to the soil as needed.

Fran Portante 2nd. Motion passed unanimously 5-0 without Mr. Froberg who stepped out with a phone call.

Section 9.2 date of October 1, 2012 in Agreement will need to be changed.

October 17, 2012 Reconvene on this topic. Ms. Green has problem with dropping trap rock in one area where there is a pipe running underneath. Mr. Magee noted that the language requiring a NOI had been dropped from the contract and asked why. Mr. Maitland suggested that the McConnors planned to place trap rock at the new crossing. Mr. Arnold says he recalled a previous situation which required an NOI with Quail Ridge development. Commission requests that no trap rock be placed yet. Mr. Magee noted that the existing wetlands are proximate to the paddocks and that in two places wetlands extend into the paddocks. Mr. Magee expressed the opinion that the site needs stormwater control and indicated he thought this would be a subject matter for an NOI.

Commission requests that Tom Tidman schedule a site visit: to approve trap rock or other improvement of wetland crossing. Horses need to be able to pass through the chute they are abandoning if they won't be allowed to make a new one. Fran says an old culvert in a new crossing could lead to an NOI. She would like to know what Tom T. thinks about the area.

Adjourned at 9:16 pm.



Terry Maitland
Chair

09-19-2012

Type	Title	Owner	Edited
	Extra Information	naturalres	09/20/12
	0001 - September 19 Agenda	naturalres	09/14/12
	020 - 09-11-2012 Email to Conservation Commission RE: Hybid Farm License Agreement	naturalres	09/13/12
	021 - Hybid Farm License Agreement (A0163137-6)	naturalres	09/13/12
	022 - Hybid Farm License Agreement (A0165679)	naturalres	09/13/12
	023 - Hybid Farm Fence Removal Estimate	naturalres	09/18/12

Extra Information

Edit Selected... Go Add... Go

<input type="checkbox"/>	Type	Title	Owner	Edited	Size
<input type="checkbox"/>		09-11-2012 - Hybid stable Inspection Report	naturalres	09/25/12	65 KB
<input type="checkbox"/>		09-18-2012 - Choate Formal Letter	naturalres	09/21/12	67 KB

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