

**CONSERVATION COMMISSION
AMENDED AGENDA
JANUARY 21, 2009**

- 7:15 Citizens' Concerns - Mary Johnson - Huckleberry Lane
- 7:25 Request for Determination - 26 Duggan Road - Robert Craig (010, 011)
Brent Reagor – replacement of a failed septic system.
- 7:30 Continuation - ANRAD – Bruce Freeman Rail Trail (020, 021)
Site walk was conducted on 12/30.
- 7:40 Continuation – NOI – Residences at Quail Ridge (030, 031)

CPA Project - Funding Discussion - Douglas/Gates Boardwalk Reconstruction - Pat Easterly
See excerpt from 12/8/08 Memorandum from Stephen Anderson, Town Counsel, pertaining to CPA – Allowable Uses of CPA Funds FY'09 Appropriation and this specific project (page 10 & 11). (040)

Link to CPC Application:

<http://doc.acton-ma.gov/dsweb/Get/Document-22804/Friends%20of%20the%20West%20Acton%20Boardwalk%20-%20west%20Acton%20Boardwalk%20and%20Nature%20Center.pdf>

Citizens' Concerns - Chuck Sullivan, Nonet Path - Sachem Way Aff. Housing Proposal

Certificate of Compliance - 12 Walnut Street - DEP File No. 85-637 (050)

MINUTES

December 17 comments rec'd by JA, FP

**CONSERVATION COMMISSION
MINUTES
JANUARY 21, 2009**

COMMISSIONERS PRESENT: Terry Maitland, Janet Adachi, Julia Miles, Fran Portante, Bill Froberg, Linda Serafini, Patty Lee

ASSOCIATE MEMBERS: Jim Snyder-Grant, Toni Hershey, Toros Maksoudian

CONSERVATION ADMINISTRATOR & RECORDING SECRETARY: Tom Tidman

VISITORS: Robert Craig, George Dimakarakos, Jim Snyder-Grant, Christine Phillips, Chuck Sullivan, Pat Easterly, Nancy Young

7:27 Mr. Maitland called the meeting to order.

Request for Determination - 26 Duggan Road - Robert Craig (010, 011)

Robert Craig presented plans for the proposed replacement of a failed septic system. The existing house and failed system was constructed in 1963.

Upon query by the Commission, Mr. Tidman noted that the plans indicate that the proposed leaching field will be 81' from the edge of wetlands; limit of activity is 75' from the edge of wetlands.

Mr. Craig reported that the plan was approved by the Health Department on December 16, 2008.

Upon query by Ms. Lee, Mr. Tidman noted that the plans indicate that the proposed system will be constructed in place (same location) as the failed system.

Upon query by Mr. Maitland, Mr. Craig stated that work will commence as soon as all permits are in hand.

7:34 Hearing no further comments or questions, Mr. Maitland closed the meeting.

Determination of Applicability – 26 Duggan Road

Ms. Miles moved that the Commission find the work as described is within its jurisdiction but will not alter the area subject to protection under the Act and will not require filing a Notice of Intent (-3).

Ms. Adachi 2nd; unanimous.

7:35 Continuation - ANRAD - Bruce Freeman Rail Trail (020, 021)

The Commission conducted a site walk on 12/30/08.

Upon query by the Commission Mr. Tidman that he feels that the delineation is accurate as submitted.

Upon query by Ms. Miles, pertaining to remains of a beaver dam at the Butter Brook culvert, Mr. Tidman reported that beaver dams within an existing culvert are considered "accumulated brush" and can be removed without a permit from the Board of Health

Upon query by Mr. Froberg pertaining to Rex Lumber, Mr. Tidman reported that he has emphasized to the Town Manager's office to that the Rex Lumber site is a highly desirable property for the Town to gain ownership of if the property ever enters the market for sale.

7:39 Mr. Maitland closed the hearing.

Decision – Order of Resource Area Delineation - Bruce Freeman Rail Trail

Ms. Portante moved that the Commission find the delineation as accurate as submitted; Ms. Lee 2nd, unanimous.

7:41 Continuation – NOI – Residences at Quail Ridge (RQR) (030, 031)

George Dimakarakos presented amended plans dated 1/16/2009; specifically Sheet 39 addresses amendments to the proposed planting plan.

Upon query by Ms. Lee, Mr. Dimakarakos stated that the Applicant will monitor the wetland restoration/replication area and replant areas if necessary. This proposed planting plan is similar to Ellsworth Village which had hummocks provided balanced along with plantings; this replication plan has been successful.

Jim Snyder-Grant from the Land Stewardship Committee (LSCoM) reviewed the trail easement through RQR that will connect Nagog Hill Conservation Area to Route 2A. This easement was accepted at the 2008 Annual Town Meeting and has been filed with the Registry of Deeds in November 2008. The current issue of concern is the timing under the easement agreement of obligations that the Applicant has not yet performed. According to the agreement RQR was supposed to contact the LSCoM within 10 days of the agreement's being recorded with the Registry to start designing construction plans for the trail; plans were supposed to be completed and filed with the Conservation Commission (ConCom) for construction within 90 days. A portion of the trail involves a wetland crossing and will require a NOI filing with the ConCom. Mr. Snyder-Grant reported that he has had recent contact with one of the Applicant's representatives, Dennis Ring, to start catching up on the requirements of the easement agreement and will meet with him next week on site.

Ms. Adachi noted that Mr. Tidman has concerns in that the trail should be constructed before new residents move in so there is no resistance to its installation.

Upon query by Ms. Miles, Mr. Dimakarakos reported that the construction schedule of RQR is set so the residences near the proposed trail will be the last phase of construction.

Upon query by Mr. Maitland, Mr. Dimakarakos reported that he has relayed all information to the Applicant. Financial liability currently is a great concern to the Applicant; as a procedural matter, the Applicant believes that the trail easement issues are not part of or material to this NOI, although the Applicant understands Concom's concerns.

Upon query by Ms. Miles, Mr. Dimakarakos noted that the ConCom could condition the OOC to address the trail easement issues.

Ms. Miles noted that the recorded easement agreement is now a legal instrument that the Town can enforce.

Mr. Tidman recalled that under the agreement the LSCoM would lay out the trail, the Applicant's engineer would survey and design plans, the Town would file for the wetland permit, and the RQR team would construct the trail once approved.

Mr. Snyder-Grant noted that the Planning Board's decision included two conditions regarding the trail construction: one required the filing/recording of the easement and the other required completion of the trail within 180 days from the date of Town Meeting acceptance and before the issuance of the 20th building permit. Although the 180 days has passed the requirement pertaining to the issuance of the 20th building permit remains, so there is still leverage to ensure the agreement is met. Mr. Dimakarakos agreed.

Upon query by Ms. Adachi, Mr. Dimakarakos stated that the development proposal cannot change again since it involved the approval of a zoning change through Town Meeting.

Mr. Maitland noted that he feels that the trail easement falls under the jurisdiction of the Planning Board's decision.

Upon query by Mr. Tidman, Mr. Dimakarakos stated that he does not know if QRCC will open as an 18-hole course in 2009 or if construction of RQR will commence.

Upon query by Mr. Froberg and Ms. Lee, Mr. Dimakarakos acknowledged that the trail easement was a requirement of the original OOC for Quail Ridge Country Club, but noted that the Planning Board building-permit condition will mandate trail construction.

Mr. Maitland stated that he felt that the Planning Board's decision provides sufficient leverage to make him comfortable that the trail will be constructed as promised.

8:11 Hearing no further comments or questions, Mr. Maitland closed the hearing.

Decision – Residences at Quail Ridge – DEP File No. 85-986

Discussion.

Mr. Froberg moved that the Commission a standard Order of Conditions for the plans as presented, final amendment date January 16, 2009; Ms. Portante 2nd.

Discussion.

8:22 The motion passed unanimously.

CPA Project - Funding Discussion - Douglas/Gates Boardwalk Reconstruction - Pat Easterly

Pat Easterly appeared on behalf of the Friends of the West Acton Boardwalk (FWAB). The FWAB has been reaching out to all Town committees for their suggestions and support for reconstructing the existing boardwalk between Douglas & Gates Schools; the boardwalk has been in place for 18 years and is currently in disrepair. The current plan is to reconstruct the boardwalk on the existing footings and reconstruct with composite materials instead of lumber. If the project receives funding they intend to widen the boardwalk and include a railing and provide a floating dock that would be seasonally accessible. The FWAB is submitted an application to the Community Preservation Committee (CPC) for funding but Town Counsel stated in a memorandum dated 12/8/08 that under provisions of the Community Preservation Act (CPA) the project does not qualify for CPA funds. Transferring the land to the ConCom might open up the possibility of CPA funds for the boardwalk reconstruction. The FWAB is currently investigating other funding options, possible donations from corporations or other organizations etc.

Ms. Adachi agreed with Ms. Easterly noting that there is a legal obstacle to CPA funding for this project, given that the boardwalk is a passive recreational area not originally created or purchased with CPA funds, and CPA funds therefore cannot be used for the proposed reconstruction. A recent decision of the Massachusetts Supreme Judicial Court has confirmed this limitation on the use of CPA funds.

Upon query by Mr. Maitland, Ms. Lee stated that it is unclear how the transfer of land could be made to the Commission to meet the requirements of the recent legal decision. Ms. Lee stated that it is her understanding that the Commission would have to apply for CPA funds to purchase the land from the schools then the Commission could apply for additional CPA funds for the reconstruction. Pursuing that course of action would require input from multiple boards/commissions as well as town counsel.

Upon query by the Commission, Ms. Easterly reported that the boardwalk was originally constructed by volunteers with donated funds.

Upon query by Ms. Portante, Ms. Easterly stated that the FWAB missed the recent deadline for State grants but is looking into other options.

Upon query by Ms. Miles, J.D. Head, from the School Department, reported that the boardwalk design has been evaluated by a structural engineer who has confirmed that the 16" trusses used to construct the boardwalk will support the proposed higher and wider boardwalk.

Ms. Miles emphasized that any work on the boardwalk requires filing with and permission from the Commission since the boardwalk is in wetlands. Ms. Miles also noted that funds may be available through Executive Office of Environmental Affairs and there may be other school grant money available if it can be tied to global warming and "green" projects.

Mr. Maitland admires the FWAB's efforts and likes the idea of the project in general but is personally uncomfortable with the proposed transfer being considered in order to qualify for CPA funds especially given the Seidman v. Newton decision recently issued by the Supreme Judicial Court.

Ms. Easterly reported that the Selectmen have endorsed the idea of the project but the FWAB will need endorsement by the Concom and the LSCom.

Ms. Portante stated that she feels that the proposal is an admirable project and applauds the idea but is not comfortable with the proposal for funding with CPA funds.

Ms. Miles suggested that the FWAB also investigate chemical composition of proposed composite materials and the potential for leaching of products into the wetland prior to selecting the product for use in the reconstruction.

Ms. Easterly asked if the Commission could compose a letter supporting the project in general as it promotes environmental awareness and education.

Ms. Adachi moved that the Commission compose a letter in general support of the FWAB's efforts. Ms. Miles 2nd; unanimous.

9:00 Certificate of Compliance - 12 Walnut Street - DEP File No. 85-637 (050)

Mr. Tidman reported that this lot has been complete and in compliance for many years but up until now a certificate has never been requested.

Ms. Miles moved that the Commission issue a Certificate as recommended; Mr. Froberg 2nd, unanimous.

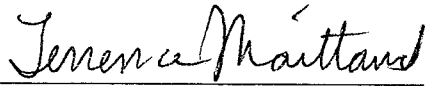
Citizens' Concerns - Chuck Sullivan, Nonet Path - Sachem Way Aff. Housing Proposal

Chuck Sullivan from Nonset Path stated that he is in the process of raising awareness of all boards and committees respecting a recent CPA application for the proposed expansion of and capital improvements to existing infrastructure of Sachem Way. The conceptual plan for McCarthy Village II is proposed by the Acton Housing Authority. Mr. Sullivan is a direct abutter to the property; he and other abutters are concerned and are suggesting an alternative to the proposal. Although he is not opposed to "affordable housing", he feels that this particular project proposal is flawed. The 2.5 acre parcel is currently wooded, near the Town Forest and Wills Hole Conservation Area and is wildlife-rich. The proposed 5,000-gallon leaching field, uphill from him and his neighbors, is daunting since the area has an existing high water table. He would like to see the open space preserved instead of more housing units added. The abutters would like to raise funds to purchase the land from the Housing Authority and transfer the land to the Town as town forest. If this can be done it will preserve open space and the Housing Authority will receive funds to provide housing elsewhere in Town.

Upon query by Mr. Maitland, Mr. Sullivan stated that he is not aware of the complete history of the property, current market value or what stage of the process the Housing Authority is in.

9:20 Mr. Maitland suggested that Mr. Sullivan conduct more research on the property since current laws may prohibit the Housing Authority from selling or transferring the land by any method.

9:22 Meeting adjourned.

A handwritten signature in cursive script that reads "Terrence Maitland". The signature is written in black ink and is positioned above a horizontal line.

Terrence Maitland
Chair

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