

Town of Ayer Conservation Commission

Town Hall * One Main Street * Ayer, MA 01432 * 978-772-8249 * 978-772-8208 (fax)
Minutes for **12/18/2014** – Approved 1/8/2015

Location: Ayer Town Hall, 2nd Floor

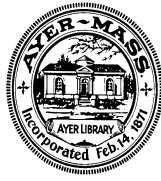
Members present: Bill Daniels (BD, Chair), George Bacon (GB, Vice-Chair), Takashi Tada (TT), Lee Curtis (LC), Jessica Gugino (JG, Clerk)

Not present: Vacancy: CA, Conservation Administrator

APAC taped: No

7:06 PM – Open Meeting

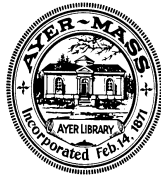
- **Confirmation of the Agenda**
 - GB moved to confirm the agenda as posted; TT 2nd.
 - Motion approved unanimously.
- **Meeting Minutes Approval**
 - GB moved to approve the minutes for 12/4/14 as written; TT 2nd.
 - Motion approved unanimously.
- **Announcements**
 - Plow Shop Pond
 - The U.S. Army is holding a public meeting at 7 p.m. on January 15, 2015 to discuss proposed remedial action alternatives for two areas of Plow Shop Pond – Area of Contamination 72 and Study Area 71 (Former Railroad Roundhouse) at Former Fort Devens.
 - Alternatives being discussed are not doing anything further or implementing institutional land use controls.
 - A public comment period opens January 5 and closes in February with written comments to BRAC postmarked no later than February 3.
 - The January 15 public meeting will be held at the Devens Commerce Center, 33 Andrews Parkway.
 - Appeal of Nashua Street Extension OOC
 - Maryann DiPinto, of MassDEP, will be meeting at the proposed subdivision site on Monday, 12/22/14, at 1 p.m., to address the appeal filed by nearby residents.
 - JG will attend for ConCom.
 - FinCom FY2016 Budget Meetings
 - FinCom is seeking meeting times from Town boards and departments to review annual budgets.
 - JG will see if the January 22 slot, at 7 p.m., is available for ConCom.
- **Public Hearing (cont'd.): Request for Amended Notice of Intent (NOI) – The Willows Subdivision, Willow Road Development LLC, MassDEP # 100-0288**
 - LC was not present, having recused herself.
 - Desheng Wang, of Creative Land & Water Engineering LLC, and developer Mark O'Hagan were present.
 - Also present was Duncan Brown, representing the ad hoc Homeowners Association.
 - BD reviewed the site visit that was conducted by members of ConCom on 12/6/14.



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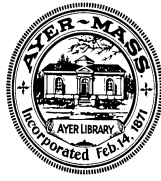
- The amended NOI proposes the relocation of Building Units 56-58 to the already-disturbed area adjacent to, and west of, existing Units 95-97.
- Two letters, as requested by ConCom, were delivered from Jesse Johnson, P.E., of David E. Ross Associates, both dated 12/4/14.
- The first letter addressed concerns raised by residents that the new building would be in the flood zone and require costly flood insurance.
 - Mr. Johnson's letter attests that the 100-year flood elevation for this area (Zone AE) is 226 ft., while the basement elevation of the proposed triplex at its lowest point is 231.5 ft.
 - Mr. Brown argued that two insurers he had consulted described the area as a "moderate hazard flood zone" and said they would not be willing to issue flood insurance for it.
 - Mr. O'Hagan said that flood insurance was not necessary for Units 95-97 and the same was true for the proposed new building.
 - BD agreed and said that since the proposed triplex is outside of the 100-year flood zone, and that this was attested to in writing by the engineer on record, flood insurance was not required.
 - The applicant had therefore addressed this issue to the satisfaction of ConCom.
- The second letter clarified the intent and function of the existing swale running along the northern side of the lower entrance to the subdivision.
 - The swale existed prior to the subdivision project, dating back to when the area was used as a clay mining operation.
 - BD also confirmed this as well based on visits to the site in 2005 when the original OOC was issued by ConCom.
 - The swale at that time drained directly to the wetlands.
 - Mr. Johnson's letter confirmed that, while the swale was retrofitted with check dams to slow runoff and promote settlement / infiltration, it is down-gradient to the subdivision's detention basin and does not connect to it at all.
 - The swale continues to drain into the wetlands.
 - An additional letter from Dsheng Wang, dated 12/12/14 and addressing various issues raised at the 12/4/14 ConCom meeting, was also cited.
 - Dr. Wang also verified in writing that the drainage swale drained directly into the wetlands, not the basin, and that therefore stormwater calculations were not adversely affected by the proposed amendment to the NOI.
 - Mr. Brown maintained his disagreement with the documentation provided by Mr. Johnson, the engineer on record.
- The suggestion made at the 12/4 Public Hearing by the resident living in Unit 95, that the proposed building be moved an additional 4 ft. away from her building, was discussed.
 - After the 12/6 site visit, ConCom saw no reason to object to this request.
 - Mr. O'Hagan asked that ConCom incorporate into the wording of its Amended OOC language that approves moving the building over 4 ft. further to the west, but makes this contingent on the applicant receiving approval from the ZBA.
 - If the ZBA does not approve the extra 4 ft., then the original proposed new location of Units 56-58 will stand as approved by ConCom.
- Regarding the request for an Alternatives Analysis, Dr. Wang's letter addressed this and stated that since the proposed triplex was a low profit Chapter 40B project, it would save money by relocating it downhill rather than the costly expense of treating unsuitable soil at the originally proposed location further uphill.
 - Mr. O'Hagan clarified that only one of the three units will be 40B affordable housing.



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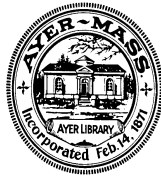
- Mr. Brown said that the extension of utilities to the relocated building should be factored in to the Alternatives Analysis regarding cost feasibility.
 - Looking at the plans, BD said that the extension of gas, water, and sewer lines was comparable to that planned uphill and was therefore not a factor.
- It was also observed that the amended plan has the benefit of adding a hydrant to this area.
- Regarding the proposed drywell, Mr. Brown questioned why this building would be allowed to have gutters that drained to the drywell, while other buildings in the subdivision were not allowed to have gutters.
 - Maintenance of the gutters would provide an additional cost burden to the Homeowners Association.
 - BD asked about the proposed pitch of the roof for the new building and asked for a roof plan that would allow water to drain to the back of the building without the need for gutters.
 - Dr. Wang said that ground grading could also pitch water to the back.
 - After discussion, the proposal was amended to eliminate both the gutters and the drywell.
 - BD asked that ConCom be provided with a detailed SK-drawing showing a new trench lined with stone to capture and direct stormwater.
- Mr. Brown referred to drain pipes from existing building 95-97 in the area of the proposed new building.
 - BD said ConCom had not been able to find these pipes during its 12/6 site walk.
 - If Mr. Brown staked the pipes, BD said he would take a look on the following Saturday.
 - BD said ConCom can include as a Special Condition that if any pipes are found during excavation, the applicant must have them documented as to function and provide ConCom with a plan for how they will be handled.
 - Mr. O'Hagan told Mr. Brown that PVC drain pipes can easily be relocated and redirected.
 - BD said ConCom would also require that a qualified person be on site during excavation to monitor for pipes.
- Mr. Brown asked if an area to the north side of the access road entrance could be considered as a location for Units 56-58.
 - Mr. Brown said this area is already cleared, and would be adjacent to two separate lots currently under construction,
 - Dr. Wang said this area, also within the riparian zone, was not viable for the triplex because of the drainage pattern.
 - This area is not in the same watershed as the currently proposed location next to Unit 95, and runoff would cross Willow Road and drain directly to the river without the possibility of any treatment.
 - The applicant would need to design a significant and costly treatment plan.
 - BD added that such a treatment area would also need maintenance by the future Homeowners Association and that this would be an added expense.
- BD summarized that ConCom's questions regarding flood zone, alternatives analysis, the drainage swale, the proximity to Unit 95, and the gutters / drywell had now been adequately addressed.



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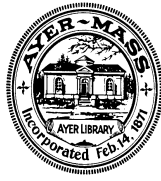
- He asked for a motion to approve the Request for an Amended NOI per plan S13731, with:
 - the drywell and gutters removed, replaced by a stone trench;
 - a Special Condition requiring a qualified person on site to assess possible drainage pipes exposed during excavation;
 - a Special Condition allowing for the triplex to be moved over an additional 4 ft. upon the applicant securing approval from the ZBA.
- GB made the motion; TT 2nd.
 - Motion approved unanimously 4-0.
- BD reminded the applicant that ConCom would be looking for an SK-drawing showing the newly proposed trench.
 - Mr. Brown asked for the utilities to be shown on the plan.
 - Mr. O'Hagan agreed to show the utilities on the revised plan showing the new trench.
- On 1/8/15, ConCom will review a draft of the amended OOC.
- GB moved to continue the Public Hearing to 1/8/15; TT 2nd.
 - Motion approved unanimously.
- **Public Hearing (cont'd.): NOI – Borrego Solar Systems, Inc. / New England Power Co., right-of-way off Park Street, MassDEP # 100-0379**
 - LC was not present, having recused herself.
 - A site walk was scheduled for Saturday, 12/20/14, with BD and TT attending, at 7 a.m., 8 a.m. at the latest, meeting at the National Grid substation on Park Street.
 - JG will contact Briony Angus, Project Manager from Tighe & Bond, to confirm the arrangement.
 - GB moved to continue the Public Hearing to 1/8/15; TT 2nd.
 - Motion approved unanimously.
- **Public Meeting: Request for Partial Certificate of Compliance (P-COC) – 8 Amandrey Way, MassDEP # 100-0152**
 - No drawing was found in the file for this older OOC.
 - BD asked JG to locate the definitive subdivision plan L3420 for ConCom to review before deciding on the COC.
 - ConCom will reconsider this request at its 1/8/15 meeting.
- **Discussion: Pingry Hill development, follow-up to previous discussions on outstanding violations to OOCs**
 - Steve Mullaney, of S. J. Mullaney Engineering, was present.
 - Mr. Mullaney summarized the current status of ConCom's requirement of owner-signed affidavits.
 - Eleven requests for signed affidavits have been mailed to homeowners.
 - Six have responded, with one homeowner refusing to sign; five remain outstanding.
 - Mr. Mullaney said that, in any case, the OOC connected to each lot is listed at the Registry of Deeds, and by accepting the deed to the property, the homeowners have in essence acquiesced to the requirements listed in the OOC.
 - Mr. Mullaney did not know what else could be done at this point and asked that the Commission reconsider continuing to hold up release of the OOC for 97 Holly Ridge Road (Lot 29).



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- Mr. Mullaney indicated that Crabtree Development had a P&S pending for this lot, with the potential owner threatening to walk.
 - BD polled ConCom members and did not find any objection to moving forward with this OOC.
- **Public Hearing (cont'd.): NOI – 97 Holly Ridge Road, Lot 29, Pingry Hill, Rick Roper / Crabtree Development, MassDEP # 100-0375**
 - JG had prepared a draft OOC, identical to the one already issued for the adjacent Lot 30 (113 Holly Ridge Road, DEP # 100-0376), for review.
 - Mr. Mullaney said he accepted the draft OOC for Lot 29 as substantially identical to the one for Lot 30.
 - JG reminded Mr. Mullaney that Mr. Roper still owes ConCom a check, payable to the Town of Ayer, as reimbursement for the legal ad for the Woodland Way ANRAD, also part of Pingry Hill.
 - GB moved to issue an OOC for 100-0375; TT 2nd.
 - Motion approved unanimously and the OOC signed by Commission members.
 - JG will copy and prepare the OOC for pick-up in the Town Clerk's office on Monday, 12/22, provided that the check reimbursement for the Woodland Way ANRAD is provided at that time.
 - GB moved to close the Public Hearing for 97 Holly Ridge Road; LC 2nd.
 - Motion approved unanimously.
- **Discussion: Comments to Geosyntec Report on Grove Pond Human Health Recreational Risk Assessment**
 - JG will forward Geosyntec's draft report to members of the Pond & Dam Committee as well as PACE (People of Ayer Concerned about the Environment) via Laurie Nehring for comment.
- **Discussion: Conservation Administrator Office Vacancy / Site Visit Coverage**
 - JG will fill in on office work but ConCom will engage a professional biologist from LC's company, BSC Group, on a temporary, as-needed basis for various field assessments.
 - EPIC Enterprises (DEP # 100-0365) will be requiring a site visit after January 1st to review preparations (proposed route flagging, erosion controls, flagged vegetation to be cut) prior to work installing a security fence.
 - BD will contact Town Accountant Lisa Gabree to see what the Town needs (e.g. proof of insurance) in order to hire someone from BSC Group for work like this.
- **Discussion: Upcoming Family Dollar NOI application**
 - JG distributed copies of the NOI for the opening of the Public Hearing process on 1/8/15.
 - Meanwhile, ConCom received a request for comments from the Planning Board prior to its review of the construction plan, also on 1/8/15.
 - ConCom can't fully comment until after it opens the Public Hearing for review of the NOI.
 - However, on cursory review, BD said the Planning Board could be informed that ConCom's anticipated comments would likely focus on drainage, especially to the so-called "nonjurisdictional drainage ditch" and erosion controls.
- **Accounts Payable**
 - Lowell Sun: \$150.36, for legal ads for The Willows NOI and the Borrego Solar NOI.



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- GB moved to approve payment of \$150.36 to The Sun; TT 2nd.
 - Motion approved unanimously.
- Lowell Sun: \$132.46, for legal ads for Pingry Hill / Woodland Way ANRAD, and CAINS NOI.
 - Neither check has been received.
 - ConCom will hold off signing this invoice until the reimbursement checks are in hand.
- **Committee Updates**
 - Open Space and Recreation Plan Committee: TT said he has heard that Town Administrator Robert Pontbriand signed a contract with the Conway School of Landscape Design for its students to assist the Town in creating a new OSRP.
- **10:10 PM – Adjourn Meeting**
 - GB moved to adjourn; TT 2nd.
 - Motion approved unanimously.