

Bolton Conservation Commission
Minutes of Meeting
November 1, 2005

NO QUORUM

PRESENT: Scott Duhaime, Sarah Greenough, Lori Stephenson, and administrator Carol Gumbart.

1. Sunset Ridge Housing Corporation Discussion Present by appointment were Vin Gately, land owner; Kathy Faulk, attorney for Mr. Gately; Craig Martin of Ducharme and Dillis, engineer for Mr. Gately, Jacqueline Smith resident and member of the Zoning Board of Appeals (ZBA); and Elaine Lucas, Bolton Town Counsel. Ms. Lucas presented an overview of the history of the project as it is a Comprehensive Permit Application (40B) that was filed with the Zoning Board of Appeals in 2001. Ms. Lucas said that the ZBA issued its decision in 2002 approving the project with conditions. Ms. Lucas said that the decision was appealed to the Massachusetts Housing Appeal Court. Ms. Lucas said that the court is not sympathetic to the town and has recommended settlement.

Ms. Lucas said that they are now considering 28 units down from 32 units, with 7 of them meeting the states affordability criteria. Ms. Lucas said that the ZBA will be meeting soon to decide whether to settle or not settle and will take on vote on the amended decision. Ms. Lucas said that a Supreme Judicial Court issued a decision this summer that allows landowners to relocate easements on their property if they feel it needs to be moved. Ms. Lucas said that this changes the previous opinions provided to the Town by Attorney Yvonne Gonzalez and Attorney Michael Pill on the subject of the easements that cross this property.

Mr. Martin gave the Commission an overview of the site and proposed development. Mr. Martin said that the site consists of 20 acres made up of 4 lots. Mr. Martin located the wetland resource areas as shown on the plan, described the road layout, location of the wastewater facilities, wells and utilities. Scott Duhaime asked whether the Board of Health (BOH) has approved the recirculating sand filter system? Mr. Martin said that it has not been approved by the BOH and that it will go to the Massachusetts Department of Environmental Protection (DEP) for review and approval. Ms. Lucas said that 40B projects must comply with state statues. Mr. Martin said that the recirculating sand filter system is watertight and can be located anywhere. Mr. Martin said that the MA Stormwater Standards would be met. Mr. Martin said that they will try to infiltrate 50% of the roof runoff and that the drainage will be directed through catch basins to detention/retention basins. Mr. Martin said that one factor that may change the amount of infiltration is whether there is ledge on the building site or not. Mr. Martins said that they expect that the wells will be approximately 400 to 500 feet deep and that water will be stored in a 2,500-gallon storage tank.

Several members of the public joined the meeting briefly as they were leaving another meeting in Town Hall.

Mr. Martin said that the electric lines would be underground. Mr. Martin said in response to a question that there will be grading around the leach field and that it may even have walls. Mr. Martin said that the ZBA pressed them to get the road down to 10% grade. Mr. Martin showed where the emergency access was located. Mr. Martin said that the grade in the emergency access is 15%. Mr. Martin said that two lots were added to the project site allowing them to move the location of a well. Mr. Martin said that draw down was low. Carol Gumbart asked whether a bike path was still part of the project proposal. No one remembered a bike path as part of the original project.

The meeting then focused on comments the Commission sent to the ZBA concerning the draft Amended Decision and the revised plans. The first question raised was why the ZBA is now considering waiving the local bylaws. Ms. Lucas said that the ZBA might have to waive the local bylaws for the project to be economically feasible for the developer. Resident, Brad Reed asked why value of the project had gone up. Ms. Lucas said that now that additional lots are included in the project and the value of the land has gone up. Regarding the potential Isolated Area Subject to Flooding (ILSF), Ms. Lucas asked if the Commission wanted to the group noted in the Decision to be responsible for checking the potential isolated flooding area? Ms. Gumbart said that this area flooded substantially after the ZBA issued its decision in 2002. Ms. Gumbart said that she did not expect that the Commission would be able to tell where the extent of flooding is in the field unless it is a similar state of inundation as it was in 2002. Ms. Gumbart said that the area was likely where the leaching field is proposed. Ms. Faulk said that the applicant believes that much of the area of flooding is on abutting properties and that a conduit for water was found on an abutter's parcel that conveys the water in this direction. Mr. Martin said that the location for the septic has not been finally determined. Ms. Lucas said that a condition in the Decision, could require that the Commission and landowner pick a mutually acceptable professional to evaluate the area for flooding. Mr. Martin said that regarding the Commission's concerns with the potential limitations for the towns' use of the easement if the wells create a zone 1 that includes the easement that the DEP regulations allow for footpaths in the Zone 1. Mr. Martin said that the retention basin has been removed from the Zone 1. The Commission questioned why the wells needed to be located so close to the bog. Mr. Martin said that there are four areas where the project might affect the easement: 1) the driveway crossing at the entrance off Wattaquodock Hill Road; 2) the water and drain lines; 3) the septic system; and 4) grading associated with the driveway. Mr. Martin said that they may need to provide alternative access during construction and/or they may relocate the trail. Lori Stephenson asked whether the detention basin could be located further away from the wetlands. Ms. Gumbart said that with the possibility of the bedrock being fractured during construction the Commission is very concerned that any added nutrients to the nutrient poor bog. Ms. Gumbart said that they are also concerned with any draw down from the wells that might affect the bog. Mr. Duhaime strongly urged Mr. Gately to consider locating the wells further away from the bog.

Ms. Lucas closed the discussion by saying that the ZBA is meeting on November 16, 2005, to discuss settlement. Ms. Lucas said that she understands that the main areas of concern for the Commission are moving the wells away from the bog, having the Commission be designated to review the ILSF; and changing the language in the Decision from "substantially as shown" so that the locations for septic, wells and drainage are not tied down completely by the Decision.

2. Blatchford, 40 Powder Hill Road (112-239A) Patrick Curley, attorney representing Robert and Kimberly Blatchford was present by appointment. Mr. Curley said that his clients are requesting a Certificate of Compliance (COC) as they are in the process of selling their home and only just found out about the need for a COC. Mr. Curley said that there is an issue of a trail easement that his clients signed but that other neighboring lot owners refused to sign. Mr. Curley said that a Partial COC was issued but it excluded lots 9, 10, 11, 12 and 13. Carol Gumbart reviewed with the Commission and Mr. Curley the Order of Conditions (OOC) requirements specifically, the requirement for a trail easement on lots 12 and 13; declarations recorded by the developer identifying the location of the trail easement in a revised declaration relocating the trail easement onto lots 11, 12 and 13. Scott Duhaime said that this trail easement is extremely important to the community. Mr. Duhaime suggested that Mr. Curley ask his clients if they would consider having the entire easement on lot 13. Mr. Duhaime said that if they are

not willing to have the entire easement on their lot, that the Commission would like them to complete the granting of the easement as required in the OOC before the Commission will issue a Certificate of Compliance. Mr. Curley agreed to bring this back to his clients.

3. Riverside Comprehensive Permit, 396 Still River Road Carol Gumbart said that she received an email message from the Town Planner today regarding the revisions made to the plans for the Riverside Comprehensive Permit. Ms. Gumbart said that the Planner has requested comments on behalf of the Zoning Board of Appeals, as to whether the project would benefit Bolton or whether it should be denied. Present during this discussion were Jacqueline Smith, Zoning Board of Appeals member and Martha Remington, Historical Commission member. Ms. Gumbart said that she recently attended a meeting with staff of the Natural Heritage and Endangered Species Program (NHESP) and that they explained that because of their funding shortage and staff shortage they will work with developers to see that the important habitat is protected through a conservation restriction (CR) so to eliminate a take under the Massachusetts Endangered Species Act (MESA). Ms. Gumbart said that she told them that communities may be hesitant to take on the monitoring required by a CR when there is intensive management that they might be qualified to monitor. Ms. Gumbart said that they replied that they tell this to the developers that they will need to find a willing grantee. Ms. Gumbart said that Dr. Jon Regosin, of the NHESP said that it might be appropriate to require funds to cover the monitoring and an escrow in the event that the maintenance is not completed. Scott Duhaime, Sarah Greenough and Lori Stephenson all expressed their opinion that the changes in the project have not changed their previous opinion that this development should not be constructed.

4. Wilder Pond Conservation Area, Between Main Street and Wilder Road Scott Duhaime said that he visited the dam with neighbors and Commission members and that he wondered whether the dam is a historic structure. Martha Remington, was present for the discussion and said that she would take a look at the dam. Mr. Duhaime said that during the site visit they observed that the beaver have been actively blocking up the outlet and that the pressure of the built up pond is causing leakage. Mr. Duhaime said that there are some sizeable trees on the dam that are weakening the structure and felt that they should be removed. Mr. Duhaime said that Mass Electric trimmed some trees and left the deadfall along the common driveway creating a barrier and ponding the leaking water. Ms. Gumbart said that perhaps with the recent publicity regarding the failure of dams that the office of dam safety might receive funding for dam maintenance. Ms. Remington mentioned that the Freedoms Way Heritage Program is providing grants to communities to identify historical areas in towns that should be noted and preserved. Mr. Duhaime said that the neighbors have been doing a great job maintaining trails and they had a question about constructing a bridge to extend the trails. Carol Gumbart said that we should find out what they need to do and assist them with the filing of a Notice of Intent. Mr. Duhaime agreed to follow up with the residents.

5. Butternut Farm Open Space Carol Gumbart said that Mike Maillet called her asking if he could mow the fields in Butternut Farm Open Space. Scott Duhaime asked if this went against the Commission's policy of mowing every two years. Ms. Gumbart said that after the Commission established that policy they gave Mr. Maillet permission to mow last year because the cost was reduced substantially as he performed the task as a volunteer. Ms. Gumbart reminded the Commission of the problem with the neighbors using the fields for off road vehicles. The members agreed that he could mow but that they will send the approval in writing and state their concern that the mowing not encourages any further off-road vehicle riding.

6. Rhodes, Gift of Land Carol Gumbart said that Mark Rhodes has offered a gift of land abutting the Fyfeshire Conservation Area. Ms. Gumbart showed the Commission a plan locating the parcel adjacent to both the Fyfeshire C.A. and a parcel “parcel a” that was shown in Berlin as open space. Scott Duhaime said that we should find out the status of the “parcel a” and walk the property. Ms. Gumbart said that a title search would be necessary too.

7. Equipment Sarah Greenough said that she priced a trailer at \$699.

Respectfully submitted,

Carol A. Gumbart
Conservation Administrator