

Committee: \_\_\_\_\_ Conservation Commission \_\_\_\_\_

Date: \_\_\_\_\_ August 20, 2015 \_\_\_\_\_

Time: \_\_\_\_\_ 7:00pm \_\_\_\_\_

Location: \_\_\_\_\_ 3rd Floor Town Hall \_\_\_\_\_

Members & Staff present: \_\_Nick Feitz, Andrew Currie, Rachel Bancroft, Lillabeth Weis, Carl Shreder & Steve Przyjemski, Susan Flint-Vincent

Members not present: \_\_\_\_\_ Laura Repplier, Rae Ann Baldwin, \_\_\_\_\_

The meeting was called to order at: \_\_\_\_\_ 7:07pm \_\_\_\_\_

## **Meeting Motions / Actions and Summary of Discussions:**

### Conservation Commission Meeting August 20, 2015

#### **Discussion:**

#### **24 Summer Street EO:**

#### **Chris Conway, homeowner**

**Steve Przyjemski:** We discussed at our last meeting, there's some encroachment on the river and some encroachment on the wetlands, off-line we worked on coming up with a restoration plan to see how far we could go in the first round.

Revised Plan was submitted and I sent it around with picture attachments. Commission is to decide where and how, my only concern is we have to remove all the soil from the flood plain, we have no control over that part. It's just where the long term lawn line and landscaping plan is. I

**Carl Shreder:** We do have some control over it, it's just how far we want to go.

**Steve Przyjemski:** Correct. They did submit a plan I like the buffer to the wetlands. We were originally talking 15'-20' buffer, it's a very restricted area. I think it's a good first round, we're looking for feedback from the Commission, it's really where the Commission would like to see it go...

**Carl Shreder:** Right now, you have basically grass right up to the water.

**Steve Przyjemski:** Correct.

**Chris Conway:** After we left the last meeting, we put up the silt sock, there's been a lot of natural growth that has grown back by the brook. You had mentioned a wildflower seed mix, that's fine with us. We're willing to work with you guys to develop whatever that distance is. As far as the grading and elevation goes, it would be going back to it's natural state before it was filled, we'll just have to establish that elevation based on the information we had about the site.

**Steve Przyjemski:** That's almost a given, once that fill is removed, what does this area turn into?

**Carl Shreder:** Refresh my memory, "How far does the flood plain go?"

**Steve Przyjemski:** It's on the original plan...

**Andrew Currie:** It's halfway up the lawn...

**Chris Conway:** It's not a ton of material coming out it's just a question of how much vegetation vs. grass. We'd like to keep as much lawn as possible. When we last spoke I think it was 20-25' back from the brook.

**Steve Przyjemski:** I like the buffer to the BVW, if we could round that off and get a little more protection off the brook...It's actually a very small area. It sounds worse than it really is, it's not a good situation.

**Carl Shreder:** What are the thoughts from the commission as far as distances go?

**Steve Przyjemski:** Now it is a triangle, do we make it a rectangle? Do we level it off?

**Nick Feitz:** It is a small area, you can only go back so far. We want to leave enough for a lawn.

**Steve Przyjemski:** Do we want to a 25' arc from the river, plus what's here now? We have a septic plan from last year that shows the edge of the lawn.

**Andrew Currie:** The contours sweep around.

**Steve Przyjemski:** It would add 1/2 to what's already proposed. I'm just trying to propose something for discussion.

**Carl Shreder:** I think that's best.

**Chris Conway:** We would probably just remove the soil, it's probably one truck load, and if we spread it around the yard, we're filling flood plain, then we'd be back in-front of you.

**Carl Shreder:** The major issue for the Commission is to decide where that line should be, the rest are details.

**Chris Conway:** The one thing I would ask, if we could keep a 4' area around the beehive until mid-September when the bees have calmed down and are ready for winter.  
The other thing we have to do is replace a Septic System in the Spring, so we would like to get this off the books so we can move forward as soon as possible in the Springtime.

**Steve Przyjemski:** We can handle these things either together under an enforcement order, or separately under a Notice of Intent, whichever you decide.

If you got the permitting process done in the next couple of months, you can do the septic whenever you want.

I like the idea of a more formal plan, which will link the two projects.

**Chris Conway:** If we decide tonight and you

**Carl Shreder:** I'd like to see formalization of the plan.

**Andrew Currie:** Put it on the plan so there's no question in the field. Seems like it's a short turn around, they can do it in the fall.

**Steve Przyjemski:** If you leave it the way it is now, there will be a little erosion, it's not totally

**Carl Shreder:** Then there will be documentation, so ten years from now we will know Phase I, restoration; Phase II Septic System. I think it's cleaner that way too.

**Nick Feitz:** I make a motion that we proceed with 24 Summer Street with Phase I the Restoration in the Fall, Phase II the septic replacement in the Springtime.

**Rachel Bancroft:** Seconds the motion.

Motion carries unanimously.

## **6 Heather Road EO:**

### **1 Industrial Way (GCC 2015-09; DEP# 161-0805) NOI - (cont.)**

Richard Nylan, Attorney, on behalf of 1 Industrial Way Realty Trust

At the last meeting were several recommendations the Commissioners made: Put on the plan 1) Removed the fence and replaced it with the standard 2.5 x 2.5 x 5' blocks, extended them to the south of the plan.

2) Enhanced the planting plan showing the red maple and the bayberry all the other plants and the seed mix.

3) We have installed the granite posts that's shown on the plan.

4) We have the erosion control barrier 50' from the new wetlands.

We're looking to close the hearing so we can get going on the plans.

**Steve Przyjemski:** I reviewed it and there were a couple of small things missing, I talked to them about it, and it was fixed and resubmitted. Everything looks as discussed at the previous meeting.

**Richard Nylan:** The new restoration plan is more plentiful, in regards to number of plants, than the first filing.

**Steve Przyjemski:** 80% survival rate, so whatever they show they have to keep an eye on for 3 years and submit restoration updates. Anything that drops below 80%, they have to replant. It's in their best interest to keep them alive.

**Nick Feitz:** The blocks extended on the south?

**Richard Nylan:** Yes, we went to the property line and extended out to the trailer. We still have some money left correct?'

**Steve Przyjemski:** Yes, we do. I'll e-mail you the exact dollar amount.

**Carl Shreder:** Any Abutters?

**Steve Przyjemski:** 2 abutters called because they could not attend, but they wanted to let the Commission know they are still interested and concerned about the project.

**Nick Feitz:** I move that we accept the NOI for 1 Industrial Way (GCC 2015-09; DEP# 161-0805) without accepted the wetland line Plan dated 6/1/15, revised 7/16/15.

**Rachel Bancroft:** seconds the motion.

**Steve Przyjemski:** Conditions I would recommend 1) Not accepting the wetland line; 2) Have Gillian out during the work on the site is to make sure everything goes properly until the restoration is tucked in and stable, while work is being done; 3) This application doesn't alleviate the applicant from any other licenses or permits from any other boards. We won't authorize any work until all the other permits to the town's satisfaction have been taken care of.

Motion passes unanimously.

**Carl Shreder:** I'm going to go forward, if there's some other permits to be filed with other departments.

**Richard Nylan:** The two are not intertwined.

**Carl Shreder:** We want to put something in there that they comply with all the other boards

**Richard Nylan:** I'd like to thank the board

**Nick Feitz:** I'd like to make a motion to close 1 Industrial Way (GCC 2015-09; DEP# 161-0805) NOI.

**Lillabeth Weis:** Seconds the motion.

Motion passes unanimously.

**269 Central Street (GCC 2015-04; DEP# 161-0803) - cont.**

Scott Cameron, Morin Cameron Group  
The Flynn's from Nunans Nursery  
Attorney DeLuna, representing the legal counsel for the project

**Scott Cameron:** Since we last saw you in April, we've been working with a lot of peer reviews, Highway surveyor and talking with the DPW.

You hired a consultant from BSC to go over the wetland line. There were some adjustments. BSC is in agreement that the project falls under the agricultural exemption for the wetlands protection act, not the local bylaw.

One of the initial comments were to do as much as possible to improve the storm water management on the site.

Dedicating a trunk line for the town, setting it in an easement, and pulled off all the catch basins on the site making them off-line, instead of in-line, giving the sumps time to work, this makes them much more effective. We put the first existing catch basin into a manhole. Now instead of an in-line catch basin, it's at the end of the system and the roof ties in so we're able to utilize this.

Long term it's a good solution for the town, they will have easier access to the trunk line as it is set in a Town easement and the municipal trunk line is now separate from the on-site drainage.

Fine tune storm water drainage to collect all the storm water around the table.

Adding onto the treatment stream, an oil separator.

We do have the Planning Board next week to talk about detention area and grading. Increase the Town's outflow pipe. We've responded to all the DEP comments.

**Steve Przyjemski:** My only concerns are the storm water system is not complete, so I'm not comfortable in closing out the site tonight. The property is a chapter 61, the Town Counsel is reviewing all of the documentation, and that is also not complete. It should be all complete by the next meeting.

**Frank DeLuna, Atty:** the Chapter Land 61 classification has nothing to do with 131c10.4, the definitions for both statutes are different, don't get hung up with that, the property is in Chapter land 61a. Don't get hung up with that, you'll go off in separate directions.

**Steve Przyjemski:** It still needs to be addressed. Hypothetically, once these two issues are resolved, no one even needs to show up at the next meeting, it's just an administrative act.

**Carl Shreder:** There's no issue with the Wetland line.

**Andrew Currie:** Is there any Septic?

**Carl Shreder:** Artificial turf?

**Scott Cameron:** It's artificial grass and concrete, it's all designed with sub-drain systems that collects and flows into the detention area. Everything you see at the facility you can buy it at the store.

**Carl Shreder:** When are you looking to get this going?

**Scott Cameron:** We'd like to give the Planning Board a vote of confidence from you. The golf course company is in Massachusetts. We'd like to start as soon as we get through. We're planning on putting the course in this Fall and the site work will be done next Spring.

**Lillabeth Weis:** I think it looks good.

**Nick Feitz:** I like it, it looks doable.

**Nick Feitz:** Makes a motion to continue 269 Central Street (GCC 2015-04; DEP# 161-0803) NOI to September 17th at 7:00pm.

**Rachel Bancroft:** Seconds the motion.

Motion passes unanimously.

**Steve Przyjemski:** If you have any issues, be in-touch, e-mail me. As soon as you knock off those last two items, let me know.

**Scott Cameron:** Will do.

### **258 Andover Street: Partial CoC Request**

**Steve Przyjemski:** There's a permit to construct the Georgetown Country Club. The original owners are no longer involved. The project never got closed out. In the old days, the banks didn't care about the CoC stuff, it was private money, and it just never happened. It happened a lot back then, it's not just this one project. With this one there's a bunch of houses associated with this project. It's a golf course with lots of wetlands. A wetland was filled in with permission, a lot of activity. Since I've been here, I've been trying to get them to close it out, request a CoC with an "As Built", so that we can know

that things have been done according to plan. I do not believe that everything was done according to plan, my personal opinion based upon what I've seen on the course.

That will get resolved through a CoC Request. If you bring in a CoC request with an "As Built", highlight the areas that things were done differently, you address them, you move forward. The problem we're running into is that there are houses attached to this larger CoC request. When we file now, we don't allow the applicants to file for the roadway and the houses all at once, it complicates things, and we ask them to separate them. They didn't separate them in this case.

They are requesting a partial CoC, just releasing a portion of the CoC. There are pluses and minuses to both. The commission has issued partial CoCs, historically on other houses associated with this project. We were promised a full CoC if the Commission just signed off on a partial CoC, never happened. We can't blame anyone in this room for that. Historically I say, "Do NOT issue partials", because every time it happens, legally we lose more and more control over getting the project done to plan. I do not believe this was done to plan, so there's a partial liability to closing out partials like this. Again, the Commission has done before, so we're not breaking precedence, but I'm still recommending against approving this application, that's my job to recommend the legally sound approach.

**Carl Shreder:** You can't really punish someone buying or selling a home, who didn't really have anything to do with it, the way it was filed umpteen years prior to.

**Steve Przyjemski:** We are running out of partials to issue. This particular property doesn't have any wetlands on it.

**Carl Shreder:** The commission needs to write a letter to the owners of the golf course to hold their feet to the fire, because it's causing us problems.

**Andrew Currie:** What are the issues that you can't close it out, just briefly?

**Steve Przyjemski:** Without having an "As Built", years ago there was a lot of little issues of non-compliance on everything, not as much right now and no cooperation. It's an almost a gut feeling or a presumption that the wetlands were impacted more because every other aspect of this project had other negative impacts so...I can't say exactly what the issues are until I see that "As Built". This is not the typical project. This has the potential for much greater issues that have huge money cost effects.

**Carl Shreder:** Have we formally asked the owners of the golf course, in writing?

**Steve Przyjemski:** I asked the previous owners twice via e-mail, but I never heard back and they are not there anymore. I have e-mailed and communicated with the current owners multiple times. I can ramp it up the tactics to get compliance, enforcement actions, refusal to sign-off on any additional permits until this gets closed out.

**Carl Shreder:** I think those actions need to be taken, because this is going to continue to be a problem for other homeowners and they shouldn't suffer for that.

Steve: I've been doing some of these tactics already, I haven't signed off on any permits, but there's only so much I can do, up to writing an enforcement action against the club.

**Lillabeth Weis:** Does lot# 6 have any issues itself?

**Steve Przyjemski:** Not to the best of my knowledge, given there are no wetlands on it or near it, it's out of our jurisdiction.

**Carl Shreder:** It seems crazy to hold up the sale of a house for wetlands that aren't even on the property.

**Steve Przyjemski:** The other aspect of this is that this isn't an open hearing, it's just a discussion. You don't have to do anything. If everyone is okay with signing the partial CoC, I have the paperwork and you can sign it at the end. If not, we just don't sign it.

**Carl Shreder:** Are Commissioners good with it?

**Nick Feitz:** I'm good with it.

**Lillabeth Weis:** I'm good with it. I think we should sign it.

**Rachel Bancroft:** Yeah.

**Carl Shreder:** I agree.

## **6 Heather Road (Enforcement Order)**

Bill Manuel, Wetlands and Land Management

**Bill Manuel:** We had a lengthy discussion last month. I realized when we walked out after the discussion had ended, the Commission never voted on approving the restoration plan. We are here to finalize that little detail.

**Carl Shreder:** I thought we authorized you to...

**Steve Przyjemski:** We did, but not in a motion. I e-mailed everyone and they agreed, so I authorized the work to start. This is more of a formal...

**Lillabeth Weis:** I make a motion to approve the Restoration Plan as submitted by the applicant.

**Rachel Bancroft:** Second the motion.

Motion passes unanimously.

**Bill Manuel:** I want to give you a progress report. The plants have been ordered, they will be delivered to the site on Monday. Shortly thereafter, the applicant is going to begin to take those stairs out, possibly tomorrow, perhaps this weekend. Everything should be completed by the 31st. The dock is scheduled to come out on the 29th of this month (August).

**Steve Przyjemski:** There is a side discussion going on about filing a Notice of Intent. I have a question with the legal counsel right now on how best to proceed re: the law associating accepting the NOI or not accepting the NOI and putting it on the agenda.

**Bill Manuel:** The issue is that we wanted to bring the applicants back into compliance as soon as possible. I mentioned at the last meeting that we were going to be filing a Notice of Intent. And we did. It should have been advertised and we should have been opening that public hearing, because by law, statute and regulations.

**Carl Shreder:** Of accepting within 21 days once it's accepted.

**Bill Manuel:** Once it's been filed. There's no language that states a screening process.

**Steve Przyjemski:** This is where we get into a discrepancy with the state.

**Carl Shreder:** If you submit an incomplete application, we don't have to accept that. It would be unfair to everyone else if it's not complete. I'm not saying that's the case here, but it's my interpretation.

**Bill Manuel:** The owners are on the agent to review the application in a timely fashion and let us know if the application is incomplete. We submitted the application on July 13th. So we are beyond the 21 days by quite some time, we're almost 5 weeks out without any feedback from the agent.

**Carl Shreder:** I think we need to get this resolved as soon as possible.

**Steve Przyjemski:** We said at the last meeting, the commission asked for the work to be done, and then they file for a NOI. It was conditional on the work being done first. It depends on how you phrase it. The way I see it, none of the work has been done.

This is what we've done for years,

**Carl Shreder:** Well, yes, I'm not sure if you're in the middle of legal action that you can file for an NOI. We felt that if we did the two concurrently, it wouldn't get done.

**Steve Przyjemski:** I was looking for a clarification of the course of action from the commission and I think we've gotten it.

**Bill Manuel:** We believe the Enforcement Order and the Notice of Intent are two separate items.

**Carl Shreder:** We've had an Enforcement Order and a Notice of Intent both open together for at least 15 years.

**Bill Manuel:** We don't believe the Commission can say when we can file a Notice of Intent.

**Steve Przyjemski:** Once the EO is issued, there is a lean on the property, and once that happens

**Carl Shreder:** We can agree to disagree. The work will get done.

**Steve Przyjemski:** Let me know when you reach milestones and I'll come out and inspect it. This is a discussion. I have brought Town Counsel into this to see where we stand.

I think it's kind of a waste of Town Counsel funds.

**Bill Manuel:** Under Wetlands Protection Statute, any activity that you do within 100' of wetlands requires either a negative determination or an Order of Conditions. It doesn't say you can file it under an EO.

**Carl Shreder:** That's a really strict interpretation of the case law. EO's are used to get the applicant into compliance. If you look under Case law, commissions have a tremendous amount of authority under EOs.

**Lillabeth Weis:** But as soon as you finish up the requests to repair what was done improperly, then you can go ahead, it's like weeks.

**Carl Shreder:** It's semantics of the process, I'm more concerned with actually resolving the issues.

**Steve Przyjemski:** This is why I said, when it came up originally we didn't have to get into the specifics, we're not going to answer them tonight, but it's good to know what the issues are.

**Steve Przyjemski:** The next meeting is September 17, 2015.

**Carl Shreder:** You would have to make a request to waive the "around the pond" abutter notification. Are you aware of that?

**Bill Manuel:** Yes, I am.

#### **75 West Main Street (GCC 2015-07; DEP# 161-0807) NOI - New**

**Lillabeth Weis:** Makes a motion to approve the NOI for 75 West Main Street (GCC 2015-07; DEP# 161-0807).

**Rachel Bancroft:** Seconds the motion.

Motion carries unanimously.

**Nick Feitz:** Makes a motion to close 75 West Main Street (GCC 2015-07; DEP# 161-0807) NOI.

**Lillabeth Weis:** Seconds motion.

**Nick Feitz:** Makes a motion to approve the motion minutes from 6/18 and 7/16.

**Lillabeth Weis:** seconds the motion.

**Rachel Bancroft:** Makes a motion to pay the bills as read by Steve.

**Lillabeth Weis:** Seconds the motion.

Motion passes unanimously.

#### **102 Pond Street CoC**

**Steve Przyjemski:** This (Enforcement Order) has been going on since 2000 for filling in an isolated wetland subject to flooding against the previous owner.

**Carl Shreder:** On Christmas Day

**Steve Przyjemski:** Enforcement action, incomplete work, developer went out of business, the property was finally bought by a nice couple who just wanted to fix the outstanding issues. They rehabbed the house, they did some work. We gave them an Order of Conditions, which is what this CoC is closing out. What it doesn't close out is a long running Enforcement Order with close to a million dollars in fines, because no one has ever fixed it. It's been rolling, rolling, rolling, huge, huge fines. What I'm hoping and recommending is that the Commission votes to close out the Enforcement Order and forgive all fines. These are owners who have had it for a year and have 100% complied.

**Carl Shreder:** I think that makes sense. Previously owned by the Dorchester Savings Bank.

**Lillabeth Weis:** Makes a motion to close the EO on 102 Pond Street and forgive all fines.

**Rachel Bancroft:** seconds the motion.

Motion carries unanimously.

**Rachel Bancroft:** Makes a motion close the meeting.

**Lillabeth Weis:** Seconds the motion.

Motion carries unanimously.

Meeting adjourned at 8:48 pm.

List of Documents and Other Exhibits used at Meeting:

Documents and Other Exhibits used at meeting will be available for review  
at: \_\_\_\_\_

*(Office)*

Meeting was adjourned at: \_\_\_\_\_ 8:48pm\_\_\_\_\_

Next meeting:

Date: \_\_\_\_\_September 17, 2015\_\_\_\_\_

Time: \_\_\_\_\_7:00pm\_\_\_\_\_

Place: \_\_\_\_\_3rd Floor Meeting Room\_\_\_\_\_

Respectfully submitted,

Chairman: \_\_\_\_\_  
*(Signature)*

Minutes approved by Committee on: \_\_September 17, 2015\_\_  
*(Date)*