

STURBRIDGE CONSERVATION COMMISSION
Minutes for Thursday, February 27, 2003

MEMBERS PRESENT

D. Barnicle, D. Mitchell, E. Goodwin
7:00 PM

MINUTES

The minutes of November 7, and 21, December 5 and 19, January 9 and 16, and February 6, are out for review. Approval was tabled to March 6.

CPA UPDATE, E. GOODWIN

E. Goodwin noted that the correspondence regarding the price for the Quinebaug River land was correct. The CPAC felt the asking price was excessive and told T. Jones that they were not interested in any price higher than \$800,000. M. Zulkiewicz spoke with E. Goodwin and stated that he would put that agreement in writing. E. Goodwin noted that the CPAC should not pursue the offer or push for town vote unless written confirmation is given. He also stated that the ability to sign a purchase and sale agreement for the town was in J. Malloy's hands.

E. Goodwin noted that a presentation by B. Levitt an attorney from UMass was being held. He noted that the purpose was to show landowners how they could get land into protected open space and still make money off the land. He noted the cemetery upgrades were approved. He agreed with D. Barnicle that the CPAC had 10% of funds put aside for historic use.

He noted that if approved at town meeting the parcel owned by J&W along the Quinebaug would only take 3 years to pay for, using CPAC funds.

CORRESPONDENCE REVIEW

Correspondence reviewed included; An update on the recently revised riverfront regulations; A technical brief on the status of the ACE Clean Water Act jurisdiction over isolated waters; A memo from J. Malloy asking town employees, volunteers and church staff to park in the back section behind town hall to allow residents doing business to park in the area immediately adjacent to the town hall; A town report memo; An outline of the proposed changes to the State Environmental Agencies; Quinebaug Shetucket training programs through the Green Valley Institute; The Central Mass Mosquito Control Project annual report for 2002; Notice of Worcester's Annual Clean Up Day on April 26.

MINOR WALK IN REQUESTS

S. Sanderson attended the meeting to request an additional amendment requested by the BoH. The tank is to be replaced with a 2000-gallon tank with an alarm system rather than a tite tank. The new tank will tie into the existing leach field. D. Mitchell noted that the alarm was set for 1 foot over the outlet pipe. If the overflow reaches 1 foot the alarm will go off and the tank must be pumped. He noted it raised concern why that measure would be needed but a tite tank could not be approved. D. Barnicle noted that the requirement for an alarm could be interpreted two ways. One- an alarm is included, there will be no problem; or, two- an alarm is needed, the leach field is not adequate. E. Goodwin noted that the leach field was quite big, as big as Big Alum Lake. After more serious discussion, the SCC told S. Sanderson that they were concerned with the use and effectiveness of an

extremely undersized leach field and with the BoH decision. They traditionally defer to BoH for title 5 issues, but have concerns in this case due to the leach field. E. Goodwin will speak directly to G. Berry to get the underlying story. If the amendment is approved, conditions will be added to have the tank pumped monthly and a tite tank installed by a date to be decided on, if the town sewer connection to Big Alum is not in place. The meeting is continued to 3/6 at 7:10 PM.

DISCUSSION OF NEW INFORMATION

The Green Valley Institute will be holding training sessions for municipal commissions. The sessions are; Land Use with Jim Gibbons on March 5 at 7:00 PM, Legal Requirements and Process with Chris Smith on March 25 at 7:00 PM, and Planning for our Future with Laurie Giannotti and Paula Stahl on April 15 at 7:00 PM. All workshops are to be held at the Windham County Extension Center in Brooklyn CT. Call 860-774-9600 M-F 8-4 to register. No admission charge.

E. Goodwin asked if there was any truth to the rumor that the area behind Ames was being put on the town meeting warrant for rezoning. N. Ryder said she did not know but would ask.

N. Ryder asked the SCC to discuss the issue of the alternatives analysis requirements they put together at the beginning of 2002. She reviewed the history of the regulations being adopted, the wording of the alternatives analysis section and noted that many of the projects coming before the SCC should be evaluated for alternatives. She stated that the alternative review presented was minimal at best for the larger projects currently before the SCC, Whitemore Woods, Stallion Hill, Gifford Road, and McGilpin Road. She stated that other projects such as Highlands and Sanctuary had been tremendous successes due primarily, to the required alternatives analysis the SCC conducted. Leadmine Road, while no different as approved, than presented at the beginning of the second public hearing, showed that there were no alternatives to allow reasonable use. Identifiable, factual reasons were used to show that the best alternative in regards to cumulative impacts was the one presented. She noted that the alternatives section in the regulations, could allow the SCC some of the best protection for resource areas, but only if used as a starting point for public hearings and only if the SCC followed through on what they had created, reviewed and approved.

D. Mitchell asked if there was any legal basis for requiring this review. N. Ryder noted that the SCC had adopted those regulations and had enforced them the previous year for subdivisions and larger projects; legal authority was granted through the town approved local bylaw, which was adopted through authority of the WPA. They were already in place and had the force of law. The purpose and intent of a local bylaw and associated regulation is to allow a town to enforce protection at a more strict level than that authorized by the state law and regulations. The legal basis and authority to request alternatives were granted in the WPA and again in the town's wetland bylaw. N. Ryder expressed frustration that the SCC would go to the effort to finalize, review and adopt these and not understand or utilize them to further the goal of no negative impact to resource areas. She questioned the point of drafting and adopting them in the first place.

D. Mitchell questioned who would review the financial information presented for accuracy. He noted that this would place an undue burden on the SCC. D. Barnicle agreed that the information submitted may or may not even be verifiable. N. Ryder stated that the financial information should only be general with regards to the type of project and to the average applicant, not specific to the actual applicant or event. N. Ryder stated that the SCC would have to review it briefly, but that it would primarily be based on the applicant being honest. She noted that it was only for comparison purposes within the project application alternatives. If general estimate numbers needed to be confirmed. G.

Morse or the town engineer could be asked if they were in the correct range. The alternative analysis outlined by the state was not looking for a project audit, it required a rough estimate of comparative project costs.

N. Ryder stated that a financial analysis was not the point; the point was to request that applicants think about the best way to utilize their land while taking into account environmental needs balanced with zoning regulations prior to submitting applications. She noted that E. Goodwin had been questioning for months why SCC was the last permitting board to be considered or seen on projects but had one of the higher levels of review in regards to regulatory land use issues in town.

Applicants were continually submitting information relevant to planning requirements with conservation issues added on as after the fact considerations. N. Ryder urged the SCC to re-read the regulations and the alternative requirements they had adopted after almost a year of review, and realize how much they could accomplish in terms of resource protection by taking the time to set the precedent. The SCC has the tools, they just need to use them. She noted that the review process and time involved could be substantially simplified and lessened if this was a standard first step for all applicants.

REVIEW OF SITE VISITS, SCHEDULED AT PREVIOUS MEETING

Tabled

CONTINUATIONS OF PREVIOUS HEARINGS FOR CLOSURE, REVIEW OF FINAL SUBMITTED DOCUMENTATION AND OTHER ACTION

RDA cont. - 388 New Boston - signatures needed – N. Ryder was to check on the pole number to verify the location of the stream being considered for reclassification, is the stream that had been site visited. She did not, the approval was tabled to March 6 at 7:15 PM.

RDA's cont. - Lots 14 and 15 Breakneck Road, Dalton, approved pending revised plan, if approved, sign off, if not continue again to 3/6. Final revised plans were submitted, reviewed, and approved. Approval for the project was given by unanimous vote.

RDA cont. - 24 Old Towne Way, pending site visit for delineation. If OK sign, if still too much snow continue to 3/6. There is still too much snow cover to see the ground and vegetation. The hearing is continued to 3/20 at 7:15. A site visit will be taken for a delineation prior to that if ground conditions permit.

PUBLIC HEARING – NoI cont. - New England Environmental for Swiacki for infrastructure/roadways for Whittemore Woods at 56 and 58 Whittemore Road and 98 Fairview Park Road.

D. Mitchell opened the public hearing. Present were M. Marcus, W. Swiacki, Wayne Belec and Paula Thompson. Cheryl Reeve was present to hear the 10 Gifford Road presentation and sat through the Whittemore Woods presentation as well.

M. Marcus stated that he wanted to submit the overall project as one NoI, but due to time constraints he was submitting the infrastructure and would submit the housing lots as soon as possible. He noted that the Alternatives analysis was the big issue that needed to be addressed and would be discussed during the present meeting.

He noted that first P. Thompson would address the hydrology and drainage on site.

D. Barnicle noted that at the end of the last meeting, the comfort level was not there in terms of the alternatives presented. He noted that due to the water on the property and not knowing the source or connections of some of these streams and scours it would not be possible to address the potential impacts. He noted that it appeared that the streams near Whittemore were the crux of the wetland issue and therefore of the potential site impacts. He agreed that a hydrology review and alternative explanation were in order before any further review could be conducted. D. Mitchell noted that there were several scours and streams between the Whittemore side wetland and the lower wetland with an obvious in flow to the upper wetland.

W. Swiacki reviewed the direction of water flow, as coming through the historic ponds and over to the Whittemore side of the property.

M. Marcus noted that the upper wetland was more of a slow seep with a deep scour channel from the point source under Whittemore Road. The original upper wetland had no outlet, during times of overflow, scours and gullies were created to the lower wetland. He noted that the SCC should refer to the original approved delineation plan. W. Swiacki stated that the upper wetland was a small contributor overall to the flows going into the lower wetland.

P. Thomas submitted a hydrology report dated February 20, 2003. She reviewed the report with the SCC. As the focus of the discussion was on the content of the report it will not be detailed here. The report is available on request. The SCC was informed that the flows to the small isolated wetland will not be diminished, they will actually increase slightly. The small wetland will not decrease in size and eventually be depleted. M. Marcus noted that the outstanding issue was how the house lots and locations would impact the wetland function and purpose.

E. Goodwin discussed with W. Swiacki a small piece of property adjacent to the Ames Plaza called parcel A, which is proposed to be rezoned. W. Swiacki confirmed this. The former leach field, parcel B, lease has expired and reverted back to the main property ownership.

W. Swiacki reviewed the history of the alternatives presented to and rejected by the Planning Board. He showed the SCC the plans and reviewed each one. None of the plans were submitted to the SCC but are available to the SCC from NEE on request. Two preliminary plans showing maximum build out were submitted, the 4/99 and the 9/99 plans. Both involved maximum build out but took into account the delineation. Following that was a plan dated 2/22/01 showing a reduced design loop road with no access on Whittemore Road. The plan required extreme slopes and cut and fill to create. It would have obliterated the small central isolated wetland and was discarded as having too much impact. N. Ryder asked if a smaller loop was considered off Fairview or two independent cul-de-sacs. W. Swiacki said yes but both involved similar slope issues and were discarded. He stated that a 2/23/01 plan called for a Fairview to Fairview loop with a cul-de-sac but also exceeded maximum road grades and was discarded. E. Goodwin noted that so far the Commission had been shown maximum build out working down. He asked where the conceptual plans were that showed no impact and then those with minimal impact, with no work within the 25-foot buffer to any resource area. W. Swiacki stated that he was reviewing those plans that had been submitted to the Planning Board and rejected or approved by them. E. Goodwin asked which plan was designed for the SCC and not the Planning Board. He then asked which had the best environmental effort overall, of those submitted to the PB, for their review. W. Swiacki stated that layout B, dated 4/02 was the best preliminary plan, and the impact was minimal, with no through road to segment the 55% open space parcel areas. D. Barnicle asked what their objections were. W. Swiacki stated they would be noted in the PB minutes,

he would get the dates to the SCC for reference. N. Ryder asked why a conservation alternatives analysis was brought before the Planning Board for review and approval prior to any discussion with the SCC. She noted that more information regarding conservation issues had been worked on with the Planning Board than the Commission. D. Barnicle asked N. Ryder to get copies of the PB minutes, list the objections and concerns of the PB and find out which issues were set in stone and which were flexible.

W. Swiacki noted that the Police Department, the DPW, and the Fire Department all wanted a through road for safety and access, so the Planning Board had required one. D. Barnicle asked if the cul-de-sac length was a sticking issue. P. Thomas replied that PB would not allow a longer cul-de-sac. B. Swiacki stated that the PB had agreed with G. Morse that long cul-de-sacs were bad for the town. The Commission unanimously disagreed. The original plan called for a single entrance to Whittemore, the DPW had required a double barrel entrance resulting in additional impact to wetlands. M. Marcus noted that there was 800 sq. ft more of fill for the plan approved by the Planning Board and presented to the SCC, dated 4/01. He noted that the primary issue with PB was sight lines.

W. Belec explained what sight lines were. Coming into and out of the project is going to be difficult from Whittemore because of heavy traffic. The line of sight referred to the traffic coming down the hill. He noted that he would submit copies of the memos from the PB hearing to the SCC. D. Barnicle summarized that the double barrel entrance was a safety issue as the result of expected volume. If the volume issue goes away, so would the safety issue, eliminating the need for the double barrel and the additional wetland impact. He noted that ironically the Planning Board was magnifying their safety issue and taking away from the neighborhood concept. A through road would increase traffic as a short cut creating the need for more safety measures. Allowing two or three cul-de-sacs would make the neighborhoods safer, decrease through traffic from Fiske Hill/Whittemore to Fairview/Shaws area eliminating the need for a double barrel entrance for sight line safety, provide useful open space and a contiguous green way.

W. Belec noted that part of the original design, was to introduce trails into the plan.

D. Mitchell asked how many lots were on the approved plan vs. the rejected environmental plan. W. Swiacki said 29 lots on the approved, 30 on the cul-de-sac version. N. Ryder asked if this included the 7 ANR lots carved out of the same parcel, which were part of the overall use and development of the parcel. N. Ryder asked if a comparative cost analysis had been conducted for the Fairview Road entrances only plan vs. the through road onto Whittemore Road plan. W. Swiacki said it had. He stated that there was no way to connect Fairview to Fairview to obtain a satisfactory number of lots.

Other plans reviewed with the PB included; 3/2/01 – slope issues; 3/13/01 – same issue; 3/13/01 – different through road with a cul-de-sac, same slope issues prohibited the possibility.

W. Swiacki noted that he had reviewed a number of conceptual plans he noted that he tried to keep impacts under 5000 sq. ft and felt this was a good analysis.

M. Marcus noted that the parcel, shown on the plans as 1 large parcel, is actually 3 separate small parcels combined. He noted that there was no way to get into 2 of the parcels without crossing wetlands, it would also be impossible to meet zoning.

W. Belec noted that the entrance grade requirements in town applied to road connections within subdivisions also. The slope going from one road to another is restricted to 8% at the point of intersection. He noted that they had been able to reduce the ROW width to 50 feet with the PB.

M. Marcus asked if the applicant had met the burden of proof in terms of an alternatives analysis.

D. Mitchell stated that in his mind it was a good faith attempt to look at a variety of alternatives.

D. Barnicle stated that he was concerned that the Commission was at an impossible point with the Planning Board. In order to have no impact on the Whittemore connection to the wetlands there could not be a cross road, but this would be contrary to what the PB had already approved. His concern was also that in order to meet the SCC requirements, he did not know if the PB would approve a revised plan. He felt the project may be at an impasse.

W. Swiacki stated that reducing the lot yield would not be a benefit to the project or decrease wetland impacts.

D. Mitchell stated for the record that although the applicant made a good faith effort (with the Planning Board) he needed to take a look at the broader impact on the overall site footprint. He was concerned with the elimination of the greenway and noted that while these issues being discussed were not a priority of the PB, they were a priority of the SCC and a compromise may be needed.

M. Marcus noted that he had tweaked the plan to eliminate as many impacts as possible within the 25-foot buffer.

E. Goodwin noted that he would have to hold judgment, while an extensive number of alternatives had been presented, the applicant had clearly shown that in his conceptual plans the wetland issues and conservation issues were secondary to the Planning Board issues. He did not feel it was appropriate for an evaluation tool such as the alternatives analysis, which was meant for Conservation use, to be presented to and finalized with the Planning Board. He noted that while the number of alternatives was extensive, he did not know at this point whether or not the Commission could approve the plan presented.

N. Ryder noted that a cost analysis for no impact or minimal impact had not been done. She stated that the alternatives analysis for SCC clearly required plans showing no impact and minimal impact be presented for approval or with reasons why they should not be considered as practicable or cost effective alternatives for the developer. She stated that while plans had been presented and a good faith effort made. She did not feel the scope and intent were followed. The SCC should consider this in evaluating the overall impacts.

D. Barnicle stated that the SCC needed to meet with the PB to discuss this issue. N. Ryder will request to be on the next PB agenda to set up a meeting/discussion time and present the issues of concern to the SCC for consideration.

M. Marcus noted that the difference in impact between the more environmentally sensitive plan rejected by the PB and the approved version was only 800 sq. ft of direct impact.

The public hearing is continued to March 6 at 9:30 PM.

PUBLIC HEARING – NoI – J. Teachout – Jalbert – 10 Gifford Road, proposed new building construction for automotive repairs.

D. Barnicle opened the public hearing. Present were P. Matthews, J. Teachout, M. Marcus, Elizabeth Sheldon, and Sheryl Reeve.

N. Ryder noted that there was a substantial amount of information missing from the file and read through the check sheet, she noted that the checklist had not been sent to Jalbert's. J. Teachout said she had just inherited the project and was unaware of the missing file items. She said she would address them before the next meeting. N. Ryder submitted the DEP response statement, which was read into the minutes. DEP's concerns were that the applicant should consider alternative uses for the site, the amount and nature of wetland impacts were not clear, the project appeared to call for the filling of an intermittent stream but details were not provided, no mitigation is shown and no compliance with title 5 is shown.

P. Matthews introduced the project as a commercial redevelopment of a commercially zoned property. He noted the project was originally proposed for 165 Charlton Street, but due to difficulties was moved to this site. N. Ryder noted that there had been reports made to the commission that the building was intended to house an automobile repair shop, a carwash, or an office building. She noted that the range of reported uses and the scope of potential uses within a commercial area implied a varying range of impacts to the associated wetlands. She asked if clarification to use could be made. P. Matthews stated that there was no intended use at this time. He noted that if a commercial project was brought in they would obviously have to deal with the issue of containment at that time.

E. Goodwin asked for clarification of the exact location of the property. He noted that the property had recently been subdivided from a larger parcel owned by W. Swiacki. He asked if the layout of the entire parcel was available. J. Teachout said it was not at the moment but she would get the information.

J. Teachout outlined the wetlands originally reviewed and delineated by NEE in 1999 and 2000. She outlined the small area of upland located behind the existing building. She noted that the entire parcel as shown was wetland except for 3 small isolated uplands.

S. Reeve clarified where the property frontage ended, near pole 3. She stated that she was an immediate abutter.

D. Mitchell asked how much of the property was upland. 19,000 sq. ft out of 137,225 sq. ft. of this 14% was being developed.

N. Ryder noted that she felt there was an issue of reasonable use and asked if the applicant was aware of the 25 foot no disturb buffer or the 50 foot structure buffer for new projects. She noted that the only way to not encroach on the 25-foot buffer was to reconstruct the building on the existing footprint. J. Teachout noted that if they had to keep a 25 foot no disturb buffer around the project there would be no project as there was not that much upland in any one spot.

E. Goodwin stated that this went back to self imposed hardship and reasonable use. He noted that reasonable use did not allow for an applicant to split off a small piece of a property, creating a

hardship. N. Ryder noted that a plan showing the property in October of 1996 would be needed as well as a listing of other commercially zoned properties owned in common ownership.

The SCC studied the plan presented. D. Mitchell asked N. Ryder to reread the DEP statement. He asked if there was mitigation of 2:1 at the 3rd upland area. He asked if the same type of resource (stream) was being planned. J. Teachout said no, it would not be possible on the property without eliminating any potential useable upland.

D. Barnicle asked if the Planning Board had given approval for this project. P. Matthews stated that they had approved an ANR only, based on frontage and lot lines, nothing else.

J. Teachout asked the SCC to continue the hearing. She stated that there had been many good questions raised that she has not yet had time to consider or review. D. Barnicle stated that was a good idea. E. Goodwin noted that the SCC needed to take a site visit and asked if the wetlands were flagged. Yes. J. Teachout said she also needed to review them as she did not conduct the original delineation.

D. Mitchell asked that she address the nature of the replication area failing to provide for the same resource character as that proposed to be altered. He asked that the off-site wetland and stream connections be mapped and presented.

D. Barnicle asked M. Marcus what the site looked like when he did the delineation. M. Marcus stated that the wetlands and stream were in transition when he had been there. He could only guess that the difficult issues for the site had increased.

E. Sheldon noted that when her family lived there in 1969, the land had been upland. She noted that the front stream had only been a trickle then and was dry from March through winter. The back stream had not been on the property. She stated that the wetlands on the property had substantially changed.

D. Barnicle clarified that the flow goes under Rte 20, past 174 Charlton and into Hobbs Brook. Correct. E. Goodwin noted that there were 2 culverts under Route 20 that the Commission needed to look at.

The hearing will be continued to March 20 at 9:30 PM.

PUBLIC HEARING – NoI – Green Hill for Marin Realty – driveway reconstruction and related at 145 McGilpin Road.

D. Barnicle opened the hearing and reviewed the plans submitted. No applicants were present. M. Sosik had called and let the Commission know he had another meeting to attend at the same time. He had asked the SCC to review the plan if possible. The plan included a driveway crossing of a stream. The crossing had been constructed under a previous hearing. The home, septic and well were all outside the 200-foot buffer. E. Goodwin noted that the lot had been subdivided additionally since the original filing and crossing approval. The lot had been 32 acres, it was now 16. D. Barnicle reviewed the vernal pool topo, he noted that there appeared to be two potential pools identified in the vicinity of the home location. He noted that he felt the wetlands were larger than shown on the topo map. He noted that due to the additional building in the area, some of the wetlands had expanded to accommodate the runoff. He noted that he would not be comfortable approving the project until he saw the site. E. Goodwin and D. Mitchell agreed that the wetlands as shown needed to be

redelineated. The original filing was almost 20 years old. The state of the crossing also needed to be checked. A site visit will be scheduled as soon as ground conditions permit. The hearing is continued to March 6 at 8:10 PM.

PUBLIC MEETING - Preserve and Allen Homestead, OoC review and action

D. Barnicle opened the meeting.

Present for Allen Homestead was Michael and Jennifer Suprenant-

M. Suprenant submitted and reviewed a packet of documents including; A response to the 2/6/03 letter, February storm water and erosion control management reports, the land/bond covenant, a letter and a checklist of action requirements submitted to site contractors, January pond sampling report, the weekly site inspection report and a copy of the EPA, NPDES permit.

M. Suprenant reviewed the list of conditions the SCC had sent him that needed completing. The SCC will review the Covenant and get back to M. Suprenant by the 3/6 meeting so he can draft a final document with the bank. Other discussion included work on the retaining walls for the detention basin and the bank above Allen Pond. M. Suprenant asked to have the retaining wall construction held until summer when the soils would be dry and stable. The SCC questions whether or not it should be completed prior to the thaw. All parties agreed that working on the wall in spring was not an option. M. Suprenant noted that he had a cover over part of the detention basin to keep additional snow off, he was having work started on that section as soon as possible. D. Mitchell asked for the erosion control lines to be noted on the overall site plan submitted with the reports. D. Barnicle asked M. Suprenant to include in the monthly report, any issues the SCC should know about, whether good or bad and how they were handled. He noted that this was so the SCC could see the normal site activity and develop a sense of confidence that the project was actually being monitored. Reports that say, for four years, that everything is rosy every day are not worth the paper written on and the SCC has no confidence in the monitor or the project. Issue arise all the time, he asked to please have those reflected. M. Suprenant agreed and said he intended to do that.

With approval from the SCC, the final covenant as an alternative to bonding will be signed on March 20, at 9:30 PM.

Present for the Preserve was Charlie McGregor-

C. McGregor noted that the lot holdback as an alternative to bonding was in the hands of the planning board. N. Ryder noted that she had sent a letter to L. Adams and the Planning Board, but had not yet received a response. She noted that she would make an appointment for 5 minutes on Tuesday, March 4 to discuss the issue briefly and to request an appointment to discuss the alternatives analysis issue. D. Barnicle noted that he would attend also. D. Mitchell asked what had been done on site in terms of the home construction. C. McGregor said two homes, on Audubon and Preserve way were being built, Phase I would continue down from those two. The Conservation Restriction is currently in the hands of the attorneys. He will submit information as soon as he can.

C. McGregor addressed the conditions the SCC had noted in the checklist as needing to be finished. He noted the recording information was attached. He submitted a letter from A. Allen stated that the site was in good condition. A. Allen had suggested earlier that due to the heavy snow cover and frozen conditions, site visits be conducted less frequently. The SCC agreed. As there is not much site work being conducted, regular inspections can resume when work picks up in the spring. He submitted the plans showing the boulder lines as proposed. He addressed the stockpile area and noted that although it was larger than the commission had been told it would be, it was within a small area that was outside

the 200-foot buffer for all resource areas. The SCC discussed this at some length and agreed that although it was not as approved, it was outside the 200 foot jurisdictional area and therefore not an issue. It was noted that at one point the stockpile area had gone completely over the hay bale line. C. McGregor said he would check on that. E. Goodwin and J. Michalek will conduct a site visit. N. Ryder noted that the only item not addressed were the storm water phase II reports from either C. McGregor or A. Allen.

N. Ryder noted that a request for a sign off from the OoC for the open space portion of the Preserve had been made from DEM. The SCC noted that a legal definition and clear plan of land being discussed were needed prior to releasing any part of the OoC..

PUBLIC HEARING – NoI cont – 52 Stallion Hill Road for Stallion Hill Village review

D. Mitchell opened the public hearing. Present was M. Zulkiewicz.

N. Ryder noted that the applicant has submitted no new information, she summarized that the purpose of the hearing was to further discuss the scope and any new information. She noted that proof of abutter notification had still not been submitted. D. Rice had stated that the green cards had been submitted to Cullinan, but had still not been forwarded to the SCC. M. Zulkiewicz agreed that was what the intent of the meeting had been at the last hearing. He asked instead for a continuation to May 15th at 7:30 PM to wait for the results of the town's decision on whether or not to purchase the land using CPAC funds. Granted unanimously by the SCC.

PUBLIC HEARING – Discussion of ZBA Chapter 40B Application

Tabled

PUBLIC HEARING – NoI cont. – 53 Beach Ave, single family home addition and related.

D. Barnicle opened the public hearing, present were S. Sousa, T. and R. Ricard and Atty. E. Neal.

E. Neal submitted the information relating to the request for a waiver. The legal easement to the telephone company saying no structures were allowed, and the sideline, zoning restrictions, were submitted to show that the applicant had no other recourse to move the addition further back on the property. T. and R. Ricard noted that the project predated the current 50-foot structure setback. They had come before the SCC prior to the adoption of the regulations and walked the site with the Commission to discuss possibilities before buying the property. At that time there had only been a 25-foot no-disturb zone. D. Barnicle asked if the project met the 90% upland requirement. T. Ricard said it did, the lot was over $\frac{3}{4}$ of an acre.

D. Mitchell stated that he understood that the applicant had spoken to the SCC prior to the regulations being adopted, but the application came in after, and the applicant knew the regulations were under review. He stated that the information for the waiver was submitted and the applicant had met the criteria to be granted a waiver. E. Goodwin said he felt the home should still be placed as far back in the 50-foot structure setback as possible. D. Barnicle agreed. D. Barnicle shook his head and stated that he could not believe this home was back before the Commission, with all the same issues as the original home replacement. R. and T. Ricard said that if they knew there would be a 50-foot setback they would not have purchased the home. E. Goodwin stated that although they showed they qualify for a waiver, the plan is the same with the home up against the 25-foot buffer. He noted that they could move the home back within the 50-foot buffer to pull it farther from the lake. E. Goodwin stated that he had a problem with the home size, the deck location and with the original house. He felt the

applicant could adjust the proposal to meet the regulations more closely. N. Ryder asked why they could not elongate the home and deck. If the deck was primarily the reason for building the addition why not change the configuration and move further back from the 25-foot buffer. D. Mitchell noted that prior to the regulations becoming effective, the SCC had given the applicant information that there was only a 25 foot no disturb buffer. N. Ryder noted that even if that was the case, there was no chance that the 25-foot buffer would not be disturbed with the home/deck footprint at 26 feet from the lake. Even to meet the 25 foot no disturb buffer, the home would need to be pulled further back.

E. Neal asked the applicant if they would consider that, he felt that it was a reasonable compromise based on the information and the current regulations. E. Goodwin, D. Barnicle and the Ricards reviewed the plan and discussed pulling the home back several feet and lining the front of the porch with the front of the existing home so the closest point to the lake would be 32 feet.

S. Sousa said he would have a revised plan submitted. D. Barnicle told the applicants that the regulations were fairly new, the waiver was the first submitted, if the SCC was going to be setting precedent they needed to be careful and give justifiable reasons for any decision.

R. Ricard expressed his frustration and noted that the project came through in the middle of the process of changing rules. He stated that he was trying to meet the regulations and was being as up front as possible. D. Mitchell noted that the SCC knew that and said they appreciated his efforts, but they still needed to comply with the current regulations. He noted that even with the waiver approvable, the location could be tweaked and the potential disturbance minimized.

The public hearing is continued to March 6 at 10:50 PM.

PUBLIC HEARING – NoI cont. –Marin Realty for 13 and 14 McGilpin Rd. Single family home construction and related.

D. Barnicle opened the public hearing, the applicant was not present, site visits were not conducted due to the snow depth. The hearing continuation had been agreed on in advance to March 6 at 8:10 PM.

PUBLIC MEETING – M. Loin for Also 174 Charlton Street, (pka Fibercore) for presubmittal meeting to review documentation needed for public hearing. The proposed project is a building addition. Resource areas include an intermittent stream to the East and Hobbs Brook and associated BVW to the North.

D. Barnicle opened the public meeting, present were M. Loin, Mike Ciesla, Vinny Ciesla and Andy Ciesla.

M. Loin noted that he had scheduled a meeting prior to the public hearing, as the next available posted public hearing spot was not until March 20. A cancellation had occurred for this agenda so he asked to discuss the completeness of the project so that when the public hearing did open, he would know what the major issues would be. He asked the SCC if they would conduct a site visit prior to the 20th. N. Ryder noted that they would if they could, but they had 9 other sites also waiting for the snow to melt so wetlands lines and slopes could be confirmed.

M. Loin outlined the lot, which the former Fibercore building was located on. He outlined the BVW boundary, the 25-foot and 50-foot buffers. He noted that the Perennial Riverfront Resource Area for Hobbs Brook was 260 feet from the property line and 310 feet from the edge of disturbance for the

project. He submitted photos of the site. M. Loin noted that the edge of disturbance to the BVW was 50 feet.

D. Mitchell asked how the high mean annual watermark was determined with the snow cover. M. Loin noted that there was a clear edge of bank visible from both vegetation and a zone of indentation. D. Barnicle asked when the flags had been placed. M. Loin said they were old and had been existing. They were on the edge of the BVW, but there was no work proposed for the edge. D. Barnicle noted that the delineation had been suspect during the Sprint Tower Project. Any implied delineation relating to that project expired in April of 2002.

M. Loin submitted a construction sequence plan and storm water, phase II, plan. The SCC reviewed it. D. Mitchell referenced the EcoTec sequence for Leadmine Road and asked M. Loin to incorporate a similar dated sequence plan with verification points.

M. Loin outlined the brook to the north of the project. He noted that the limit of work was 150 to 160 feet from the stream. E. Goodwin noted that the lot was flat and already disturbed in that direction and asked why they needed to construct the detention basin and work near the wetland. He noted that flat, open, disturbed space should not be a problem. The work could be moved over to the side and away from the wetland. M. Loin stated that the open area was the site of a proposed future warehouse. He noted that using that area for the detention basin limited future use. D. Mitchell noted that it should be possible to adjust parking area and spaces to pull the work further from the wetland.

D. Mitchell and M. Loin discussed the tracking pad and stockpile area. The stockpile area will need to be clearly defined.

M. Loin outlined the proposed plantings. A planting schedule relating to the detention basin will need to be submitted.

The storm water controls were discussed, the location of oil water separators, deep sump catch basins etc. All water on site will be routed through the detention basin. There will be no flow off the parking area. Each catch basin will have an oil-water separator and a deep sump.

The SCC clarified with M. Loin that the items which needed to be submitted were a construction sequence with dates and sign off points, and a landscaping plan for the detention basin and immediate buffer areas. E. Goodwin requested an overall site stabilization plan. A site visit will be conducted as soon as ground conditions allow. The public hearing is scheduled to begin March 20th at a time to be posted.

PUBLIC MEETING – TOS Quarterly review of Wetland Bylaw and Regulations to determine if changes need to be made.

Tabled

PUBLIC HEARING –New Forestry Application Review.

No new applications

NEW BUSINESS –

D. Mitchell noted that a 30% to 40% cut in staff had been made at the state level. The SCC discussed the local impacts and agreed that the local commissions and land groups would have to take up the slack to protect resource areas and open space interests.

OLD BUSINESS –

OTHER BUSINESS –

LETTER PERMITS

Two letter permits, one for a shed at Big Alum and another to cut trees to install a lake association beach were reviewed. Site visits cannot be taken to review impacts from slope and removal of stabilizing vegetation. They were tabled to the 3/6 meeting.

CERTIFICATES OF COMPLIANCE

Motion to close 11:10 PM, approved by unanimous vote.