

STURBRIDGE CONSERVATION COMMISSION

Minutes for Thursday, July 24, 2003

MEMBERS PRESENT –

D. Barnicle, D. Mitchell, J. Hoffman, E. Goodwin

6:00 PM

The Commission reorganized, elected officers are D. Barnicle, Chairperson, D. Mitchell, Vice Chairperson. Term agreed on is 1 year.

PUBLIC HEARING – NoI cont.- Leslie Ann Sugrue for Tyrone Jones for hazardous waste removal at 51 and 55 Holland Road.

D. Barnicle opened the public hearing. The applicant and representatives did not attend the hearing continuation. The Commission did not receive notice that they would not be attending. Present from the Board of Selectmen was C. Blanchard

J. Hoffman asked the SCC to discuss possible courses of action should J&W or LA Sugrue not show for the hearing continuation. He noted that without a request for a continuation, the commission had to close the hearing and take action. He noted also that the SCC wanted them to continue work, not stop work. N. Ryder stated that the proper form to motivate individuals to conduct work they did not wish to do, whether permitted or corrective, was with an enforcement order. The order should state that fines would be imposed if they did not comply within a certain time frame. The enforcement order can be appealed to DEP or superior court by the landowner. D. Barnicle requested a letter be sent to DEP stating that SCC wants the work done also and asking them where the land owner stands in the DEP review. J. Hoffman noted that the letter should make it clear that the SCC is ready and willing to authorize work based on what they saw on the site visit. He stated that the letter should note that the SCC is waiting for a letter summarizing the site visit discussion from LA Sugrue. The letter is to be CC'd to NHESP. N. Ryder stated that she did relay the information to B. Dunn and M. Stone over the phone.

C. Blanchard questioned if the SCC discussed anything else past the imminent hazard. D. Barnicle stated that they did not on the site visit. He noted that it did not sound like LA Sugrue was authorized to handle any more than the imminent hazard cleanup. C. Blanchard confirmed that she did not address anything more than that. D. Mitchell stated that he was not sure the field representative was required to handle any more than that. J. Hoffman stated that he understood that the LSP must complete a plan to address and study the rest of the site as part of the DEP response. D. Mitchell noted that once a site gets into the system, the land owner might have 3-5 years to resolve contamination cleanup for non-imminent hazard sites. An imminent hazard site has 30 days to respond and 120 days to clean up. J. Hoffman noted that he got the impression LA Sugrue was not authorized to do much. D. Mitchell stated that likely she was paid to do the minimum necessary to comply. D. Barnicle noted that she was succeeding admirably.

D. Barnicle read from the DEP statement, which required a letter from the Licensed Site Professional stating there was no further risk from the site when the project was complete. He noted a fine was to be levied if the response was submitted later than the date noted by DEP.

C. Blanchard noted that R. DiBoneventura was only the financier; he noted that the land had been turned over to G. Paquin's company in Woodstock.

D. Mitchell noted that sites get classified based on laboratory test results. He stated that this site may not be required to be cleaned up in one year, it can be done fast, but DEP doesn't always rush to do that. D. Barnicle clarified that the timing issue is to submit a proposal for cleanup that then becomes the plan of action. D. Mitchell noted that the state has backed off from Tier 1a sites as priorities. If they are not involving human health, the state is slow to follow through

E. Goodwin asked what D. Mitchell's experience was for owners trying to shirk out of responsibility. D. Mitchell stated that once you are in the DEP system you are in for good even if you own the land for 5 minutes. E. Goodwin stated that the current owners are Limited Liability Companies, likely set up to protect the company from these issues. He noted that the company could dissolve quickly and then reestablish itself under a different name to escape liability.

C. Blanchard said the BoS was told by Tighe and Bond that the land owner had to clean up the site within one year. He noted that they were also told the cost was within the range of 10 to 20 thousand dollars just to get contaminants in the area identified. He stated that what was identified there already triggers that type of response. In addition for the artesian well, the requirement of responsible party is to determine the depth of the well and the plan and cost for cleanup. BoS was told the cost would be 150 thousand dollars just to determine the depth of the well and the clean up needs. D. Mitchell noted that they would probably be required to flag limits of contamination. He noted that there would likely be limits to any future use based on how the land would be used, schools would not likely be allowed. C. Blanchard noted that the site was right near a town well zone. He asked the SCC to consider the risk to the town well and water zone. J. Hoffman noted that the SCC had no vested interest in pushing the land owner; they had no incentive to move forward if pressured. J. Hoffman asked if they were in violation of any other town boards regulations, where they could be held up on other projects. Not at this time.

The SCC discussed the land ownership further. C. Blanchard noted that US filter owned the property only 3 years ago, still within the legal chain of responsibility. Vivendi, a large foreign company with deep pockets, currently owns US Filter/CPC. D. Mitchell suggested having Tighe and Bond send over a checklist giving the SCC timetables and how chain of responsibility is determined. He noted that since they have several LSP's working right at Tighe and Bond, it should be a fairly easy summary to obtain. E. Goodwin noted that would help the SCC in their long term review also.

E. Goodwin noted that the SCC needed to discuss what action they wished to take. D. Barnicle noted that based on the lack of input and response by the applicant and representatives, SCC need to institute a list of actions to follow. DEP needed to be notified and the SCC would start fining action if compliance was not obtained. J. Hoffman stated that the DEP letter said the clean up was to be conducted under the auspices of SCC. D. Mitchell noted the requirement for a cleanup is under MCP, how the work is done is the purview of SCC. E. Goodwin noted that LA Sugrue was showing no effort in regards to the cleanup. He stated that he did not want SCC to look like they were blocking the project. J. Hoffman agreed and noted that the letter sent should state that the applicant did not even need this hearing, they could have had a Letter Permit two weeks ago, if they wished.

D. Barnicle noted that the purpose of this hearing was for further review, and also review of preliminary results based on the cleanup already being conducted.

D. Mitchell noted that fining seemed quick to trigger, he questioned why this action was needed now.

J. Hoffman noted that no one has ever acted like this before, where they said they would do something, then did not even show up to the hearing or cancel or continue. D. Barnicle stated that because the events were leading

to a decision by SCC, the SCC needs to push positive cleanup action. SCC needs to instigate him to take action. J. Hoffman stated that this is different, it is not a tree cutting issue, there is an undesirable situation, which SCC wants remedied. D. Mitchell noted that the imminent hazard is to human health, he saw it as regulated by the MCP. He noted that he did not see that as an SCC decision. He questioned if SCC was getting after them for inaction on the removal process, noting that as much as he would like to have it done early, he did not believe it was a fining issue. E. Goodwin noted that the point is good, but questioned how does SCC get past the fact that they are not responding. N. Ryder stated that the appropriate action to take to motivate the J&W to work on the cleanup would be an enforcement order. Enforcements were used for work, which needed to be done, which the landowner did not wish to do. She stated that if they chose not to comply or start moving, then fining should be initiated. N. Ryder also stated that because the landowner and applicant did not show up, the SCC must close and make a decision based on the information submitted. D. Mitchell agreed that SCC could issue an order have it recorded and send a letter. He noted that if they start and do a poor job, the SCC could fine then; now he didn't feel the SCC could fine. E. Goodwin asked what if they have not acted by next meeting. D. Mitchell noted that by then it will be an MCP issue, and they will be fined by the state. N. Ryder stated that they could record an Order requiring all action the SCC felt should be taken against the property. She stated that short of an enforcement order this was the only way to give the land owner an incentive to remediate the property.

D. Mitchell stated that he wanted to make sure SCC had good reason and cause to fine. C. Blanchard noted that the MCP response by the state would have more teeth than any fining SCC could do. C. Blanchard noted that he thought it was important for the SCC to let the DEP know that SCC supported this clean up and was not standing in the way. C. Blanchard noted that all sites need addressing within certain time periods. D. Mitchell noted that the contaminants needed to be identified, then the land had to be put in to the tier system. After that they then had up to 5 years to clean up the site.

D. Barnicle noted that they were back to the same question. Do what?

D. Mitchell motioned to send a letter to DEP stating what SCC has been doing, outlining the applicants inaction and inability to meet agreed upon activities

2nd J. Hoffman

Disc D. Barnicle requested a copy be sent to DEP as well as the applicant. E. Goodwin noted that he felt the SCC should issue enforcement and start fining immediately, otherwise the letter will be just another ineffective action. SCC needed to start effective action now; this property has been before the SCC for several months now with no action. N. Ryder agreed enforcement was the proper tool to use. She noted that the SCC could and should also issue an OoC to be recorded at the registry of deeds as a lien on the property.

D. Mitchell amended the motion to also close the hearing, to issue an OoC, to record it at the registry of deeds. J. Hoffman confirmed his second. D. Mitchell summarized the motion. The vote was unanimous in favor.

The SCC discussed the special conditions to be included in the OoC: The final conditions are as shown in the OoC.

The SCC discussed land owned contiguously by the same owner and whether or not the Order could be recorded or held as a lien against contiguous properties owned by the same owner. D. Mitchell and J. Hoffman questioned the need to do this. E. Goodwin stated the purpose is to motivate owner. D. Barnicle, D. Mitchell, and J. Hoffman stated they were opposed to applying the OoC to Stallion Hill.

D. Mitchell noted that based on this decision, the cleanup may end at the property line even if the contamination did not.

J. Hoffman made a motion to close and not open the hearing up again. E. Goodwin 2nd, disc not to be reopened. Vote was in favor, unanimous.

MINOR WALK IN REQUESTS

H. Fife attended for the DEM for repair work at Wells Park. He submitted a Letter Permit request for repair to an area near 2 camping sites, 15 and 16. He noted that the proposal was for biomat installation near a popular fishing spot that is deteriorating into the pond. DEM will be laying a biomat along the edge of the lake then constructing a solid wall against the lake, to hold fines back. D. Mitchell asked how long the repair would last. H. Fife said probably 2-4 years, they don't want to put rip rap in the lake the whole way, but need to stabilize the site for the short term at least. J. Hoffman asked if they planned to replace the biomat and wall every year. H. Fife noted that if they were allowed to put the mat out 6 inches, they could then add wetland plants. J. Hoffman noted that ice action may breakup the mat, plants and wall. D. Mitchell asked how securely it would be placed. H. Fife said the mat would be staked down and was made of coconut fibers. D. Barnicle noted that the project could be approved the same way the Commission has approved others in the past, as an improvement for a resource area, that should be done immediately. D. Barnicle noted that while the ice may break up some of the mat, the mat and wall might also break up some ice action damage. H. Fife noted that Wells has large powerful boats on lake now; they should not be there and are causing a lot of damage. E. Goodwin asked if the park and DEM has considered a horsepower limit on the lake. H. Fife stated that no one had ever water skied on the lake before, it was not big enough really, but people are doing it now. E. Goodwin noted that the lake residents and DEM should go to the BoS and limit speeds to 25 hp. D. Barnicle asked if the SCC wanted to approve the project as a letter permit improvement or wanted a filing. J. Hoffman stated that it was a positive action and should be approved as a letter permit. E. Goodwin agreed. D. Barnicle noted that the letter permit was being granted with the understanding that DEM will try vegetative plantings to further stabilize the area. E. Goodwin asked how much mat would be needed, 60 inches for 50 feet long. Approved by unanimous vote.

MINUTES REVIEW

Minutes of 5/20, 6/5, 6/19 and 7/10 were distributed for review.

CPA UPDATE, E. GOODWIN

E. Goodwin stated that the meeting had been cancelled; individual members are continuing to work on the Holland Road land issue.

CORRESPONDENCE REVIEW –

Correspondence reviewed included; Quinebaug/Shetucket correspondence regarding membership, A letter to Elle Sbrogna regarding permitting requirements and history for 12 Williams Road, A site inspection report from EcoTec for The Preserve, MACC newsletter, Notice of receipt for the Sanctuary Homes Conservation Restriction from J. Lerner of DCS, A copy of a right to access property at 20 Allen Road to DPW from S. Menard in order to extend and maintain a drainage structure on the property relating to runoff from Sydney Road, Email correspondence discussing the unique needs and issues of lake front property and the need to hold a meeting to discuss amending the regulations to address these issues. Email correspondence requesting a meeting to discuss ways to alleviate some of the excessive workload the commission is currently faced with.

DISCUSSION OF NEW INFORMATION –

*The commission discussed possible changes to the regulations to work with landowners on small preexisting lake front lots. Possible changes include allowing structures within the 50 foot buffer for small lots as long as the overall conditions for the lake are improved, one way to accomplish this is to require 2:1 mitigation planting along the lake front for any addition in structure within the 50 foot buffer. The 25 foot no-disturb buffer is to

remain unchanged. Any change in footprint will continue to be considered new development requiring compliance with the regulations to the greatest extent possible, waivers will be granted for extenuating circumstances, additional options for small lake front property owners will be considered. The main concern was drafting the change in wording to preserve the intent of the regulations, which is to at least maintain and preferably improve the conditions for the lake with each project.

*D. Barnicle asked the SCC to discuss the validity of plans approved which turn out to have missing topographic lines. His concern was with the drop from the home site to the detention basin on one of the Allen Homestead lots. He questioned that since the topo lines are incorrect, can SCC as a policy, automatically reconsider or reject a previous approval based on the topo lines being different. The approved plan showed a 7 foot drop, with a retaining wall, based on shown topo lines. The home had to come back in for specific home location review. In reviewing the plans and site it turns out that the drop is actually 14 feet, but the lot, as a home lot, has already been approved. The SCC discussed the issue and noted that it would have to be re-evaluated on a case by case basis. J. Hoffman stated that if the information were wrong it would need to be reconsidered. It did not appear the missing lines were deliberate.

E. Goodwin and D. Mitchell agreed that the project should be reopened and re-discussed. D. Mitchell stated that doubling the slope increases SCC interest; the project should be brought back up. D. Barnicle noted that it may also now violate PB regulations. J. Hoffman questioned whether there is a height bylaw noting the Tantasqua wall. He stated that his concern would be if the project as exists may have different erosion control requirements. E. Goodwin noted that they are required to submit an as built for approval. If it is not built as approved, it can be rejected. J. Hoffman stated that the subject should come back to SCC for change in process. SCC agreed unanimously that an incorrect slope is cause to re-discuss a project. E. Goodwin noted that he had not approved the location originally. J. Hoffman noted that the work on the lot met the regulations at the time it was reviewed. While the Commission did not feel it was a good home lot, that was not the issue and a project could not be denied based on personal opinion. The SCC discussed the site and agreed that while they did not like the original location and still didn't, the change in elevation was at a vertical retaining wall and would not alter the use of the site or the environmental issues significantly.

J. Hoffman stated that the commission should be working with the planning board to ensure that these same type lots, which met zoning laws and had drainage structures and wetlands covering 60-70 percent of the lot, could not be allowed based on zoning regulations in the future. He noted that after the home was built, there would be almost no yard to speak of except for wetland and drainage structure. N. Ryder noted that she had spoken with L. Adams regarding lot 31/34. She stated that the same situation could not happen again; the regulations have changed and no longer allow drainage structures on home lots. The drainage structures must be on separate lots and deeded over to DPW on completion of the project. Project completion is based on approval from town boards and committees that all requirements had been completed as approved and required.

*The SCC reviewed a letter from G. Morse regarding the DPW's standing OoC for maintenance and repair. The repair is for an existing town structure. The work will be done by Soper Construction, and will include; replacement of man hole with catch basin, filtration catch, cleaning of a swale, replacement of a failed pipe and structure which is releasing sediment in to the lake, rip rap replacement, etc. The SCC reviewed the proposal. J. Hoffman noted that the commission needed to do something in response, either allow the work under the standing order or require a new NoI. D. Barnicle asked whom the overseer would be, who would finalize the project and give ultimate approval of the work. D. Mitchell noted that if it was approved based on the Standing OoC with DPW, then B. Soper must follow standard erosion control procedures. D. Barnicle requested that the OoC add a condition that both DPW and SCC must conduct the final site visit prior to any final payment for the work. Approved by unanimous vote.

REVIEW OF SITE VISITS, SCHEDULED AT PREVIOUS MEETING

15 Cove Drive – No problem

J&W 51 Holland Road – Please see the site visit details sheet, a letter permit will be issued for the immediate work with a Notice of Intent follow up for the remaining property as soon as LA Sugrue submits an explicit and clear summary letter of her intended work.

Exxon Mobile sites, 62 Charlton Street, 53 Holland Road, 46 Holland Road.- No problems

128 Leadmine Road – work within the 50 foot no structure buffer and the 25 foot no disturb buffer. The disturbance and single family home usage is existing. Planting at a 2:1 ratio as mitigation to improve the net conditions for the lake was discussed.

129 Mashapuag Road – Could not find the site.

PUBLIC HEARINGS - continuations for closure, review, amendment, and signing of OoC's and DoA's
Including,

241 Podunk no final plan or notification was shown, continued to 8/7

4 Exxon Mobile sites at 62 Charlton Street, OK'D 53 OK'D and 46 OKK's Holland Road,

Walker Pond weed treatment OK'd,

5 Lakewood Trail OK'd, and

32 Tannery Road OK'd.

PUBLIC HEARING – NoI cont – New England Environmental, for Swiacki, for Whittemore Woods
Subdivision.

PUBLIC HEARING – NoI – New England Environmental, for Swiacki, for Whittemore Woods Subdivision
for single family homes and related.

PUBLIC HEARING – NoI – New England Environmental, for Swiacki, for 96 Fairview Park Road for single
family home construction and related.

D. Barnicle opened the public hearing, present were; W. Swiacki, M. Marcus, Wayne Belec, Paula Thompson, Mark Donohue, lawyer for B. Swiacki.

M. Marcus noted that W. Belec had pulled the new design together, P. Thompson had updated the stormwater management, and hydrology study and Mark Donohue was present to discuss a conservation easement or restriction for Draper Woods.

M. Marcus submitted a revised NoI package. He noted that it outlined modifications to the original plan, drainage, open space, etc. He noted that the additional information included a long history on alternatives analysis. He noted there was also a new drainage report from P. Thompson as all drainage basins had been redesigned.

M. Marcus noted that it was not the final plan; it was a working draft of a revision to the submitted plan. They would like to convince the SCC this is a good plan to go with. He noted that the applicant had taken a long hiatus, changing most of plan but not changing the through road. He stated that if the commission goes through the data from the Planning Board, they would understand the through road is the only way to go. He noted that

his hopes were that if SCC looks at all the plans and new elements, they would not see such a harsh plan as was presented before. He noted that he would like to go through one element at a time; if SCC has comments or questions as he goes through the presentation they should let him know.

M. Marcus started with the cul-de-sac noting that it was almost a separate subdivision. The only issue there was that the edge of work was in the 25 foot buffer, he noted that the proposed revision took the actual paved road away from the wetland within the existing easement. He stated that the layout approved by the Planning Board remains the same, but gets shifted out of the 25 foot buffer. E. Goodwin noted that it was still pavement in the 50 foot buffer. W. Belec noted that he had offset the cul-de-sac, the sidewalk is included in the Planning layout, but is out of the 25 foot buffer. M. Marcus said it sounds like a simple solution but does redesign the project to meet that issue. M. Marcus outlined the drainage basin, noting no wetland was associated with it. D. Barnicle asked if they were taking water off the site. M. Marcus said yes, D. Barnicle asked if it was directed to a detention basin, yes. M. Marcus said it was sized for the 100 year storm.

M. Marcus stated that all detention basins had been reconfigured and reworked so all work, grading, and clearing is more than 25 feet from the edge of wetland. The edge of the clearing is staked, surveyors have re-checked the edge of the wetlands. W. Belec noted that P. Thompson had reconfigured all the basins; one basin (303???) was originally designed with 3 feet of free board. She was able to move it out of the 25 foot zone and allow machinery to do the work. D. Mitchell asked if a 3 foot free board was designed for the 100 year storm. P. Thompson and W. Belec stated that one foot is standard, 3 feet is a good redesign.

M. Marcus stated the third, isolated wetland also had issues. The edge of pavement is now more than 25 feet from the edge of wetland; this was accomplished with a subtle shift to move the roadway away from wetland. W. Belec said the road and sidewalk were shifted west to observe the zone. They noted that they had pulled it as far away as they could while keeping it in line with road. D. Mitchell noted that typically the set back was for a sidewalk and for safety. W. Belec said that in speaking with G. Morse, he would prefer the sidewalk against the road for plowing reasons, the grass strip was more aesthetic than functional. He noted that the Planning Board requirement is for 7 feet, between the back of a cape cod berm and the sidewalk. He noted that in this location they had pulled everything to 28 feet from the wetland to the cape cod berm. D. Barnicle asked what protections were being provided for the isolated wetland. M. Marcus said a very expanded open space and conservation plan was proposed on top of these modifications. He noted that it might be worth looking at with the whole open space plan.

M. Marcus noted that the proposal added a cross culvert, if water level goes up above a certain level, it will overflow and cross over. D. Barnicle noted/questioned that it would not normally flow through. P. Thompson agreed and noted that it would only flow through with the 100 year storm or a similar water flow.

J. Hoffman noted that if the town owns the ROW and in 5 years they want to widen the road, the SCC is right back to where they don't want to be. He noted that the paved road is x ft, the ROW is more. The overall area of potential disturbance did not change. P. Thompson said the lines are along edges and are not intended for expansion. J. Hoffman confirmed that the applicant was saying that the SCC does not need to be concerned that the road may be expanded in the future. W. Belec noted that the DPW wants all the utilities they need to deal with in their own property. J. Hoffman confirmed that the applicant had G. Morse agreement to plow to the other side of road. W. Belec said they could put signage in area that no snow is to be plowed in to the wetland areas; the plowers can hug the gutter line, and move the plow when they get to those areas. E. Goodwin noted that was good in theory but would not likely happen in practice.

M. Marcus stated that the wetland fill for the original plan was 4000 +sq ft. He stated that W. Belec and P. Thompson revised this impact to 2,560 sq. ft. by realigning and adjusting the road location. Two, much

smaller, lobes of wetland will be filled as the result of moving the road as far down as possible. W. Belec noted the previous design altered 4600 sq. ft in a uniform section. The decrease was accomplished by shifting the pavement as far west as possible within the easement, and by putting utilities under the sidewalk instead of under the grass strip. He noted that he had also manipulated the double barrel entrance, originally 110 feet to the median now reduced to 80 feet with striping. D. Barnicle noted that they were still right at the edge of a large wetland. He noted that the Planning Board did not want the angle to be more than 3 degrees; they accomplished this by a series of gradual curves. M. Marcus noted that they had reduced the fill area by almost 2000 sq. ft. E. Goodwin clarified that 2560 sq. ft. of fill is proposed now; previously it was 4616 sq. ft.

M. Marcus reviewed the mitigation plan noting that he can now leave the previous area to be replicated as forested area. Since lot 18 had work proposed that they no longer need to do, replication can be kept in the same area near the wetland, he outlined the large cleared grass meadow area, noting it was close to 6 thousand sq. ft. The plan is to replant and restore the area to wetland. D. Barnicle asked where the water would be coming from, road, seepage, and runoff? M. Marcus agreed to all the sources. D. Barnicle asked if they were keeping 6 thousand sq. ft. of, mitigation with the decrease in disturbance. M. Marcus clarified that it would be a 6 thousand sq. ft. enhancement area, not really a mitigation. They are able to create additional wetland area, but that will be close to 10 thousand sq. ft. D. Mitchell noted the enhancement area was about 2:1. He asked how they get 5 thousand sq. ft. M. Marcus noted that they were trying to do 2:1 but did not want to do more than that, it increases grading, and they want to avoid unnecessary disturbance.

D. Barnicle noted that there was no outlet structure for storms. M. Marcus noted that there was not, the area was predominantly hillside seep. D. Barnicle noted that they were taking 2-3 scours and incorporating them into one wetland. M. Marcus noted that someone had cleared out the field at one time, it just never re-grew. He noted that there were not wetland soils but the soils were wet creating an ideal area to replant and enhance a wet area. D. Mitchell asked if a wet meadow provided more diversity than a wetland, he asked if that was an appropriate mitigation to compensate for removal of a wetland. M. Marcus noted that it was an opportunity to put an area back the way it used to be. D. Mitchell noted that some wet meadow provided habitat for birds. D. Barnicle asked D. Mitchell if he was saying he wanted to maintain a difference between disturbed area and mitigation. M. Marcus noted that he thought it would be a good way to return the area to the way it was. M. Marcus noted that there would be a 4:1 replacement; 2:1 of recreating wetland and 2:1 of enhancement of wetland area. M. Marcus noted that the plan shows 10,075 sq. ft., but it will actually be larger, closer to 11,000 sq. ft.

M. Marcus noted that W. Belec had shifted the western lots up slope to increase open space. W. Belec took lot lines and shifted them easterly, decreased the lot sizes and increased open space. A proposed easement along the back of the lots was proposed, most would be 30 ft. wide, one would be 25 ft. wide to allow a potential trail to come through open space. M. Marcus noted that this addressed one request to increase the area along steep slope adjacent to open space. D. Mitchell asked how far on average did they move lot lines. P. Thompson said on average 3-6 ft. Cumulatively this adds an extra half acre of open space. M. Marcus noted that they took a slice off the lots and will add an easement.

M. Marcus reminded the SCC that there was a separate filing for lot 96 although the slope was an issue there also.

M. Marcus and W. Belec noted that with the upper lots, they had done the same with regards to open space parcel OS 3. The area to east of the lot lines was about 30 ft wide. Planning did not favor this amendment and did not want a trail system, as it might be a problem for house lots there later. He noted that they had gone back to the original parcel configuration and created a conservation easement along the outside edges of lots. M. Marcus noted that the watershed for the isolated wetland is now part of the conservation easement. There

would be no cutting and no building. D. Barnicle confirmed that M. Marcus stated that there would be no disturbance to the entire watershed for the isolated wetland. D. Mitchell noted that for lots 16-18 there was no conservation easement. W. Swiacki stated that lot 18 does have an easement. W. Swiacki noted that due to the severe slope, the likelihood of anything happening on the land is small. M. Marcus outlined the open space area for easements for watershed or for future trails networks. E. Goodwin clarified that the darker green areas are on Swiacki property, the lighter green areas shown as open space on the plan are actually potential open space but are not actually owned by W. Swiacki. He asked W. Swiacki to confirm this. W. Swiacki noted that the area, west, shown as lighter green is currently Chapter 61 land. In addition, the top parcel provides additional opportunity to the town for protection; it is a rugged parcel with steep slopes and difficult access. The town has a prime opportunity to secure a conservation easement for tax benefit. W. Swiacki outlined potential areas for protection along adjacent parcels of land owned by other individuals. E. Goodwin asked W. Swiacki if he was planning on purchasing all this land for the town. W. Swiacki said no. E. Goodwin noted that he was just checking and suggested that since it was someone else's land, perhaps W. Swiacki should not claim it as open space on his development plan. W. Swiacki noted that it was just a potential for the town. He stated that the large open space parcel on his property is not un-developable or un-marketable. He noted a parcel of upland remained that was large enough for 5-6 lots. E. Goodwin noted that according to an earlier presentation it was isolated, no access due to grade. That was why it could not be used as an alternative to crossing the wetland. ??? noted that it could be developed if access was gained from abutting property.

M. Marcus noted that there was a proposed trail system. He asked the SCC to take it as a concept for potential. He outlined the dashed red trail system, noting that it is a truly informal trail, maybe some blazing and brush trimming, but no more, a small parking area for 5 cars could be potentially added along Whittemore. It then becomes a trail head open to the public. The trail can then wind over to Fairview and up through the top of the property. Several connectors and easements can be created along the upper and lower trail system. He noted that the trail could be built by Bill and marked out, some small parts of the trail would go through wetland and would need pedestrian bridges. W. Belec and M. Marcus said the trail would come up from the open space parcel and tie into the side walk at several points. M. Marcus said there was also potential for public parking off of Ames back entrance, it was not a legal right but could be negotiated.

M. Marcus outlined the historical Fairview Park. He noted that there was tremendous opportunity there if SCC has any interest in redeveloping Fairview Park. He noted that it would be reasonable while the detention basin was being cleared and the equipment was there, to selectively clear shrub and brush while leaving the large tree. The contractors could open up some of the area around the park ponds. Likewise, with excavators and dump trucks on site already it was possible to clean out one or more of the old ponds that have filled in over the years. M. Marcus noted that W. Swiacki has offered to initiate that work if the SCC wants. He noted that this crosses more with a recreation plan than an open space plan, but if SCC wants to consider this direction, the proposed plan offers direction and initiation. If the SCC adds grant monies they could possibly add a gazebo or electricity. He noted that it was a lovely historic area, the trees and stone work would not take a lot to clean up. D. Barnicle noted that they were proposing creating a picnic area, which is what it used to be. M. Marcus noted that the ponds would make a great ice-skating area, shallow, not deep, no fishing, not part of the larger wetland watershed. Restoring the shallow ponds was an option on the table to consider if SCC wants to take that direction, if not, they can be left alone, both the trail network and the cart road wind through the pond area. He noted that it was an issue for SCC to decide and possibly the recreation department. W. Swiacki noted that one thing he did was to have a survey team go out and locate all significant trees. Along the cart road, there are historical areas.

M. Marcus noted that the last element of the proposed changes was significant. W. Belec and P. Thompson reconfigured the access road to the basin off Fairview Park Road. The access is now off Wood Road and no longer cuts by the ponds. It comes right off the subdivision road. D. Mitchell questioned if the design was not

approved by G. Morse. W. Belec noted that in contrast to the plan originally designed, one of the benefits is that the open space land gets bigger. He noted that the Planning Board asked for access to be within the detention basin parcel. Since the project was reviewed, the Planning Board has approved several plans with larger longitudinal grades. Similar proposals have been submitted to L. Adams and G. Morse. D. Barnicle clarified that they had brought this option before Planning but were told no. Since then, similar designs have been approved for other projects. M. Marcus noted that there were advantages to approaching the basin from the east rather than going by the ponds. He noted that he felt it would be advantageous for SCC to support the revisions with Planning and DPW. D. Mitchell noted that the access road had a greater than 15 % slope when presented. W. Swiacki agreed but noted that even 20% was not crazy for 4 wheel drive maintenance vehicles. They would access once every couple years and the rest of time the access road would be a link to the trail system. DPW will access very infrequently. It would in practice be a publicly owned access to an open space trail system.

D. Mitchell questioned how much buffer increase was being provided and how much the lot lines moved. 3-5 ft?????. W. Swiacki noted that they had paid attention to buffers, there was a 50 foot undisturbed area between conservation land and lot disturbance. N. Ryder noted most of this buffer was located on an extreme slope, exceeding 20% in many places. In addition, the limit of disturbance was occurring extremely close to the edge of slope creating the potential for serious erosion problems to the wetland directly below the slope in many areas.

M. Marcus noted that the easement expands the trail buffer, it is not pinched up against boulders. Of 54.4 acres there will be open space, conservation, non-developed land on over 32 acres, that is 59% of the site now. He noted that the Planning Board does not allow land on detention pond parcels to be included in open space but that adds another 2.5 acres. M. Marcus noted that the purpose of the current plan is to highlight connections and changes.

D. Barnicle said he needed to think about critical areas, a lot of information had been presented, he needed to review it and bring back comments. M. Marcus said he hoped SCC would read the summary report and hydrology summary. W. Belec said one concern was the effect of development on the easterly side of wetland. He noted that they now have multiple design points. D. Mitchell confirmed that all this was detailed in the hydrology report. M. Marcus noted that pages 7-22 include a full written alternative analysis. W. Swiacki handed out detailed alternatives analysis. He noted that the first 13 to 14 pages are in M. Marcus's summary, the rest of the book includes plan layouts.

M. Marcus said in order to wrap up, he was asking for some kind of straw vote to let him know if he was on the right track or still spinning wheels. D. Mitchell noted that the best thing is to give some quick response. He felt that they had done a good job of addressing everything, excluding wildlife connectivity. He noted that for lot 24, the culvert appears to empty into someone's driveway. The natural point would be in the woodland. He noted that he still sees the road way as large wildlife barrier. M. Marcus said he did consider that, when he went out, he looked at the movement of wildlife. He said he did not see a problem due to the steepness of the hillside, he noted he could see animal trails across the slope but none up and down the slope. D. Mitchell noted that with the detention basins, they were making a north south traverse more likely. M. Marcus noted that deer like to go up created gravel trails, and he was right, that is not addressed.

D. Barnicle stated that there were culverts going under the road at points, they may want to look at modifying shapes to make crossing under the road more conducive to wildlife use. D. Barnicle noted that he would have other comments after he reviewed the information.

E. Goodwin agreed that they had addressed a lot of issues, but his main concern is still impacting a lot of wetland, when they put houses, lawns, roads and work into the picture, the project will destroy the wetland. He noted that he had a problem as this was a very unique situation, crossing of wetlands in multiple points. He agreed that what they brought here is better, before was good, but he still has a problem with crossing the wetland. M. Marcus agreed that this was a difficult hillside wetland, they were nipping off the lower end but that will not affect the rest of the wetland. E. Goodwin noted that the gullies and scour channels that trucks have gone through for unpermitted tests have created tremendous impact, to do more as planned would have greater impact. D. Barnicle noted that the lower wetland and upper wetland were connected in many places. That connection would be destroyed by the road. M. Marcus noted that unfortunately when bulldozers went through, the area was wet, no erosion control was in place and there was no review and this resulted in intercepted ground water at the worst time. He noted that the area where there was direct impact on wetland was proposed to be filled and replicated. W. Swiacki noted that the impacted area of wetland is not a slope, it is relatively flat. He said the SCC could put in any conditions that they need, that will add a triple barrier to protect wetland.

D. Barnicle noted that the other issue has to do with other boards that say a through road is optimum while SCC says one is not, one board is saying they must have a turnpike size entrance in the middle of a wetland. He noted that he was not saying M. Marcus's presentation is bad, a bigger problem is with conflicts with other board requirements. M. Marcus said he understood. He noted that he hopes the presentation showed the SCC that the plan is significantly reducing wetland impact and increasing buffers, resulting in a much better plan.

W. Swiacki said a two cul-de-sac plan would have the same impact. W. Belec noted that the project could be adjusted so the double entrance has no greater impact than a single entrance impact. D. Mitchell noted that even a single entrance would impact the wetland. D. Barnicle agreed that there would be a reduced impact. W. Swiacki agreed the tip of wetland is toast as E. Goodwin says, but would be with single barrel entrance also.

J. Hoffman noted that the proposed plan was definitely an improvement and is in more compliance with most of requirements. He noted that the first plan blew through several SCC regulations, created a shock and awe atmosphere, and engendered ill will. He noted that putting SCC requirements at the bottom of the barrel of all the town regulations was what had been presented. This plan is definitely more in line with what he wanted to see, and comes closer to meeting the desire to protect wetland resource area. J. Hoffman confirmed there was a plan showing only two entrances. W. Swiacki said yes, in the summary. J. Hoffman noted that he would look at everything presented. W. Swiacki noted that this site has strong topographical features that drive the project. The reasons why some options do and do not work are in the summary.

E. Goodwin asked if they have looked at abutting properties to see if alternative access exists. W. Swiacki said all abutting alternatives would create more impact to a larger wetland or require access down a huge slope.

J. Hoffman asked if they had access from Kingman property. W. Swiacki said it was a 30-40 foot drop. M. Marcus said like a cliff. J. Hoffman agreed a 30-40 foot drop would not be a means of access.

M. Marcus asked what would you like us to do, move forward or not. W. Swiacki noted that they had just been handed information packets and needed time to review. They could come back Aug 7th to discuss whether they should move forward or not. J. Hoffman said he needed time to review and could answer M. Marcus on the 7th. D. Barnicle agreed. The hearing is continued to Aug 7th 8:10 and 8:30 and to Aug 21 at 7:30 and 7:50.

No comment has yet been received for Draper Woods from town counsel.

PUBLIC HEARING – NoI cont.– J. Teachout of Jalbert Engineering for 10 Gifford Road, proposed new building construction to replace existing structure.

D. Barnicle opened the public hearing, present were J. Teachout, P Matthews, E. Sheldon,

J. Teachout stated that she was asking for discussion for a possible amendment to the submitted NoI. She stated that the applicant was no longer planning on following the original plan. The current proposal is to remove the existing structure and dispose of the debris, cap the well, pump and fill the cess pool, then conduct a site visit to delineate and discuss site issues. She stated that she would like the SCC to consider reconstruction on the existing footprint. J. Teachout and P. Matthews stated that they would like to be on the site visit

D. Barnicle asked if there were any questions or comments regarding the proposal.

J. Hoffman asked if the wetlands were flagged where they should be. J. Teachout said she did not do the flagging, she noted that the original flagging shown was conducted several years earlier and stated that the wetlands appeared to have changed. J. Hoffman stated that before he approved any work on site, including removal he would like to see the wetland flagged and delineated correctly. J. Hoffman noted that if the engineer representing the project can not stand behind flagging, it is not an SCC review issue yet. The SCC can not review a project when the resource areas are not delineated and identified correctly. J. Teachout stated that she had not conducted the original delineation, it was not current and she could not stand behind it as shown, the wetlands boundaries have moved. J. Hoffman requested that they re-flag the wetlands. J. Teachout said she will reflag them and will set up site visit when it is completed.

J. Teachout stated that she felt the SCC should discuss the items noted. D. Mitchell questioned if the SCC should discuss formally withdrawing the original submittal prior to discussing an amendment. N. Ryder asked for clarification as to whether the applicant was discussing submitting an amendment or was actually submitting an amendment. J. Teachout and P. Matthews stated they were asking for a discussion leading up to a potential submittal. J. Teachout noted that the applicant had disposal and timing issues, due to wetlands.

J. Hoffman noted that the paper submitted stated an amendment. N. Ryder asked the applicant to submit a written clarification.

D. Barnicle stated that a correct wetland delineation was needed first. The SCC needs to know exactly where the wetlands are prior to approving removal and demolition so they would know where erosion controls need to go.

J. Teachout stated that she was then asking SCC if they would allow an amendment to the existing filing, rather than a complete new filing. The commission agreed unanimously that without a delineation any filing was premature.

E. Goodwin noted that without grandfathering, the applicant would not likely be able to do anything on this lot. To tear down the house they would be in a wetland, if they step out of the cellar hole they will be in a wetland. He noted that if the applicant chooses to tear down the home and walk away and then come back the SCC would not be able to approve or allow any building on the lot as new construction. He noted that the 2nd issue

is if the piece of land is part of a larger parcel that W. Swiacki owns as one contiguous parcel, the commission needs to see an alternatives analysis also.

D. Mitchell stated that it would be a better idea to get the wetland delineation done first so everyone has an idea of where the buffer constraints will be. He noted that they wanted to discuss the issue so everyone is aware of what needs to be done.

J. Hoffman stated that it was probably wise to come in once, with a whole plan, if the site is not currently deemed a safety hazard, then tearing it down will create a self imposed hardship because they then could not rebuild. He suggested they come in with whole plan rather than piecemeal ideas. He asked when the applicant will have a complete plan ready?

J. Teachout said she thought they could probably have the delineation done prior to the next meeting. D. Barnicle confirmed the statement. D. Mitchell stated that he would like the delineation and plan for proposed renovation prior to the meeting so the SCC can conduct a site visit. J. Teachout said they could do that for the August 7th meeting. D. Barnicle said the SCC can site visit for a delineation one weekday evening. D. Barnicle and J. Hoffman clarified that a site visit for delineation would be conducted prior to further review of any overall plan. They suggested the applicant think about what plan they would follow if wetland boundary is determined to be in the middle of a cellar hole, if all parties agree the applicant can then take down the structure but may not be able to rebuild. P. Matthews stated that if someone was living there and sumping, it would not be a wetland. E. Goodwin stated that it is based on what is there now. J. Hoffman agreed and noted that wetland vegetation has developed and naturalized, it is now wetland, the regulations are based on what currently exists. P. Matthews stated that years ago an old farm was there. The SCC noted that today there is not.

D. Barnicle asked the commission what direction they wished to take. E. Goodwin noted it would be based on whichever direction the applicant wants to go. J. Teachout said she would like a site visit to be completed first.

A site visit will be conducted on Wednesday, 6th Aug @ 7:00 PM. The SCC confirmed with J. Teachout that a delineation would be done. Yes. A report is to be submitted to N. Ryder before hand.

The hearing is continued to Aug 7th at 9:50 PM.

PUBLIC HEARING – RDA - J. Teachout of Jalbert Engineering for Robert Williams for determination of stream classification and retail building construction at 209 Charlton Street.

D. Barnicle opened the public hearing, present were J. Teachout and B. Williams.

J. Teachout noted that in 1997, the SCC gave a negative Determination of Applicability for stream re-classification. J. Teachout read off the RDA application. She noted that the current USGS topo map shows the water course to be an intermittent stream across the property. She noted that Jalberts had created the site plan based on the 1997 submittal, but since the RDA expired after 3 years, the landowner had to come back for a new determination. E. Goodwin noted that during a recent hearing with W. Swiacki, the SCC had made comments about the changes in the wetland across the street. The SCC reviewed the current topographic map.

D. Barnicle asked what the contention is of the applicant. J. Teachout stated that it is shown as an intermittent stream on the topographic map, so it is unless the SCC determines otherwise. She noted that she was not arguing that it is not a stream. She said she knows it is subject to the WPA. Under the WPA an applicant is allowed to do work. She stated that she was asking, that based on the fact that it is a intermittent stream, the

applicant be allowed to do piping and construction within the stream area, as long as mitigation is conducted as required under TOS regulations. J. Teachout noted that in 1997 it was not subject to any SCC rules and regulations. She summarized by asking if it is now subject to the regulations or will SCC waive town regulations and still determine that is a town created drainage channel. J. Teachout stated that in a nutshell, it is intermittent based on state regulations, but the SCC had previously determined that it was primarily town created road runoff. She stated that the plan showed a proposed building, swale, with the intermittent stream under building. She asked if the SCC would consider allowing the applicant to pipe the water course under the building, as it did in 1997. E. Goodwin stated that he did not remember seeing a plan for a building then, only a classification of a water source. J. Teachout noted that what was approved in 1997 was that the lot was not under SCC jurisdiction. The applicant then proposed to construct a building but had not done so in the time allotted. She stated that the determination had expired, she was asking for a similar re-determination of the decision made in 1997. D. Mitchell noted that the lot, laws and regulations have changed since 1997. Changes in surrounding land have caused changes in the nature of the water source in the area. D. Barnicle and J. Hoffman both agreed and stated that a site visit needed to be conducted. Any review or decision needed to be conducted based on current regulations and noted that the wetlands have changed.

J. Teachout and the SCC will be present for the site visit to be held on Friday, 7/25 at 4:00. It was noted that the stream disappears and then re-appears in places. D. Mitchell noted that there had been a problem identifying a swale connecting the site to the wetland on the other side of Hall Road. J. Teachout stated that it would be no problem to find and look at it.

D. Mitchell asked what the nature of the building proposed was. B. Williams said it would be an office with 2 apartments.

The hearing is continued to Aug. 7th at 9:30 PM.

PUBLIC HEARING – NoI – J. Teachout of Jalbert Engineering for Zavistoski for single family home construction and related at 129 Mashapaug Road.

D. Barnicle opened the public hearing, present was J. Teachout.

D. Barnicle asked where precisely the lot was. He noted that he had gone to conduct the site visit but could not find the location based on the information submitted. J. Teachout stated it was along the cart path near the blue house. D. Mitchell reclarified the location with J. Teachout noting that he had not been able to find the location either. D. Barnicle noted that he apparently had been on the right path, but had not gone down the cart road far enough. He discussed the washout of the cart path with J. Teachout and asked if plans to stabilize that would be part of the submittal.

J. Teachout noted that the area shown is the only area on site which percs, she outlined the areas with ledge outcroppings all over. She noted that it was the only area, which was relatively flat. A vegetated wetland is behind the proposed home location. A stream runs 200 feet behind the location and a BVW, which is also a PVP is shown on the opposite side of the cart path. J. Teachout noted that the engineer had to move all the lot lines by 20-30 ft to accommodate the ledge on site and still get a home on each lot. D. Barnicle asked if the same owner owns the abutting land. J. Teachout said it is currently subdivided. D. Barnicle asked if they were aware of the vernal pool when the lot was perced. N. Ryder asked if the work was within 100 ft of the VP and what the subdivision date was. J. Hoffman noted that the septic system was outside 100 feet from the vernal pool.

D. Barnicle clarified that the house was outside 100 feet from the VP but within 100 feet to the wetland. D. Mitchell measured 80 feet to the pvp from the edge of construction.

The SCC noted that they would re-take a site visit to the location the following afternoon, after they visited 209 Charlton St. D. Barnicle confirmed that there would be flags where the foundation and septic system are proposed. J. Teachout said yes, the wetland was flagged and she will make sure flags for the home and septic are there by tomorrow.

A site visit is scheduled for Friday, July 25 following the site visit to 209 Charlton Street. The public hearing is continued to August 7th at 9:40 PM.

PUBLIC HEARING – 3-NoI's and 1-RDA – J. Teachout of Jalbert Engineering for Paquette Realty for single family home lots along Trail Road, #'s 335, 337, 339, 341.

DB opened the hearing, present were J. Teachout, E Paquette, Melissa Shufro, Laura Eliason, Steve Murphy.

J. Teachout submitted a revised plan, dated 7/24 with wells shown and noted this was the only revision. J. Teachout noted that it was the same plan as before, there were no other changes. She stated that at the last meeting, comments were made regarding a zoning issue, zoning is not under the jurisdiction of the SCC. She stated that she was asking the SCC to review the plan submitted on an individual basis and to schedule a site visit. She noted that if a problem arises due to zoning issue, they will deal with that with civil court or the ZBA, at the present time she was asking for an SCC review of a submitted project plan. D. Mitchell asked if the SCC could review a project that was being challenged in a civil court. J. Hoffman stated that the SCC had no choice, it may be waste of the applicants money and the SCC's time, but SCC has to evaluate the plan before them if the applicant requests they do so regardless of other issues. It is up to the applicant to resolve other issues and obtain all other permits. If they don't, then they can't move forward with the project but that does not change the SCC review.

J. Teachout stated that she would show the plans and calculation for each individual lot to show disturbance within buffers. The discussion was based on review of each site plan, which is available on request.

LOT 1 – J. Teachout outlined the pump station being constructed under easement. D. Mitchell asked if it was potential or actual work. J. Teachout stated it was being built now. E. Goodwin asked if there was a permit for the work. N. Ryder noted it was part of the Big Alum sewer project.

J. Teachout outlined the house location, buffers zones and resource area. She noted that the edge of work was approximately 30 feet from the edge of BVW. She noted that this did not include sewer lines. N. Ryder asked if there was any pavement within the 50 foot buffer. E. Paquette said the drive would be gravel. J. Teachout outlined the closest point of work to wetland at flag B3 and noted it is 30 feet. D. Barnicle noted that the activity at 30 feet is clearly a driveway, within 50 feet. N. Ryder agreed but added that it is not considered a structure if it is gravel.

E. Paquette stated that he could put a deed restriction on the property stating that there could be no paving.

D. Barnicle suggested that since there was so much space, they move it out of the 50 foot buffer. The SCC and applicants discussed the site and drive. J. Teachout and E. Paquette stated that they can slide the house and drive out of the 50 foot buffer. E. Paquette said he would set up the house for a drive under the garage.

The SCC confirmed that a site visit would be needed.

D. Barnicle questioned if all houses and drives were marked on the lots. Not yet.

D. Barnicle asked where the limits of grading were. J. Teachout outlined the limits based on the plan and the grades before and after. She noted that the haybale lines marked the limits of work. E. Paquette and J. Teachout discussed slope changes if they moved the house and drive on lot 1. D. Mitchell asked for the limit of clearing to be reviewed again and noted it was not clear on the plan. E. Paquette noted that the haybale line was the limit of clearing.

D. Barnicle asked if there had been any response from DEP. N. Ryder stated that based on DEP response, they think the project is within riverfront resource area. The applicant says it is not, it is up to SCC to review and confirm which is fact. If it is riverfront resource the entire review process changes and the hearing must essentially go back to the beginning, evaluating alternatives first.

LOT 2 – J. Teachout noted that some grading was within 100 feet of the wetland, all other work is outside of 100 feet. She noted that she can revise the plan to keep all work outside 100 feet.

D. Mitchell noted that future plans must include the limits of clearing. He stated that tying that limit to a hay bale line may or may not be the way to go.

LOT 3– J. Teachout noted that lot 3 is filed as an RDA, she outlined buffers, house location, noting that the slopes are extreme and a lot of grading will be necessary. D. Barnicle asked how much of the grading would be between the 100 foot and 200 foot buffer zones. All. E. Goodwin asked how much would be fill and how much would be cut. D. Mitchell asked where the hay bale line and limit of clearing were. D. Barnicle noted that there would be an 11 foot drop. He noted the SCC would have to check the site carefully.

D. Barnicle noted that the driveway was a 12% slope, and wondered why it was not following contours. The SCC discussed flipping the driveway. D. Barnicle noted that while it would be better it was not SCC purview if it was outside the buffer.

LOT 4 – J. Teachout outlined the lot and work area, she noted that no limit of work or haybales were shown. She will revise and include the information on a new plan. She stated that all work on this lot is outside 100 feet from the wetland except for minor grading. D. Mitchell and J. Hoffman stated that the plan showed work in the 100 foot buffer.

The SCC and J. Teachout confirmed that all work was outside the 100 foot buffer on lot 3 but not on lots 2 or 4. A revised plan will be submitted.

D. Barnicle asked if there were any comments or questions from abutters.

L. Eliason stated that a neighborhood restrictive covenant does not allow the subdivision of this property. She noted the Trail Association has hired an attorney, they intend to appeal the subdivision of the lots. She noted that she wanted to bring the issue to the SCC's attention. D. Barnicle said thank you. J. Hoffman asked if anyone present had any wetland comments or concerns related to the project as proposed. None.

A site visit is needed, it will be scheduled at the meeting on the 7th for a day/time prior to the 21st. The SCC will schedule the site visit as soon as they receive a call notifying them that the site has been flagged and staked.

The hearing is continued to August 7th at 10:30.

PUBLIC HEARING – NoI cont.– J. Teachout of Jalbert Engineering for Pioneer Oil for office building construction for an above ground oil storage facility at 63 Technology Park.

D. Barnicle opened the hearing, present was J. Teachout. A site visit was not conducted, but will be. The hearing is continued to August 7th at 10:50.

PUBLIC HEARING – RDA – Lee and Jean Solaroli for addition of a 3 car garage associated with a single family home at 15 Cove Drive.

D. Barnicle opened the public hearing, present were Lee and Jean Solaroli.

The applicant outlined the addition plan, set backs, 3 car garage, and the buffers to the lake, D. Mitchell confirmed that the proposal was for an addition to an existing single family home, not new construction. Yes, The property has town water and sewer. J. Hoffman confirmed that there would be no new work within 100 feet of the lake. L. Solaroli agreed and noted that the addition would have a slab floor and would not be excavated for a cellar. J. Hoffman noted that the existing driveway was not shown on the plan. J. Solaroli outlined the existing driveway, noting that on the north side of the lot, some of the parking area will be converted to structure. The former garage will become a room in the house. D. Mitchell clarified that the driveway, where most of the addition will be located is already paved. L. Solaroli agreed and stated that she would submit a revised plan.

A site visit will be conducted Friday, July 25th, erosion control will be discussed on the site visit.

A revised plan is to be submitted.

The hearing is continued to August 7th @ 7:51 PM.

PUBLIC HEARING –RDA cont. – Meridian Associates for Old Sturbridge Village for a small house and rice shed within OSV, 150 feet south of the Visitor Center.

D. Barnicle opened the public hearing, present were J. Hemick and Cliff Stone assistant to Brad King.

D. Barnicle asked if there is any ongoing construction on the site for the project. C. Stone said village employees were only working on timbers and rails in the field in preparation for the project. C. Stone noted that the village had a need for this type of house to interpret, historic and time accurate structures representing this socioeconomic group of society. He noted that the Rice Shed, would normally have been used as a wood shed and agricultural building.

D. Barnicle asked why it needed to be located close to a wetland vernal pool. C. Stone said it needed to be there for historical accuracy. Most homes of this type were located adjacent to ponds or water sources.

D. Mitchell noted that the shed was being acquired, and asked if the house is to be constructed or acquired. C. Stone said acquired.

D. Barnicle asked if there were questions from SCC. J. Hoffman said he was satisfied with the location. N. Ryder questioned what would be done about erosion issues noticed during the site visit.

D. Barnicle outlined the two issues. Erosion, from a man hole and from a separate stockpile off the dirt road, is sending sediments into the small pond/vernal pool. C. Stone said B. King asked him to have the SCC write a letter outlining the problems and what they wanted done, the village will remedy the problems. D. Barnicle said he thought the slope of the road was not correct to protect the pond from sheet flow and serious erosion, and from gullying due to the velocity of water. J. Hemick said that if the SCC thinks a solution can be engineered, he can look at it and bring back a proposal. He noted that he would like to keep it separate from the project, but will bring it back in.

D. Barnicle asked the SCC to review the plan submitted. He noted that he had suggested the applicant look at the site as if there were three separate lots, 1 - near the visitors center entrance, 1 - near the barn, and 1 - near the center. He noted that since the center location is closest to the VP, the disturbance in that area should be as far from the Vernal Pool as possible. He noted that concern had not been addressed. C. Stone said he could not put it closer to the visitors center, as the village wants to keep that as an active corn agricultural field. He noted that it was used consistently for that purpose. The location chosen is only disturbed occasionally and is flat. This minimizes development cost. In addition, having the home located at the top of a crest is historically accurate. D. Barnicle stated that after a site visit to review the project, the steepness of the slope acts as a barrier to immediate impact from the site.

D. Barnicle asked if there were questions or comments from the SCC

N. Ryder suggested that the applicant give the commission compelling reasons, other than historical accuracy, for allowing work within 100 feet of a vernal pool. She noted that while it was nice to know, it was not relevant, as it violates the 100 foot vernal pool buffer outlined in the regulations.

After discussion with the applicant, J. Hoffman said the reasons for allowing the work were that the house and shed create less overall impact than a continually plowed field creating a safer more stable environment for Vernal Pool critters. D. Barnicle stated that he would approve the project as the slope acts as a natural buffer. Conditions are to be added that there is to be no disturbance of vegetation within 25 feet of the top edge of bank. In addition, OSV is to submit engineered plans to correct the sedimentation of the pond/vernal pool from both the manhole in the main dirt road leading from the visitors center, as well as from the storage pile off of the side dirt road on the opposite side of the pond/vp from the proposed work.

Project approved as amended and with conditions as stated, in favor J. Hoffman, D. Barnicle, and E. Goodwin, D. Mitchell abstained.

PUBLIC HEARING – NoI cont. - Guerriere and Halnon for Allen Homestead, for a single family home lot and associated work related to the Allen Homestead subdivision at lot 31, #34 Tannery Road.

D. Barnicle opened the public hearing, present were E. Mainini, J. Nenart, and L. Mountzoures.

J. Nenart stated that due to delays caused by rain, the detention basin will be finished by next week, but is not done yet. D. Barnicle asked how the basin held up. J. Nenart stated they had no problems, it worked as it should. He noted that when the contractor comes to install mat, they will also seed.

J. Nenart submitted a copy of the recorded covenant.

D. Mitchell asked if the reports could please be accompanied by a site map.

J. Nenart said that would be fine and he will relay the request. He submitted a site map not related to the environmental reports and outlined the locations of areas being discussed including; the water quality swale, the banks being hydroseeded, and the locations of berm added to stop water from eroding the gutter. D. Mitchell asked for water quality swale details. D. Barnicle noted that the issue had been discussed at the last meeting, only half of the swale slope was matted and seeded. J. Nenart said the rest will be done by the next Friday. He stated that covers the environmental issues discussed during the last meeting except the debris in the pond. He noted that they will get a canoe and tie and drag out the shopping cart.

D. Barnicle asked if there were any questions from the commission. L. Mountzoures stated that he had hired Perry Knuckle to deal with conservation issues on site. He will be working with J. Nenart or Ted Cox. D. Barnicle requested that the name and contact number be submitted to the office.

D. Barnicle thanked the applicants for addressing the issues of concern.

E. Mainini submitted a revised plan for lot 31 #34 Tannery Road. D. Barnicle asked if the contour lines were correct on this plan. E. Mainini outlined and clarified locations of corrected topographical lines. She asked if the SCC had taken a site walk and whether they had seen anything that could be done to make the plan better. SCC unanimously suggested they take the house out. D. Barnicle said she could draw a big x through the plan and make it remarkably better.

D. Barnicle suggested a fence on top of the retention wall. E. Mainini agreed and noted it would be for safety and to keep people out of basin. D. Mitchell asked to have the revisions added from last discussion outlined. Done. E. Mainini noted that the house is as far forward as it can go, noting the slope at 3:1. D. Mitchell asked if there would be a perimeter drain. E. Mainini said there would and that it had been lowered to the base of the wall. J. Nenart noted that the plan had originally been designed with the wall across the water quality swale. D. Barnicle outlined the haybale line noting that the limit of disturbance is at the 25 foot line. The SCC discussed the support for the versa lock retaining wall noting that it does not need to tie into the ground.

E. Mainini and J. Nenart stated that the wall is a barrier between the house and the wetland. D. Barnicle noted that the retaining wall is the only chance for survivability for the wetland. D. Mitchell stated a fence should definitely be added to meet safety code. E. Mainini agreed and noted that it would be at least 4 feet high. E. Goodwin asked if that would meet town bylaw as well as state code.

D. Barnicle asked if there were any further comments or concerns. J. Hoffman asked how the perimeter would be tied in to the wall. He was concerned with water building up behind the wall. E. Mainini said she would add structural drains through the wall.

D. Barnicle noted that the review was now in a position for a motion.

J. Hoffman - motion to accept the project as amended as conditions can be imposed to protect the wetlands. D. Mitchell – second, discussion, the SCC unanimously agreed that the location was not suitable for a home, but met the applicable regulations so it had to be allowed. They noted that this lot should be used as a case study to revise the current regulations to make sure a similar lot could never be built on again. Vote – D. Barnicle, J. Hoffman, D. Mitchell in favor, E. Goodwin opposed.

PUBLIC MEETING –Lake Road erosion problems.

D. Barnicle opened the meeting, present were, Janis Metoxen, Frank and Shirley Clark, Tom Clark, Joe Morin, Peter and Beverly Litchfield, Joel Radner, Eric Willard, Jay O'Reilly, Greg Morse, John Argitis, Tom Liro.

N. Ryder outlined the issue before the Commission, the subdivision, previously known as Spring Hill Estates, had been permitted prior to the local bylaw taking effect and was outside SCC jurisdiction at that time. The manner in which the catch basins adjacent to Lake Road had been installed had created severe sheet flow down Lake Road, creating gullies and washout. This washout impacted the lake, and low lying residential lots by depositing large amounts of sediments. The problems with the narrow private road were complicated by the addition of a new home at 138 Lake Road. The home was to have a vegetated swale installed in front of the lot, continuous grading of the road had filled the swale in. The current impact to the lake brought the project into SCC jurisdiction. The SCC was conducting a fact finding meeting to work on addressing and remediating the erosion cause and problem so they could then address the lake damage.

Frank Clark submitted photographs showing damage to the road and lake. The SCC and attendees reviewed the photographs and letters.

D. Barnicle asked G. Morse to outline the construction details for the connection between the two roadways. G. Morse stated that he had met with K. Pecoy, J. Lapiere, M. Ciesla and P. O'Malley to discuss the road runoff. He noted that the road radius near Lake Road, combined with the slope and the fact that the catch basins are above grade, are all contributing factors in causing rain water to skip over the catch basins. The runoff, primarily from storms, ends up in the center of Lake Road. During heavy storms, the water flows down the private dirt road at a rate that causes gullies and washouts. He noted that the Litchfield property, being the lowest on the street catches the majority of the runoff and sediments. G. Morse outlined the original road design. He noted that the catch basins were a concern during the design phase. During a conversation he had earlier in the week, the contractors had agreed to reconstruct the basins, and top coat the road by September. D. Barnicle confirmed that the contractors were proposing stopping the erosion by September.

G. Morse noted that he had spent a substantial amount of time with the contractors discussing who does what in order to get them to agree to change the grade and top coat the road by September. He discussed constructing a camel back directly past the catchbasins to force the water in to the basins. D. Barnicle asked if a camel back will not impact plowing operations during the winter. G. Morse stated that the radius will not be comfortable, but that was irrelevant as they needed to stop the water coming down the road. D. Mitchell stated that he was considering the fact that the area was facing a period of storm bursts and high velocity rain fall and asked what the SCC can do in the short term. G. Morse stated that they can place temporary berms in to direct water flow but warned that they did not stay long between the construction vehicles and the normal traffic when they were installed previously and will not stay again.

Tom Clarke – 148 Lake Road stated that the berm did not work the first time, they had built a concrete berm but it broke taking a severe amount of erosion down the driveway. He noted that the homes in the subdivision are heavily fertilized and erode directly down into the lake every time it rains. He suggested that the town needed to conduct an engineering study to assess damage to the lake.

G. Morse stated that the problem with Lake Road has always existed. It is a heavily populated, narrow, private, dirt road. The problem has been increased by the basins on Old Towne Way, but when all basins are activated the system will work.

Tom Liro – Mt. Dan Road confirmed that at the present time then, G. Morse was saying all basins are not working. G. Morse stated that the runoff is bypassing all the structures between Lake Road and Old Towne Way. He stated that the system, when it is connected, is large enough to take the flow from the area.

D. Barnicle discussed with and confirmed that G. Morse had said that as a temporary measure, until the road is paved, the contractors can put in temporary policeman and drop the two end basins. He emphasized the need to block the flow of water onto lake road.

T. Clarke stated that the phosphates and silt into the lake is severe in the cove. He noted that something had to be done soon. Waiting until September to topcoat is too late. He stated that if the contractor can berm all the storm drains to see if the swales can handle the flow, that may help the problem.

B. Litchfield – 136 Lake Road stated that her yard was the major collection point for the runoff. She noted that the swim area was currently filled with silt and green slime. She also stated that the contractors have to do something before September. She added that her entire yard is slick with mud. Tighe and Bond had brought in bales of hay to help by doing something but a couple more storms and they will not work either. She noted that the problem of runoff from Old Towne Way needs to be addressed ASAP.

D. Barnicle stated that the SCC needed to send a letter to the contractors, addressing the issues being brought up tonight. John Argitis – Lake Road asked if there was any time frame to resolve this problem. The SCC will need to meet directly with the contractors.

Joel Radner - 140 Lake Road stated that even with the catch basins coming back through with ground water, he has never seen grease on the water. He noted that this year the problems were ridiculous, with slime on the surface of the lake. He stated that it comes up in clumps, and the silt is like a cloud when you try to walk through. He noted that he would like to know how to solve the long term problem of keeping phosphates out of the water.

B. Litchfield agreed that the slime and silt in the water was worse than it had ever been.

P. Litchfield agreed and stated that his concern is with his well water. He wanted to know who would address the problem of possible contamination. The SCC noted that the first step should be to have the water tested to see if there were contamination problems. The well is a shallow well. As the yard is flat in that area, the level of the lake water is as high as or higher than his well.

Frank Clarke – Lake Road, asked who built the subdivision road way. G. Lapierre,

The SCC and the abutters discussed raising the grade of road near the basins. It was agreed that at the very least the contractors needed to put up a dam around all the basins as a temporary remedy.

D. Barnicle stated that G. Morse was here to help solve the need for a temporary solution. He added that this would need to be done prior to September, as the residents needed relief from the constant erosion from the heavy rainfall. He reminded those present though that the SCC was involved with the problem because the lake water was being polluted and that problem needed resolution.

J. Radner asked if there were any way to keep the phosphates out of the lake. D. Barnicle noted that if the water slows down and the water is kept in the swale for an extended period of time, the problem would diminish. He noted that the lake front residents could help by not using phosphorous containing fertilizers.

J. Hoffman stated that since it was now a wetland issue, if the problem is not resolved and worked on by responsible parties, the SCC can issue an enforcement and require cleanup. He noted that reasonable review would require identifying the responsible parties, identifying whether there was long term problems to the lake.

N. Ryder asked if there was a bond out on the lake road.

T. Clark asked why the contractors would be allowed to wait until September to fix the problem. E. Goodwin stated that the SCC would not wait until September to address the problem. D. Barnicle stated that a temporary fix would be arranged for as soon as possible. D. Mitchell asked why the contractor could not install the final grade now with out worrying about damage to the new road surface.

P. Litchfield noted that properties were being damaged, a smooth road was not relevant.

E. Willard – 138 Lake Road, stated that he had only moved there recently, 2-3 years earlier. He noted that plumes of silt were present during any storm, going out into lake. He noted that he can not see the lake bottom, which is only 4 feet off of his dock. He stated that the silt was all over floating around.

J. Radner noted that the silt was killing the small lake weeds in the shallow areas.

Jay O'Reilly, spoke at the request of D. Barnicle and noted that the roadway, Lake Road, was in as good shape as it had been prior to the installation of the sewer line. He submitted documents, including a video outlining the preexisting problem.

Clark agreed that the problem existed prior to the Tighe and Bond project.

E. Willard stated that a gutter had been dug all the way down to his driveway but was filled in every time the road was graded or silt came down the road.

J. Hoffman suggested that the SCC get an enforcement order out to lower all the catch basins, and to put in a temporary barrier.

D. Barnicle asked if it would help if the contractor installed a berm across the entire road blocking and pushing water back into the catch basins. D. Mitchell stated that it needed to get stopped before it gets into lake. He asked why the catch basins could not be place at one level for construction then raised during the final paving. He noted that if the stormwater runoff was carrying fines into the lake it should be permanently corrected now.

T. Liro asked if the SCC could go back to the OoC that allowed the swamp and wetland to be filled in by the garage construction. B. Litchfield stated that the pipe to the wetland by Lapierre's had been cut. J. Hoffman asked if there was any proof. He stated that the SCC can't just take action based on an assumption.

T. Clarke suggested the town contact Lycott and have them come down to study impacts. D. Mitchell stated that the SCC can look at the lake and evaluate if there are any long term pollution problems. He noted that he was a certified lake manager. The SCC can test for phosphorous and TSS and if present can get it removed or mitigated.

D. Mitchell noted that the watershed had developed rapidly, all over, this area. He noted that this particular problem was localized, it was easy to point fingers at a cause. He cautioned that there could be many other causes as well, you as owners have vested interest to get after all the residents of the lake to be responsible lake front property owners. He noted that any investigation would likely come up with multiple causes for any pollution, all of which the commission would need to pursue.

T. Liro stated that many residents have put buffers between the lake and yard over the recent years. D. Mitchell agreed and noted that he applauded naturalistic buffers. He noted that impacts from further away effect lakes, these impacts can be due to developments further out in the watershed.

The SCC instructed N. Ryder to set up an appointment with the 4 individuals involved in the contracting for Monday night at 7:30 PM. They noted that should they be willing to take immediate action to help remediate and solve the problem, an enforcement order would not be issued. Should they not chose to work with the town and residents, and enforcement action would be issued requiring immediate corrections and involving DEP to issue water quality enforcement and fines.

J. Hoffman noted that the instruction should be to get before the Commission on Monday, with plans to fix the catch basins by Friday. The SCC would need to see results, lower basins, sand bags or speed bumps, erosion control around berms, etc. D. Mitchell asked if gravel check dams would help. G. Morse stated that the road was too narrow. D. Barnicle agreed that there was no room for check dams, the water and gravel would run down. G. Morse noted that catch basins could be placed at construction grade then raised but it increased the cost significantly to do this for each catch basin, and contractors would usually not consider doing it to save money. The berm and paving were the same situation, it can be done at the beginning, but would likely be damaged by construction vehicle and have to be replaced at the final raising the project cost.

N. Ryder is to check to see if the Planning Board still has a bond and will assist with immediate action.

The meeting is continued to Aug 7th at 8:50

Following- Public Hearing –New Foresting Application Review

Tabled due to the late hour

New Business – Old Business – Other Business – Letter Permits - Certificates of Compliance

Tabled due to the late hour.

Motion to close approved by unanimous vote - 12:00