

# **STURBRIDGE CONSERVATION COMMISSION**

**Minutes for Thursday, August 7, 2003**

## **MEMBERS PRESENT**

D. Barnicle, J. Hoffman, E. Goodwin  
7:00 PM

## **MINOR WALK IN REQUESTS**

## **MINUTES REVIEW**

Minutes of 5/15, 5/20, 6/5, 6/19 and 7/10 were continued for further review.

## **CPA UPDATE, E. GOODWIN**

E. Goodwin noted that while he could not say much about the details, both P. Dumas and B. Briere were speaking regularly with T. Jones.

## **CORRESPONDENCE REVIEW –**

Correspondence reviewed included: A notice from W. Swiacki that the wetlands on Draper Woods had been re-delineated and marked in anticipation of starting work, Weekly compliance reports for Allen Homestead from J. Schmidt for July 9, 17 and 24 – it was noted that there were still no site maps to accompany the report identifying the locations of concern, Environmental reports for the Preserve from EcoTec for July 25 and 30, Notice of COLAP's summer meeting for August 25, Notice of treatment to Walker Pond, MIAA's loss control grant program notice, Correspondence from J. Malloy regarding duties and responsibilities of conservation agents, North American Lakes Management Conference Notice for November 5-7, The Sturbridge Water Department SWAP report.

The SCC reviewed the MACC fall training sessions; those interested in attending will contact the office with their requests.

## **DISCUSSION OF NEW INFORMATION –**

N. Ryder noted that the Commission had requested a summary of the past delineations for both 10 Gifford Road and 165 Charlton Street. She noted that, as stated in an informational summary email that morning, the stream reclassification had been valid for 3 years from the date of issuance. Both had expired prior to submittal to the SCC office, 10 Gifford Road by 5 days, and 165 Charlton Street by longer. She noted that in order for an extension to have been granted for 10 Gifford, a request for extension would have had to have been submitted 30 days prior to the expiration. She noted that it would be up to the SCC to decide whether to require the streams be re-evaluated for reclassification again. N. Ryder noted that the SCC should consider the fact that a formal delineation has not yet been finalized or prepared for either property, a site visit has not been taken yet to evaluate the current wetlands delineation by the applicant, and that likely the issue should be evaluated then in the field based on whether or not substantial changes have occurred to the stream since the original delineation. The email will be noted at the public hearings and included in each hearing folder.

D. Barnicle noted that Opacum Land Trust was sponsoring a cleanup of the Preserve Open Space to be held Sunday the 17<sup>th</sup> at 3:30.

N. Ryder noted that most of the lakes data was in or coming, she noted that D. Mitchell could review and present it to the commissioners.

## **REVIEW OF SITE VISITS, SCHEDULED AT PREVIOUS MEETING**

Site visits had been conducted to:

The mobile pipeline sites, the work and erosion control was in order;

225 Brookfield Road based on a call in about filling of a wetland, the project is as proposed to date;

174 Charlton for a CoC on the Sprint Tower, vegetation is established but primarily invasives, no likelihood of sediments in the wetlands or stream;

266 and 266A Big Alum Road, the erosion control is very poor but the tree and vegetation line is holding back any erosion, needs to be beefed up;

Boniface, 20 Gardner Ave, no problems, everything appears well established and grown in this year, a CoC should be approved;

Gladding Lane, the area beyond the ILSF is being filled without a permit, a letter will be sent;

Long Ave Stream, based on a call of concern regarding the color of the water, a site visit was taken, the water is very rusty brown, there are no signs of sediment in the water or erosion into the stream right before the lake.

Sediments further up the road may be impacting a BVW adjacent to the stream but are not in the stream, those sediments appear to be from winter road sanding and do not trail up to the Preserve Subdivision; A substantial amount of gravel has been stockpiled along the Sturbridge Isle streambank behind and beyond the hotel, a site visit and urgent action are needed;

388 New Boston, lots 10 and 11, substantial breakdown of the erosion control barrier was observed, both M. Farrell and A. Cormier were contacted and said they would repair it immediately, a follow up site visit to confirm is needed;

9 Cherry Brook Circle for a CoC check, no problems with that one lot, not the entire project however;

Sanctuary, work on the rotary near the unknown water course noted during the erosion control inspection has begun with no report or discussion on protection, J. Bernadino was called and he stated that he would meet the commission on site and submit a study and plan for the next meeting;

13 Old Hamilton for a CoC, fine no problems, has been established for a long time;

9 Woodside Circle for a CoC, vegetation is planted, work is done, but vegetation is not established, a letter of temporary approval but not a CoC is in order.

Site visits were conducted to Sturbridge Isle Truck Parking as a quorum, the construction phase is complete, but a CoC cannot be issued until vegetation is established. A letter will be sent to P&E Construction.

The commissioners also went to 10 Gifford Road as scheduled on 8/6, J. Teachout was unable to attend, and no additional plan had been submitted showing a current wetland delineation as requested. The site visit was tabled until an updated plan is prepared and the field flagged.

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

51 Holland Road – The public hearing was closed and discussion on the OoC started. LA Sugrue showed up late, was informed that the hearing was closed and the OoC draft was being reviewed, she left. The OoC draft was reviewed and amended then approved with final conditions as stated and as shown in the final OoC, by unanimous vote. Motion by J. Hoffman, 2<sup>nd</sup> by E. Goodwin. The review of information and the discussion leading up to the issuance of this permit was very lengthy and included review of the hearing notes, information submitted to the file, site visit notes, and other documentation on file. It began as scheduled, was tabled until the end of the meeting as no interested parties attended the hearing except LA Sugrue as stated, in order to accommodate scheduled hearings. As the final OoC is the document of record and includes the final agreed on conditions after much discussion, the special conditions section should be referenced as a summary of that discussion.

34 Tannery Road – The plan and site visit were briefly reviewed and the permit approved and issued as amended by unanimous vote.

15 Cove Drive – The plan and site visit were briefly reviewed and the permit approved and issued as amended by unanimous vote.

Old Sturbridge Village – The plan and site visit were briefly reviewed and the permit approved and issued as amended with conditions by unanimous vote.

241 Podunk Road The applicants representative, had called and requested a continuation to the next meeting. An amended plan has not yet been submitted. Granted to 8/21 at 7:20 PM.

**PUBLIC HEARING** – NoI cont. – Louise and John Zajac for site work related to an existing single family home at 128 Leadmine Lane

D. Barnicle opened the public hearing, present were J. and L. Zajac.

J. Zajac submitted a final revised plan showing proposed mitigation. N. Ryder summarized the site visit details. The commissioners present had agreed to consider a plan for 2:1 plantings along resource areas for work within the 50 foot buffer for residents on small, land restricted lake front homes only. The end goal is better net protection to the lakes, not prohibition of use. J. Zajac reviewed his calculations for added impervious area in the 50-foot buffer. He reviewed the existing disturbed and open areas along the lakefront. He reviewed his proposed list of plants and mitigation efforts and a proposed three-year planting schedule aimed at maximum growth and success of plantings. Many of the areas that are bare along the lake are heavily shaded, proposed plantings will use natural indigenous plants along these shaded areas. Discussion included the use of high bush vs. low bush blueberry for stability. The low bush provides better erosion control but is less likely to take. The high bush do not provide good erosion control but provide a barrier to frequent use and disturbance and would likely take better. Alternatives such as pachysandra and myrtle were discussed. E. Goodwin noted to the Zajac's that they were agreeing to keep the area permanently planted and to never turn it into additional lawn or landscape pavers. J. Zajac stated that they understood and agreed, he noted that they had always planned to plant the bank and re-naturalize it and this plan worked out well in the long run. J. Zajac said his main concern with the plants was the wind shear off the lake. D. Barnicle suggested cardinal flower as a possible planting but noted that it liked to have its feet wet. He also noted that it was state listed and should be purchased at a nursery but not dug up.

Special conditions for the permit include, seasonally appropriate planting and tilting of the walkway away from the lake to avoid even minor sheet flow. No erosion control is needed due to the flat lot and the dense vegetation already planted along the lake front. All mitigation area plants are to be planted and succeeding within 3 years, the majority are to be in and established by fall of 2004. Plantings are to be replaced as necessary.

The project as amended was approved by unanimous vote. It was noted that this is a new approach to Lake Front properties and will be studied as a test to see if the conditions for the lake improve overall with this type of program.

**PUBLIC HEARING**– NoI cont. – Paul Abrams for addition to an existing single family home and associated site work and sewer pump installation at 43 Abrams Drive. To be continued to the first meeting in September.

D. Barnicle opened the public hearing. The applicants had sent a letter request asking for a continuation. Granted to September 4<sup>th</sup> at 7:30 PM.

**PUBLIC HEARING – RDA cont. – 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. Final plans showing erosion control and driveway detail had been submitted. The plan was reviewed, site visit information was reviewed. The project was approved as submitted by unanimous vote. A note was made to the applicant to check for compliance with applicable zoning regulations as the lot was relatively small.

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

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

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

D. Barnicle opened the public hearings, present were M. Marcus and W. Belec.

M. Marcus noted that he had submitted an overview plan and supplemental data to review during the previous meeting. He noted that based on comments W. Belec had gone back and manipulated the plan further to cover those initial issues. M. Marcus stated that he would produce one final plan at the end of the discussions, but would like to change the plan as they go to make sure they are on the right track.

D. Barnicle asked where they were with the Planning Board and asked if they had requested any revisions. W. Belec stated that after they have all the SCC concerns and critical areas, they would bring those changes to Planning as field changes rather than as a subdivision amendment.

W. Belec noted that they had addressed the wildlife corridor issue. D. Barnicle noted that had been a constant concern of D. Mitchell's. M. Marcus agreed. W. Belec noted that originally they had planned a drop culvert with a 24 inch circular culvert. In order to address wildlife migration they were proposing to replace that with a 4 foot by 2 foot box culvert. As this will create a safety hazard for small children, they are proposing to densely plant the visible perimeter in order to create a barrier and not draw the attention of children to the drop. They plan to line the base of the culvert to make it feel like a natural grade to wildlife.

J. Hoffman asked if they had considered a three sided box culvert, as that would leave the natural base intact. After discussion, both J. Hoffman and D. Barnicle agreed that unless it was carefully constructed, any appreciable flow would wash out the soil in the culvert. W. Belec referred the commission to sheet one of a proposed plan and noted that they would consider the stability of stone and soil. He stated that a three sided box culvert open on the bottom would need to be reviewed from an engineering perspective as it was going into a deep, heavily scoured channel, they wanted to keep the channel from scouring out under the road supports. He noted that he would like to agree with the concept but wanted to have the details of the design engineered to accommodate the heavy rain water flows. He noted the scour only flowed when it rained. The design will need to be based on the velocity when it does rain. D. Barnicle asked if this location was moved down from the earlier one. W. Belec noted that was one of P. Thompson's issues, if it was moved, it was a minor adjustment to accommodate a less steep slope. J. Hoffman reviewed the plan and noted that if there was an adjustment, it was very minor.

W. Belec reviewed sheet 2 – he noted that he had realigned the easement to join the open space parcel on the opposite side of the road. He noted that signage would be installed to warn motorists that there are wildlife crossing areas and would post reduced speeds.

M. Marcus briefly discussed slopes of cape cod berms. M. Marcus noted that the plan was to create more open space corridors on the opposite side of the road. He noted that the cross culvert was not shown on the plan filed with the commission. He outlined a drainage swale proposed along the road that connects by culvert into the conservation easement. D. Barnicle asked how wide the swale was. W. Belec said the width was not shown but could be discussed with the SCC. If they like the idea it would require a waiver for work within the 25 foot buffer.

M. Marcus turned to sheet 3 – W. Belec noted a 15 foot easement for pedestrians from the cul-de-sac to the main road. He noted that it was widened to 30 feet between lots 10 and 9.

M. Marcus asked for comments from the commission on information already submitted.

J. Hoffman asked if there were any areas outside the crossing that did not comply with either WPA or TOS regulations. M. Marcus stated that all work within the 25 foot buffer was pulled back. J. Hoffman confirmed that M. Marcus was saying the plan as proposed meets all regulations.

E. Goodwin questioned if this is the plan that was rejected or proposed to be modified. M. Marcus said the rejected plan met state but not local regulations. E. Goodwin asked why the developer could not consider, as an option to be discussed, reduced lots, and a plan to not cross the wetland. M. Marcus stated that the project is actually 2 separate lots and has been so for 30-40 years, owned by the same and combined for the purpose of subdivision. He noted that if the lots were developed separately any use off Whittemore would result in equal or greater disturbance. N. Ryder agreed with that statement, if separate parties owned them. As they were owned by one and the same, the applicant had the burden of proof to show there were no other alternatives that did not require a wetlands crossing. E. Goodwin said he was seeing the same plan with minor modifications.

The SCC and applicants discussed the planning board hearings, decision and property history. It is not included here because the details did not relate to the conservation hearing. M. Marcus stated that the history of W. Swiacki's ownership was not relevant to changing the plan. He noted that if a single family home were planned they would still need to cross the wetland. N. Ryder disagreed and noted that W. Swiacki had tremendous access to almost all of the upland from Fairview without crossing any wetlands. She noted that it was relevant, and that it needed to be considered.

D. Barnicle stated that if the lots were separate and a single family home was proposed, he did not disagree with M. Marcus's statement. But since that is not the case, the SCC had a very real concern/issue as to why there was a need to come in from Whittemore at all when you can access all the upland from Fairview. He noted that the issue of ledge and unreasonable slope, was not really valid when developers currently could blast through any amount of ledge if they wished to. He noted also that he did not necessarily agree with that approach, but ledge in itself was not a reason for non-consideration.

M. Marcus noted that a build out plan prepared for the town showed that the proposed use is lower than potentially could be proposed. M. Marcus agreed that the plan was similar to the originally submitted plan, and noted that both he and W. Belec were currently debating the issues with Planning and DPW.

E. Goodwin said the conservation process was simple, submit a plan that shows no impact. Submit a plan that shows minimal impact. Go through a review of why each plan would not be reasonable and work through from there. He stated he did not want the history of the hearing debates with the Planning Board. Conservation deals with the natural land and resource areas. The applicant should have come to SCC first. He stated that the applicant has still not put together even one single plan for conservation that shows no impacts. They have not submitted a plan with a couple cul-de-sacs where they could make reasonable profit on the project while minimizing impact.

M. Marcus noted that more than half the land would be open space or conservation land. It is in the proposal to donate the land to the town as part of the proposal. In addition it was part of the proposal for W. Swiacki to donate some of the work as a financial contribution to help build the park. He stated that E. Goodwin was dictating land use. He noted that if Whittemore land were sold, the only way to build would be by crossing the wetland. E. Goodwin stated that M. Marcus was stating that W. Swiacki could create his own hardship and fill wetlands but no one else can do the same. N. Ryder agreed with E. Goodwin and noted that crossing the wetland on Whittemore would not necessarily be the case if the hardship requiring he do so was self imposed. She noted that Ed's point was completely valid. M. Marcus stated that the impact was minimal and was created by town wide drainage issues. He said for this size development, the impact was minimal. E. Goodwin stated that the conservation land/open space proposed was almost all undevelopable wetland. The statements were misleading. He noted that of the upland, a great deal of that consisted of slopes leading directly into a wetland, so extreme, that they could not have homes built on them. E. Goodwin stated that the applicant could have come in with a plan for 25 homes with no crossings from the beginning and would have still realized a tremendous profit while truly minimizing impact to wetland and allowing for open space.

D. Barnicle noted that the commission was already substantially over time and gave 7 additional minutes for follow up comments and responses.

J. Hoffman stated that if 2 homes were proposed, it would be hard to defend not allowing a crossing. He did not think it was much impact for the amount of use. He stated that the applicant had done an outstanding job trying to comply with the regulations. He felt it would be possible to condition to protect the wetland.

N. Ryder noted that if 2 homes were being built on this property with all the access on Fairview, there was no way a crossing would be needed or allowed. She noted that all the regulations were not yet being met and questioned why groundwater and surface water quality were not being tested or monitored for future comparison for maintenance of water quality as most other subdivisions and large projects had been. She noted that she felt the plan might be able to be conditioned, but there were still many more items to discuss. She stated that she felt some of the commission was focusing on the crossing only and not the overall cumulative impacts to all the resource area or on protecting the quality of the wetland that currently exists.

D. Barnicle stated that if there were 2 separate, 20 acre parcels the only way access would be allowed is with an overland bridge. The SCC had required this as a possible alternative on several previous projects. No less review should be allowed here. The applicant needed to show that there were not other reasonable alternatives to filling a wetland. He noted that he saw a bridge as the most minimal impact way to cross a wetland. He stated that he still had many concerns. This is a big project, history shows that most often once a large project is started, the people running the project are not at all aware of the conservation issues on site until it is too late, and then remedial action and education must be conducted. He noted that in this case, the SCC must make sure this will not happen.

M. Marcus said he was looking for a clear statement from the SCC as to whether he should continue or not.

D. Barnicle stated that he had been given three clear opinions, it was up to him to decide whether to ask for closure and a vote or continue. He noted that in addition to previous statements and concerns, he personally liked the creativity that was being shown in taking the commissions concerns and creating something better on a fairly tightly defined plan.

M. Marcus noted that he would like to cancel the continuation on 8/21 and would like to continue to 9/4 instead so that he can pull the ideas discussed into one formal plan.

D. Barnicle noted that before the meeting was continued, the commission needed to hear from the abutters.

Karsten Stueber of Whittemore Road, asked if the subdivision would be using town water and sewer. Yes. OK. He discussed the lots as one property with the SCC.

M. Marcus noted that he would pull all the ideas into one formal plan

M. Marcus asked if the SCC would send a letter of support to the Planning Board. The SCC and M. Marcus discussed this. J. Hoffman stated that the SCC could agree to discuss whether they wanted to send a letter to Planning to consider what they saw as positive steps that would not detract from a good development proposal. He noted that they would have to see ideas in writing. M. Marcus stated that he would put his ideas in writing and email them to the SCC for review and discussion.

J. Hoffman noted that D. Barnicle was correct about requiring a bridge to be considered in past crossings. It was a standard no-impact alternative. M. Marcus said he would look into it.

The hearing is continued to 9/4 at 7:50 PM.

**Public Meeting – To discuss remediation measures to remove sediments from Big Alum Lake and to prevent future erosion issues.**

D. Barnicle opened the public meeting. Present were, G Lapierre, Joe Morin, Bereta Huse?, Frank and Shirley Clark, and Tom Clark.

N. Ryder noted to the attendees that following the 7/24 meeting the Commissioners had met with J. Lapierre, K. Pecoy, and P. O'Malley regarding an immediate correction to the sheet flow problem. She noted that they had come in with a plan to raise the grade around the catchbasins, pave the road, and add a camel back down stream of the catchbasins to force any overflow back. She noted that the work had been completed a couple days later. She noted a letter had been sent to G. Morse regarding some of the details relating to the contractors statement that the DPW had not allowed the catch basins to be dropped and the road paved the previous year. D. Barnicle asked if G. Morse had submitted a response. N. Ryder stated that he had replied that he had said he would not grant final acceptance of the structures until the project was 100% complete. He noted that the contractors could have done the work, then redone and repaired what was damaged by construction vehicles in a second sweep, they did not want to spend the money. Please refer to the notes of that meeting, located in the meeting folder and the letters to/from G. Morse for details.

J. Hoffman asked what happened after the camel backs were put in place.

T. Clark stated that the water ruts ran right over the camel backs, they did little to stop the water.

G. Lapierre stated that after P. O'Malley had reconstructed the catch basins, he sat in a storm for two hours to observe the flow. He noted that no water was bypassing the catch basins that he could see. He disagreed with T. Clarke and stated that most of the water was being caught.

G. Lapierre stated that he disagreed with the statement N. Ryder made and noted that G. Morse had told them that he would not accept a cut and patch berm. J. Hoffman and N. Ryder both noted that G. Morse in the hearing of 7/24 was asked if catch basins could be placed at construction grade then raised for the final grade. He had said yes.

N. Ryder noted that G. Morse did say that the final berm and paving had to be contiguous, that however was not the issue. According to G. Morse in discussion outside the last meeting, developers in general can do an initial berm and grade the catchbasins, they chose not to because they know they will have to redo them due to construction vehicle damage in order for the town to accept them. G. Morse said that contractors could do that but usually chose not to due to the associated costs. D. Barnicle asked if N. Ryder was attempting to have the developer sued. N. Ryder stated that she was attempting to have clear and accurate information obtained and relayed to those attending. She noted that since all parties, even those not directly involved were working together to solve the problem there was no reason to believe they would not continue to do so. She noted that if certain groups did take action that impacted resource areas, they had a responsibility to take action necessary to help correct any damage or impact.

G. Lapierre and T. Clarke discussed the catch basins along Old Towne Way/Lake Road. They disagreed as to whether the basins were working or not. D. Barnicle noted that there were two very clearly conflicting opinions here and noted that the commission would go out during one of the upcoming heavy storms to view the area and document whether or not the catchbasins are working. D. Barnicle noted to the attendees that Lake Road was a private steep dirt road in this area, he cautioned that while there may be contributions from other sources, there is also a great deal of runoff outside of that contributed by Old Towne Way. He noted that correcting the catch basins would not solve the entire problem. As residents of a private road, some of the responsibility fell on those with property there. N. Ryder added that there were two separate road drainage issues the SCC needed to look at before they could even start with the lake quality evaluation. The first was stopping the excessive water flow. The second was working with the road residents and DPW to correct the problems on the road itself; these include the blocking of the culvert at the bend, the filling of the Willard swale every time the road is graded, and the addition over time of the lump in the road below the Litchfields. She noted that the Old Towne Way problem needed to be corrected first.

N. Ryder noted that she had also contacted M. Stone at DEP to see if they had encountered similar problems and what possible solutions to removing the fine sediments in the lake there might be. M. Stone had suggested they look into a flocculation system or possibly a vacuum system that pulled the water in the cove through a vacuum filter essentially removing much of the fine material. She noted that neither would likely solve the problem, but either might help. M. Stone had suggested that if a direct source for the pollution could be identified, an enforcement order could be issued and the responsible party required to study the problem and engineer a solution. N. Ryder noted that since the problem with the lake was likely from more than one source although the majority of the immediate siltation issue appears to be attributed to the subdivision, and since all parties are cooperating, the SCC would work toward a friendly solution to the problem for the time being.

D. Barnicle asked if there were any additional questions or comments. G. Lapierre noted that he did what he had to in terms of the subdivision, the rest of the problem was not his issue, and he had no comments. E. Goodwin confirmed that N. Ryder would go tape the next rainstorm. N. Ryder agreed that she would do that the next time she was available while it was raining.



**Public Hearing – NoI – J. Teachout of Jalbert Engineering for J. Morin for removal and reconstruction of an existing single family home and related at 132 Lake Drive.**

D. Barnicle opened the hearing, present were J. Teachout, J. Morin, B. Gran and T. Clark.

J. Teachout outlined the proposal to take the front house down and reconstruct it. The existing home is 1081 sq. ft. the proposed home will be 1272 sq. ft. The existing home is located within the 50 foot buffer. The proposed home will have one corner within the 50 foot buffer but will not have any disturbance within the 25 foot buffer. The proposed home due to the location of the lake, of a second wetland, of a second home on the property, and the well will be located on the same footprint with an added porch. A small part of the porch is proposed to be within the 50 foot buffer.

E. Goodwin asked for clarification as to the locations of the two homes. He confirmed that the front home was being replaced. The back home would not be disturbed. J. Teachout outlined the 25, 50, 100, and 200 foot buffers from both resource areas. She outlined the limits of disturbance. She noted that an existing boat ramp and dock will not be changed or disturbed.

N. Ryder asked if there were any plans for 2:1 mitigation plantings along the lake to offset the structure in the 50 foot buffer. J. Teachout explained to J. Morin that the SCC was running a test program for lake front homes to allow some minor structure within 50 feet of a lake if the net conditions for the lake improved, usually via 2:1 planting of indigenous vegetation along the lake to structure. J. Morin said he would have no problem doing that.

E. Goodwin stated that the SCC would need to look at the site first. J. Morin asked what types of vegetation would need to be planted. D. Barnicle said it would depend on slopes, soils, and shading. A plan would need to be submitted to the SCC for review.

E. Goodwin asked when a site visit could be taken. Site visit is scheduled for 8/8 at noon. J. Hoffman and E. Goodwin will attend. The hearing is continued to 8/21 at 7:50 PM.

**Public Hearing – RDA cont. - 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 hearing, present were J. Teachout and R. Williams.

J. Teachout noted that she had walked the site with the commissioners several weeks earlier. She discussed a bottomless pipe to control flow under any proposed structure. E. Goodwin noted that the commission was still reviewing and trying to understand the hydrology on site. He noted that he was not yet in favor of any disturbance and was still reviewing the information.

J. Teachout noted that the applicant was proposing groundwater recharge under the parking area as discussed with the SCC during the site visit. To direct the water that would currently go to the culvert downstream into the same area it is going. She noted that all water would be recharged on site. J. Teachout noted that the original plan from several years ago shows the water being diverted by a culvert under Rte 20. The current plan decreases the pipe to 24 inches and diverts water to an on-site water recharge area.

D. Barnicle noted that during the first review, there was no discussion of any building. Only a review of the water on site. At that time the lot was dry. Conditions have changed and there is clearly a water course of some nature through the property now. He asked J. Hoffman to review the site visit observations.

J. Hoffman noted that the water flow came from across Hall Road via culvert. The volume of water clearly disappears into the ground as it approaches Rte 20 but then exits into a wetland BVW on the other side of Rte 20. He noted that on the average day it is not an above ground stream. Maybe during very heavy storms it may flow as a stream, but on a normal day the path of water flows into the ground to resurface on the other side of Rte 20. He noted that the nature of the water and soils were unknown. J. Teachout noted that the plan and the USGS map showed a channel. J. Hoffman stated that may be what is on the plans but that is not what is in the field. J. Teachout noted that in 1999 there was a distinct channel. J. Hoffman stated that he was not disagreeing that was there then. He noted that now the channel is visible and you can walk through it, but the water does not flow all the way through it any longer, it drains down into the ground resurfacing later.

The SCC and J. Teachout discussed the hydrology and soils and what may be taking place. The end conclusion was that there were more questions and less answers than they had before the site visit. The hydrology and soils need to be determined to make sure that any work permitted, if any, does not negatively impact a clearly flowing water course. J. Teachout stated that she would take some soil samples, but did not think she would get to the water table without a back hoe. After discussion with D. Barnicle it was agreed that she would start with hand sampling and an auger to determine if a back hoe would cause more harm to an unknown resource.

J. Hoffman asked to go back to the resizing of the pipe. He asked why L. Jalbert was now downsizing and redirecting the pipe from the earlier proposal noted. J. Teachout stated that there was concern with overwhelming the Rte 20 pipe now. The current plan is to divert some flow off to a diffuser catchbasin and recharge it on site to minimize the flow to the Rte 20 culvert. J. Teachout noted that based on site visit comments L. Jalbert felt that he should not channel all the current water under Rte 20. D. Barnicle expressed concern with changing the hydrology inadvertently by not knowing what was happening with it now. J. Hoffman stated that the best solution may be to pipe some of the water to a diverter and some to the Rte 20 channel.

J. Hoffman asked if a three sided structure had been considered over the channell to maintain hydrology. That way the water course would not even know the structure was there, it would continue on as it does undisturbed. J. Teachout stated that she did not know yet if the ground or surface materials would support such a structure.

D. Barnicle asked to go back to the hydrology. He stated that before any talk of construction could take place the SCC needed to know how the hydrology was working, what the soils were and what potential impact development would have on this water course. He stated that the applicant needed to submit substantially more information before this could be clear. J. Hoffman stated that it was an pre-existing commercial lot, and should be viewed as a limited project. With mitigation plantings and maintenance of the current hydrology he felt a project could be permitted on the site. He also agreed that more information could be submitted.

The hearing is continued to 8/21 at 9:20

**Public Hearing** – NoI cont. – J. Teachout of Jalbert Engineering for Zavistoski for single family home construction and related at lot 5, 129 Mashapaug Road.

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

J. Teachout submitted a revised plan showing the radius to the vernal pool, the grading moved away from the bank, the gravel drive, no paving, the vernal pool, the BVW and the haybale line were clearly outlined. She noted the limit of septic fill and the existing cart road. The SCC reviewed the haybale line and confirmed that it had been looped around the back of the proposed home. They discussed the vernal pool and noted that although disturbance occurred in the 100 foot buffer, a natural berm along the edge of the existing cart path, made it extremely unlikely that there would be any disturbance from the proposed work. To clear a path slightly further away from the VP would cause substantially more damage due to tree cutting. There will be no work or disturbance allowed on the vernal pool side of the cart path. The existing cart path is not to be widened or paved. The proposed location of the home creates the least disturbance based on topography and the need to blast any where else on site. There would also be a tremendous impact to trees and habitat if any other location is chosen.

E. Goodwin noted that the vernal pool was a beautiful pool and that measures needed to be added to make sure there would be no future disturbance.

Conditions will be added to a permit stating that there is to be no disturbance on the vernal pool side of the driveway, no cutting, no dumping of debris, no disturbance of any kind. Concrete bounds are to be added marking the edge of this no disturb zone and are to be set every 25 feet apart for the length of the entire project site from the beginning edge of the septic grading to the far edge of the home site grading. There is to be a minimum of 7 bounds installed.

The project was approved as amended by unanimous vote. A permit will be issued.

**Public Hearing** –NoI cont. - J. Teachout of Jalbert Engineering for P. Matthews for changes to an existing developed commercial site at 10 Gifford Road.

D. Barnicle opened the public hearing, present was J. Teachout. *Please note that as the same representative is here for 10 Gifford and 165 Charlton and the properties abut each other with a common resource area, reference was made to both properties during these two public hearings. Both should be read and referenced for completeness. No abutters were present for either public hearing continuation.*

J. Teachout stated that she would be requesting a continuation to the meeting on the 18<sup>th</sup> to give additional time to finalize the delineation. She noted that the delineation for 165 Charlton should be done at the same time. J. Teachout noted that the two hearings would have different issues as the classification had expired before the submittal for 165 was made. N. Ryder noted that the delineation for both properties would include stream classification as the earlier permit had expired 5 days before 10 Gifford was submitted. J. Teachout stated that it was submitted to the Town on the 17<sup>th</sup>. N. Ryder stated that it was submitted to the Conservation office on Tuesday the 21<sup>st</sup>. That is the applicable date. J. Teachout stated that J. Malloy had received the application and signed for it on the 17<sup>th</sup>. N. Ryder noted that the application had to be submitted to the SCC office. She stated that the SCC had asked her to look into the dates of the original stream study and the response was in the file. J. Teachout noted that the applicant would likely argue the point. N. Ryder suggested the applicant re-read the WPA and Regulations and that she looked forward to the discussion.

D. Barnicle noted that the discussion was getting nowhere useful and the commission should move on to the continuation date and the next hearing. The commission unanimously agreed that until a formal delineation was submitted, reviewed and either approved or denied, they could not make any decisions for this property or begin evaluating the application.

The hearing is continued to September 18<sup>th</sup> at 7:30 PM.

**Public Hearing** – NoI - J. Teachout of Jalbert Engineering for Babineau for development of a carwash at 165 Charlton Road.

D. Barnicle opened the public hearing, present was J. Teachout. *Please note that as the same representative is here for 10 Gifford and 165 Charlton and the properties abut each other with a common resource area, reference was made to both properties during these two public hearings. Both should be read and referenced for completeness. No abutters were present for either public hearing continuation.*

J. Teachout noted that the applicant was asking for a waiver from the reclassification as the stream had been reclassified from perennial to intermittent three years earlier based on data. She discussed the intermittent vs. perennial status with the SCC and noted that while the burden of proof is on the applicant to show that conditions have not changed, it would not be unreasonable to allow the classification to hold as it was fairly recent and was valid for 10 Gifford Road. (see the notes of the previous hearing). J. Teachout stated that the delineation was technically valid for three years only, she recognized that the resource boundaries have shifted/changed and noted that the political definitions had also changed. She noted that she was not saying that the stream had become perennial but only that proof must be made based on current regulations. She noted that since it was reclassified to intermittent just over 3 years earlier, she felt it reasonable to assume it still was, hence the request for a waiver. She noted that the applicant was willing to comply with 2:1 mitigation.

The Commission unanimously stated that based on the documented and visible change in wetlands in the general area as well as the obvious change in wetlands in the specific location for this filing that a full review would need to be conducted on the stream. Proof of intermittency must be shown for the stream in the area for both properties, 165 Charlton Street and 10 Gifford.

E. Goodwin stated that the problems were self-inflicted hardship.

J. Hoffman stated that the hardship was self-imposed due to the applicant picking a project that could not meet the regulations for the property.

D. Barnicle stated emphatically that a site visit needed to be made for both 165 Charlton and 10 Gifford prior to any further hearing discussion. The delineation of resources on both properties was key to any review and evaluation by the Commission and the applicants and representative were not accomplishing this. He noted that it was not the SCC holding up the process. He requested that J. Teachout notify the commission when the property/properties had been delineated and flagged and clearly shown on a plan. The Commission would take the time to walk this property as well as 10 Gifford. He noted that as the resource was connected and the same for both properties that this be accomplished on the same site walk. D. Barnicle noted that wetlands change and based on informal preliminary site review and discussion with the representative, this one definitely had.

J. Hoffman made a motion to require a re-delineation and re-classification using scientific evidence of stream status, request based on visual changes, to not extend intermittent classification without review of the evidence. Any assumption of intermittency would be unfounded at this time. He noted that wetlands boundaries change and it is reasonable to reevaluate.

2<sup>nd</sup> by E. Goodwin

Discussion none

Vote all in favor.

The SCC requested that J. Teachout relay the discussion, motion and vote to the client and to Jalbert's.

The public hearing is continued to August 21 at 8:50 PM and to September 18 at 7:50 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.

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

J. Teachout summarized the changes for the 4 lots, based on prior hearing discussion.

Lot 1 – shifted house and driveway so there is no structure within the 50 foot buffer, only 74 sq. ft of grading. The SCC can impose conditions necessary to protect the wetland including daily inspections by an environmental reviewer or engineer approved by the SCC with a weekly report sent to the SCC. The SCC discussed the property size and the fact that town sewer would be provided.

Lot 2 – the driveway was shifted so there are no disturbances in the 100 foot buffer at all. The limit of work for each property is the haybale line. A daily review clause similar to that for lot 1 can be added.

Lot 3 – All set, haybales need to be in place prior to start of any work.

Lot 4 – J. Teachout outlined the 100 foot and 200 foot buffer. She noted that there would be 60 sq ft of grading within the 100 foot buffer. All the same conditions mentioned earlier could apply.

The commission agreed that they would conduct a site visit as soon as they were notified that the houses, haybale line, and wetlands were flagged and staked and shown on a plan. The hearing is continued to 8/21 at 7:20 PM. The SCC anticipates that the site marking will be finished before then.

**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. She noted that no wetlands were on site, the SCC simply needed to confirm this and issue a DoA. The SCC will conduct a site visit on 8/8 at noon. The project is approved as presented with a negative determination pending a report confirming no wetlands.

**Public Hearing** –New Forestry Application Review

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

Motion to close at 12:00 approved by unanimous vote.