

Carlisle Conservation Commission
April 15, 2010

Chair Peter Burn called the meeting to order at 7:40 p.m. in the Heald Room at the Carlisle Town Hall. In addition to Burn, also present were Commissioners Tom Brownrigg, Jen Bush, Vice Chair Kelly Guarino, Tricia Smith and Diane Troppoli, and Conservation Administrator Sylvia Willard.

Bills, General Agenda Items, New Business:

Foss Farm Sled Dog Training Memorandum: *Burn requested a motion to adopt the Guidelines for Sled Dog Training as detailed in the Commission's memorandum to the Board of Selectmen dated February 25, 2010. The motion was made by Guarino, seconded by Troppoli and all attending voted in favor.*

Following the vote, Brownrigg expressed concern with regard to the guidelines pertaining to individuals with a team of three dogs or less, who according to the guidelines "do not need to obtain a land use permit and may load and unload and hitch up their dogs in the Foss Farm parking lot regardless of whether there is snow on the ground." His concern stemmed from a formal complaint made by a resident who had raised issues with barking dogs at Foss. Willard noted that this type of activity where individuals may ski harnessed with two to three dogs is a common occurrence at Foss. Guarino noted that the Commission's memorandum stated that they would periodically review the guidelines and modify them as necessary, adding the fact that this is an ongoing effort to make the best decisions and to put forth the best efforts to accommodate all people who are nearby and using Foss Farm. Brownrigg said he would like to think about the option of amending them if there continues to be a problem, in which case the Commission might think about having an area plowed beyond the parking lot, with the possibility of the sled dog trainers contributing to the cost of the additional snow plowing. Burn concluded the discussion by saying that in his opinion the guidelines were a good step in terms of the Commission's contribution to the settlement of the issues.

Certificate of Compliance: (DEP 125-0822) Applicant: Timothy Hult, Board of Selectmen, Town of Carlisle; Project Description: Resurfacing an existing 5-foot wide pathway along Bedford Road and installation of new 4-5 foot wide pathways along East, Lowell and Concord Streets. Willard reported that she did not believe that the project was yet ready for a COC, as several outstanding issues that were previously communicated to the Pathways Committee had yet to be satisfactorily addressed.

Emergency Certificates:

Great Brook Farm State Park: An Emergency Certificate was issued to the DCR to undertake temporary repair work needed to relieve the emergency of the unsafe trail conditions on the **Tophet Loop Trail** caused by recent flooding rains. Special Conditions included the requirement the Commission be contacted prior to the work being undertaken as well as at the completion of the repair work. DCR will also be required to provide a description of the work being proposed to alleviate the emergency prior to work being undertaken, with the Commission reserving the right to require revisions to the proposed plan if deemed necessary.

Brownrigg said he had observed quite a bit of gravel and rocks in wetlands and asked whether the Emergency Certificate addressed this. Willard stated that this would need to be addressed in a more detailed manner, noting that the DCR will be required to return with a NOI for all of the trail maintenance they have identified as priority work in their management plans. Relative to the Tophet Loop Trail, Brownrigg suggested the requirement that the larger rocks be removed with a rake, with the finer material being left in place, as trying to rake it out would likely do more damage to the wetland soil. Burn suggested that the NOI should also include a remediation plan for any damage that may have occurred to the wetland. Willard noted the suggestions for the future filing.

125 South Street: An Emergency Certificate was issued to the property owner for initial cleanup work on an oil spill resulting from a damaged fuel line running from the home heating oil tank located inside the basement of the home to a backyard swimming pool heater. The work is being undertaken as required under the provisions the Massachusetts Contingency Plan and under the supervision of a Licensed Site Professional. The property owner will be required to submit a NOI that includes a detailed Restoration and Monitoring Plan, including an assessment of damage that has occurred downstream as a result of the event.

Minutes:

The minutes of 11/5/2009 were reopened in order to make a date correction, which was discovered by Willard during research being undertaken in response to a Public Documents Request relative to sled dog training at Foss Farm. Smith moved to make the date change, Troppoli seconded and all attending voted in favor.

Release of Old Executive Minutes: Smith moved to release the pending Executive Session minutes of February 13, 1997, February 27, 1997, March 13, 1997, April 10, 1997, April 24, 1997 and May 22, 1997, and to approve the May 8, 1997 and December 18, 1997 minutes that were previously pending final approval. Guarino seconded and all attending voted in favor.

Smith moved to accept the minutes of **December 17, 2009** and **January 14, 2010** as amended, Bush seconded and all attending voted in favor. Smith moved to accept the **January 28, 2010** as amended, Troppoli seconded and all attending voted in favor.

A general comment was made by Bush relative to the items that are on an agenda but not discussed due to time constraints. She requested that these items be automatically added to the next agenda in order to keep them open.

Wetland Alterations due to Flood Damage: Willard reported numerous areas around town that had been adversely affected by recent flooding including several properties along Bedford Road, for which an Emergency Certificate had been issued for work required to repair the driveway in order to provide access. A NOI will be required in order to address additional work that should be required in order to address damage to nearby wetlands as a result of the flooding.

8:00 p.m. (DEP 125-) Notice of Intent

Applicant: Walter Hickman

Project Location: 249 Concord Road

Project Description: Construction of an addition, portions of a septic system and additional driveway pavement

Burn opened the hearing under the provisions of the Massachusetts Wetlands Protection Act and the Carlisle Wetlands Protection Bylaw. George Dimakarakos of Stamski and McNary presented the Plan, the details of which, including construction details and siltation controls, met with the Commission's approval as submitted. The hearing was continued to April 22, 2010 at 7:50 p.m. pending the issuance of a DEP File Number.

Land Use Permits:

Guarino moved to issue a Land Use Permit to the Land Stewardship Committee for a **River Wildlife Communities Program to be held on May 30 at 2 p.m.** at Foss Farm. The program is also held in

conjunction with the Gleason Public Library's Susan Zielinski Natural Science Fund. Troppoli seconded and all attending voted in favor.

Smith moved to issue a **Land Use Permit** to John Root for an **Edible Wild Plants Walk at Foss Farm on June 19**, which is being funded through a grant from the Carlisle Cultural Council. Troppoli seconded and all attending voted in favor.

Public Documents Request: Responding to the Public Documents Request that was recently submitted to the Town by Theodore Mark for information relative to his projects at 328 Concord Street and 24 Bingham Road, Willard reported that she is in the process of compiling a "good faith" cost estimate for staff time involved in compiling the documents. The response must be provided to the property owner within ten days of receipt of the request as required under the Public Records Law.

8:15 p.m. (DEP 125-0882) Notice of Intent, Continued Hearing

Applicant: Wilkins Hill Realty, LLC.

Project Location: Hanover Hill, Lot 14, 40 Gormley Way

Project Description: Construction of a portion of the proposed single-family dwelling, construction of a driveway, well, utilities and associated grading

Burn opened the continued hearing under the provisions of the Massachusetts Wetlands Protection Act and the Carlisle Wetlands Protection Bylaw. Brownrigg recused himself, as he is an abutter to the location of the proposed project. George Dimakarakos presented a revised Plan, which now reflects the existing the stone bounds delineating the CR held by CCF as well as a slightly revised septic design. Dimakarakos noted that the Plan was also submitted and approved by NHESP after their review of the potential impacts on the Estimated Habitat for the Blandings Turtle. *Smith moved to close the hearing for DEP 125-0882, Troppoli seconded and all attending voted in favor. Smith moved to issue a Standard Order of Conditions referencing the revised Plan dated April 15, 2010, Guarino seconded and all attending voted in favor, with the exception of Brownrigg, who has recused himself.*

8:30 p.m. DEP 125-0878) Notice of Intent, Continued Hearing

Applicant: Philip Giffie, Neighborhood of Affordable Housing, Inc, (NOAH)

Project Location: 273 South Street

Project Description: Residential community consisting of 26 residential rental units & associated site improvements including drives, parking, stormwater management, on-site septic and water supply

Burn opened the continued hearing under the provisions of the Massachusetts Wetlands Protection Act and the Carlisle Wetlands Protection Bylaw. He reported that he and Willard had attended the last ZBA meeting where the draft peer review documents were reviewed, with the Commission having an opportunity to discuss them once the document has been finalized by ZBA.

Representing the applicant was Engineer Mark Beaudry of Meridian Associates, whose first order of business was determining a means for getting the wetland lines confirmed in accordance with the Commission's issuance of an Extension to the ORAD, which was contingent upon the requirement that the lines be verified before the Orders of Conditions be issued.

Burn stated that the Commission is not in a position to redelineate the entire line as Beaudry had suggested. Several other possibilities for means of confirming the lines were discussed, with the final decision being to

expand the scope of the work being done by Mason Associates, the firm hired by Meridian Associates to do the field work required in order to determine the location of the Riverfront Area on the project site. It was agreed that this would be the most efficient means of confirming the delineations in the interest of moving forward.

From the audience, Ray Kubacki of 438 South Street asked what it might cost to have this work done. An estimate of \$500 was put forth. Kubacki said that because the taxpayers have picked up all of the fees so far, he didn't think there was anything wrong with the applicant picking up "a small one", and at ten percent profit, it was a for-profit 40B operation at this stage. Burn said that at some point or other, the costs are ultimately passed back to the town.

Beaudry noted that 40B projects typically have an allowed margin, and in order to do that, the state limits the affordable units at 25%. He said that in this case 100% of the units are affordable, whereas if this were a for profit venture, the developer would need to have some market rate units in order to make a profit. He said that NOAH is a non-profit community development corporation, meaning they generate just enough income to cover expenses. Guarino, who is an attorney, clarified the definition of non-profit by stating that non-profit has nothing to do with what revenues that organization takes in, rather non-profit means that the earnings of the organization don't accrue to any individual.

Planning Board Chair David Freedman noted that, along with the assumption that the town is ultimately going to pay for the field work associated with verifying the wetland delineations, having a record of the town's contributions to this project as a whole is important. He suggested that the Commission determine a means for providing clear documentation that this has been reimbursed, because ultimately costs will be funded through the money the town allocated to the Housing Trust or the Housing Authority to cover project expenses.

With no further comments forthcoming, *Guarino moved to ask for the line to be confirmed by expanding the scope of Mason and Associates, Smith seconded and all attending voted in favor.*

Relative to the Commission's letter to Beaudry dated April 7, 2010 requesting clarification on whether a separate NOI would be submitted for development of the water supply well, Beaudry said that they had been fairly careful to locate the proposed well outside of the Buffer Zone and asked that the issue be tabled temporarily until a final location is determined.

Addressing the Commission's previous request for clarification on allowed uses within a Zone 1 of a public water supply well, Beaudry stated that he had submitted a list of possible uses based on feedback received from ConsCom and CCF and that he was disappointed in the rather ambiguous response he received from DEP. According to Beaudry, the response was basically a reiteration of what is contained in the regulations, with the state reserving the right to "review other passive uses on a case by case basis.

David Freedman noted that the response from DEP also requested clarification on ownership of the land on which the proposed well would be located. He said that resident Greg Peterson, who is an attorney and a member of the Affordable Housing Trust, is in the process of gathering all deeds and easements associated with the property and proposes that all concerned parties work to confirm permitted uses. Once this has been accomplished, Peterson recommends requesting a DEP site visit.

The DEP response also raised concerns relative to the Article 97 status of the land, which states that a change in use of conservation land requires approval by two thirds vote of both branches of the state legislature. Being that the land was accepted by the town for the proposed uses in the Warrant Article, which may constitute a conflict with the requirements of Article 97, Smith suggested obtaining an opinion from Town Counsel as to whether there may in fact be a conflict with the Article.

Relative to the location of the water supply well, DEP noted that the proposed location for the water supply well may not yield sufficient water to meet the project's needs, in which case a new well location would be needed requiring significant Plan changes. Because of this, they strongly urged that test drilling be conducted at the site as early as possible. It was agreed that the applicant needs to determine the approximate location of the well as soon as the Riverfront delineation is available in order to address DEP's concerns along these lines. Burn reiterated the preference of both the Commission and CCF that the well be located as far as possible from upland so as to minimize interference with uses allowed in the CR.

Addressing several other issues relative to the cart path trail including access during construction, signage, maintenance and possible grading changes, Freedman encouraged the Commission to communicate whether they will require a plan which includes these details in advance of permitting in order to coordinate conditioning. Beaudry noted that the Commission will have an opportunity to review final plans before building permitting is undertaken, with any changes to the details of the plans being subject to ConsCom approval.

From the audience, Kubacki requested clarification relative to previous meeting when the Commission determined that the stream near South Street was intermittent. He reported that another resident of South Street had consulted with a DEP staff person, who had interpreted the USGS Stream Stats to show that the stream was perennial. Smith and Willard confirmed that the original findings showing that the stream is intermittent were studied in detail previously and were verified as being accurate.

Kubacki noted that South Street is classified by the Town as a Scenic Road and asked the Commission to what extent they look at this during the permitting process. Smith stated that the Commission's jurisdiction pertains only to wetlands and the management of the conservation land.

Burn announced that the Peer Review will be discussed at the April 29, 2010 meeting, with final comments due to the ZBA by May 5. The hearing was continued to April 29, 2010 at 8:30 p.m.

Field Change Request - 779 West Street: Willard reported that the Management Plan for the property was lacking a siltation barrier at the limit of the project between the excavating work and the wetlands. The additional detail was approved as a field change.

10:10 p.m. Smith moved to adjourn, Troppoli seconded and all attending voted in favor.

Respectfully submitted,
Mary Hopkins
Administrative Assistant