

# Conservation Commission



19 WASHINGTON STREET  
SHERBORN, MASSACHUSETTS 01770

February 17, 2011  
Sherborn Town Hall  
7:00 P.M.  
Minutes of the Meeting

Members Present: Michael Lesser (acting Chair), Will Willis (arrived @ 7:10), Susan Tyler, Andrea Stiller, Kelly McClintock, Alex Dowse, Bridget Graziano (Administrator/Agent)

Guests: Anthony Tarnell, Stephen O'Brien, Brian V. Moran, Melissa Parker

Call to Order: Michael Lesser called the meeting to order at 7:03 p.m.

## Requests for Determinations of Applicability

20 Dexter Drive (Proposal for an addition to the existing dwelling) – No one was present to represent the applicant. The Agent reported that the wetlands are located more than 200 feet from the proposed limit of work. She recommended a Negative Determination. Mr. Lesser moved to approve the Agent's recommendation of a Negative Determination. Mr. McClintock seconded and it was voted to approve 5-0.

18 Wildwood Drive (Proposal to perform soil testing) – No one was present to represent the applicant. This Determination had been continued from the February 3, 2011 meeting at the request of the applicant because the incorrect soil testing location was submitted by the applicant's representative. Paul Saulnier, the applicant's representative, submitted an amended plan depicting the correct proposed soil testing location. The Agent reported that the new location for soil testing is outside the 100' vernal pool habitat zone and related 100' buffer zone. She further discussed that due to the close proximity of the soil testing to the buffer zone, she will need to review the proposed plans for installation of the new septic system. The Agent recommended a Negative Determination. Mr. Dowse moved to approve the Agent's recommendation of a Negative Determination. Mr. Lesser seconded and it was voted to approve 5-0.

Mr. Willis arrived at the meeting at 7:10 pm.

## **Public Hearings**

### Public Hearing 1- 193 Forest Street (Proposal to complete remediation for a hazardous waste site cleanup)

Mr. Lesser opened the hearing. The hearing is to consider a proposal by Norfolk Ram for work permitted under an Emergency Certification for the remediation of a hazardous waste site and to restore altered areas within the existing Bordering Vegetated Wetlands and the associated 100' buffer zone post remediation. Mr. Tarnell and Mr. O'Brien, the property owners, were present at the meeting. Representing the applicants were Melissa Parker and Brian Moran of Norfolk Ram. Melissa Parker briefly presented documents submitted for review by the Commission for this hearing, (1) the draft Response Action Outcome (RAO), (2) "Wetland and Buffer Zone Restoration Protocol" 193 Forest Street and 210 Farm Road by EcoTec Inc., (3) "Project Narrative in Accordance with Performance Standards of 310 CMR 10.55(4) 193 Forest Street" by Norfolk Ram and (4) the "Notice of Intent for Map 16, Parcels 14, 14A" by Norfolk Ram.

Mr. Lesser opened the discussion by asking the Commission members and Agent to voice questions and concerns after reviewing the proposal. The Commission discussed the following items:

- (1) the Commission questioned if it would be beneficial to wait for the final approved copy of the RAO (because changes may need to be made which would affect the Commission's approval and issuance of the Order of Conditions) because the document had not been approved by the State Department of Environmental Protection, Bureau of Waste Site Cleanup. Mr. Moran pointed out that there is no State approval process on the project because it is a privatized system. However, the DEP does annual audits of RAOs (with up to a 5-year look-back) and if the applicant must return for an amendment to the issued Order of Conditions due to an audit of the RAO, then the applicant will.
- (2) Mr. Lesser voiced his concern about the Commission's liability regarding permitting this project under 310 CMR 10.53 (q) as a limited project, should the applicant not be able to meet performance standards. Mr. Lesser's concerns lies in the wording of the regulation, where it notes that the applicant must meet all criteria for the hazardous cleanup set under Massachusetts General Laws, 310 CMR 40.00000, the Massachusetts Contingency Plan, Subpart I: Risk Characterization. The Commission has not been provided with evidence that the applicant has met this criterion. His concern included whether the Commission had any liability for the adequacy of the presented draft RAO and the Activity and Use Limitation (AUL). Mr. Moran said that he does not think that the Commission had such a liability. Mr. Lesser then stated that he would proceed on that basis and that the Commission's review would not include the RAO and AUL and related direct human health concerns. The Commission's work only addresses possible indirect human health via surface and ground water issues.

- (3) Ms. Stiller mentioned that she had concerns that the surface water testing was only completed for lead and not other detected Contaminants of Concern that were detected in the soil. In addition, the samples were field filtered, which provided results for dissolved lead, not total as reported in the RAO document. The Commission requested that more testing be done to include total as well as dissolved metals and to include testing for all detected site contaminants. It was also requested that the testing detection limits be below the action levels. Since the ground (including wetlands) is frozen and covered with snow, and since wetland testing would only test snow/snowmelt as stated by Ms. Parker, it was agreed that this testing could be put off until an appropriate time. Surface water testing after the site restoration activities (plantings, soil replacement, etc.) was also requested by the Commission. The applicants asked if the surface water testing could be done after site restoration was conducted, and the Commission agreed to allow this. The Agent had concerns about how surface water testing locations were determined. Ms. Parker explained that the two surface water sampling sites were chosen based on channeling.
- (4) Ms. Stiller also urged Norfolk Ram to review the site conditions, risk assessment, and proposed conditions of the Activity and Use Limitation to review whether the final disposition of the disposal site was adequately health protective for current and future residential use.
- (5) Mr. Lesser stated he had concerns that detected levels of lead were found in the drinking well at 218 Farm Road. Ms. Parker noted that the detectable levels were below state standards for drinking water. Mr. Moran suggested the lead may have come from old piping to the house. Mr. Lesser questioned whether such lead levels are possible when the sample was taken after running the water for a significant amount of time in an attempt to eliminate any piping impacts; however, it was acknowledged that the detected level is below the standards for drinking water and ground water.
- (6) Ms. Stiller questioned the accuracy of groundwater flow from the site where contaminants were found to the wetland resource and asked that a groundwater flow elevation survey be done to document the flow of groundwater, ensuring that all critical areas have been tested. Mr. Lesser also suggested re-testing the groundwater with lower detection limits. Mr. Lesser voiced his concern that, while all the groundwater test results came back with results of less than laboratory test's detection level of 10 ug/L lead, this detection level is the same as the action level for groundwater. He was concerned that it might not be clear that the ground water lead levels were clearly below the action level. He asked Mr. Moran what the percentage of inaccuracy is, on these tests and if the groundwater was re-tested, would it come back with a higher number than 10. After a lengthy discussion, Mr. Lesser withdrew his request for more testing because none of the other Commissioners were concerned with this testing issue. Mr. Moran agreed to contact the lab and request the actual laboratory detection limit for lead in the groundwater testing results. Ms. Parker agreed to undertake and provide a groundwater elevation survey.
- (7) The Agent stated that the original Notice of Intent should be amended because the area of wetland disturbance is actually 1700 sq. ft. not the 250 sq. ft. stated in the original Notice of Intent.

- (8) Mr. Lesser asked that the wording in the RAO on p. 13 under 7.4 stating “nor would be allowed by the Sherborn Conservation Commission” be modified so that the wording would not state what the Commission would or would not allow as the Commission never directly addressed those issues.
- (9) The Agent asked that the 50’ and 100’ buffer zones be marked on all plans, as the cart path is not exactly at 50’ from the wetland resource as mentioned in the proposed restoration plan, and much of the wetlands restoration plan is determined based on the measurements of the buffer zone.

The Commission asked the applicant if they would agree to continue the hearing to a later point in the meeting because another public hearing was scheduled. The applicant agreed. Mr. Lesser moved to continue the hearing until later in the meeting. Ms. Stiller seconded and it was voted to approve 6-0.

---

The Commission reopened the hearing at 8:20 pm.

The Commission moved to the next topic of the wetland restoration proposal written by Eco Tec, Inc. Mr. Lesser asked the Agent to discuss her questions and concerns with the proposal. She asked the representatives, what particular equipment would be used to replace the wetland soils into the wetland to restore the wetland to the original grade and to make all the plantings. She noted that the report states that they would use a bobcat. Ms Parker stated it will be a mini excavator. The Agent recommended that, after work with the mini excavator, (1) areas in the wetland and buffer zone should be hand-graded to ensure the least amount of disturbance is created and (2) the wetland bank will require immediate stabilization, with the use of vegetation, erosion control blankets, and/or the spreading of straw. She also asked that the amount of soils substrate amendments be noted in the wetland restoration proposal, totaling nine cubic yards of substrate. The Agent noted her concern about how the plantings would be watered to ensure at least 75% survival due to the remote location. The Agent recommended the following conditions (1) no work take place during rain events, (2) all work within the wetland shall be done by hand; (3) applicant shall propose erosion controls, and (4) wetland restoration plan is to be submitted for approval by Agent or Commission prior to commencement of project. The Commission requested a review of the Soil Management Plan for the vegetation planting prior to the commencement of work. Ms. Parker stated that once the snow melts Norfolk Ram will survey the lot and create a restoration plan for approval by the Agent or Commission.

The Commission discussed the amount of vegetation proposed for planting within the 0-100’ buffer zone and wetland. The Agent noted that the Commission conditioned the Emergency Certification stating that “If the bank of the wetland or surrounding area (within the jurisdiction of the Conservation Commission) incurs damage as a result of this work, it shall be restored to an improved resource in quality and quantity, by improving the following interests of the Sherborn Wetlands By-Law: (1)Private Water Supply, (2)Groundwater Supply, (3) Flood Control, (4) Storm Damage Prevention, (5) Prevention of Pollution, (6) Protection of Wildlife Habitat, (7)Protection of Wildlife, (8) Erosion Prevention, and (9) Protection of Buffer Zone Area (as defined in 310 CMR 10.04 Definition - mitigation) through the submittal of an Notice of Intent for restoration/mitigation work”. This is the reason the wetland scientist incorporated this

number of plantings within the buffer zone and wetland resource. Ms. Stiller noted her concern in digging up a contaminated site to plant over 200 plants. The Commission thought that a representative from Eco Tech Inc. should be present to explain the planting numbers because the applicant does not believe he should have to plant this amount of vegetation since there was not a significant amount of disturbance during remediation in the buffer zone. The Agent recommended the Commission continue the hearing because the wetland plan was not agreed upon by the applicant, that a meeting with the wetland scientist take place to discuss restoration options, the opinion that that amount of plantings may pose a health and environmental concern due to the amount of soil disturbance and direct contact with the soils, and the Commission would like more information on groundwater testing results.

Mr. O'Brien noted that he did not review the plan that proposed planting over 200 plants. Mr. Tarnell voiced his opinion that if left alone, the buffer zone area would repopulate with native plants and disturbing the area to such an extent would not be necessary. Ms. Stiller agreed that this might be an area better left alone.

Mr. Lesser moved to continue the hearing to the March 16, 2011 meeting at 7:30 p.m. Mr. McClintock seconded and it was voted to approve 6-0.

#### Public Hearing 2- Amendments to the Sherborn Bylaw Regulations

Mr. Lesser opened the hearing, which had been continued from January 6, 2011 and February 3, 2011. Mr. Lesser moved to continue the hearing until March 3, 2011 at 8:00 pm. Mr. McClintock seconded and it was voted to approve 6-0.

### **Discussions**

#### Discussion 1 -Sustainable Forestry Stewardship Grant Application

The Commission did not discuss this item, due to lack of time, and therefore it is moved to the March 3, 2011 meeting.

#### Discussion 2-NSTAR fencing along Whitney Street

Commission did not discuss this item, due to lack of time, and therefore it is moved to the March 3, 2011 meeting

#### Discussion 3- Review of revised wetland delineation plans submitted by Rising Tide Development, LLC

Commission did not discuss this item, due to lack of time, and therefore this item was moved to the March 3, 2011 meeting

Approval of Minutes of February 3, 2011

Ms. Tyler moved to accept the February 3, 2011 minutes as amended, Mr. McClintock seconded, approved 5-0, Mr. Dowse abstained because he was not present at this meeting.

**Administrator/Agent's Report**

- March 24, 2011 @ 1:30 p.m. CRWA Phosphorus Workshop – discussion continued to the March 3, 2011 meeting
- Review of proposed Stormwater Bylaw- The Agent asked the Commission members to review the draft document of the Stormwater Bylaw present in the meeting books and to submit comments by March 2, 2011. At which time she will compile the comments and send to the Town Planner for review by the Planning Board.

Adjournment: There being no other business to attend to, Mr. Lesser moved to adjourn at 10:45 p.m. Mr. Dowse seconded and it was voted to approve 6-0.

Respectfully submitted,

Debora Anderson  
Minutes Clerk

Documents Presented at the February 17, 2011 Public Meeting

All documents shall be kept in the Conservation Commission Office files

**Public Hearings**

Public Hearing 1 (193 Forest Street – (Proposal to complete remediation for a hazardous waste site cleanup)

- Draft Class A-3 Response Action Outcome titled “193 Forest Street, Sherborn, MA”, by Norfolk Ram, dated February 3, 2011
- Wetland and Buffer Zone Restoration Proposal titled “ Wetland and Buffer Zone Restoration Protocol, 193 Forest Street and 210 Farm Road” by EcoTec, Inc. Dated February 2, 2011
- Project Narrative, titled “Project Narrative in Accordance with Performance Standards of 310 CMR 10.55 (4) 193 Forest Street, Sherborn, MA” by Norfolk Ram , dated February 2, 2011

**Administrator/Agent Report**

- Stormwater Bylaw draft by the Sherborn Planning Board for Town Meeting, Article 17.

Cc: Board of Selectmen, Board of Health, Planning Board, Building Dept., Town Clerk, Town Forest, Town Counsel, Sherborn Library, Advisory Committee, D/S Press, Zoning Board of Appeals, Sherborn Garden Club, Forest & Trail Assoc., Assessor, Groundwater Protection Committee, Farm Pond Advisory Committee