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Agent's Report - 07/07/2016

[Printer-Friendly Version](#)**PLEASE BRING PACKET MATERIAL FROM THE CANCELLED MEETING TO THIS MEETING!**

TO: Franklin Conservation Commission

FM: George Russell, AICP
Conservation Agent

RE: Agent's Report

DATE: July 5, 2016

1.0. ProjectsElection of officers:

1.1. 0 Pond Street, ANRAD: Given the scope of this ANRAD and the significance of the project proposed on this site, which is 30+ three unit condo buildings with up to a potential 99 units, peer review of the wetlands line is recommended. This line will impact all future development of this property and thus is critical for accurately determining the jurisdictional areas. A copy of the application has been sent to BETA and they have developed a scope of service which has been forwarded to the applicant.

1.2. 7 Briarwood NOI: This application has been filed to address violations concerning the deposition of vegetative debris in a jurisdictional area and the cutting of vegetation in a priority/estimated habitat under the jurisdiction of Mass Fish and Wildlife (MF&W). I have included photographs in your packet to show the violations in question. On 6/14/16, I talked with Emily Holt at MF&W and as of 6/15/16 they have not received the application. Further conversations with her, indicates that the NOI was received by her office on 6/20/16, weeks after the NOI was filed with the Commission. I would recommend that no final action be taken by the Commission until MF&W reviews and comments on the application. According to 310 CMR 10.59, the Commission must act on the order if no report is received from MF&W within 30 days AFTER they receive the NOI. Even though the next meeting is 31 days from the receipt of the application by MF&W, the Commission may receive a report in the interim. Once a report is received, the other timing requirements of the regulations become controlling; e.g. the Commission must act within 21 days of closing a hearing.

The mitigation plan has been reviewed by the Kristin and her comments were sent to the applicant and are also included in your packet with the photographs.

It needs to be very clearly understood that this NOI is for restoration and clean-up only; it is not an application to expand any portion of the lawn or yard area. This is especially true considering the priority/estimated habitat area.

If the NOI is approved, in addition to any conditions required by MF&W, I would recommend the following special conditions: 19, 20, 23, 24, 27-30, 33, 34, 39, 40, 44 & 47.

1.3. 31 Hayward, NOI: This application has been filed to address violations concerning the deposition of vegetative debris and dirt in a jurisdictional area and to correct a point source discharge on site. I would like to point out, that a site inspection on 6/28/16 indicated some additional debris has been deposited in the jurisdictional area.

When the NOI is approved, I would recommend the following special conditions: 20, 23, 27-30, 34, 41 & 44.

1.4. 82 Elm, RDA: This permit is for the replacement of an existing septic system. A field inspection has been undertaken and a review letter generated. There has been no response to my review and I cannot recommend any action by the Commission until the items are addressed.

When approved, I would recommend special conditions 20, 24, 27-30, 34, 41 & 44.

1.5. Keolis, MBTA NOI: This is a culvert replacement project that is similar to other projects undertaken by the MBTA on their Franklin Line. The Town Attorney has informed me, and I have informed the applicant, that since Keolis is the applicant and not the MBTA, fees under the local wetlands by-law need to be paid for this project. These fees have not been paid. Another option which was suggested to the applicant by my office and Mr. Cerel, is to make the MBTA the applicant. This has not been done as of this report. On 7/5/16, the applicant was changed and the application can proceed, **IF** we receive an NOI number from DEP.

When approved, I would recommend special conditions 20, 22, 24, 27-30, 33, 34, 41 & 44.

1.6. 727 Lincoln St., RDA: This RDA has been filed as a result on a violation discovered by my office and outlined in the correspondence and photographs in your packets. The applicant has submitted a report from a wetlands scientist that indicates that while there is a violation in one and potentially two resource areas, bank and land under water, the best course of action is to leave the debris where they are, do not place any more in the area and move all future grass clippings to at least 25 feet back from the stream channel. However, I would suggest that the wood plank material actually in and/or over the stream channel, as shown in the pictures, be removed.

1.7. 11 Evergreen, NOI: **Before voting on this NOI, item 2.3.3 should be addressed.**

This NOI is being filed as a result of the Commission's decision to require the NOI due to significant deviations undertaken during construction from the originally approved NOI. I would recommend approval with all of the original stipulations.

1.8. Stoneridge Condos, NOI: This is a relatively straight forward sidewalk/vegetation replacement project. When approved, I would recommend the following special conditions: 19, 20, 27-30, 34, 41, 43 & 44.

1.9. 100 Financial Drive, Charter School NOI: The revised application has been sent to BETA/WSI. The filing fee issue has been resolved but, until the other issues are resolved, I would not recommend any action by the Commission. Final comments have not yet been received from peer review.

The issue of the land swap, which is referenced in BETA/WSI's review, has been a constant source of confusion which has been repeatedly been addressed with the applicants.

When approved, I would recommend special conditions 19-44 be attached to the orders.

1.10. 100 Financial Drive, Warehouse NOI: The revised application has been sent to BETA/WSI but final comments have not yet been received.

When approved, I would recommend special conditions 19-40 & 44 be attached to the orders.

1.11. Rolling Brook Estates, NOI: Revisions to the applications (PB & CC) have been submitted and final comments have been received from BETA/WSI. Revised plans have been submitted to the Planning Board but not to ConCom and we need to make sure the plans being reviewed by the boards and BETA are the same.

I would recommend that the issue of flood storage be addressed as a stipulation of approval since this activity will be driven by construction/development of the site.

When approved, I would recommend special conditions 19-40 & 44 be attached to the orders

1.12. 300 Fisher St., NOI: The revised application has been sent to BETA/WSI and they have completed their review. All is ready for action.

When approved, I would recommend special conditions 19-40 & 44 be attached to the orders

2.0. General Business

2.1. Minor buffer Zone Activities

None

2.2 Permit modifications/extensions

2.2.1. South Village Estates: The applicant has two approved plans, one from the Planning Board and one from Conservation, and these plans are different. This is an attempt to try and rectify these differences.

There are two sets of plans in your packets; one shows the sidewalks with a 3:1 slope and a retaining wall and one with a 2:1 slope and no retaining wall. The latter would be the preferred option due to less impact and maintenance.

Please see the correspondence in your packet on this development. The first photo shows the clear-cutting that prompted the stop work order, the next photos show work that was done after the stop work order was issued and before it was lifted. I cannot recommend any amendment to this plan at this time given the egress violations taking place on the site. Given the recent history, e.g. ignoring the stop work order by taking the position that the entire area needed to be clear cut in order to get a truck into the area to put down the erosion control, I have left the order in place pending discussion with the Commission.

2.2.2. Villages at Oak Hill: There is a dead tree within a jurisdictional area that needs to be removed. This would normally be an MBZA, but there is an active NOI for the site. This NOI will expire at the end of July and a request for an extension of time has been filed. Unless the NOI is formally "closed out" or extended, a stop work order will be issued. This will prevent permitting for the removal of this tree. The question boils down to does the Commission want to allow the MBZA filing bearing in mind that they have taken a position that MBZAs are not appropriate when there is an NOI in force or require a formal amendment to the orders.

2.3. Certificate of Compliance

2.3.1. 63 A St.: All is ready for the release to be approved.

2.3.2. 31 James: All is ready for the release to be approved.

2.3.3. 11 Evergreen: This COC has been submitted to clear the title issue since there should not be two NOIs for the same project. This COC should be issued as "invalid" and then the new NOI above can be approved with a "clear" title.

2.4. Discussion items

2.4.1. Education and Outreach: The original project we came up with for Rypos is not "big" enough to use 30 people for three hours. Therefore we have searched for addition work they can undertake.

2.4.2. DeCarte: I met with the Town Attorney and Town Administrator concerning the issue of the wood chips being deposited within jurisdiction. It is the legal opinion of the Mr. Cerel that the Commission would need to take enforcement action against itself, which it cannot do, since it has "control and custody" of the property. Given this, the Commission is taking the appropriate action and it is treating this "violation" as it would any other.

I have reached out to DPW to see if we could spread or remove the chips and/or possibly place ropes, chains fencing or large boulders in the area to prevent additional unauthorized deposition of material. All of these are possible, and the placement of boulders is recommended since this would not only prevent additional "debris" from being placed in the area but would allow for a more "natural" look.

2.5. Minutes

2.6. Violations:

2.6.1. 723 Lincoln St.: In your packets please find a series of letters and photos outlining and showing the issue. I would recommend the enclosed enforcement order be issued and if the date outlined in the order is not met, fines be issued.

2.6.2. 6 Dominica: In your packets there is a packet of letters and photographs outlining the issue. I have had a conversation with the homeowner who assured me the activity would stop and a permit would be filed. The activity has stopped, but the permit has not been filed and the "damage" to the area remains.

I would recommend that if the permit is not filed by 9/1/16, an enforcement order be issued and if the date outlined in the order is not met, fines be issued.

3.0. Chair and Commission Comments

4.0. EXECUTIVE SESSION