

Town of Franklin



Conservation Commission

**September 17, 2020
Meeting Minutes**

As stated on the agenda, due to the growing concerns regarding the COVID-19 virus, this meeting will be conducted as a Remote/Virtual Conservation Commission meeting. In an effort to ensure citizen engagement and comply with open meeting law regulations, citizens will be able to dial into the meeting using the provided phone number, or citizens can participate by using the Zoom link provided on the agenda.

Chair Bill Batchelor called the above-captioned meeting to order this date at 7:00 PM as a **Remote Access Virtual Zoom Meeting**. Members in attendance: Bill Batchelor, Jeffrey Milne, Jeff Livingstone, Alan Wallach, Patrick Gallagher. Members absent: Paul Harrington. Also present: Jen Delmore, Conservation Agent.

Commencement

Chair Batchelor announced this meeting will be conducted as a Remote Access Virtual Zoom Meeting. This meeting will be video recorded.

Note: Documents presented to the Conservation Commission are on file.

PUBLIC HEARINGS:

Public Hearing – Continued - NOI – 469 Maple Street – Maple Hill Subdivision – To Be Continued

Ms. Jen Delmore stated the applicant requested a continuance to the October 15, 2020, meeting.

There was no motion or second made. A vote was taken to approve the continuation of the public hearing for the NOI for 469 Maple Street, Maple Hill Subdivision, to October 15, 2020, at 7:00 PM. Vote 5-0-0. Roll Call Vote: Milne-Yes; Livingstone-Yes; Wallach-Yes; Gallagher-Yes; Batchelor-Yes.

Public Hearing – Continued - NOI – 340 East Central Street

Mr. Mark Arnold of Goddard Consulting, on behalf of the applicant Joseph Halligan, addressed the Commission for the construction of a residential condominium building and a retail building with associated parking lot, stormwater structures and grading within the 100 ft. buffer zone to a Bordering Vegetated Wetland, and within Town bylaw jurisdictional isolated wetland and drainage ditch. He gave an overview of the information provided at the August 27, 2020, meeting including that the Commission requested the applicant respond to a letter by WSI dated August 24, 2020, requesting the applicant provide additional material as to if the wetland replication will be part of the stormwater system or not, and provide more detail on the replication plan. He stated they responded to WSI's letter with a booklet on September 10, 2020, a revised plan dated September 3, 2020, and a Stormwater Operations and Maintenance Report, which he reviewed. He discussed the isolated replication area and noted there is no maintenance in this area except the possible cleaning of the stone. The constructed wetland is not meant to handle any onsite stormwater; the only water proposed to discharge into the constructed wetland will be coming from the street and across the street as it has for years. However, it will be treated before it has the chance to wash sediment into the resource areas. He stated WSI issued a second memo dated September 11, 2020, requesting clarification on the surface and ground water elevations of the proposed wetland replication as well as clarification of the replication ratio proposed. Mr. Goddard stated they provided

test pit data, a Construction Protocol Isolated Wetland Replication Area, and a narrative comparing ground elevations and soils of the replication area to the bordering vegetated wetland.

Ms. Delmore stated the supplemental materials provided by the applicant clarified the questions from the last meeting and responded well to the letters from WSI. She recommended approval with special conditions.

There was a motion made by Jeffrey Milne to close the public hearing for the NOI for 340 East Central Street. The motion was seconded by Jeff Livingstone and accepted with a roll call vote of 5-0-0. Roll Call Vote: Milne-Yes; Livingstone-Yes; Wallach-Yes; Gallagher-Yes; Batchelor-Yes.

There was a motion made by Alan Wallach to approve the NOI for 340 East Central Street, with special conditions #20, 21, 23, 24, 27-30, 34, 41, 44, and 51, and additional special condition #52-Construction Protocol Isolated Wetland Replication Area/Constructed Wetland dated September 10, 2020, by Goddard Consulting to be attached to the Order of Conditions, and #53-Grading within the wetland replication area will not occur within the drip line of any of the mature trees to remain so as not to expose the tree root network. The motion was seconded by Patrick Gallagher and accepted with a roll call vote of 5-0-0. Roll Call Vote: Milne-Yes; Livingstone-Yes; Wallach-Yes; Gallagher-Yes; Batchelor-Yes.

Public Hearing – ANRAD - 0 Cottage Street, 0 Cottage Court, 21 Peck Street

Mr. Mark Arnold of Goddard Consulting, on behalf of the applicant, addressed the Commission for the confirmation of 40 linear feet of Bordering Vegetated Wetlands and 910 linear feet of bank of an intermittent stream. He reviewed the plan and noted that at the end of the stream there are several reinforced concrete culverts that discharge stormwater into a ditch. They have done research of the area and there are upgradient wetlands. He reviewed the delineation and discussed the intermittent stream near Peck Street, the discharge area, and the jurisdictional areas. He noted that this ANRAD is under the Wetlands Protection Act only and not under the Franklin Wetlands bylaws.

Ms. Delmore stated the peer review fee check from the applicant to have WSI conduct the onsite review and issue a report was received. She noted that there is no DEP file number yet. She recommended continuing the public hearing to allow time for the peer review. She stated that resident Mr. Jim Kupfer, 59 Cottage Street, requested the following comment be made to the Commission because he could not attend the meeting tonight.

Good morning, I hope all is well. I am a resident of Franklin and I am inquiring about the status of the ANRAD for 0 Cottage Street. Has that project been flagged and reviewed by the commission or will that be something the commission discusses this evening? I apologize that I will be unable to attend this evening as I have meetings of my own at the same time. I did like to offer comment however, if I may through this email to the Commission. I understand the ANRAD does not evaluate the projects merit but simply reviews and confirms the resources residing on the property which then sets the baseline/constraints for any potential project. I am aware that this project is potentially a Comprehensive Permit and therefore must still adhere to the State Acts. For this site I am interested in the Commissions thoughts on the Rivers Protection Act. As you all are likely aware, the Rivers Protection Act, Chapter 258 of the Acts of 1996, protects Massachusetts riverbanks in order to help keep water clean, preserving wildlife habitat, and controlling flooding. The law creates a 200-foot riverfront area that extends on both sides of perennial rivers and streams. According to the law, the riverfront area provides for the protection of public and private water supply, protection of groundwater supply, protection of land containing shellfish, protection of wildlife habitat, flood control, storm damage prevention, prevention of pollution, and protection of fisheries. The law also establishes the policy of the state to protect the natural integrity of rivers and to encourage and establish open space along rivers. You will likely conclude similar, but I want to state that it is clear that the stream running through this site is a perennial stream. There is clear flow throughout the year at this location. Walking on either side of Wachusett and Peck streets throughout the year you will clearly see and hear flow running through the property in question with numerous wildlife species residing within the

riverfront area. Timing of this ANRAD is concerning given that we are in a level two drought declared by the state, nevertheless I believe you may still see flow out there today, even during severe drought conditions. I cannot speak for the balance of the site and look forward to hearing the Commissions observations but the perennial stream running through the property is evident. Thank you.

Chair Batchelor confirmed the resident's comment indicated that the stream was perennial and not intermittent; WSI will be able to provide information on that. Mr. Goddard requested that WSI clearly address that the stream is perennial or intermittent.

Ms. Jen D'Angelo, 34 Wachusett Street, asked if she could go on a site walk with the Conservation Commission or the owner of the property. She stated that the stream being discussed runs along her property, and she has partial ownership. Chair Batchelor discussed that WSI works on wetlands and a scientist will be onsite to make the determination of whether the stream is perennial or intermittent. He stated that Ms. D'Angelo contact the conservation agent. Ms. Delmore noted that there is no permission from the owner to have Ms. D'Angelo go on the property.

There was a motion made by Patrick Gallagher to continue the public hearing for the ANRAD for 0 Cottage Street, 0 Cottage Court, 21 Peck Street, to October 1, 2020, at 7:02 PM. The motion was seconded by Jeffrey Milne and accepted with a roll call vote of 5-0-0. Roll Call Vote: Milne-Yes; Livingstone-Yes; Wallach-Yes; Gallagher-Yes; Batchelor-Yes.

Public Hearing – NOI – 164 and 166 Grove Street

Ms. Andrea Kendall of LEC Environmental Consultants; Mr. David Kelly, engineer of Meridian Associates; and Carla Moynihan, representing the applicant PharmaCann, addressed the Commission for the proposed construction of a 4,150 sq. ft. single story retail and medical cannabis dispensary facility on the 1.5-acre site including parking lot with 70 spaces, utilities, stormwater management system, and associated amenities at 164 Grove Street, with access provided from 166 Grove Street. Wetland Resource Areas associated with the project include an onsite Isolated Vegetated Wetland and offsite Bordering Vegetated Wetland. An overview was provided of the proposed project and it was noted that the property was formerly occupied by Metcalf Sand and Gravel. The isolated wetland created from drainage off Grove Street will be relocated and stretched along the northern property line. It was stated that Ms. Lenore White of WSI approved the location and the Cultec units and infiltration were reviewed; if the Cultec units fill to capacity, there is an overflow plan. The stormwater that comes off of Grove street will be managed and discharged into a new swale. There are a series of check dams to flow runoff. BETA reviewed the stormwater management design for the Planning Board. There is 29,892 sq. ft. of alteration proposed within the buffer zone area with 13,263 sq. ft. of proposed mitigation.

Ms. Delmore confirmed the receipt of the report from the peer reviewer WSI dated September 17, 2020, in which they agreed with the wetland delineations and replication. A condition in the Order was recommended to clarify that wetland resources were not identified on 166 Grove Street. The abutter notification proof and the DEP file number were received.

Chair Batchelor stated he does not like receiving reports a few hours before a Commission meeting as the Commission members do not have time to review the materials. Typically, they like to read the DEP report and WSI report in advance. He stated that he will have to take the word of the agent who he has great respect for. He confirmed with Ms. Delmore that the report from WSI came in clean. Ms. Delmore stated there are no issues with the project. Mr. Livingstone stated that in the past during the tenure of the previous conservation agent, the Commission members were often frustrated as they often received materials just before a meeting; a published rule was imposed that if things were not received a designated number of days before a meeting, they would not be reviewed by the Commission. He stated that somewhere along the line we lost that ruling.

Mr. Milne stated he is satisfied with the information he has received based on Ms. Delmore's endorsement of the results. Mr. Wallach stated he saw the report come through late this afternoon and did a cursory review; he

will rely on what Ms. Delmore has to say. Mr. Gallagher stated he reviewed the report although not in great depth. He believes the project has been reviewed in great depth by Ms. Delmore, Ms. Lenore White of WSI, and the Planning Board; he does not have an issue relying on their judgments at this time.

Chair Batchelor stated they will take questions from the public and then will be prepared to vote based on Ms. Delmore's approval. He stated that on a go forward basis, any reports that come in on the day of the meeting, they will continue the public hearing until the next meeting. Ms. Delmore noted that the Commission had previously settled on receiving information one week before the meeting date. Chair Batchelor stated that the one-week prior rule will be strictly enforced.

There was a motion made by Patrick Gallagher to close the public hearing for the NOI for 164 and 166 Grove Street. The motion was seconded by Jeffrey Milne and accepted with a roll call vote of 3-0-0. Roll Call Vote: Milne-did not vote; Livingstone-Yes; Wallach-Yes; Gallagher-did not vote; Batchelor-Yes.

There was a motion made by Alan Wallach to approve the NOI for 164 and 166 Grove Street, with special conditions #20, 21, 23, 24, 27-30, 34, 41, 44, and 51, and additional special condition #52-Wetland resources were not identified on 166 Grove Street; any additional work proposed on 166 Grove will need to be filed with the Conservation Commission. The motion was seconded by Jeff Livingstone and accepted with a roll call vote of 5-0-0. Roll Call Vote: Milne-Yes; Livingstone-Yes; Wallach-Yes; Gallagher-Yes; Batchelor-Yes.

Public Hearing – NOI – Franklin Line Double Tracking Project (Phase II)

Ms. Clary Coutu, Director of Environmental Compliance for Keolis; Mr. Nicholas Henke, environmental scientist of HDR; and Mr. Kevin Slatery of HDR addressed the Commission for the maintenance of the MBTA line and construction of a second track within a 4.0-mile length of the MBTA ROW for the Franklin Branch from Norfolk station to the existing double track near Longfellow Drive in Franklin. The project proposes to restore a former second track, which was originally built in 1910 and later removed, on the existing embankment and ROW. One existing culvert in Franklin will be replaced. Ms. Coutu noted she has not received the Form 2 for the RDA that was brought to the Commission's attention on August 13, 2020. Mr. Henke provided a slideshow presentation of the Franklin Line Double Tracking Project Phase II and noted this project will pick up where Phase I left off at approximately Rockland Road in Norfolk. He stated that 1.5 miles of the project falls within Franklin. He reviewed proposed drainage improvements and the stormwater plan. All work for the project will take place in pre-disturbed areas in the railroad right of way. He discussed the resource areas and noted there will be temporary impacts only for work in the riverfront area and the buffer zone. He noted the EPA issued a permit for the entire project and erosion controls have been installed. They are seeking an Order of Conditions.

Ms. Delmore stated she sees no issue with the project and the Town engineer also reviewed the project and has no concerns. There is no DEP file number at this time; however, other than waiting for the DEP number, she recommended approval. She noted payment for the advertisement was received. She recommended continuing the public hearing to wait for the DEP file number.

Mr. Livingstone discussed the possible reasons why historically there were two tracks and one was removed. He stated that railroad ties used to be soaked in creosote. He asked that during this construction if there is any environmental risk of churning up soils that might still be seasoned with the toxins from the original ties. Ms. Coutu stated that they expect minimal excavation. She discussed their backfill policy and noted that if any material needs to be removed offsite, she will be responsible to have it tested.

There was a motion made by Jeff Livingstone to continue the public hearing for the NOI for Franklin Line Double Tracking Project (Phase II) to October 1, 2020, at 7:03 PM. The motion was seconded by Patrick Gallagher and accepted with a roll call vote of 3-0-0. Roll Call Vote: Milne-Yes; Livingstone-did not vote; Wallach-Yes; Gallagher-did not vote; Batchelor-Yes.

GENERAL BUSINESS

Minor Buffer Zone Activities: None.

Permit Modifications/Extensions: None.

Certificate of Compliance: Franklin Country Club - 672 East Central Street

Ms. Amanda Cavaliere of Guerriere & Halnon, Inc., on behalf of the applicant Franklin Country Club, addressed the Commission regarding the project for the removal and disposal of a fuel area and addition of a dumpster pad within existing paved area within the 200 ft. outer riparian zone to a stream. They are here to close out the project; all the work has been completed in accordance with the approved plans.

Ms. Delmore stated she performed a site visit on September 8, 2020, and noted the area is stable; she recommended approval.

There was no motion or second made. A vote was taken to approve the Certificate of Compliance for Franklin Country Club at 672 East Central Street. Vote 5-0-0. Roll Call Vote: Milne-Yes; Livingstone-Yes; Wallach-Yes; Gallagher-Yes; Batchelor-Yes.

Certificate of Compliance: 14 Oxford Drive

Ms. Delmore stated she spoke to the homeowner when she was onsite doing her inspection and noted that the applicant may not make it to this meeting. She stated this project was for the construction of an addition, driveway, and grading on a single home lot within the 100 ft. buffer zone to bordering vegetated wetlands. She performed a site visit on September 16, 2020, and confirmed the project was completed and the area is stable. She recommended approval.

There was no motion or second made. A vote was taken to approve the Certificate of Compliance for 14 Oxford Drive. Vote 5-0-0. Roll Call Vote: Milne-Yes; Livingstone-Yes; Wallach-Yes; Gallagher-Yes; Batchelor-Yes.

Certificate of Compliance: The Village at Cooks Farm - 636 & 664 East Central Street

Ms. Amanda Cavaliere of Guerriere & Halnon, Inc., on behalf of the applicant, addressed the Commission regarding the project to construct 55 single-family homes. There was buffer zone and resource area filling and mitigation. She stated the work has been completed regarding the Wetlands Protection Act. She noted the fence approved on the access crossing to the south part of the site was installed yesterday.

Ms. Delmore stated she performed a site visit on September 16, 2020, and confirmed the replication areas are well established with the proper wetland indicator species and the entire site is stabilized. She did not get a chance to review the crossing area where the fence was being installed at the time of her site visit. Therefore, she does not feel comfortable recommending the Certificate of Compliance at this meeting; she would like to revisit the site after the fence installation due to its proximity to the wetland before a Certificate of Compliance is recommended.

There was no motion or second made. A vote was taken to continue the Certificate of Compliance for the Village at Cooks Farm at 636 & 664 East Central Street. Vote 5-0-0. Roll Call Vote: Milne-Yes; Livingstone-Yes; Wallach-Yes; Gallagher-Yes; Batchelor-Yes.

Violations/Enforcement: None.

Minutes: August 27, 2020

There was a motion made by Alan Wallach to approve the meeting minutes for August 27, 2020. The motion was seconded by Patrick Gallagher and accepted with a roll call vote of 2-0-1. Roll Call Vote: Milne-did not vote; Livingstone-Yes; Wallach-did not vote; Gallagher-Yes; Batchelor-Abstained

Discussion Items: DelCarte Free Library Proposal-Elizabeth Hagy

Mr. Delmore stated there was an inquiry from Ms. Elizabeth Hagy, a freshman at Franklin High School and a Girl Scout Senior of Troop 80637, who is working on her Silver Project regarding the possibility of providing a free library at Delcarte. Ms. Hagy provided an overview and slideshow presentation of her proposal and how it would work regarding proper safety precautions in relation to COVID. She stated a little free library is a small structure as a way for citizens to have access to new books within COVID-19 limitations; youth will have better access to games, books, toys, etc. She stated that it will attract the middle- and high-school age group to the DelCarte playground and walking trails. She stated it would be completely free and is a giving-back-to-the-community project. She stated that it will initially be stocked by Ms. Hagy, but it will then become a take one, get one, so it will be continually stocked. She explained why she selected DelCarte for this initiative. She stated she would take care of the initial building, budget, advertising, initial stocking, and upkeep. She requested support from the Commission to grant permission for the project and picking a design and location that serves the space the best so as not to disturb anything natural.

Chair Batchelor noted that the Town of Holliston has free libraries and they have worked well. He thinks this is a wonderful idea. He is skeptical because of the cleaning due to COVID. Ms. Delmore asked about the cleaning of the books and toys and about disinfectant wipes being available. Ms. Hagy stated that the risk of transmitting COVID by touch is little; she stated that she reached out to the Free Library Association for advice. They recommended that if a notice is posted that the contributor must clean the item before putting it in the free library, most visitors abide by that. She stated that initially, she will also provide wipes. Ms. Delmore noted that depending if the location is 100 ft. from the pond, Ms. Hagy would need to do an MBZA. She will meet with Ms. Hagy onsite to pick a fitting spot.

Chair Batchelor suggested and discussed a possible location; he encouraged this project. Commission members asked questions and discussed sanitizing the contributions due to COVID. It was noted that public libraries are not open due to public perception of transmission of virus. Chair Batchelor stated that is something Ms. Hagy will have to think about regarding COVID. Ms. Hagy stated her goal was to get it built by the end of November. Chair Batchelor asked if Ms. Hagy could get approval for November and have it ready for spring. He stated he would like Ms. Hagy to go ahead conceptually but not put a post in the ground until winter subsides. Ms. Hagy stated that she agreed with the timeline. She discussed that she planned to promote this through social media presence and through registration with the Little Free Library Association.

Chair Batchelor stated Ms. Hagy had approval from the Commission to go into deep concept with a deliverable perhaps by November and implementation in early spring. Ms. Hagy agreed.

Chair and Commission Comments: None.

Executive Session:

Chair Batchelor stated he would like to go into executive session for five minutes.

There was no motion made. Mr. Livingstone stated he seconded. Vote 2-0-0. Roll Call Vote: Milne-Yes; Livingstone-Yes; Wallach-did not vote; Gallagher-did not vote; Batchelor-did not vote.

The Open Session of the Remote Access Virtual Zoom Meeting ended at 8:38 PM.

Respectfully submitted,

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Judith Lizardi
Recording Secretary