



TOWN OF PALMER CONSERVATION COMMISSION

Palmer Town Building
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Tharyn Nein-Large, Chair
Donald Duffy, Vice Chair
Peter Izyk
Sean O'Donnell
Sarah Brodeur

Agent: Angela Panaccione

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MEETING MINUTES

TUESDAY OCTOBER 20, 2015 @ 7:00 PM

Members Present: Tharyn Nein-Large (Chair)
Donald Duffy (Vice Chair)
Peter Izyk
Sarah Brodeur
Angela Panaccione (Agent)
Dave Cotter (Appointed, not sworn in)

Members Absent: Sean O'Donnell

Also Present: Keith Terry, Sherman & Frydryk
Jon Callahan, Palmer Paving Corp.
Paul Les, Brenton Estates, Inc.
Blake Lamothe, 103 Water Street

Meeting Opens: 7:00 PM – Tharyn Nein-Large (Chair)

7:00 PM Amended Notice of Intent DEP # 256-0286: Palmer Paving Corp; Old Warren Road

A request to amend a Notice of Intent submitted by Sherman & Frydryk c/o Palmer Paving Corp, to amend the existing Order of Conditions, DEP #256-0286, for the proposed earth removal permit. The amendment is proposed to incorporate an additional parcel into the current earth removal operation. The location of the proposed project is on Old Warren Road & Boston Road Palmer, MA 01069, and is also known as: Map 21-7-10; Map 21-7-1 and Map 27-2.

A site visit was conducted by the Agent, Commissioner Sarah Brodeur, Don Frydryk (Sherman & Frydryk), and Mike Shea (Palmer Paving) on 9/22/2015.

Tharyn Nein-Large opened the public hearing and Representative Keith Terry, of Sherman & Frydryk as well as Jon Callahan, of Palmer Paving were present at the hearing.

The original Order of Conditions was issued to New England Construction Equipment Co, dated February 16, 2011. Under the Permit Extension Act this OOC is valid until 2018. Palmer Paving is the new owner, and requested the amendment to incorporate a new parcel into the earth removal operations. The amendment also proposed a possible additional access off Rt. 67 and two new stormwater basins.

The Agent identified her one area of concern on the site plan as the limit of grading extending into an abutting parcel (21-7-1) owned by Johnson, and request the applicant provide the Commission with documentation from the property owner that a grading easement was allowed on their property. Keith Terry provided the commission with an affidavit signed by Mr. Johnson authorizing the work on his property.

Keith Terry explained to phases of the earth removal plan to the commission.

The Commission also discussed past conversations with Palmer Paving about the donation of this parcel to the Commission upon completion of the gravel operation. Jon Callahan did not provide comment on the matter.

Motion made by Donald Duffy to close the Public Hearing

Motion seconded by Sarah Brodeur

No further discussion – vote taken: 4-0-0 – Motion Carries

Motion made by Sarah Brodeur to issue the Amended Order of Conditions for DEP #256-0286

Motion seconded by Donald Duffy

No further discussion – vote taken: 4-0-0 – Motion Carries

7:15 PM Request for an Extension DEP #256-0248: Brenton Estates – Quaker Lane Subdivision

The Commission received a request for an extension to the Order of Conditions DEP # 256-0248, submitted by Sherman & Frydryk on behalf of Brenton Estates, for the proposed Quaker Lane Subdivision, located off Flynt Street in Palmer, MA 01069. The current OCC is expired on September 28, 2015 and the applicant is requesting a three (3) year extension to complete the proposed work. The applicant's intent is still the same, to construct a subdivision access road with associated drainage. Work on the road has commenced and is anticipated to be completed within the next two (2) years.

Paul Les, of Brenton Estates was present to discuss the extension request. The Agent conducted a site inspection of the subdivision access road and determined a substantial amount of work has been done. Approximately 500-feet of the proposed 1250-foot access road has been constructed. The subdivision access road will be "Quaker Lane", and will extend from Homestead Street to Flynt Street. The Agent recommended the Commission grant an extension. The road is steep, with a deep cut at an 11% grade.

Motion made by Peter Izyk to issue a three (3) year extension, for Order of Conditions DEP # 256-0239

Motion seconded by Donald Duffy

No further discussion – vote taken: 4-0-0

The Agent and Paul Les will look into the condition of requiring a portion of Land to be transferred to the town as part of the required permitting.

7:37 PM Request for Determination(RDA) Three Rivers Flood Control – Town of Palmer DPW

A Request for Determination of Applicability submitted by the Town of Palmer to see if the work proposed to remove vegetation from the Riverfront Area is subject to the Wetland Protection Act and the Town of Palmer Wetlands Ordinance. The location of the proposed project is Three Rivers Flood Damage Control Structures, Palmer, MA 01069 and is also known as: Map 70-14, 70-81, 70-84, 77-57, 71-105-1, 71-90-2, 71-98, 71-99, 71-98-1, and 71-74.

Tharyn Nein-Large opened the public hearing and no representatives from the town or public present was at the hearing.

This project is a maintenance requirement from the Army Corps of Engineers (ACOE) to the Town of Palmer, highlighted in a Systems Inspection Report, dated 2/25/2015. On September 11, 2014 the ACOE conducted a routine inspection of the Three Rivers Flood Damage Reduction System and required vegetation removal, shoaling removal, and routine maintenance along the reinforced banks of the confluence point of the Ware/Quaboag/Chicopee Rivers. The primary purpose of the inspection is to assure that Flood Damage Reduction structures and facilities are continually maintained and operated as necessary to obtain the maximum

benefits including: prevent loss of life and catastrophic damages; preserve the value of Federal investments, and to encourage non-Federal sponsors to bear responsibility for their own protection.

In the report the ACOE documented significant vegetation consisting of large brush and trees greater than 2-inches in diameter along the slopes of the entire project. ACOE is requiring all vegetation needs to be cleared along the entire project site to prevent any reduction in flow during a flood event. Pictures were supplied in the report.

The Agent met with the Town Manager Charlie Blanchard and DPW Director Gerry Skowronek to discuss the requirements and recommended the filing of an RDA to permit the activity.

All parcels identified in the project scope are classified as Densely Developed Areas (DDA), and have a corresponding 25-foot Riverfront Area. All machinery will operate from roadway and vegetation shall be cut flush to the ground, with stumps and root balls remaining. Only the work necessary to abate the threat of flooding will be performed.

Motion made by Peter Izyk to close the Public Hearing and issue a Negative Determination, Box 3; finding the area specified for vegetation removal is previously disturbed (all reinforced embankment) and removal of the vegetation will not alter an area subject to protection

Motion seconded by Donald Duffy

No further discussion – vote taken: 4-0-0 – Motion Carries

7:46 PM Administrative Matters: Minute Approval – October 6, 2015

Motion made by Peter Izyk to accept the minutes from Tuesday October 6, 2015 as corrected

Motion seconded by Sarah Brodeur

No further discussion – vote taken: 4-0-0 – Motion Carries

7:50 PM Minor Modification to Endelson Playground Improvements, DEP # 256-0300

On October 13, 2015 Alice Davey requested a site visit with the Conservation Agent to look at a proposed revision to the approved site plan for Endelson Playground to hopefully remove the requirement of restoring the 252 SF gravel access path to the river. The original project proposed to remove the current gravel access road to the river and loam and seed the disturbed area. This access path is used by Bondsville Fire Department for water access and restricting access to the river could pose a threat to human health and safety. Additionally, the gravel access path provides river access to many fishermen in the area. The Commission discussed the request and determined the activity is a minor revision to the approved plans and documents and the current Order of Conditions, and therefore it does not require Amending the Order of Conditions.

A motion was made by Sarah Brodeur to accept the changes to the site plan “Endelson Playground (Sheet 1,3, & 9 of 9);” dated July 10, 2013; submitted by Berkshire Design Group; to remove the requirement of restoring the 252 SF gravel drive from the existing Orders of Conditions DEP # 256-0300

Motion seconded by Peter Izyk

No further discussion – vote taken: 4-0-0 – Motion Carries.

8:00 PM Administrative Matters: Payable – MACC \$95.00

Motion made by Peter Izyk to approve the payable to MACC in the amount of \$95.00, for the payment for Sarah Brodeur to attend the 2015 MACC Fall Conference scheduled for October 17, 2015, in Devens, MA

Motion seconded by Sarah Brodeur

No further discussion – vote taken: 4-0-0

8:01 PM Administrative Matters: Payable – Department of Conservation & Recreation \$110.00

Motion made by Donald Duffy to approve the payable to DCR in the amount of \$110.00, for the payment for Angela Panaccione & Sarah Brodeur to attend the 2015 Mass Trails Conference, scheduled for November 13-14, 2015, in Leominster, MA

Motion seconded by Peter Izyk

No further discussion – vote taken: 4-0-0

8:02 PM Administrative Matters: Payable – Mileage \$205.85

Motion made by Donald Duffy to approve the payable to Angela Panaccione in the amount of \$205.85, for the reimbursement of travel expense

Motion seconded by Peter Izyk

No further discussion – vote taken: 4-0-0

8:05 PM Administrative Matters: Mail, Reports, Projects, Monitoring, Enforcement, Site Visits

1. Countryside Acres: Cheryl O’Dell, President of the Countryside Acres Homeowners Association request a site visit to inspect the stormwater structures for the subdivision and supply recommendation for any required maintenance. The Agent conducted a site visit on October 6, 2015 and provided the following recommendations: Remove accumulated sediment from the swale that goes from Rt.32 to Basin A. Cut back the vegetation in the swale and add tap rock in the areas identified at the site visit. Mow and remove accumulated sediment from Basin A, C and D. Also, cut back the vegetation on swale C and ensure the inlet to Basin C is open.

On Thursday October 15, 2015 O’Dell notified the Commission all required work was completed and requested a follow up inspection. On Tuesday October 20, 2015 The Agent conducted a follow up inspection and determined all work was completed and no further maintenance was required at this time. The Agent supplied the Commission with a letter she sent to O’Dell stating the details of the site visit.

2. Midura Extension/Town Council Meeting: The Agent will attend the Town Council meeting on November 9, 2015 to request the town accept a land donation for Conservation Land. The parcel is owned by Darlene A. Bergeron-Burns, as is known as Lot 2 Kings Brook (Map/Lot 21-2). The parcel is 29.8 acres (Deed Reference: Bk 8385/Pg 311) and has been in Tax Title since 1993. The Agent located the 2001 file about a donation of the Bergeron-Burns parcel to the Commission, which never appears to have been followed through with. Donald Duffy informed the Commission the property was in tax title, but the owner was going to donate it to Conservation in lieu of paying back taxes. A 2002 special town meeting vote unanimously approved the acquisition, but the Board of Selectmen at the time did not sign the purchase and sale agreement or the deed. Duffy stated the property is still in tax title and instructed the Agent to speak with the Tax Collector.

Upon further research, the Agent contacted Darlene A. Bergeron-Burns, who is still willing to donate the parcel to the Conservation Commission in lieu of taxes. Under MGL Ch.60 Sec 77C: Cities and towns, may accept a deed in lieu of foreclosure to any parcel of land and upon acceptance and recording any real estate taxes and other municipal charges and liens shall be treated as having been paid.

3. 103 Water Street – Blake Lamothe: Blake Lamothe attended tonight’s meeting to discuss the recent complaints filed with the Conservation Commission, by Lori Anthony, regarding pigs and the fence located at 103 Water Street. The fence has been lowered to the ground again, and is no longer raised the required 8” for wildlife passage. The Agent conducted a site visit with Lamothe and request his attendance at the 10/20/2015 meeting. Pursuant to the USDA Farm Plan (filed on November 16, 2012)

and aerial photography of the site; the Agent believed Mr. Lamothe had demonstrated the agricultural use of the property.

Under 310 CMR 10.04(Agriculture)(b)(6) & (c) the maintenance and repair of existing fences and the management of temporary fence lines; and the installation of permanent fencing is considered normal improvement of land in agricultural use and normal maintenance of land in agricultural use. If allowed this exemption, the fence can be lowered and toed into the ground, containing the animals and preventing further property damages to abutting properties from the piglets.

The Conservation Commission also advised Mr. Lamothe the determination the land classifies as Land in Agricultural Use only applies to area within the jurisdiction of the Wetlands Protection Act & Palmer Wetlands Ordinance. It does not in any way provide a determination that Mr. Lamothe meets the Agricultural Requirement of any other board or committee in town.

Motion made by Donald Duffy to determine the property located at 103 Water Street meets the definition of Land in Agriculture Use under 310 CMR 10.04(Agriculture)(a)(1-3).

Motion seconded by Sarah Brodeur

No further discussion – vote taken: 4-0-0

4. Permit Guide & Website Updates: Table until 11/3/15
5. Forest Management Policy and Proposed Timber Harvest: Table until 11/3/15
6. EO 562: On March 31, 2015 the Baker Administration announced Executive Order 562 (EO) (To Reduce Unnecessary Regulatory Burden). This EO requires all government agencies to review all regulations (CMRs) and demonstrate that each one 1. Has a clearly identified need best addressed by the agency; 2. 5 Cost of the regulation don't exceed the benefits; 3. Regulation doesn't exceed federal requirements or duplicate efforts; 4. There are no less restrictive alternatives; 5. The regs don't adversely affect MA competitiveness; 6. The agency has an established process and schedule for measuring the regulation's effectiveness; and 7. the regulation is time-limited or had a regular review. Each agency has to prepare a business/competitiveness impact statement for each regulation. Any regulation not meeting those standards will sunset on March 31, 2016. The EO also requires that the Secretary of Administration and Finance (SAF) will establish a process for accepting public comment. SAF has just announced the creation of the on-line portal to accept and solicit public comment regarding all MA laws. The portal can be found at <http://www.mass.gov/anf/a-clearer-code-regulatory-reform.html> The Commissioners will view the portal on their own and will discuss it at the next meeting

Next Meeting Date: Tuesday November 3, 2015 at 7pm

Meeting Adjourned: 8:52 PM

Motion made by Donald Duffy to adjourn at 8:52 PM

Motion seconded by Sarah Brodeur

No further discussion – vote taken: 4-0-0– Motion Carries

Sincerely Submitted,
Angela C Panaccione, Conservation Agent