



# TOWN OF PALMER

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## CONSERVATION COMMISSION

### **PALMER CONSERVATION COMMISSION MEETING TUESDAY 2/19/2013 @ 7:00 PM**

**Members Present:** Robert Ring (Chair), Donald Duffy, Dennis Cote, Peter Izyk, Matt Trybus,  
and Angela Panaccione (Agent)

**Members Absent:**

**Also Present:** Heather Comee (Pioneer Environmental Inc.)  
Donald Frydryk (Sherman & Frydryk)  
Fred Ferguson (Palmer Motor Sports LLC.)  
Dick Patullo (Sports Car Club of America)  
John Fryer

**Meeting Opens:** 7:00 PM – Robert Ring (Chair)

**7:00 PM Continued Amended NOI DEP #256-0269: Palmer Motor Sport LLC.**

The current applicant Fred Ferguson (Palmer Motor Sports LLC.) and former applicant Dick Patullo (Sports Car Club of America) attended tonight's hearing with representatives Heather Comee (Pioneer Environmental Inc.) and Donald Frydryk (Sherman & Frydryk) to present a request to amend Order of Conditions DEP # 256-0269 for the access route to the proposed Palmer Motor Sports development off West Warren Road. The new access route is proposed on a new piece of property (Assessors Map 44-35) and will provide an easier, more direct access route to the facilities. The new route will make less of a disturbance, will have less of a change in grade and will have no resource area impacts either.

The new access route proposes Four (4) new crossings. Three (3) are stream crossing that exceed both the general and optimum Stream Crossing standards issued in 2012. The calculation data and openness ratios for each crossing are provided in Table 1 of the NOI. All crossing will be constructed from Railroad Flatcar Bridge. The crossings will consist of concrete footings constructed on both sides of the stream with three (3) 40' X 8' wide railroad boxcar bases placed side by side atop the footing. The crossing will be the same for perennial and intermittent streams. The fourth (4) crossing is a wetlands crossing, along and under the track, which was recommended by NHESP to provide a migratory access pass/crossing for vernal pool species in the area.

To mitigate the impacts to the 50-foot buffer zone requirement of Palmer's Wetlands Ordinance, the applicant has proposed to place 100-acres into a conservation restriction. The applicant will also provide parking and public access to the CR lands for hiker. Boulders will be placed at the trailhead to prevent OHV use. Duffy wants to see the CR in place before work begins, or within 6 months of work beginning. A condition should be included require the CR to be in place before work, or 6 months after the acquisition of the property. Reasonable extensions

could be provided by PCC if it has been demonstrated the applicant is doing all they can in good faith. If the CR is not in place by the set dead line, the Commission for non-compliance can issue fines.

Duffy also recommended several other conditions to include in the OOC as well:

1. Monitoring occur throughout construction
2. No work or storage of soils, construct refuse, etc beyond the limit of work
3. Excess materials and fill will be removed from site immediately or stockpiled outside the buffer zone
4. Incorporate into the conditions a hold harmless agreement for the crossing on Town Land, or possibly look into a potential land swap to give Palmer Motor Sports ownership of the initial access point.
5. Have applicant submit a schedule of work and timeframe for completion, that will be included in the OOC as a condition
6. No contaminated materials are to be used in the construction of the crossing. All work and steel used will be inspected for contaminates.

Several issues with the amendment we also discussed, including:

1. Stream Status: The applicant is requesting the stream on the property be classified as intermittent, not perennial as it is depicted on USGS maps. The applicant (Fred Ferguson) provided video and photographs of the dry stream from July of 2012. Cote expressed concerns that 2012 was a very dry year, but Comee informed the commission that even though it was dry; it was not a drought year and therefore the status change could be approved. Comee also provided USGS stream stats and a basin characteristic report of the stream and watershed for the Commissions review. Ring agreed the stream is pretty dry in the summer and supports the classification of the stream as intermittent. Panaccione recommended waiting and viewing the tapes, and discussing the reclassification with DEP before a decision is made. Comee also informed the commission if the stream is reclassified, only the section of the stream in this application will change. The lower sections of the stream will remain classified as perennial as of the original 2007 Order of Conditions.
2. Natural Heritage determination: When the application was initially filled the area was not listed as priority habitat, but now it is. The applicant submitted the NOI to NHESP for review. Comee informed the commission the last crossing (Crossing 5) is a wetlands crossing specifically incorporated into the plans at the request of NHESP to mitigate against the affects of the project of the migration of vernal pool species in the area. Comee also informed the commission the NHESP will not be doing an actual determination, but will be reviewing the decision and conditions issued by the Commission. Panaccione wanted to speak with NHESP before the hearing is closed and the conditions are issued.
3. MEPA Review: The applicant must submit the amendment for MEPA for review as well. Traditionally, the Commission would wait for MEPA ruling, but this is only an amendment; not a new filling.
4. Quarry Road is missing from Plans: Duffy requested the plans, specifically the top sheet (sheet 1 of 6), be revised to incorporate Quarry Road and the trail system. The revision should mark the path from the proposed parking lot to the intersection with the state land and trails to Coronel Mountain. Legal access and liability for the trails should also be determined and incorporated into the permitting process.

**Motion made by Denis Cote to continue the hearing until 7 PM on Tuesday March 5, 2013**

**Motion seconded by Peter Izyk**

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

**8:05 PM          Violation: Blake Lamothe – 103 Water Street**

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Ring updated the commission on the violation. Currently Mr. Lamothe is being fined \$100/day for refusing to file for a fence he constructed on his property. Ring spoke with the town attorney and the violation is going to housing court. No court date has been set. Andrew Golas, Town Executive Assistant, will speak with Town Council about the court date.

**8:15 PM          Administrative Matters**

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Chair Report: Ring will be taking local Eagle Scout candidate, Alex LaMarch, on an extensive tour of the trails on Saturday March 9, 2013. Alex will be doing trail work (with the exception of Gate Street due to inaccessibility); specifically marking trails and clarifying the trails as well, as his Eagle Scout Project. Panaccione did find the trail markers in the office for Alex to use.

Site Visit Report: On February 15, 2013 Palmer Conservation Commission Chair Robert Ring and Agent Angela Panaccione conducted a site visit to 1564 Park Street, on request of the property owner Henry Plante. It was determined a significant amount of erosion was occurring on the stream bank present on the property. Ring and Panaccione walked the stream to the end of the property, and also noted a damaged headwall at the north end of the property. It was observed the lack of a vegetated buffer strip to the stream could be increasing the rate of natural erosion. Keeping a band of protective vegetation (shrubs, tall grasses, etc.) along side a body of water will hold the bank in place and stabilize the soils. Roots will also absorb excess water, allowing the runoff to seep (opposed to flow) into the ground.

The direct cause of damages could not be determined and Ring and Panaccione believe we do not have jurisdiction in the matter as present. Natural disruptions of the hydrologic cycle do not warrant enforcement from the commission; meaning if the presumed cause of the erosion is natural the commission does not have jurisdiction to intervene. Agent Panaccione recommended to Mr. Plante to stop mowing the lawn to the top of the stream bank in order to allow the natural vegetation present upstream, such as high brush blackberries, to re-establish by the residents and help stabilize the banks. It was also recommended to Mr. Plante to plant some native bushes as well in order to help stabilize the slope. Examples of restoration methods and information on having a backyard buffer have been included with this letter.

Past mitigation measures of using riprap to stabilize the slopes have failed. The riprap used has been washed down stream and is now contributing to blocking the culvert under Rt.20/Park Street. This is further causing a back up of water on the property. It was recommended to cease using this form of stabilization and to focus solely on revegetating the area either naturally, or with the recommended plantings.

Panaccione will send a letter to Mr. Plante detailing the finding and will also include supplemental materials on how to decrease erosion and stabilize the banks.

Minute Approval: February 5, 2013

**Motion made by Don Duffy to approve the minutes from Tuesday February 5, 2013 as amended**

**Motion seconded by Peter Izyk**

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

Bylaws and Regulations: The commission discussed possibly updating the bylaws and regulations. They are outdated (passed 1988), and do not even include any Riverfront standards. Ring attempted to email the 2008 draft ordinance to the commission, but the format was incompatible and could not be opened. Duffy stated the commission should work on the regulations, opposed to the bylaws. Panaccione will email the commission a spreadsheet of the various fees administered by other towns in Mass for a comparison.

New Computer: The office computer is very old, slow and malfunctions often.

**Motion made by Don Duffy to look into a new computer and develop a list of what is needed in a new laptop**

**Motion seconded by Peter Izyk**

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

**8:35 PM Meeting Adjourned**

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**Motion made by Don Duffy**

**Motion seconded by Dennis Cote**

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

Sincerely Submitted

Angela Panaccione, Agent