



TOWN OF PALMER CONSERVATION COMMISSION

Meeting Minutes

Tuesday, April 2, 2019 – 6:30 PM

LOCATION: Town Administrative Building Meeting Room

Donald Blais, Chair
David Cotter, Vice Chair
Peter Izyk
Nicholas Zeo
Brenda Cole
Dorothy Lawrence

Angela Panaccione, Agent
Jeff Stanhope, Assistant

Members Present: Donald Blais, Jr.
Peter Izyk
Nicholas Zeo
Brenda Cole
Dorothy Lawrence
Angela Panaccione, Conservation Agent
Jeff Stanhope, Conservation Assistant

Members Absent: David Cotter

Also Present: Kayla Speros, 12 Fir Road, Westford
Mike Swiatek, 1034 Pine Street, Palmer
Christina Pike, 631 River Street, Palmer
Marie A. Pike, 635 River Street, Palmer
Lori Hinkel, 624 River Street, Palmer
Joe Rapoza, 24 Chudy Street, Three Rivers
Joe Paolini, Forest Lake
Kristen Page, ASE, Uxbridge
Paul McManus, EcoTec, Worcester
Leslie Fanger, Bohler Engineering
Rick Licht, Licht Environmental Design, LLC
Joseph Midura, 3016 Palmer Street, Bondsville
Elaine McNeill, 34 Forest Lake Road, Palmer
Jonathan Pratt, 34 Forest Lake Road, Palmer

1. **Call to Order:** 6:33 PM – Donald Blais, Jr. (Chair)

2. **Chair, Member & Committee Reports:** No Chair, Member & Committee Reports.

3. **Review Phone/Mail/E-Mail Messages**
 - a. **Offer of Land Donation: Sykes Street (Lots 18-1, 18-2-1 & 18-18)**

The Agent didn't send it to Town Council yet because the title might not be clear, so she is waiting for the title examiner to finish up and make sure there are no encumbrances on it. She added that once we have a certification of a clear title then we can proceed.

4. Public Inquiries

a. Interested New Members: Mike Swiatek

The Agent said that Nancy expressed that she doesn't believe she can do it. She recommends we make a motion to recommend to Town Council that they appoint Mike Swiatek to the Conservation Commission as a voting member.

Motion made by Dorothy Lawrence to recommend to Town Council that they appoint Mike Swiatek to the Conservation Commission.

Seconded by Peter Izyk.

No further discussion – 5-0-0 – Motion Carries.

5. Approval of Minutes

a. February 5, 2019

Motion made by Brenda Cole to table the minutes from February 5, 2019 as amended.

Motion seconded by Dorothy Lawrence.

No further discussion – 5-0-0 – Motion Carries.

b. March 19, 2019

Motion made by Brenda Cole to approve the minutes from March 19, 2019 as amended.

Motion seconded by Dorothy Lawrence.

No further discussion – 4-0-1 – Motion Carries.

Nicholas Zeo abstains.

6. Approval of Payables

a. SWCA – \$320.00

Motion made by Nicholas Zeo to approve the payable to SWCA for Outside Consultant Review from the Conservation Commission Outside Consultant Review (CONREV) Account.

Seconded by Peter Izyk.

No further discussion – 5-0-0 – Motion Carries.

b. Palmer Paving – \$633.87

Motion made by Nicholas Zeo to approve the payable to Palmer Paving for Hardpack Gravel & 1 ¼” Stone from the Conservation Commission Trails Grant (TRAILS) Account.

Seconded by Dorothy Lawrence.

No further discussion – 5-0-0 – Motion Carries.

7. Signing of Documents (DOA, OOC, COC, Ext, Etc.): No Signing of Documents.

8. Schedule of Public Hearings

a. 7:00 PM Notice of Intent (NOI) DEP #256-0336: Forest Lake Seasonal Cottages – Off River Street & Forest Lake Road (Map 36-86, 31-1-1, 30-11-5)

The applicant is requesting an Order of Conditions (OOC) for proposed site development of a Seasonal Cottage Resort with lake front amenities; including the construction of a canoe/kayak launch & beach restoration. Work is proposed within Forest Lake, within the Riverfront Area of the Ware River and associated buffer zones.

Rick Licht of Licht Environmental Design said their whole team is here in attendance for tonight's continuance of the public hearing to answer any questions. What they are trying to do tonight is address any final comments from the Conservation Commission and/or the public as well as hope to get through and answer any final concerns or questions for them. Rick Licht added that Paul McManus of EcoTec will discuss a couple of key items.

Paul McManus said that they reviewed the letter dated March 27, 2019 with comments from the Commission's consultant, John Thomas of SWCA. He mentioned that a lot of the comments in the letter started off with or included the terminology 'satisfied', so he won't go into too much detail on those comments. The first comment he wants to address is in reference to where the Bordering Land Subject to Flooding (BLSF) and Bordering Vegetated Wetlands (BVW) are actually located, which is still an outstanding delineation to be reviewed. Paul McManus looked at the delineations with the Agent and then with both the Agent and John Thomas. Paul McManus still believes the pond and BVW is a certain area, but the Agent and John Thomas disagree about the area. Therefore, Paul McManus said they took a conservative approach and drew the line for the BVW in a different location. Afterwards, they did an assessment of how much work could be done in the riverfront area (RFA) and concluded that they would still be below the 10 percent threshold, which is the no adverse impact limit or threshold. Paul McManus asked John Thomas if they had satisfied that requirement to which John Thomas answered that they have indeed satisfied it.

Paul McManus stated the certain area within 200 feet and lines have been removed and are now out of the plans. He added that the 40-scale plans were revised so that the limit of work line runs along. No work is proposed within that offset anymore. The other issues with work within the riverfront area (RFA) is the area that is a cut face that comes up from the River Street berm. Paul McManus felt it was qualified as degraded riverfront. The Agent and John Thomas requested additional information to demonstrate that it was degraded riverfront. In his letter, John Thomas wrote "satisfied" for the degraded riverfront. The other question was in regard to the berm reduction in slope as well as what it will be replanted with. Leslie Fanger of Bohler Engineering put together a plan to restore the berm. Kristen Page of ASE and others said okay and wondered what it would really look like visually with an unsafe and unstable slope. Paul McManus had discussed this alternative in his alternative analysis because it was requested that they flush out the berm a little more, so that is exactly what they plan to do. Taking out existing material from the berm and taking it out to 2:1 would take a lot of fill to do as well as take away from 16 proposed cottages, so he thinks it's not an economically beneficial alternative. The proposed alternative is drop the grade down of the berms and smooth it out as well as add topsoil and then plantings. Paul McManus thinks either alternative would be acceptable in terms of meeting the needs of the Commission.

Paul McManus discussed the potential additional fees for the Commission monitoring of jurisdictional resource areas. He attached forms as well as requested a waiver of additional fees. Paul McManus explained the exact amount in fees that the applicant, Joe Paolini, has paid thus far for approximately

\$20,000 dollars; therefore, they have requested a waiver for any additional fees. Paul McManus said there was a question about getting additional comments from MassDEP, more specifically supplemental comments from MassDEP. It is his understanding that the Agent has spoken with MassDEP in regard to the project already. Paul McManus said neither they nor MassDEP is usually required to make supplemental comments. The Agent said that MassDEP would look into it and provide the requested comments and information in regard to the signature page. The Agent is waiting for MassDEP to comment on the supplemental information. Paul McManus asked the Agent if in her experience it is common for MassDEP to comment on such information. The Agent answered, yes, as long as she asks them to do it then they typically will do it, as they have done it for her in the past.

One of the Agent's concerns is if the alternative analysis and the mitigation for the riverfront area (RFA) is sufficient, which is why she wants to wait until MassDEP sees that information so that we can hear what they have to say on the matter. Rick Licht addressed two areas within the RFA. First, the southern is completely out of the jurisdictional area of the Notice of Intent (NOI), and second, the other area has changed. Therefore, they feel it's not necessary to get comments from MassDEP because they are not expecting any comments, so they are wondering if that can be made not a part of the conditions. The Agent and Conservation Commission want MassDEP to look into whether or not the beach nourishment is really a beach and really considered a beach nourishment as well as examine the proposed RFA. Paul McManus said they've called it a beach nourishment, but that no matter what they call it or name it, it is about what they will do. What they plan to do is remove 6 inches of material, put 6 inches of material back in (the material must come from the site and not come from off the site) and then grade it out carefully. He added that they will provide a detailed topographic survey of the area in order to ensure that they meet the land flooding requirements. The Agent asked why that part can't be submitted now, so that she and the Commission can review it for any concerns and issues. Paul McManus said that they have already agreed to go to that minute level and he believes the plans are already at what they refer to as/call "normal tolerance", but are willing to go beyond that normal tolerance at the time of construction. In terms of the phrase "beach nourishment", Paul McManus thinks the designation of it does not change the nature of it. He added that he wants to make sure he mentions to the Conservation Commission all of the things that have changed. The Agent has one more question about the beach because the beach plans say that all vegetation will be hand removed within the swimming area. The Agent asked Paul McManus who would be doing that because her concern is that there are invasive species and a lot of them spread through fragmentation. Paul McManus explained DASH, an acronym, is like a vacuum and it reduces the chance of fragmentation and spreading, as well as is technique they are willing to take on as an alternative to hand pulling to prevent a worse/further spread of invasive species. Paul McManus and Joe Paolini said they already have divers to do other work, so the Agent requests that all plants of Land Under Water (LUW) be removed using the DASH technique; therefore, the Agent wants to make DASH in the LUW a condition of the plans.

The Agent is also trying to locate the phasing information (it says it's supposed to be in the informational letter dated March 12) because she believes it actually wasn't in there at all like it says it should be in there for the letter dated March 12. She went through both letters and did not locate it and she is firm on the idea that it is something that needs to be on the record.

Peter Izyk asked to know how high the berm will be out over River Street. Leslie Fanger said 5 – 6 feet. Peter Izyk said it's going to increase the noise for traffic. Leslie Fanger thinks that the berm and mixed plantings will be good noise buffers. Donald Blais asked what kind of planting will be planted on the berm. Leslie Fanger said that the plantings will be a combination of deciduous trees, evergreen trees, and large native shrubs. Rick Licht said that the landscape plans have been submitted on the record with a detailed landscaping as part of the record. Leslie Fanger asked if Peter Izyk was concerned about the

noise for the people in the units from the traffic and Peter Izyk answered yes. Leslie Fanger commented about the usual travel of soundwaves and noise ways and how in this case it would go up and over the berm and doesn't think it will be much of an issue for the residents whatsoever. The Agent asked if they have the landscape sheets and requested that the sheets of the detailed landscape plans be presented on the display easel for the Commission and public to examine. The Agent asked which submission date included landscape plans that displayed the important details of proposed work at a reasonable scale. Rick Licht answered with a submission dated January 11, 2019 or 1/11/2019. Leslie Fanger said that the landscape plans have not changed at all since the initial site plans submittal. Donald Blais asked what will be put in the area of the berm that Peter Izyk asked about. Leslie Fanger explained that the berm will be six feet in height with a flat and leveled top as well as 10 – 12 feet wide. This width is wide enough to allow a comfortable planting spacing, which will consist of a combination of a variety of maple species, birch species, and other tree species as shown on the suggested list. The applicant will share an exact list of planting species once they complete and release a final design for the berm landscaping. The following trees of pitch pine, red pine, white pine and blue spruce will be planted on the berm and larger trees will be avoided to prevent trees from falling into the road years later. Any large gaps will be filled in with additional shrubs that will help stabilize the surface ground on the top of the berm. Peter Izyk recommends against planting red pine at this location on site because of the invasive insect scale pest that targets red pines. Rick Licht said the landscaping plans, including for the berm, can be found within and as part of the on the record submittal dated January 9, 2019 or 1/9/2019.

Peter Izyk said in terms of the beach, specifically in calling it beach nourishment, he said it is his understanding that they are not putting their proposed beach where the original beach was and would like to know if that is correct. Paul McManus said well, they're putting the beach in an open sandy area that goes down to the water. Peter Izyk said it was a boat launch area in the past and he said that the original beach area has plenty of sand, therefore he doesn't know why they have to dredge a different area like that when they already have a sandy area to work with. Paul McManus said that in order to make the other area (the original beach area) accessible with open access to the water would require clearing and removing vegetation nearby the water. They opted to go with the other location for the proposed beach because there is no vegetation in the way of a path to the water. Peter Izyk and Donald Blais walked that area and felt it was substantially sandy as is. Peter Izyk said that it doesn't make sense to change an area to make a new beach when there is already an old beach area that would be [plenty] sufficient. Paul McManus said right now, today, to do a beach in the original beach spot would require cutting down trees to clear space; therefore, the open sandy area is proposed to be utilized as a beach. Paul McManus said if he used the wrong term in beach nourishment then he apologizes. He added that what's proposed is that the open sandy area is proposed to be utilized as a beach as they think it's the best area to do it because it's not overgrown with natural trees and shrubs. The majority of the old beach area has fully grown in over the years since the closure of the original beach. Natural Heritage wanted them to leave and retain as much of the shoreline that has natural vegetation and that would include the old, original beach area as well. Paul McManus said he's trying to take advantage of the area where waterfront and foot access on a beach can be accomplished with minimal change to the environment that occurs there today to the water with minimal alterations required in order to create reasonable water access. Nick Zeo asked about the area that Natural Heritage had concerns with. Paul McManus explained the state listed and protected fish species, Bridle shiner, which exists in the shallows by the shoreline of the water, which is why they want to leave as much natural vegetation by the water as possible.

Brenda Cole asked about the fencing they have proposed to install along the edge of the vegetation to restrict access. Natural Heritage requested the fencing in order to funnel people down one path to the beach or kayak area, essentially, keeping people away from the fragile and vegetated natural areas. Rick

Licht said that what they are trying to do with the northern part of the shoreline with the beach is actually improving the land if anything at all. Rick Licht said that any shoreline work anywhere above where they plan to put the beach access would cause more removal of vegetation and more disturbance, therefore, they believe they have made the right choice with their chosen area of work. Donald Blais commented on how to date they cut out six cottages, so would like to know the current total count on proposed cottages for the project. Joe Paolini said there were originally to be 222 cottages, but now they are at 214 cottages, so they cut out eight cottages all together. Joe Paolini said that the six lots they just lost would just cost the town a lot of money. The Agent said we, the Conservation Commission, stick strictly to the Wetland Protection Act (especially during a ConCom Meeting and public hearing). Joe Paolini said that he wants to do what's best for the Conservation Commission and is trying to make this project a team effort. Joe Paolini talked about the amount of income and profit this project will generate for the community as well as mentioned his plans in regard to expanding and extending water, septic and sewage, which will benefit the fire department as well as the community if they opt-in to tying into it. Paul McManus ensured and reminded both sides that we removed those number of cottages in the interest of moving forward. Paul McManus added that the Agent had a point and was correct because they [the applicant] weren't forced to move forward with removing any cottages and the Conservation Commission did not force him [Joe Paolini] to remove those cottages in question.

Joe Paolini spent upwards of \$10,000 dollars to have professionals investigate claims about his property in regard to buried oil tanks and buried stumps, as well as because he was told there were endangered and protected species like Bald eagle and Blue herons on site whose habitats would be harmed. He mentioned again how in addition he took off six cottages from the plan because his thought was that taking out the six cottages from the total count would help them move forward. Paul McManus said he understands, but that the Conservation Commission is working through it because there has been a lot of issues along the way and John Thomas has put checkmarks along the way too. The Agent said she would recommend that it would be like any other document and be a part of the record. The Agent said if they [the applicant] were requesting us to close tonight, then we [the Commission] would request that the last document of what she is requesting be on the record, John Thomas didn't receive a copy of it either, so she says it's therefore grounds to deny under the Wetlands Protection Act (WPA). The documentation was requested to be in the record and it cannot be found even though it says it should be referenced in the letter dated March 12, 2019 or 3/12/2019, but it is not referenced there. Paul McManus said he brought what thought he needed to the public hearing in his file, but he does not have it with him. The Agent reassured the applicant that the information included in that document is very important to the Commission's decision, so it is important that it is added to a revised submittal.

John Thomas of SWCA Environmental Consultants, the consultant retained by the Conservation Commission, provided a second peer review letter in response to supplemental information provided by the applicant made available to the Commission and the applicant. He said that one of the concerns that he has is that the current delineation under the RDA is due to expire in less than three years, therefore any other work after 2020 would require re-delineation of the wetland boundary. John Thomas therefore suggests that the Commission puts a condition, requiring a re-delienation after the expiration date and addressing the time constraint on the delineation, in the Order of Conditions (OOC). Paul McManus said that he doesn't understand what John Thomas is getting at, if the Commission chooses to issue any order then the order is for work and the order would be for three years. John Thomas said typically what we would have for wetland confirmation and documentation is not a RDA because a RDA is not supposed to be used for wetland determinations, that's usually an ANRAD or NOI because those are usually submitted to MassDEP and those also confirm wetland boundaries themselves. He added that a RDA is usually supposed to be used to determine whether or not work is going to require a permit. Paul McManus said that he had talked about that and schedule with the Agent and his first discussion was

submitting an ANRAD and he was told that this Commissions' preference was to do the ANRAD function through a RDA, but again his intent and discussion was for an ANRAD. John Thomas said that would be a conversation topic to address to the Commission between themselves and the Commission if they're willing to waive that or extend it internally. Paul McManus doesn't think they are asking to waive anything and he added that the determination that they issued was really intended to function in the same way that an ORAD, Order of Resource Area Delineations, functions. John Thomas asked for confirmation on if that the applicant received a negative determination and Paul McManus said correct. Paul McManus said that it specifically said and it specifically listed "these flags from here to here are affirmed, north or south of this point and that point or not" and said that they [the applicant] dealt with that through the NOI. John Thomas said he would need to have that document in order to see which flags it covered and to see if it's acting as an OOC or an ORAD, as he thinks it could be used to do that. The Agent said it does do that and that it affirms some and it doesn't confirm some. Paul McManus said that the areas that it didn't affirm are the areas that were reviewed as part of this filing, including the area down to the south, which was off-site, and a ponding area across the street. He said that if you go back and look at the original 40-scale NOI plans (John Thomas said he has those) then it references specifically that "from here to here" was confirmed. Paul McManus said that there's additional flags that were not confirmed as part of that RDA process, like the BVW they walked on the steep slope because it was off-site and they originally didn't know that it needed to be included. The Agent added that the pond across the street was part of it too and she said that those will be confirmed as part of this delineation. To simplify it, the Agent said that we [the Commission and SWCA] could reconfirm the entire boundary as part of the Notice of Intent (NOI). John Thomas said that if that's something the Commission is willing to do, then that can be done in order to simplify the process that way the applicant can actually extend this. Paul McManus said that obviously would be great and John Thomas said that one piece that was kind of an outlier needed to be addressed. Paul McManus said it was a different way to go about it, but that's what the Commission wanted so that's what they did. John Thomas said okay then it seems like we have a resolution for that. The Agent said then the OOC within the Finding of Facts would confirm all of the wetland flag series, including the pond across the street and the southern extension. Paul McManus said that it's probably the most straightforward way to have handled as well as thank you and that he appreciates that. John Thomas said that would probably be the easiest way to resolve that.

John Thomas said that as known the beach nourishment project will be entitled something different, so he would suggest that the Commission condition that once that waterways permit is kind of completed and they receive a decision from MassDEP that the correspondence be provided to the Commission so then that way they can acknowledge that the work can commence. Paul McManus said that is perfectly reasonable. John Thomas said that the other task item is the NOI fees and forms, there's going to have to probably be a discussion between the fees and forms because he knows that the applicant requested a waiver and obviously the board is going to have to weigh in on that. He added that the applicant did provide the forms, so thank you for that because it was very helpful with understanding the impacts and also the buffer disturbance. John Thomas said that we covered the degraded riverfront area (RFA) and that he is okay with that based on Paul McManus's assessment. He said that they [the applicant] are going to be removing six cottages as addressed by the applicant and their consultants, therefore there will be no work in the RFA associated with the southeast unnamed perennial stream, so that shouldn't be an issue. John Thomas said that in regard to the area adjacent to the Ware River, the applicant has provided an alternative analysis showing some grading analysis and provided that information and that's something that was relatively new within the last couple of hours, so that's something that we [the Commission and SWCA] are going to have to digest and look at in detail. He said that in terms of wildlife habitat, there aren't any issues with that as of right now and he's satisfied that Paul McManus and his team have conservatively provided enough information for that. John Thomas said that in terms

of buffer zones, one thing that he did notice is that there is some floodplain associated with the unnamed perennial stream, so he doesn't know if the applicant put that on the plans. Paul McManus said that well they have riverfront there. John Thomas said that his question is just because they don't have riverfront, he doesn't know if it's going to be within the applicant's impacted limit of work, so he asked if it's not going to be in the applicant's impacted limit of work. Paul McManus answered no that it's not going to be in their impacted limit of work. John Thomas said that so then for instance he would condition that the Commission for instance would need that information for the buffers associated with the unnamed perennial stream because it's mapped as zone A and zone AE under FEMA, therefore he would look into that and make sure that's on the plans. He explained that the thing he's trying to get at is that the FEMA floodplain he thinks goes beyond where the wetlands are, but he's not certain whether that extends towards the project area of limit of work. Paul McManus said it's definitely at the base of the slope. John Thomas said if the FEMA floodplain has a zone AE association then it has an established elevation, so that's when it's necessary to use the elevation and depict it correctly on the plans. He said so that currently needs to be put on the plans, so if it can be put on the plans if not done already, then that would be helpful. John Thomas said that the plans he received most recently, the wetlands plan, doesn't seem like it has any floodplains on it. He said that the plan says that there is a BVW bank buffer, a 100 foot BVW bank buffer, BVW bank edge, but it doesn't say anything about buffer zone flood zone. He added that the other side says buffer zone and flood zone. John Thomas said one of the things that the Conservation Commission is going to have to discuss is that the applicant has submitted a letter from DPW exercising them the right to proceed with the proposed work in the Town of Palmer right of way (ROW) adjacent to the Ware River. He added that internally that's going to have to be a discussion item that is addressed and whether that requires a signature from the town. The Agent said it does require a signature from the town and that was cleared today or yesterday with MassDEP, so that's why our Town Manager Charlie Blanchard did sign it and they said to give them the signature page, but to make sure he signs the signature page. The Agent said so she does have the signature page. Rick Licht asked if that's been addressed at this point administratively and the Agent answered yes Charlie signed that today because those were a few of her questions. The Agent added that Mark Stinson of MassDEP is good at getting her back comments relatively quickly. John Thomas clarified that if any of this may have been confusing he said that the bold text is basically the second reiteration of his whole report, so everything previously is in here as well and he just wanted to clarify that in case there was any sort of confusion. John Thomas said additionally the applicant confirms the elevation they used based on the datum, the flag changes to the mean annual high water line with the unnamed perennial stream to the southeast, and the storm water report changes were reviewed by their engineer who was satisfied, so that shouldn't be an issue. John Thomas said he believes that is it to cover the memo based on the information that Paul McManus gave as well.

Donald Blais asked if the Commission if they had any questions for John Thomas from SWCA relating to his letter. The Agent asked if John Thomas reviewed the planting plan and everything for the restoration of the degraded riverfront area (RFA). John Thomas answered yes and said that was one thing he wanted to discuss with the Commission to see if they are in agreement with it as well. He added that it seems to suffice, but obviously it going to have to meet planning requirements as well he presumes. John Thomas said that is because essentially it's going to be near the road and potentially provide visual buffer for the houses and also the vehicles passing by the street, so he doesn't know if the planning department has received any feedback as well. The Agent asked if these planting plans were submitted to planning and Leslie Fanger answered yes, so the Agent said it has not changed and Leslie Fanger responded yes. Paul McManus said that one of the things he forgot to mention is that when he talked with them, he learned that the Public Works Department in town is are actually anxious to get the berm lowered because it's very steep as you know and there are those tall pines that are aging up there and they are a fall danger in the road. He added that another thing they expressed an interest in is

getting some more sun exposure on that road because they said they put a lot of salt and sand on it, which obviously washes out down into the river, therefore the Public Works Department in town is anxious to have that occur on someone else's dime.

Donald Blais asked if the Agent or the Commission had any further questions. Peter Izyk wanted to ask one more additional question, an additional statement of saying thank you for the fact that the applicant answered both of his questions in a timely manner as well as addressed them properly and didn't dodge them. Paul McManus said not a problem that's what they are here for. The Agent said that she was wondering if the amount of Land Under Water (LUW) number that is listed in the letter is correct and if it includes the area and/or frame structure that will be removed from the LUW. She also asked what the square footage is of the area where the structure is. Paul McManus said that the ground surface wouldn't actually be disturbed. He also said that he didn't consider it an alteration because it doesn't change the overall footprint because the footing will potentially remain the same. Paul McManus said it was related to the Bordering Vegetated Wetland (BVW). He said the only lifting of large objects would be from a crane hooking up with a large cable and pulling away the pieces. Paul McManus said the other pieces are small debris pieces that would be removed by hand by the divers and the pieces are small and the water is shallow there, which simplifies the task. The Agent asked for John Thomas's opinion on the matter and he said it's a dilapidated structure, therefore wonders if it applies as something otherwise, but he said that Paul McManus said it would be cut into small pieces in the LUW. Paul McManus said that all of the equipment footing will be on the ground and not in the LUW. He said he tried to make that explanation as clear as possible for the Commission and SWCA about the cautious removal that will occur in the LUW.

Donald Blais opened the public hearing to questions, comments and concerns from the public. He said that if anyone would like to speak to please come talk into the microphone and thank you.

Elaine McNeil, 34 Forest Lake Road

Elaine McNeil said that her big concern is the beach because she is really concerned with the philosophy that the old beach will cause more damage to bring back, rather than create the proposed new beach. She is looking at the beach proposal from a wildlife perspective because she said there is much more wildlife activity and wonders why they want the beach project so close to where wildlife comes in and leaves. Elaine McNeil knows for certain where the wildlife are and wonders why they would want to put their proposed beach so close to the wildlife activity. The Agent asked Paul McManus if they have done any e.coli testing yet to see if the water by the proposed beach is even swimmable and she used Dean Pond as an example since it had to be closed to public swimming because it recently failed e.coli testing. Elaine McNeil said that because she has lived there since 2013, she knows the truth about how the wildlife acts and where the homes of the beavers, beaver dens, are actually located. She explained how there is Bald eagle and other birds of prey activity on the dead standing trees that were found nearby where the applicant wants to set up their beach.

Christina Pike, 631 River Street

Christina Pike said she has lived on Forest Lake for 35 – 37 years as well as has swam in the lake for 55 years. She said that she requests that everyone please stop referring to the water body across from Forest Lake as Bennett Pond or Bennett Street Pond because it is not a separate entity and it is a part of Forest Lake. Christina Pike said that the frontage is in poor condition because the owners of the property didn't regrade/reseed/reloam those areas and the gravel pit did not keep up with that maintenance. She said there was a history of dangerous things that happened because the gravel pit owners did not follow the orders of the Planning Board. Christina Pike has a question in regard to the shoreline enrichment because she has confirmed that location is not the original beach spot, however

they [the applicant] have talked about the removal of the concrete pillars, so they [the applicant] will have to go into the water to remove that stuff, which will be disturb the endangered fish species. She said she is curious as if when they began to cultivate and remove weeds and use local soil, which she has doubts about because of past oil spills, she wants to know how and when it will be done because it will affect their use of the lake in the summer because of all of the activity. Christina Pike said that if the applicant starts in the beginning of summer then they cannot swim every day because of all the things that will flow past the endangered species areas. She added that she would hope the applicant would do the work at the end of summer because she knows how the lake runs. Christina Pike said there was a Holyoke Community College (HCC) study done that explains how there is a 19 day turnover for water because of the underwater springs, but she said by all means test it because she is curious about the results. The Agent said that we could test every week (every Thursday morning) and send the samples to the lab. Christina Pike said she has photographs of where the original location sites of things like the original beach were actually located back in the day. Her last question is about the riverfront area (RFA) in the back as well as the RFA off of River Street. Christina Pike said that nothing has been discussed about the “removal” of the berm right on the waterfront and is wondering why it’s not being talked about more, specifically in regard to how it will impact things. While referencing a topographic map, she said that in order to put the cottages in the certain area that the applicant plans to do, then they will have to remove another berm in order to put in the few cottages in that area. Christina Pike said that in the past people were denied permission to do any work there because of the instance of the berm being so close to the waterfront. She said so her concern is why it hasn’t been discussed through the entirety of the project and want to know how they are getting away with it without it being talked about. Christina Pike said she noticed the inner roads and driveways of the seasonal cottages will be a rock and gravel loose type of driveway, so she is wondering why it’s not being paved. Paul McManus pointed at the 40-scale plans at the top of the berm that will be cut down in order to show that the buffer zones 100 foot buffer zone is outside the limit of work. Christina Pike asked what the proposed height of the berm will be after removal. Paul McManus said the final height will be 32 feet, but Christina Pike said it will be easily triple that. Paul McManus said that the lake is at 372 feet, the proposed low point is 32 feet higher, so they have proposed to have it flattened out and be relatively flat.

Donald Blais asked about the time table or time-line for the project as far as the shoreline work, but the applicant said it’s too hard to tell at this point. The Agent asked if anyone has located the construction sequence, but the applicant hasn’t found it yet and it might be because they haven’t brought the entirety of their files with them to the public hearing when they came here. Joe Paolini said the shoreline work could take place from September to October and then with work into the winter, but it depends on when they will receive their permit and their subcontractor contracts will also have an influence on timing. He said most likely the work will began in the Fall, but it depends on permit timing and he clearly wants to get the shoreline work done first immediately as soon as possible no matter what. Rick Licht addressed the roadway and driveway plans and said the point was to infiltrate as much as they possibly can. He said in the application there is a 100 year storm requirement and the roadway and driveway water is infiltrated into and above an infiltration chamber. MassDEP said that even though it’s a 100 year overflow it’s still a point-source overflow, therefore the applicant needs to show that it won’t cause erosion and scouring to the land. Kristen Page said that the applicant added rip-rap scour and erosion controls in order to prevent it in the case of a 100 year storm, which reduces the water velocity to zero. Christina Pike said that the removal of the concrete pillars from the pavilion would disturb the water. Kristen Page said that the storm water system is underdeveloped.

John Thomas said addressing Christina Pike’s comment that he has a question for the applicant, which is do they have a cut and fill number that we can provide on this form or provide the Commission with for the amount of fill that will be used in the buffer zone and the other berm. The Agent said that where the

other berm is, is where they will be cutting out a lot of square feet. John Thomas said that his question for the applicant is that they have a shaded blue area on their plans, but what about the area in pink because he wants to know how much cubic area of fill is going to be needed. The applicant said that they didn't have that number yet. John Thomas clarified that his question is that in the pink shaded area he wants to know what the overall percentage of grade change. He wants to know the overall percentage of grade change in the buffer zone area of the floodplain from what is existing to what is proposed. The Agent said that the applicant is asking for a waiver for their buffer zone requirement, so she also asked about blue versus pink shaded areas on the plans. Rick Licht said that the Palmer Wetlands Ordinance (PWO) has standards for areas within the floodplain and within the buffers as well as requirements for meeting the performance standards. He isn't sure that a cut fill analysis will answer any questions and isn't clear on how a volume number of figure of cubic yards of fill will impact the performance standards outlined/underlined in the PWO. John Thomas wants to know what the grade changes will be. The Agent said that we [the Commission and SWCA] spent a lot of time on the application, therefore if it cannot be spelled out for the members then they are not fully comfortable reviewing elevation change, so that's the reasoning behind specifically asking for a detailed narrative. Paul McManus said that he thinks Kristen Page was going to go around the plan for the Commission and point and say plus 5 feet here and minus 5 feet there where elevation change will be occurring. Kristen Page said that it's a very large area and that it could be plus or minus very different percent grades among very different areas. John Thomas said that infrared imagery would be helpful and the reason why he says that is because the applicant is requesting a waiver as well as that some of the work if not all will be done in a jurisdictional resource area. He said that the cove area is the most significant in terms of getting the precise calculations of a number for the change in elevation. John Thomas said that to Christina Pike's point, the pit or berm is the area with the highest probability for potential issues arising. Kristen Page said that a pit is a pit, but John Thomas said that regardless she still needs to explain it and show it to the Conservation Commission and the Agent said that is the orange shaded area on the plans. The Agent said that the applicant is asking for a waiver from the local ordinance, therefore that is why they should have to provide us with the information that was explained and requested by John Thomas. Christina Pike said that there is more soil being removed and that is why they need those figures as well as a waiver prevents them from having to provide those numbers. Elaine McNeil said that a lot of old conifers will be felled.

Lori Hinkel, 624 River Street

Lori Hinkel said in terms of the berms, she lives there so she knows what is going on, so she said if they remove the berm the wind is going to be out of control because it already is as the wind is terrible every day, but the berm and trees are a wind block. She said that she isn't sure why the applicant wouldn't bulk up the back and remove more cottages from their plans because she said this is their life and they have to live with the outcome of this project forever. Lori Hinkel said that the wildlife is ever increasing as well as mentioned turtle season is coming up soon and they lay their eggs in the sand. The Agent said that it has been documented that there are indeed turtles there in those locations. Lori Hinkel said that the Blue herons and Osprey will coming back soon too and she also added that now is the time that we are going to start seeing all of the wildlife and wildlife activity.

Donald Blais asked if anyone else from the public had any other questions. The Agent asked when the riverfront area (RFA) work specifically will be done. Rick Licht said that they would like to have the town take the lead on that work as it is on their property as well as said they didn't want to start that application because it's two Notice of Intents (NOI) and two properties. The Agent said that you can't have two different NOI on two different properties. Paul McManus said that you can't have it for the same piece of ground such as a subdivision. The Agent said that the Commission has never had that happen before. Rick Licht said it was a right of way (ROW) example noted to that effect, so he thinks

they are in the clear on that. Paul McManus went back to the subdivision example and how in that case they would be coming back for individual filings. The Agent said that normally goes with a deed restriction and asked if we are increasing riverfront area (RFA) impacts and thresholds. John Thomas said it should be counted for cumulatively because it's the same property. He added that you cannot file a NOI for work in the RFA and then come in with another NOI with 16k because they are already doing that and cannot add that. Kristen Page said that the problem with River Street is that the river goes along the entire street, therefore the 100 percent area is going to grow and the clarification on the other NOI is only River Street in itself. John Thomas was confused because you can actually file another NOI because the legal confines are not within that project, so therefore it would be exempt and he said it would need to be a NOI and there would need to be a filing. John Thomas said that the grading for the berm goes up to the roadway and it would be a separate application, but it would be within the confines of the existing road. He then asked if the intent of that project is to connect to their initial project and to bring their services together as well. The Agent said that she thought they weren't extending services for sewer and water. The applicant explained that they are waiting for to hear back from the water districts about that community tying in from the front of their homes, strictly for water, and mentioned that there will be hydrants as well. Rick Licht said that in terms of the Palmer Wetland Ordinance (PWO) it says that it asks if you are affecting the resource or working adjacent to that affecting the resource, and he said they will answer those questions when they go to follow up on tonight's public hearing questions and comments. The Agent said she is more concerned with the buffer to the Bordering Vegetated Wetlands (BVW). Kristen Page said that the 50-foot BVW line minus the beach is labeled as the orange hashed line and that only in the beach area are they going into the 50-foot buffer because it's a beach. The Agent said to just do it for the shore inward to one of the units. John Thomas said that he thinks what Kristen said would be conservative. Paul McManus said why don't we go a couple of sections from the water to the road. John Thomas doesn't think it's going to be an issue in the northern sections. Kristen Page said she will provide 3 cross-sections from the shore to the road.

The Agent's other concern is in regard to the construction access of equipment through Forest Lake Road. John Thomas told the Agent that it is outside of their limit of work (LOW). Rick Licht said that only the residents would be using the road down there, like the existing road versus the road not being touched. He said that the hashed on the plan is where they are doing work in the buffer and where it isn't hashed is where they are not doing work. Rick Licht said that the only work within the riverfront area (RFA) is on the River Street side. The Agent wasn't sure if with construction access going down the eastern part of the site if they would end up in that area. She said that the proposed LOW they show is also going to be their LOW for where they will allow equipment construction access of heavy machinery, equipment and trucks as well as trucking and movement of materials.

Donald Blais asked if there were any other questions from John Thomas or the Commission. Nick Zeo said that he wants to know the baseline for e-coli levels and the Agent said that it will be discussed with the watershed group because it would help with the 604b grant, especially if we get it and are able to begin testing from the road on a weekly basis in June. The Agent said that we would be testing where people currently swim and explained how we do it a few of our conservation areas that are open to swimming and boating. She said that we had an idea for a boat launch area in one of the swimming areas, but the e.coli readings were so high that it wasn't even safe for boating. The Agent said that we do our testing through the Connecticut River Conservancy (CRC). Kristin Page said that even if the beach was put in and tested for e.coli it would be only closed until the e.coli is dissipated. The Agent is asking about e.coli testing because of the beavers too.

Christina Pike said that for construction access at the start of construction and the second entrance she wants to know if it would be different or change as the economy expands if it would it be the time they

would use the Gates Street entrance. The Agent wants to know how much of Forest Lake Road is being used and if other sections were used for access as well because she's seen projects before where for part of the construction access road the applicant tried to have it not be part of their limit of work (LOW) or even their plan.

Lori Hinkel said that she went to the Planning Board meetings and she remembers they never said they were going into the areas they now say they will be. Christina Pike is confused about the town coming in on the water tie in pipeline. She said if there is no construction in the middle at that time then how will they run sewer through there. Rick Licht said that until the buildings are occupied for the first year there will be a temporary tight holding tank. The Agent asked if the applicant sent the tank plans to the Board of Health. She said that the tight tank will be a state matter and that Board of Health doesn't approve tight tanks because tight tanks have to be approved at the state level by MassDEP. Joe Paolini doesn't want to spend the money, time or effort until we know we're going forward with the project because then there are a lot of permits he has to deal with. John Thomas will also add that we can only touch base on what was presented and provided during the public hearing and that we cannot debate any hearsay or potentials of what will be presented. He added that to comment on it now is not something we can do because we can only account for what is presented in front of us currently. The Agent said that the reason she asked is because if you are looking at the construction sequence then you are looking at the sewer and water too. She said that her concern all along has been why the applicant needs a well and a holding tank if the very first thing they are doing is sewer and water. John Thomas said that if it doesn't fall under the jurisdiction then they are providing us a little more insight into areas that fall outside of the jurisdictional resource areas. Rick Licht said that phase 1/one would have a lot of activity of going on and they won't want to wait for the utilities to be done to start the building construction.

The Conservation Commission and SWCA received the construction sequence from the applicant. The Agent asked how long it will take until we can get the additional information requested by John Thomas, herself and the Commission like the cross sections and other additional information that we are looking for such as the construction sequence, incorporated FEMA floodplains on their wetlands maps, DASH technique and the idea of a RDA conversion to a NOI. The Agent can take the requested information and make it out as a Finding of Facts. The applicant said that they will provide both elements by Friday. The Agent said that it's completely at Joe Paolini's discretion when it comes to the six cottages that were pulled from the project plans. She said that this is Joe Paolini's opportunity to provide a more detailed river analysis in order to keep those 6 cottages that were taken out. Paul McManus asked if the Commission is looking for a continuance and the Agent answered yes, but Joe Paolini wanted to know until when. The Agent said until Tuesday, April 23, 2019, the date of the continuance of this public hearing with supplemental information provided by the applicant. The Agent asked for a timeframe on the requested information and Kristen Page said that it will be submitted by middle of next week at the very latest and that the cross-sections will be in by Friday. She added that all other supplemental information will be submitted no later than April 9, 2019 and asked if the board is okay with digital copies. The Agent said that we need both and that we circulate everything anyway, but that we still need hard copies for the file and for review. The applicant will send the information requested to the Agent, the ConCom and SWCA by 4/9/2019 digitally and hard copies will come later.

Motion made by Dorothy Lawrence to continue the public hearing to Tuesday, April 23, 2019.

Seconded by Brenda Cole.

No further discussion – 5-0-0 – Motion Carries.

9. Requests for Certificate of Compliance: No Requests for Certificate of Compliance.

10. Project Monitoring

a. DEP #256-0331: 271 Breckenridge Solar

The Agent stated that all of the panels are in on the one by the pike. She added they're still having erosion issues down to that one area, but the rest of the site looks pretty stable. Dorothy Lawrence asked if this is the one that they were going to put the solar panels on and then mulch. The Agent answered no that's the other one, but this one's doing that too. The Agent said they have no top soil and 4 – 6 inches of woodchips that they're going to spray hydroseed/hydrograss on because they say that it will grow that way. Peter Izyk asked if they're going to fix that detention basin by the edge of the road at all. The Agent responded yes, we're looking into that as well because it turns out that's where their utility poles go.

b. DEP #256-0332: L12 Breckenridge

The Agent stated that they are still finishing land clearing. She added that she has a site visit on Friday, April 5, 2019.

11. Violations & Enforcement

a. DEP #256-0312: MassDOT I-90 Toll Plaza

The Agent has been playing "phone tag" with MassDOT. She added that they are supposed to begin work again soon, even though it's supposed to be done.

b. L65 Bennett Street

The Agent hasn't heard back from James Wawryk of L65 Bennett Street. He hasn't returned Jeff Stanhope's most recent phone call as of yet.

There is a pile of gravel on site. James Wawryk was told to remove the pile of woodchips and then tarp the area. He spread out the woodchips instead. The Agent or Jeff Stanhope will contact him as soon as possible. James Wawryk was asked to do a solarization of the invasive species on site because it will have the least impact environmentally. He plans to leave the concrete slab that fell into the water alone because it will cause much more disturbance if he were to touch and try to move it.

c. 12 River Street Solar

The Agent stated that they submitted revised plan to the Planning Board which makes their basins temporary that she will have to review.

12. New/Old Business

a. 604(b) Grant for Forest Lake

Jeff Stanhope submitted the grant in person to the MassDEP office in Boston.

b. LAND Grant

The Agent is working on the grant.

c. Trail Grant

The Gazebo is finished and installed. The handicap accessible, ADA compliant, ramp needs to be built.

d. MVP Public Listening Session Monday 4/8/2019

Reminder this Monday.

e. Three Rivers River Clean Up Saturday 4/27/2019

Be there or be square.

f. TRACK Saturday 5/4/2019

Think Blue Massachusetts Campaign Tent. Need to decide on tent shift schedule this month.

g. MA DER Ecological Restoration Annual Report

h. Rain Barrel/Compost Machine Friday 6/7/2019

Joint Rain Barrel & Compost with Belchertown. Date changed to Friday. Demo Barrels. Pre-order til May 31, 2019. The Great American Rain Barrel Company. Gazebo Party.

13. **Office Closed:** Wednesday, April 17, 2019 – Friday, April 19, 2019

14. **Set Next Meeting Date:** Tuesday, April 23, 2019 at 6:30 pm.

15. **Meeting Adjourned:** 9:57 PM

Motion made by Brenda Cole to adjourn at 9:57 PM.

Motion was seconded by Dorothy Lawrence.

No further discussion – 5-0-0 – Motion Carries.

Sincerely Submitted,

Jeff Stanhope
Palmer Conservation Assistant



TOWN OF PALMER CONSERVATION COMMISSION

Meeting Documents

Tuesday, April 2, 2019 – 6:30 PM

LOCATION: Town Administrative Building Meeting Room

Donald Blais, Chair
David Cotter, Vice Chair
Peter Izyk
Nicholas Zeo
Brenda Cole
Dorothy Lawrence
Mike Swiatek

Angela Panaccione, Agent
Sarah Fortune, Assistant

The following is a list of documents used at the above-mentioned meeting, in addition to those included in the agenda packet which is part of the official record of the meeting:

Number	Description	Agenda Item	Notes
1.	Approval of Meeting Minutes: 2/5/2019, 3/19/2019	Approval of Meeting Minutes	Retained in 2019 Minutes binder in office
2.	Offer of Land Donation: Sykes Street (Map 18-1, 18-2-1, 18-18)	Review Mail/Phone Messages	Retained in Sykes Street Land Donation file in office
3.	Notice of Intent (NOI), site plans & associated documents: DEP # 256-0336; Forest Lake Seasonal Cottages – Off River Street & Forest Lake Road (Map 36-86, 31-1-1, 30-11-5)	Schedule of Public Meetings & Hearings	Retained in file for DEP # 256-0336
4.	Monitoring Reports: DEP # 256-0331; 271 Breckenridge Street (Map 19-60)	Project Monitoring	Retained in file for DEP # 256-0331
5.	Monitoring Reports: DEP # 256-0332; L12 Breckenridge Street (Map 7-12, 7-13, & 59-28)	Project Monitoring	Retained in file for DEP # 256-0332