

Town of Lunenburg Conservation Commission

Bob Pease, Chair
Richard Bursch, Vice Chair
Patricia Adams
Catie Childs
Jack Rabbitt
Jeffrey Viviano
Michael Larouche
Richard Tremblay, Associate
Mary Wilson, Associate



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Nadia Madden,
Conservation Administrator

June 1 2022
7:00 PM .
Minutes

ZOOM REMOTE

Call to Order

Members Present: Bob Pease, Richard Bursch, Catie Childs, Michael Larouche, Jack Rabbit

Absent: Jeff Viviano, Patricia Adams

Associate Member: Richard Tremblay

Announcements

Public Comment *Comments are to be limited to 3 minutes and on a subject matter under the direct jurisdiction of the commission. Comments about current agenda items are to be made during the comment period of the specific agenda item. Please address all comments to the Chair.*

Dave MacDonald: Thanks to Matt Marro for their excellent work in Lunenburg. Announcement on School Safety vigil and resolution to support school safety on 6/10 at 6:30 at TC Passios Campus.

Introduction of new Conservation Administrator, Nadia Madden

Minutes of previous meetings – May 18, 2022 Roll Call, Unanimous approval of minutes

Appointments/Hearings –commences at 7 PM

190 Peninsula Drive restoration plan: Mark Bursch from Lakeview Nurseries representing the Semerjians at 190 Peninsula Drive. He asked us to share a prior powerpoint presentation, and shared more recent plan for replanting. Proposed 14 larger trees with 1" and 1.5" diameter replica stock, with larger trees being more likely to survive. Also proposed blueberry, mountain laurel, and clethra for understory. Will set up temporary irrigation with starter fertilizer for the plants, and will grind stumps to help fertilize and stabilize soils. Commissioner RB recused himself because MB is his brother. JR asked about heights of trees, MB said they will be 8-9 feet and 4-5 feet depending on variety. Minimal use of mini excavator, plans to use an auger to minimize soil disruption.

ML moved/JR seconded to approve restoration plan. Roll Call vote: unanimous approval, RB recused.

PUBLIC HEARINGS

Pursuant to MGL ch 131, s 40 and Lunenburg Wetlands Bylaw and regulations as listed in chapter 239, a public hearing on a Notice of Intent V and V Lunenburg LLC for the redevelopment of a restaurant to a

marijuana retail facility within the river front at 42 Summer Street.

Ian Ainslie, engineer for McAinsley presented plans for 42 Summer Street. 200 Foot Riverfront area for Falulah/Baker Brook. The entire property is BLSF, floodplain elevation of 368', property is 364-365'. There will be a 5500 sqft reduction in paved area which will be restored to vegetated pervious area. Will add stone infiltration trench at the edge of the parking lot. JR asked if the road runoff coming from Summer Street to the parking lot will now be caught by the trench. IA clarified that the parking lot is lower than the road and will continue to be lower elevation than Summer street in the future, and that a catch basin will capture runoff prior to entering the infiltration trench. IA pointed out the maintenance plan for the infiltration trench, which will be maintained by the owner. IA said the town could request inspection reports if necessary. JR requested maintenance from an outside party. Commissioner RB asked about grass being added in certain areas and if loaming and seeding is shown on the plan. The currently vegetated areas will be untouched. RB asked if the parking lot will be curbed in to prevent runoff to the brook. IA said there will be a ridge in front of the infiltration trench. RB asked that a note be included that any disturbed area will be loamed and planted on the plan.

RB moved/ JR seconded to continue to June 15, 2022 as DEP number has not been issued. Roll call vote was unanimous.

Pursuant to MGL ch 131, s 40 and Lunenburg Wetlands Bylaw and regulations as listed in chapter 239, a public meeting on a Notice of Intent by Hickory Hills Association for the approval of a whole lake management plan at Hickory Hills Lake at Townsend Harbor Road.

Paula Bertram of 312 Townsend Harbor Road, president of Hickory Hills Association gave a presentation on the HHA's plan for lake management. RB asked for schedule for drawdown, Paula said it is included in the Hickory Hills lake management plan. Currently have two different NOIs with different OOCs, BP suggests that they close out the previous NOIs (now expired) as the new NOI combines both lake management and drawdown. RB asked why they are no longer testing for dissolved phosphates, Paula explained that they do not have the filtration capability in the field for volunteers to properly measure dissolved phosphates. RB asked where the 2021 year-end plan is, Paula said that the year-end report is from solitude lake management and is only from 2020, asked for more information about how the treatments projects came out. Paula asked for a 3-year general permit for the Lake management plan. They are trying to focus on spot treatment of areas with more than a ¼ acre of fanwort. Paula offered to let Conscomm know in advance about treatment when opportunities for spot treatment arise. would like the Commission to have more review of chemical releases in the lake. PB says the HHA is willing to notify the Commission about spot treatments and be required to attend a ConsComm meeting prior to spot treatments as a condition of the NOI. BP asked if RB would be comfortable with a condition requiring 7 days notice and review prior to spot treatments. RB said the ConsComm has a duty to all the downstream waters as well, is looking for a schedule for treatment and regular updates on drawdowns and the impacts of treatments.

John Fortune of 50 Hemlock Drive, noted that the previous OOCs were 208-1133 and 208-1104, and that the lake association plans to come back every year with information about the drawdown and the impacts. They are currently proposing a 4-foot drawdown for lake members to clean up their property without impacting anyone's wells.

Commissioner JR asked about the research for the drawdowns, noting that maintaining certain levels could encourage certain plants, has there been any sensitivity testing around 5 feet? JF said that the best treatment for fanwort has been chemical treatment. They had tried a drawdown below 4 foot and found it affected people's wells. **BP suggested the applicant submit a draft list of specific permitted activities to be included in the order of conditions.** BP asked that the OOC define the annual report, Paula noted that the HHA provides regular updates and is willing to do a 7 or 14-day notice on herbicide treatment with the Commission having the ability to accept or deny the request. RB wants to further review the lake management plan prior to making a decision. PB offered to put together a 1-page document summarizing what is in the lake management plan regarding drawdown. Current plan has expired, needs an Alum treatment in June so they would like to close out at the June 15th meeting. ML asked what happens to the fish and other wildlife when the herbicide treatments are done. Paula said all of the herbicides are licensed by DEP and are not

shown to have any impacts on fish or aquatic wildlife, and noted that if the invasives get too dense the fish will also die. JF said they track and analyze fishing on the lake and the size and quantity of fish are increasing on the lake. They have noticed that fish die-off happens in the spring as pollen comes out.

RB moved/ CC seconded to continue to June 15, 2022. Roll call vote was unanimous to continue.

CONTINUED PUBLIC HEARINGS

Pursuant to MGL ch 131, s 40 and Lunenburg Wetlands Bylaw and regulations as listed in chapter 239, The Conservation Commission will hold a public hearing on a Request for a Determination by Lunenburg Jack Katurania for the removal of impervious materials within the buffer zone at 192 Townsend Harbor Road .

Jack Kurtania has submitted an RDA in response to an enforcement order, BP summarized progress on the RDA which needs to be voted on and closed out. At the last meeting the Conscomm told JK to keep the wall and seed the encroachment as needed. RB was chair at the last meeting, and closed it out prematurely, he is not in favor of allowing the wall to remain on the Conservation Property. JR said that there is an outflow coming off the street into the wetlands and that he is OK with moving the wall. JK is willing to remove the retaining wall on the conservation property. Associate member RT took a picture during the site walk which he shared with the Commission.

ML moved/CC seconded for a negative determination with the stipulation that the wall be removed. Roll call vote, unanimous approval.

Pursuant to MGL ch 131, s 40 and Lunenburg Wetlands Bylaw and regulations as listed in chapter 239, The Conservation Commission will hold a public hearing on a Notice of Intent by Fitchburg Land property Owner LLC to construct a 367,000 square foot warehouse and distribution facility with parking and storm water controls at 260 Fahlulah Road.

NM said that the applicant requested a continuation. RB asked to have Graves review the plan from the perspective of the WPA and the town bylaw. NM will reach out to the applicant to ask for review from Graves and contact Adam about doing so.

RB moved/CC seconded to continue to June 15th. Roll call vote was unanimous in favor.

Pursuant to MGL ch 131, s 40 and Lunenburg Wetlands Bylaw and regulations as listed in chapter 239 The Conservation Commission will hold a public hearing on a Request for a Determination by David Blatt for the removal of trees at 411 Goodrich Street.

Applicant not present, this is the 3rd meeting in a row where the applicant has not shown or contacted the Conservation office. RB recommended to issue an enforcement order for filling in the 30-foot buffer zone as shown on a recent site visit. BP also thought the concrete driveway was in the buffer zone.

RB moved/ JR seconded to issue a positive determination. Roll call vote was unanimous in favor.

NM and MM recommend an enforcement order as well.

Pursuant to MGL ch 131, s 40 and Lunenburg Wetlands Bylaw and regulations as listed in chapter 239 , The Conservation Commission will hold a public hearing on a Request for a Determination by John Welton for the construction of stairs, a landing and a dock within the 100 foot buffer zone at 205 Sunset Lane Map 129 Lot 68.

NM said the applicant is waiting to hear back from MESA as they are located within NHESP habitat.

RB moved/CC seconded to continue to June 15th . Roll call vote was unanimous in favor.

NEW BUSINESS -

Old Business- update on encroachment issues at :

192 Townsend Harbor Road

214 Townsend Harbor Road

240 Townsend Harbor Road

104 Woodland Drive

116 Woodland Drive

BP said that 3 of the properties have complied, and the other 2 have been notified by Town Council that they are encroaching. They have been given 30 days notice to respond. JR asked if the ConsComm has sent any letters to other encroachers, Town Council recommends an incremental approach.

Update on maintenance work at Hollis Road residence.

BP said that he spoke with Julie Belliveau and thought it would be appropriate to break up the work and put it out to spec. The town now has a new DPW head, BP thinks we should approach him to get help getting the bid specs. ML has an appointment to speak with the person who lives at 123 Hollis Road on Friday. He is looking for the lawnmower.

ENFORCEMENT:

Violations (Enforcement Actions and Administrative Hearings).

238 Fire Road 16

Brandon Ducharme, and Engineer at David E. Ross presented revised plans for the as-built and the revegetation plan that incorporates the feedback from the last meeting. The new as-built now shows the compensatory flood storage – 394 cubic feet that was filled. The updated mitigation plan includes a planting schedule along the berm and flood storage, includes more trees and larger trees (2" caliper, 10-12' trees). Trees were also added at the NE corner and the existing limit of work will also have additional mitigation plantings.

JR asked about the design guide for erosion for MA planners. JR asked about the inspection and maintenance plan for reviewing erosion controls and asked if there is an inspection log for the erosion controls. BD said that daily and weekly inspections need to be done under NPDES for projects over an acre, while this project disturbed an area smaller than an acre. JR asked about the compensatory flood storage, BD said that the original OOC did not require compensatory storage for the project and that the impact over the entire water body would be less than an inch. RB had additional questions about flood storage (need more notes), said about 50 feet of driveway are missing. JR asked for additional remediation beyond the plan, including trees along the driveway, trees back in the floodplain, and the 0-30 feet revegetated back to the original state with 2" caliper trees.

Comments from Butch: one area is out of jurisdiction. The trees that were cut down were mostly small. RB had a question on the video to confirm several questions.

BP took a straw poll: BP, RB, CC and ML would like to see enough trees in the 30 foot buffer to imitate the existing canopy on the remediation plan. JR requested additional time to speak at the next meeting.

615 Townsend Street

NON 48 Oak Ridge

NON 23 Cove Road: BP noted that they put up a structure in the 30-foot no disturbance buffer, asked NM to go take a look at it.

NON 54 Pine Grove

EO 4 Gabes Place

NON 366 Arbor St

ON 205 Sunset: Property owners Marsha and Beers attended, they were asked to come with more information last time and they showed a presentation about why the lower legs of the dock were in the water. The size of the dock was due to a miscommunication with the builder on the size. Applicant claimed that the deck as built protects the bank. JR noted that the final deck is much larger than approved and that it would set a precedent, he asked that the deck be shortened to match the original plan. BP said that the original plan has been extended from 10' to 15' on the upper deck and from 8' to 15' with no dock extending to the lake. Ryan said that the original plan would have some variance due to the complexity of the site.

NM noted that the determination was based on the dock not extending into the resource area, but that the

actual dock extends into the resource area which violates the negative determination which could require an NOI, and that the area is a priority habitat for rare species according to NHESP. Ryan said the bylaw allows for docks to be installed in the water, and that they have since filed with the state and expect to hear back from them by June 16th. RB said that floating temporary docks are allowed, but not permanent structures. BP took a straw poll with the Commission, and the majority requested that they return the deck to the originally approved footprint. Marsha asked that someone come out on site with them and explain what needs to be done clearly. Conscomm plans to do a site visit first and will revisit this issue at the next meeting.

EO 408 Electric Ave: NM update

EO 75 West St: RDA in process

NON 509 Townsend Harbor Road: Site

Update on trails grant – status report, if any. BP reported that the trail map signs have all been developed and are being ordered, the grant funds will have all been spent, so putting up the signs will need to be funded by the timber rights account. Needs work on the gate from DPW.

Certificates of Compliance

Pleasant St Bridge: JR noted that the bridge has significant openings where someone can slip through and the job does not appear to be done. RB says if it was built as designed, it should be approved, and he moved to approve the COC. CC seconded. Discussion of the bridge modifications related to the WPA and the bylaw.

Roll Call vote 3/2, (BP, CC, and JV voted to approve, JR and ML voted against).

137 Flynn Road: continued, no partial issued as work is not yet complete. Will wait for revegetation to vote on full CoC

700/712 Mass Avenue: Roll call vote to issue duplicate COC.

Extension Permit –

Committee Reports – *Any Update*

Administrator's Reports/action items:

Administrators Determination -

The Woodlands 104 and 106 Royal Fern Drive has a dead tree that needs removal. BP recused himself as he lives in the Woodlands.

ML moved/CC seconded approve tree removal. Roll call vote was unanimous to approve.

191 Peninsula 1 tree is 85 feet from the water.

RB moved/CC seconded approve tree removal. Roll call vote was unanimous to approve.

Open space and land and Trail use issues and strategies:

Discussion of Gary Goldrup, expecting to hear from him in June. BP will reach out to him regarding forest cutting plans.

Communications / public comment

Move to adjourn by RB/CC seconded. Unanimous vote to adjourn at 11:04 PM

Meeting schedule: Next meeting is June 15, 2022 at 7:00 PM BY ZOOM PLATFORM