



CONSERVATION COMMISSION MEETING MINUTES –September 27, 2021

Present: Laurie Freeman-Chair, Crystal Kelly-Vice Chair, Bob Mosher, Thomas Roby, and Bob Hidell-Commissioners, Emily Sullivan-Conservation Officer and Heather Charles-Lis-Assistant Conservation Officer

Absent: None

The remote meeting was held via Zoom with Dial in #929-205-6099, Meeting ID # 899-1375-5807

The meeting was called to order at 7:02 PM.

Chair Freeman stated that the meeting was being held remotely as an alternate means of public access pursuant to Chapter 20 of the Acts of 2021 temporarily amending certain provisions of the Open Meeting Law. She advised that the meeting and all communications during the meeting may be recorded by the Town of Hingham in accordance with the Open Meeting Law. She stated that if any participant wished to record the meeting, to notify her in accordance with M.G.L. c. 30A, § 20(f) so that she could inform all other participants of the recording. No participants expressed a wish to record the meeting.

Approval of Minutes

The Commission voted to approve the 8/2/21 draft minutes.

Motion: Chair Freeman moved to approve the draft minutes from the August 2, 2021 meeting.

Second: Comm'r Mosher

Roll Call: Comm'r Hidell: aye, Comm'r Kelly: aye and Comm'r Roby: aye

The Commission voted to approve the 9/9/21 draft minutes.

Motion: Chair Freeman moved to approve the draft minutes from the September 9, 2021 meeting.

Second: Comm'r Mosher

Roll Call: Comm'r Hidell: aye, Comm'r Roby: aye and Chair Freeman: aye

The Commission voted to approve the 9/13/21 draft minutes.

Motion: Chair Freeman moved to approve the draft minutes from the September 13, 2021 meeting.

Second: Comm'r Mosher

Roll Call: Comm'r Hidell: aye, Comm'r Roby: aye and Chair Freeman: aye

Abbreviated Notice of Resource Area Delineation

90 and 90A Industrial Park Road – DEP 034-1424

Applicant: 90 Industrial Park JV, LLC

Representative: John Zimmer, South River Environmental

Meeting Documents & Exhibits: Staff memo and the ANRAD application submittal

Excerpts from the staff memo: Staff visited the site on 9/20/21. Wetland resource areas were flagged by a wetland scientist in May 2021. The site has been previously developed and contains buildings, and paved driveways and parking lots in close proximity to wetland resource areas. Staff reviewed and confirmed the delineation of three flagged resource areas: a larger Isolated Vegetated Wetland (IVW), a smaller IVW, and Inland Bank. Staff subsequently discussed the delineation and site observations with the wetland scientist.

Chair Freeman summarized the wetland resources related to the Abbreviated Notice of Resource Area Delineation (ANRAD). John Zimmer, from South River Environmental was on the call on behalf of the applicant and explained that he conducted the delineation in May 2021. He described in detail the wetlands found onsite including:

one large Isolated Vegetated Wetland (IVW); one smaller IVW closer to Route 3 and an Intermittent Stream with **no** associated Bordering Vegetated Wetland, only Inland Bank, that runs along the western property line. They are looking to confirm these three resource area boundaries. He stated that there is also Bordering Land Subject to Flooding but added that it appears to be mapped incorrectly based on the FEMA maps and so they are not asking to confirm that.

He stated that the size of the larger Isolated Wetland would qualify as Isolated Land Subject to Flooding and if the Commission wanted to confirm that, there would be no issue. He stated that he had done dip net surveys of both isolated wetlands subsequent to the hatch of any obligate breeding egg masses, but he found wood frog tadpoles in the larger wetland that confirmed it as a vernal pool. He checked the smaller isolated wetland two separate times and didn't find anything; it is a degraded system and he felt it would not qualify or support any obligate breeding species. He added that the majority of the site has been disturbed.

J. Zimmer stated that he had spoken with the ACO regarding an area that goes down gradient of the larger IVW area. There's an old paved driveway with some breakout groundwater on the other side of it. He'd asked Gabe Crocker if there was a historic pipe that would convey flow; G. Crocker wasn't aware of any. Neither J. Zimmer nor the ACO could find anything and concluded that it is not a jurisdictional resource coming out and flowing down towards the intermittent stream or vernal pool. The ACO stated that she had no further concerns and suggested that, since the applicant was amenable to consider the larger vernal pool as Isolated Land Subject to Flooding, that the language in Finding **b** be edited to reflect that.

Comm'r Mosher was not present for the vote on this one application.

Motion: Chair Freeman moved to issue an Order of Resource Area Delineation for 90 & 90A Industrial Park Road (DEP 034-1424), as shown on the submitted plans, and adopt the findings of fact a and b, as amended, of the staff report. *(Findings below reflect the edit made at the meeting)*

Findings:

- a. The filing meets the submittal requirements for issuance of an Order of Resource Area Delineation under the Wetlands Protection Act (M.G.L. c. 131, § 40) and the Town of Hingham Wetland Regulations.
- b. For the purpose of this filing, the Commission confirms the delineation of Inland Bank flags WF-A1 to WF-A27, and Isolated Vegetated Wetland flags WF-1 to WF-40 and WF-B1 to WF-B8. The Commission also confirms that the larger Isolated Vegetated Wetland is a Vernal Pool under the Town of Hingham Wetlands Protection By-law, and is also functioning as Isolated Land Subject to Flooding. The Commission makes no finding as to the exact boundaries of other wetland resource areas.

Second: Comm'r Roby

Roll Call: Comm'r Hidell: aye, Comm'r Kelly: aye and Chair Freeman: aye

Chair Freeman read the Public Hearing Notice of Intent.

Notices of Intent

289 Whiting Street – DEP 034-1421, continued from 9/13/21

Applicant: New Boston Golf Club

Representative: Sarah Stearns, Beals and Thomas, Inc.

Proposed: Construction of a building, gravel cart parking, site grading, and blasting of a ledge knob

Meeting Documents & Exhibits: Staff memo, Response to MA DEP comments, Golf Course Superintendent Letter (9-2-21), Revised Plan Set (9/8/21), Vegetative Cover Exhibit 001, and Storm Water Report Addendum

Excerpts from the staff memo: This hearing is continued from the 9/13/21 meeting to allow time for staff to review recently submitted materials and the representative to respond to additional comments. Since then, staff has provided follow up comments and subsequently the representative submitted a response letter and supporting documentation (dated revised 9/17/21), including a revised proposed vegetative cover type exhibit, and revised site owner's manual and stormwater O&M plan. The response letter includes estimates of the alterations to naturally vegetated areas and the plans include a ~3,800 sf mitigation planting area with shrubs and herbaceous species, which mitigates at a 1:1 ratio for any changes. Staff has no further comments.

Chair Freeman summarized the project and the wetland resource areas and expressed her appreciation for the back and forth with staff, and the applicant's pulling the work back. She noted that staff was satisfied with the revisions

and had prepared draft conditions. Sarah Stearns, representative from Beals and Thomas, was present on the call along with representatives from the club, Jay Askew and Dan Cappucci, and agreed with the Chair's summary and offered to answer any questions. The ACO expressed her satisfaction with the revisions and thanked the representatives for the hard work. She added that the location selected for the mitigation will work and also noted that the shrubs proposed will offset some of the tree removals.

Chair Freeman invited any comments from the public. There were no comments from the public.

Motion: Chair Freeman moved to issue an Order of Conditions for the proposed work at 289 Whiting Street (DEP 034-1421), as shown on the submitted plans, and adopt the findings of fact a through c, and special conditions 21 through 51 of the staff report.

Findings:

- a. The project meets the submittal requirements for issuance of an Order of Conditions under the Wetlands Protection Act (M.G.L. c. 131, § 40) and the Town of Hingham Wetland Regulations.
- b. The work described is within an area subject to protection under the Wetlands Protection Act (M.G.L. c. 131, § 40) and the Town of Hingham Wetland Regulations, and will not alter or adversely affect the area subject to protection under the Act or the Regulations.
- c. For the purpose of this filing, the Commission confirms the delineation of Bordering Vegetated Wetland flags WF-A-6 to A-59, and Riverfront Area associated with flags MAHW-1 to MAHW-43 and MAHW-A1 to MAHW-A31, but makes no finding as to the exact boundaries of other wetland resource areas.

Special conditions:

21. The applicant shall notify the Hingham Conservation Commission in writing of the name, address, and telephone number(s) of the project supervisor or contractor who shall be responsible for ensuring compliance with this Order and shall notify the Commission, by telephone or writing, at least 48 hours prior to commencement of work on the site.
22. This document shall be included in all construction contracts and subcontracts dealing with the work and shall supersede all other contract requirements.
23. The project supervisor or contractor in charge of the work shall have a copy of this Order available on the site at all times.
24. Prior to the start of any excavation or construction, there shall be a pre-construction conference on the site between the project supervisor or contractor responsible for the work and an agent of the Commission to ensure that the requirements of this Order are understood.
25. Prior to the start of any excavation or construction, erosion and sediment controls shall be installed, as shown on the final approved plans and exhibits, and inspected by an agent of the Commission; straw wattles and/or hay bales shall not be used as a form of erosion and sediment control. Extra erosion controls shall be available on site, stored in an unexposed location or covered.
26. Erosion and sediment controls shall remain in place until all disturbed or exposed areas have been stabilized with a final vegetative cover or the Commission has authorized their removal.
27. Prior to the start of any excavation or construction, mitigation planting plan details, including plant species, quantities and sizing information, shall be submitted to the Commission for review and approval. The planting plan shall include a minimum of 3,800 square feet of plantings as shown on the approved exhibit, including a mix of shrubs and herbaceous species. Locations closest to the resource areas shall be prioritized for planting. All mitigation plantings shall be native species; no cultivars, non-native species, or invasive species shall be allowed.
28. Prior to the start of any excavation or construction, final design specifications and construction details for the isolator rows and the subsurface infiltration systems shall be submitted to the Commission for review and approval.
29. Prior to the start of any excavation or construction, copies of all federal, state, and local permits, certifications, and approvals, as applicable, shall be submitted to the Commission for review.
30. One month prior to the start of any excavation or construction, a signed and certified Stormwater Pollution and Prevention Plan (SWPPP) shall be submitted to the Commission for review and approval.

31. Beginning the first week of construction, in which construction activity occurs on site, and for as long thereafter as the ground remains unstabilized, the applicant shall have a weekly written report prepared by a Registered Professional Engineer (Civil) or approved wetland scientist and available for review by the Commission. The inspector shall certify that to the best of his/her knowledge and belief, based upon careful site inspections (conducted during work hours at the site not less than weekly), all work is being performed in compliance with this Order. If the work is not in compliance, he/she will note where a deviation from the Order occurred. These reports may be stopped if construction activity ceases for a period of more than five days.
32. The project supervisor or contractor in charge of the work shall follow the final approved SWPPP during all phases of construction. A copy of this document shall be kept on site at all times.
33. During all phases of construction, all disturbed or exposed areas shall be brought to a finished grade and either a) loamed and seeded for permanent stabilization, or b) stabilized in another way approved by the Commission.
34. Any debris, which falls into any resource area, shall be removed immediately by hand and properly disposed of at an off-site location.
35. All tree debris shall be properly disposed of at an off-site location; no chipped or mulched material shall remain on the property.
36. All excavated material shall be properly disposed of at an off-site location.
37. Any on site dumpsters shall not be located within 50 feet of any Bordering Vegetated Wetland area.
38. There shall be no stockpiling of soil or other materials within 50 feet of any Bordering Vegetated Wetland area. All stockpiles that are not used for more than five days shall be covered and surrounded by erosion and sediment controls; straw wattles and/or hay bales shall not be used as a form of erosion and sediment control.
39. At the end of each workday, the applicant shall mechanically or manually sweep sediments from all paved surfaces, unless tracking and sediment is not evident.
40. Issuance of these conditions does not in any way imply or certify that the site or downstream areas will not be subject to flooding, storm damage, or any other form of damage due to wetness.
41. Any dewatering activities on the project in which water will be released into any resource area or storm drain shall make use of a stilling pond or similar device to remove sediment before the water is released. Prior to construction, plans for the stilling pond or similar device shall be submitted to the Commission for review and approval.
42. No vehicle or other machinery refueling, lubrication or maintenance, including concrete washout, or storage of fuel or maintenance chemicals, shall take place within the Riverfront Area.
43. Stormwater Best Management Practices shall be installed and stormwater runoff shall be managed, in accordance with the final approved plans. The installation/construction of the subsurface infiltration systems, water quality unit, Filterra system and other drainage system components shall be witnessed by a Registered Professional Engineer (Civil). The engineer shall submit documentation to the Conservation Commission stating that the installation/construction of these components was conducted properly (in compliance with all conditions herein) and in accordance with the final approved plans and manufacturer specifications.
44. The infiltration areas shall be roped off during construction to prevent vehicles and equipment from compacting soils.
45. The mitigation area plantings shall be installed, and seeding completed, in accordance with the final approved mitigation planting plan.
46. Before executing any change from the plan(s) of record, the applicant must have the Commission's written approval. Any errors found in the plans or information submitted by the applicant shall be considered as changes. Approval from other Town Agents or Inspectors does not relieve the applicant from obtaining approval from the Commission.
47. It is the sole responsibility of the owner of record to maintain drainage structures at all times. The property owner shall comply with the approved Long-term Operation and Maintenance Plan, prepared by Beals + Thomas and dated September 17, 2021. The property owner is also responsible for retaining records of the maintenance and cleaning for review by the Commission. This condition shall apply in **perpetuity** and shall not expire with the issuance of a Certificate of Compliance.

48. The applicant shall apply for a Certificate of Compliance as soon as work has been completed and prior to the expiration of this Order. If work cannot be completed prior to the expiration of this Order, the applicant shall contact the Commission in writing to apply for an extension at least thirty days prior to the expiration date.
49. The applicant shall submit an "as built" plan to the Commission upon completion of this project. The plan shall be signed by the professional engineer of record, who shall certify that the work has been done in accordance with the approved plans and this Order. This plan must be submitted prior to the issuance of a Certificate of Compliance by the Commission.
50. Prior to the issuance of a Certificate of Compliance, the mitigation area plantings shall survive at least two full growing seasons with a minimum of 75% survival rate. If a 75% survival rate is not achieved, replacement plantings of the same species shall be made by the applicant.
51. The mitigation planting area shall be maintained with native plantings or shall be allowed to naturally revegetate with native species following planting and remain as naturally vegetated, and shall not be mown or otherwise maintained. This condition shall apply in **perpetuity** and shall not expire with the issuance of a Certificate of Compliance.

Second: Comm'r Mosher

Roll Call: Comm'r Hidell: aye, and Comm'r Roby: aye and Chair Freeman: aye

7 Brandon Woods Circle – DEP 034-1423, continued from 9/13/21.

Applicant: Stephen & Jane Savignano

Representative: Scott Fanara, Grady Consulting LLC

Proposed: Installation of an inground pool, patios, retaining walls, fence, grading & landscaping

Meeting Documents & Exhibits: Staff memo, Plot Plan revised 9/23/21, and Mitigation Planting Plan dated 9/21/21

Excerpts from the staff memo: This hearing is continued from the 9/13/21 meeting to allow time for staff to review recently submitted materials and the representative to respond to additional comments. Since then, the representative provided a response letter to the initial comments, staff has reviewed a landscape plan (dated 9/9/21), revised site plan (dated revised 9/13/21), and memo regarding pool water disposal, and has provided follow up comments, and subsequently made another site visit with the applicant and representatives on 9/21/21.

*In addition, at the site visit **changes to the proposed fencing location** were discussed to avoid any encroachment into naturally vegetated areas, **potential tree removals** were reviewed, and **mitigation planting locations and species** were discussed. Staff is anticipating a revised site plan and revised landscape plan.*

Chair Freeman summarized the wetland resource areas and proposal, noting that the hearing had been continued because materials had been submitted too close to the meeting for staff to review, but since then, staff and applicants had sorted many issues out.

Scott Fanara from Grady Consulting was present on the call along with the applicant, Steve Savignano and the landscape architect, Sean Papich. S. Fanara explained that he'd walked the site with the ACO and some changes had been made to their plan; they'd adjusted fence line further from resource area and would be removing some unhealthy trees and providing additional mitigation. The mitigation plan was shared to the screen and S.Papich reviewed in detail the unhealthy trees & proposed replacement trees, pointed out the areas proposed for mitigation plantings, and pointed out the plant list on the plan, and stated that any larger voids would be planted with wetland seed mix. Further information regarding the proposal included; a construction fence will be placed around one existing hemlock, any drawdown from the pool will go into a drywell, and that the proposed planting square footage is in excess relative to the square footage of impervious. Brief discussion followed regarding the conditions with the ACO pointing out the condition requiring the staking out of the fence location and eliminating a draft condition regarding mitigation. The Commission expressed their satisfaction with the proposal.

Chair Freeman invited any comments from the public. There were no comments from the public.

Motion: Chair Freeman moved to issue an Order of Conditions for the proposed work at 7 Brandon Woods Circle (DEP 034-1423), as shown on the submitted plans, and adopt the findings of fact a through c, and special conditions 21 through 46 of the staff report as amended.

(Conditions below reflect the discussion at the meeting)

Findings:

- a. The project meets the submittal requirements for issuance of an Order of Conditions under the Wetlands Protection Act (M.G.L. c. 131, § 40) and the Town of Hingham Wetland Regulations.
- b. The work described is within an area subject to protection under the Wetlands Protection Act (M.G.L. c. 131, § 40) and the Town of Hingham Wetland Regulations, and will not alter or adversely affect the area subject to protection under the Act or the Regulations.
- c. For the purpose of this filing, the Commission confirms the delineation of Bordering Vegetated Wetland flags A1 to A6 and B1 to B10, but makes no finding as to the exact boundaries of other wetland resource areas.

Special Conditions:

21. The applicant shall notify the Hingham Conservation Commission in writing of the name, address, and telephone number(s) of the project supervisor or contractor who shall be responsible for ensuring compliance with this Order and shall notify the Commission, by telephone or writing, at least 48 hours prior to commencement of work on the site.
22. This document shall be included in all construction contracts and subcontracts dealing with the work and shall supersede all other contract requirements.
23. The project supervisor or contractor in charge of the work shall have a copy of this Order available on the site at all times.
24. Prior to the start of any excavation or construction, there shall be a pre-construction conference on the site between the project supervisor or contractor responsible for the work and an agent of the Commission to ensure that the requirements of this Order are understood.
25. Prior to the start of any excavation or construction, erosion and sediment controls shall be installed, as shown on the final approved plan, and inspected by an agent of the Commission; straw wattles and/or hay bales shall not be used as a form of erosion and sediment control.
26. Erosion and sediment controls shall remain in place until all disturbed or exposed areas have been stabilized with a final vegetative cover or the Commission has authorized their removal.
27. Prior to the start of any excavation or construction, the fence location shall be staked and inspected by an agent of the Commission. The fence shall be installed within the existing lawn area, and no natural vegetation within the buffer zone shall be removed to facilitate the installation of the fence, with the exception of a small area in the southwest corner of the site around an existing Birch tree.
28. During all phases of construction, all disturbed or exposed areas shall be brought to a finished grade and either a) loamed and seeded for permanent stabilization, or b) stabilized in another way approved by the Commission.
29. Any debris, which falls into any resource area, shall be removed immediately by hand and properly disposed of at an off-site location.
30. All lawn waste, brush, leaves, or other materials dumped in any resource area, including the buffer zone, in particular the wood chips around the White Pine tree in the southwest corner of the site and the wood chips under the trees in the southeast corner of the site, and near the entrance to the existing path to the pond, shall be removed by hand and properly disposed of at an off-site location, and the practice discontinued, in accordance with Section 23.6 of the Hingham Wetland Regulations.
31. All tree debris shall be properly disposed of at an off-site location; no chipped or mulched material shall remain on the property.
32. All demolition and excavated material shall be properly disposed of at an off-site location.
33. Any on site dumpsters shall not be located within 100 feet of any resource area.
34. There shall be no stockpiling of soil or other materials within 50 feet of any resource area. All stockpiles that are not used for more than five days shall be covered and surrounded by erosion and sediment controls; straw wattles and/or hay bales shall not be used as a form of erosion and sediment control.
35. At the end of each workday, the applicant shall mechanically or manually sweep sediments from all paved surfaces, unless tracking and sediment is not evident.
36. Issuance of these conditions does not in any way imply or certify that the site or downstream areas will not be subject to flooding, storm damage, or any other form of damage due to wetness.
37. Any dewatering activities on the project in which water will be released into any resource area or storm drain shall make use of a stilling pond or similar device to remove sediment before the water is released.

Prior to construction, plans for the stilling pond or similar device shall be submitted to the Commission for review and approval.

38. No vehicle or other machinery refueling, lubrication or maintenance, including concrete washout, or storage of fuel or maintenance chemicals, shall take place within 100 feet of any resource area.
39. The mitigation area plantings shall be installed, and seeding completed, in accordance with the final approved mitigation planting plan.
40. Before executing any change from the plan(s) of record, the applicant must have the Commission's written approval. Any errors found in the plans or information submitted by the applicant shall be considered as changes. Approval from other Town Agents or Inspectors does not relieve the applicant from obtaining approval from the Commission.

41. Pool and spa water shall be discharged into a drywell as shown on the final approved plan. There shall be no discharge of any pool or spa water or backwash within 100 feet of any resource area. This condition shall apply in **perpetuity** and shall not expire with the issuance of a Certificate of Compliance.
42. It is the sole responsibility of the owner of record to maintain drainage structures at all times. The property owner is also responsible for retaining records of the maintenance and cleaning for review by the Commission. This condition shall apply in **perpetuity** and shall not expire with the issuance of a Certificate of Compliance.
43. The applicant shall apply for a Certificate of Compliance as soon as work has been completed and prior to the expiration of this Order. If work cannot be completed prior to the expiration of this Order, the applicant shall contact the Commission in writing to apply for an extension at least thirty days prior to the expiration date.
44. The applicant shall submit an "as built" plan to the Commission upon completion of this project. The plan shall be signed by the professional engineer of record, who shall certify that the work has been done in accordance with the approved plans and this Order. This plan must be submitted prior to the issuance of a Certificate of Compliance by the Commission.
45. Prior to the issuance of a Certificate of Compliance, the mitigation area plantings shall survive at least two full growing seasons with a minimum of 75% survival rate. If a 75% survival rate is not achieved, replacement plantings of the same species shall be made by the applicant.
46. The mitigation planting area shall be maintained with native plantings or shall be allowed to naturally revegetate with native species following planting and remain as naturally vegetated, and shall not be mown or otherwise maintained. This condition shall apply in **perpetuity** and shall not expire with the issuance of a Certificate of Compliance.

Second: Comm'r Roby

Roll Call: Comm'r Hidell: aye, Comm'r Mosher: aye and Comm'r Kelly: aye

Other Business:

- a. Discussion and possible vote to approve the Buffer Zone Mitigation Policy, with public comment

The Commission was in agreement that they were pleased with the draft Buffer Zone Mitigation Policy.

The Chair invited any members of the public to comment. There was no comment from the public.

Motion: Chair Freeman moved to approve the Buffer Zone Mitigation Policy.

Second: Comm'r Roby

Roll Call: Comm'r Hidell: aye, Comm'r Kelly: aye, Comm'r Mosher: aye and Comm'r Freeman: aye

- b. Review of proposed revised Hingham Wetland Regulations and possible vote, with public comment

Chair Freeman introduced the proposal for revision to the regulations in regards to Land Subject to Coastal Storm Flowage. The CO had prepared the draft proposal several weeks ago and it had been sent to Town Counsel for review and the Commission is still waiting to hear from Town Counsel.

The CO shared the draft revision document to the screen; the existing regulations and edits in red. The Commission, CO and ACO discussed in detail the possible revisions including the possibility of giving the Commission the option to require an alternatives analysis, inclusion of additional specificity with the language

and including of some of the language from the existing Coastal Engineering Structures Policy. The Commission discussed keeping language that would allow the Commission flexibility and yet provide more tools in the toolbox should they wish to require an applicant provide further information.

The Commission and staff discussed the timeframe for further edits and getting the draft to Town Counsel for review, as well as asking Town Counsel's opinion regarding the timing of submittal of a Notice of Intent and whether the filing should wait until the regulations have been revised.

The Chair invited any members of the public to comment. Bill Reardon of the Harbor Development Committee emphasized the timeframes involved. There was no further comment from the public.

Discussion followed regarding scheduling another special meeting regarding the revision of the regulations and concluded that another Doodle Poll would be arranged.

Chair Freeman adjourned the meeting at 8:31 pm.

Submitted, _____

Sylvia Schuler, Administrative Assistant

Approved on October 18, 2021

This meeting was recorded. To obtain a copy of the recording please contact the Conservation office.