



**Pembroke Conservation Commission
Minutes of the Meeting of
January 4, 2024**

Disclosure: These minutes are not verbatim – they are the administrative agent’s interpretation of what took place at the meeting.

Open Meeting Law, G.L.c. 30A § 22.

All materials presented during this meeting are available in the Pembroke Conservation Commission office.

At 7:00PM Chair Art Egerton opened the meeting, and stated, “Please note that this meeting is being made available to the public through a video and audio broadcast on Comcast Government Access channel for broadcast at future dates. Comments made in open session will be recorded.”

Members present: Arthur Egerton, Chair; Teresa Harling, vice chair; Rick Madden, member; Nicole Pelletier member; James Campbell, member.

Members not present: Robert Clarke, member, and Agent; Gino Fellini, member

Also present: Administrative Agent, Andrew Wandell

ADMINISTRATIVE BUSINESS

Mr. Campbell made a motion to accept the minutes of the December 7 meeting; Mr. Madden seconded, and the motion passed unanimously.

Ms. Harling asked about the status of the Open Space Committee. Administrative Agent Wandell gave a status update of the Open Space and Recreation Plan which has conditional approval from the Commonwealth. An additional ADA checklist has been required from the Commonwealth.

Hearings:

Enforcement Order and Notice of Intent – 98 Barker St. & 409 Washington St., (Enforcement Order continued from November 2, 2023, no DEP number has been provided for the Notice of Intent)

Chair, Art Egerton opened the public hearing at 7:15PM.

Mr. Spath’s attorney Adam Brodsky and Mr. Spath were in attendance. Brad Holmes was unavailable.

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Attorney Brodsky explained that a Notice of Intent had been filed with DEP for a forestry road to be extended to the rear of the site as per both the historic forestry management plan and the draft forestry management plans Mr. Spath has submitted under Chapter 61. The Trust's draft plan was not completed because of the Enforcement Order. He further explained that Mr. Zimmer's review of the plan pointed out a discrepancy in the calculation of alteration. It was designed to replicate less than 5,000 square feet of replication of wetlands restored to remain under the jurisdiction of the Conservation Commission and not require other permitting authorities to review. Attorney Brodsky explained that obtaining any replication more than 5,000 square feet would require a water quality certification for fill of wetlands and the filing of environmental notification forms under the MEPA program and that this would make it uneconomic to keep the land in forestry, the alternative would be to develop the property. Attorney Brodsky asserted that the point of the plans presented was to keep the land in forestry under chapter 61.

Attorney Brodsky explained that Joe Webby reviewed the discrepancy Mr. Zimmer observed and that it did exceed 5,000 square feet. A revised preliminary plan to re-route the access road has been prepared and Mr. Spath wanted the Commissions input before submitting to Mr. Zimmer for peer review.

Attorney Brodsky reviewed the plan for the Commission pointing out that in consultation with Mr. Webby that it does not need to comply with stormwater standards as it is being used for forestry under chapter 61.

Ms. Harling asked if the proposed road would be disturbing additional wetlands. Attorney Brodsky answered yes and explained that the restoration plan would restore wetlands more than those disturbed and that the only way to get to the uplands at the rear of the property was to go through some wetlands area.

A discussion of phasing of the project and how to approach the project as it relates to the Restoration plan and related Notice of Intent for the access road ensued.

Ms. Pelletier asked about the stormwater requirements and if any documentation is available addressing the exemption for chapter land.

Attorney Brodsky explained the differences between chapter land and related forestry plans and mentioned that the land has been in chapter 61 with a forestry plan for more than 20 years. The discussion about chapter 61 and forestry plans related to the property continued.

Mr. Madden asked about removing the well installed by Mr. Spath. Attorney Brodsky said the well will be removed. Mr. Madden asked about specifics related to the removal. Attorney Brodsky said that information regarding the specifics of the well removal will be provided as part of the restoration plan.

Mr. Spath approached the Commission and asserted that he wants the property to remain chapter 61 with a forestry plan requiring an access road. He wants to leave the 70 acres as usable land for forestry and is requesting a 12-foot-wide gravel access road to plant trees, have a sawmill and process firewood on the two acres of upland he has at the rear of the property. He explained how a cutting plan must be submitted as part of a forestry plan that allows for cutting, chipping and processing of forestry products.

Mr. Campbell asked the commission to consider the plan before them and to request peer review of the plan by Mr. Zimmer.

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Ms. Pelletier asked if Attorney Brodsky could explain why the proposed plan is the only way to go through the wetland. Attorney Brodsky reviewed the access road and its placement as related to the composition of the property and the wetland areas and explained the re-routing of the access road.

Ms. Harling asked about any tree removal related to the installation of the access road. Mr. Spath replied that there have not been any trees removed after the issuance of the cease-and-desist order.

Ms. Pelletier asked about the fill removal as part of the restoration plan and how it relates to the proposed access road. Attorney Brodsky explained that all the fill in the restoration area will be removed up to the area of wetlands to be bridged by the access road. Mr. Spath said that the proposed road would be 100 feet shorter than the existing access road.

Mr. Campbell made a motion to continue the public hearing until January 25th at 7:15 PM, seconded by Ms. Harling, the motion passed unanimously.

Notice of Intent – 11 Furnace Road DEP# SE056-1100

Chair, Art Egerton opened the public hearing. Joe Webby III representing the applicant reviewed the plans for demolition of the existing home and building of a replacement single family home. The existing septic system will remain. No trees are planned to be removed and no additional excavating of the site. The new structure will be at the same elevation as the existing structure. As best practice for stormwater management three chambers and stone will be installed to better manage the stormwater than the existing conditions.

Mr. Madden asked if the foundation would be replaced. Mr. Webby said yes and in the same footprint as the existing.

The commissioners reviewed photos of the current conditions.

The chair opened the discussions to the abutters present. Richard Reardon explained that he has 2 lots adjacent to the property and asked about septic systems and their placement in relation to wells in the area. Mr. Webby explained that the existing septic system will remain and that it has passed title V inspection. A discussion regarding septic systems and placement ensued.

Mr. Webby reviewed the erosion control for the project, related siting issues and limit of work. The commissioners discussed the order of conditions.

Mr. Campbell moved to close the public hearing and issue an order of conditions. Mr. Madden seconded the motion and it passed unanimously.

Mr. Madden made a motion to issue the standard order of conditions for 11 Furnace Road, Ms. Harling seconded, and the motion passed unanimously.

Notice of Intent – Sullivan Phragmites Management Plan – 2 Washington Street

Chair Art Egerton opened the public hearing. Margaret O'Brien from TRC representing the applicant Andrew Sullivan explained the plan for phragmites removal and management at 2 Washington Street. The area to be treated is approximately 3.5 acres. She explained that it is an invasive species resulting in a monoculture that inhibits native species growth. They have done a plant survey of the area and there are

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several rare plant species evident that are being affected by the phragmites. A five year treatment schedule is being proposed to remove the phragmites using mechanical rolling in the winter and herbicide applications in the fall. No herbicides will be applied in the spring. The herbicide to be used is the same used for the Arnold Pond plan approved by the commission in the fall.

Ms. O'Brien explained how the herbicides are used, disbursement, absorption, and other properties in response to questions from Mr. Madden.

Mr. Campbell asked if the regulatory authorities approve the use of the specific herbicides; Ms. O'Brien said they are approved for use for this application by the Massachusetts Department of Agricultural Resources, Mass DEP, and the EPA.

Mr. Madden pointed out that the application in this case is in a tidal zone which is different than the Arnold Pond application and would like information related to the effect of full moon tidal effects.

Ms. O'Brien also asked questions about the seed mixture to be used to replace the phragmites and the plant surveys required. Native species seed mix is required by Natural Heritage.

As there was no DEP number assigned to the project Mr. Campbell made a motion to continue the public hearing until January 25th at 8 PM, seconded by Mr. Madden and the motion passed unanimously.

At 8:36 PM Mrs. Harling made a motion to adjourn seconded by Mr. Madden. The motion passed unanimously.

Materials and Exhibits

Notice of Intent – 11 Furnace Road DEP# SE56-1100

Notice of Intent- 2 Washington Street – no DEP number assigned at time of meeting.

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