



TOWN OF HOPKINTON
OPEN SPACE PRESERVATION COMMISSION

COPY

TOWN HALL
18 MAIN STREET
HOPKINTON, MASS. 01748
(508) 497-9755

John H. Coolidge
Nancy J. Peters
Jeffrey J. Doherty
Mary Pratt
Michael Carmody

March 30, 2007

Ian A. Bowles, Secretary
Executive Office of Environmental Affairs
100 Cambridge Street, 9th Floor
Boston, MA 02114

Re: Town of Hopkinton – Whitehall Estates Draft Conservation Restriction

Dear Secretary Bowles:

The Hopkinton Open Space Preservation Commission is in receipt of a letter to you dated March 27, 2007 from the Hopkinton Conservation Commission. In the letter, the Commission states that the draft Conservation Restriction (CR) for property owned by the Town of Hopkinton has been submitted to the Executive Office of Environmental Affairs (EOEA) without endorsement or review of the Commission.

The Open Space Preservation Commission hereby informs you that the Conservation Commission reviewed the draft CR at its meeting on September 11, 2006 and signed the Application to the EOEA, but decided not to submit it until the property was purchased by the Town. Prior to the Sept. 11 meeting, the draft CR was reviewed by Conservation Commission staff, who did not recommend any changes. At the Conservation Commission's next meeting on September 18, 2006, it voted to forward the signed CR Application to the Hopkinton Planning Director, which was then sent to the EOEA for review. In addition, in an email on September 19, 2006, Jack Speranza, Vice-Chairman of the Conservation Commission, states the following: "The Conservation Commission held a regularly scheduled meeting last night. During the course of the evening, the current situation with the Whitehall purchase was discussed. As a Commission, we support the proposal to purchase the Whitehall property." Later in the email, Mr. Speranza states "Again, based upon last evening's discussion and vote, the Conservation Commission supports the purchase of the Whitehall property" but expressed concerns about the use of Community Preservation Act funds for the purchase. Minutes of the meetings and a copy of this email are enclosed. Apparently, Conservation Commission members have forgotten that they not only discussed the purchase extensively at a number of meetings in 2006, but reviewed and signed the Application that was submitted to the EOEA. Fortunately, the Minutes record what actually occurred.

The Conservation Commission appears concerned that changes should be made to the draft CR. The Open Space Preservation Commission understands that changes may be made during the review process. That is why a draft was distributed for review and why it is still marked "draft". However, we have not received any feedback from the Commission relative to the CR at all, nor have we received a request to meet and discuss any of its provisions.

As you may know, the purchase of the 23 acres adjacent to Whitehall State Park in Hopkinton was controversial before and after the Town purchased it in October 2006. Even though the Hopkinton Town Meeting voted to purchase the land and place it under the jurisdiction of the Open Space Preservation Commission for open space and conservation purposes, those who opposed the purchase are still angry. Prior to the closing, a group of citizens filed suit in Middlesex Superior Court attempting to stop the purchase. The judge dismissed the case. At the present time, this vocal minority is attempting to change the jurisdiction of the land from the Open Space Preservation Commission to the Parks & Recreation Commission so that athletic fields, tennis courts, parking lots and roadways may be constructed there. An article to make this change has been placed on the warrant for the Annual Town Meeting in May, 2007. We also believe that the Conservation Commission and others do not agree with the choice of the Hopkinton Area Land Trust and Friends of Whitehall as grantees of the CR, but to date, no one has suggested an alternative.

The individual Open Space Preservation Commission members, who have acted in good faith to follow through with the will of Town Meeting and preserve land of significance to the Town and the region, have been attacked in this highly political, pointless and costly process. The fact is that the Town purchased the land for open space and conservation purposes, and the Open Space Preservation Commission has included provisions in the CR allowing an access road to the adjacent Reed Park, which contains active recreational facilities, and a small parking area within the parcel. The fact is that this land is part of a larger greenway which includes the entire water body of Whitehall Reservoir within Whitehall State Park and town-owned open space, for a total land area of over 1,200 acres that is open to the public. We will not repeat all of the conservation values of the parcel or area here. Those values are listed in the draft CR and in the Application to the Executive Office of Environmental Affairs that the Conservation Commission signed.

The Open Space Preservation Commission requests that review of the draft CR continue so that it may be finalized for formal signature and submission. We expect that changes will be proposed by EOEA and Town entities, and this is part of the normal process. Please disregard the Conservation Commission's letter and allow the review and comment period to continue. We look forward to receiving the EOEA's review comments, which are still pending.

If you have any questions or comments, please contact Elaine Lazarus, Planning Director, at 508-497-9755. We are disappointed that the Conservation Commission has chosen to involve you in this local political matter and apologize for any inconvenience this may cause.

Sincerely,



John H. Coolidge
Chairman

Cc: Irene DelBono, Division of Conservation Services
Board of Selectmen
Hopkinton Town Manager
Parks and Recreation Commission
Conservation Commission
Hopkinton Area Land Trust
Friends of Whitehall

MINUTES- 18 September 2006
Hopkinton Town Hall, Room 216 & 211

Called to Order: 7:30 PM
Adjourned: 9:30 PM

Members Present: Robert Murphy, David Teitelman, Craig Nation, Jeffrey Barnes, Jack Speranza, Ellen Chagnon: Conservation Scientist, Don MacAdam: Conservation Administrator

Members Absent: Michael Carmody, Steven Radel

7:30 PM Commission Business

- The Commission signed the following documents:
 - Town of Hopkinton, 66 Fruit St – Order of Resource Area Delineation (188-1314)
 - Takacs, Lot 4, 9 Cedar Street Ext – Extension Permit (188-1255)
 - Town of Hopkinton DPW, 0 Mayhew St (Mt Auburn Cemetery) – Order of Conditions (188-1356)
- Mr. Speranza made a motion to forward the signed Conservation Restriction Application for the Whitehall land to the Town Planner. The motion was seconded by Mr. Teitelman and it was passed by everyone except Mr. Nation who recused himself.
- A discussion was held regarding the proposed purchase of the Whitehall land by the Town.
- The Commission did not wish to disturb the meeting being held in Room 215 and relocated the Commission meeting to Room 211.

7:45 PM Sanborn, 2 McKay Road
Notice of Intent

DEP File No. 188-1354

Peter Bemis, Engineering Design Consultants, Inc.; Randall and Amy Sanborn, applicants/owners

Mr. Bemis presented proposed plans to construct additions to the existing home and garage and to enlarge the existing driveway.

Ms. Chagnon stated that the wetland delineation is accurate and that the work is proposed within a previously-disturbed area. Ms. Chagnon stated that, in a matter not related to the proposed work, she observed that unauthorized fill has been placed along the existing driveway up to the edge of the wetland. The Commission reviewed survey plans from DEP File No. 188-587 for the original construction of the home. Mr. Sanborn stated that he purchased the property in that condition. A discussion was held regarding the installation of signage to identify the location of the wetland and to deter future disturbance to the area. Mr. Sanborn stated that he would not be averse to installing signage to identify the wetlands on his property.

Mr. Speranza made a motion to waive the requirement for catch basin hoods at Emerald Hills East as an insignificant project change. The motion was seconded by Mr. Nation and it passed unanimously. The Commission determined that a memo shall be included with the file.

**8:30 PM Town of Hopkinton, 66 Fruit Street
Informal**

Michael Wierbonics, Thomas Parece, Rosemary Blacquier, Bethany Leavitt, Earth Tech; J.T. Gaucher, Hopkinton DPW Director

A discussion was held regarding a proposed sewage treatment facility at 66 Fruit Street. Mr. Wierbonics presented survey plans that identified the proposed location for the sewage treatment facility and sewer main.

A discussion was held regarding proposed horizontal directional drilling to install the sewer main under Whitehall Brook.

A discussion was held regarding the proposed location of the sewer main throughout the Fruit Street property.

A discussion was held regarding the existing temporary culvert crossing and the proposed replacement culvert crossing. Mr. Wierbonics stated that the replacement culverts will meet the current stream crossing requirements under the wetlands regulations.

A discussion was held regarding the proposed wetland replication for the proposed culvert crossing. Mr. Wierbonics stated that the proposed crossing will need to be larger than the current temporary crossing and that they are considering locating the wetland replication area near the well. Ms. Chagnon stated that the compensatory floodplain/wetland replication ideally should be located within the same wetland/floodplain that was filled. Ms. Chagnon stated that the wetland replication area must be sized to replace wetland lost for the temporary (existing) crossing as well as any additional area proposed for the replacement crossing.

A discussion was held regarding the proposed disturbance for the wastewater treatment facility treatment, specifically the detention basin that will be located within the 50 to 100-foot buffer zone, the subsurface disposal beds that will be located within the Riverfront, and the future subsurface disposal beds that will be located within the wetland buffer zone and the Riverfront. Mr. Murphy stated that he is concerned with the amount of disturbance proposed within these areas. Mr. Speranza stated that the town was informed prior to the purchase of the property that any and all proposed work would be located outside of all wetland resource areas and their buffer zones.

A discussion of potential alternatives was held. Mr. Speranza stated that the applicant may want to provide alternatives that will show any other impacts and what that would entail.

MINUTES- 11 September 2006
Hopkinton Town Hall, Room 216

Called to Order: 7:30 PM
Adjourned: 10:20 PM

Members Present: Robert Murphy, Jack Speranza, Steven Radel, Michael Carmody, Craig Nation, Jeffrey Barnes, David Teitelman, Ellen Chagnon: Conservation Scientist, Don MacAdam: Conservation Administrator

7:30 PM Commission Business

- The Commission signed the following documents:
 - O'Connor, 30 Valleywood Rd – signature page for Certificate of Compliance (188-467)
 - Burns, 13 Daniel Shays Rd – Certificate of Compliance (188-915)
 - Burns, 13 Daniel Shays Rd – Certificate of Compliance for ERO (188-915)
- Mr. Speranza made a motion to approve after-the-fact the verbal request made on 24 August 2006 to perform additional site testing on 29 August 2006 at 97 Ash Street for Abbott Realty Trust (RDA 2005-12) as an insignificant project change. The motion was seconded by Mr. Teitelman and it passed unanimously.
- Mr. Speranza made a motion to approve the proposed deck as identified in the letter and sketch plan submitted for Connelly, 6 College Street (RDA 2006-10) as an insignificant project change. The motion was seconded by Mr. Barnes and it passed unanimously.

7:40 PM Mr. Carmody entered the meeting.

- The Commission signed the application for the Conservation Restriction (CR) for the Whitehall Land but determined not to submit the application until the property has been purchased by the Town.

7:45 PM **Town of Hopkinton, 66 Fruit Street** **DEP File No. 188-1314**
Abbreviated Notice of Resource Area Delineation – continuation

J.T. Gaucher, DPW Director

Ms. Chagnon stated that the delineation to be approved covers only portions of the wetland resource areas that have been re-flagged and reviewed. Mr. Gaucher stated that the only substantial change since the previous Order of Resource Area Delineation (ORAD) was issued is that the gravel wash pond has been filled.

Mr. Speranza made a motion to close the hearing and issue an ORAD for those portions of the delineation shown on the site plan included with the application. The motion was seconded by Mr. Carmody and it passed unanimously.

**8:15 PM Takacs, 9 Cedar Street Extension
Extension Permit**

DEP File No. 188-1255

Louis Takacs, applicant/owner

Mr. Takacs provided an overview of the current construction status of his driveway installation. Mr. Takacs stated that he likely will not need but is requesting a three year Extension Permit.

Mr. Speranza made a motion to issue a three year Extension Permit. The motion was seconded by Mr. Carmody and it passed unanimously.

8:20 PM Commission Business

- A discussion was held regarding the email message dated 30 August 2006 from attorney Amber Decoste regarding 110 Hayward Street (DEP File No. 188-1198). Mr. Speranza stated that he would respond on behalf of the Commission.
- The Commission reviewed a letter from Weston Nurseries regarding a diseased tree on Town property adjacent to 8 Downey Street. The Commission determined that the Conservation staff will confer with the DPW to assess the issue.

**8:30 PM Hopkinton DPW, 0 Mayhew Street,
Mt. Auburn Cemetery
Notice of Intent**

DEP File No. 188-_____

J.T. Gaucher, DPW Director

Mr. Gaucher presented a plan to install a drainage system at Mt. Auburn Cemetery to lower the groundwater level. Mr. Gaucher stated that two catch basins are also proposed along the existing paved cemetery path and will tie into the proposed drainage system. Mr. Gaucher stated that the proposed work will not change runoff and groundwater recharge to the adjacent intermittent stream channel. Mr. Radel asked if the system will incorporate any pumps. Mr. Gaucher stated that the system will be a passive gravity system. Ms. Chagnon stated that the project can be considered a redevelopment project under the DEP Stormwater Guidelines and is therefore subject to relaxed stormwater standards. Ms. Chagnon stated that an erosion control barrier (ECB) should be installed along the toe of the slope along the length of excavation. She stated that the installation of the ECB can be phased along with the construction.

Mr. Speranza made a motion to close the hearing and issue an Order of Conditions subject to the receipt of an amended plan and the issuance of a DEP File Number with the standard and above-noted special conditions. The motion was seconded by Mr. Barnes and it passed unanimously.

8:42 PM Commission Business

- Mr. Speranza made a motion to have Ms. Chagnon prepare a comment letter in response to the Planning Board's request for Tedstone, 45 Pleasant Street. The motion was seconded by Mr. Carmody and it passed unanimously.

review of potential groundwater disturbance to the resource areas. A discussion was held regarding the amount of research required to provide a geohydrological review of the area.

Ms. Chagnon stated that the applicant has not presented proposed mitigation for the buffer zone impacts, as required under the Bylaw.

A discussion was held regarding the proposed septic system. Mr. Poxon stated that the Board of Health is awaiting comments from septic system manufacturers.

Mr. John Mosher, 13 West Elm Street, stated that he is disappointed with the location of the access roadway for the project and noted that he hopes that other options will be fully explored with any similar filings in the future. Mr. Joe Karner, 176 West Main Street, requested clarification on why the dry wells were withdrawn from the proposed plan. Mr. Poxon provided an overview of the additional sump area added to the proposed detention basin that will allow for recharge closer to the wetland.

The hearing was continued to 02 October 2006 at 8:45 PM.

9:55 PM Commission Business

- The Commission reviewed the Open Meeting Law as requested by the Executive Secretary.
- The Commission determined that the Order of Resource Area Delineation for NSTAR, 0 South Mill Street (DEP File No. 188-1340) must be recorded at the registry of Deeds because site development is proposed for the property.
- Mr. Radel made a motion to issue a renewed Determination of Applicability to Wyckoff, 0 Granite Street (RDA 2002-17), in response to her written request for an extension, dated 03 March 2005. The motion was seconded by Mr. Teitelman and it was passed by everyone except Mr. Speranza who abstained.

Minutes Approved: 16 October 2006

Elaine C. Lazarus

From: jcoolidge@att.net
Sent: Tuesday, September 19, 2006 12:42 PM
To: Jack Speranza; Roger Mezitt; Brendan Doyle; Henry Kunicki; Jeff Doherty; Jeff Furber; John H Coolidge; Dolores Ivester; cnavez@aol.com; Nancy Peters; Mary Pratt; Michael Carmody (Home)
Cc: murphyro@bc.edu; Sradel@sbrholdings.com; DTeitelman@softworldinc.com; barnesje@comcast.net; crnation@comcast.net; pinxter@charter.net
Subject: Re: Next CPC Meeting

Jack, and CPC members,

Thanks for your email and support from the Commission. I stated at the Selectmen's meeting several weeks ago or more, that when we (OSPC) had all the issues resolved and a signed extension from Ron Nation, I would or Jeff (as the primary negotiator) would bring all the various issues to the next CPC meeting as to what we (OSPC) have been dealing with over the passed several months and we are scheduled to meet next week as you all know. Assuming we have Nation's signature for the Oct. extension date (which I'm told we do, we will). Hopefully we may also know about the grant as well.

We as CPC members have never voted on the appraisals, we voted to support the OSPC purchase up to 2.75m, and the use of CPA funds up to a certain amount and to bond the difference less any grants the OSPC was able to acquire. There has been a lot of "fact" bantered around by the press and others that is at best far from fact. We as Jeff stated were advised by town counsel to keep to the issues with the seller and not get involved with the press or some of the allegations floating around. It will be on the agenda along with updates for all CPC projects.

jc

----- Original message from "Jack Speranza" <jdsperanza@MainStreetVentures.com>: --

Members of the CPC --

The Conservation Commission held a regularly scheduled meeting last night. During the course of the evening, the current situation with the Whitehall purchase was discussed. As a Commission, we support the proposal to purchase the Whitehall property. As a Commission, we believe a compelling argument can be made to justify the expenditure of the most recent agreement to purchase this land for the \$2.685 million price quoted in the press. As a Commission, however, we have serious concerns about whether the CPC can legally contribute the amount of funds recommended by the Committee following its April vote, and as approved at Town Meeting in May.

As the Commission's representative on the CPC, I am a bit concerned by comments attributed in this morning's press --

"Doherty said it was inappropriate for the CPC to vote on the latest town appraisal because that panel has no jurisdiction over the OSPC."

I agree with Mr. Doherty that the CPC has no jurisdiction over the OSPC. Given the fact, however, that \$2.3 million of CPC funds will be used to fund this purchase (\$1.8 million outright, the remainder being bonded), it is incumbent on the CPC to determine, as a committee, whether this level of funding runs counter to our obligations under state law.

The town is certainly free to pay more for the Whitehall land than the appraised market value. We have yet to be provided with any information, however, that supports the notion CPC may contribute funds towards the purchase that are in excess of the land's appraised value. As matters currently stand, the town has 3 appraisals, 2 of which value the land below the agreed upon sales price. The CPC has neither deliberated nor voted upon whether it is either legally or morally justifiable to essentially ignore the data contained in the prior two appraisals, and continue to recommend the appropriation of \$2.3 million from CPC coffers to fund this purchase.

Again, based upon last evening's discussion and vote, the Conservation Commission supports the purchase of the Whitehall property. We cannot, however, endorse the current appropriation of CPC funds without further review, analysis and consideration of the concerns stated above.

Recommendations on the appropriate use of CPC funds lies with the CPC -- not with the OSPC, and not with any other elected or appointed body. As a committee, we may very well determine we are satisfied the most recent appraisal is sufficient to support our current funding commitment. Unless and until the CPC makes that determination as a body, however, the funding for this "deal" remains tenuous, at best.

I suggest we be prepared to discuss this matter at length during our next meeting, and request sufficient time be set aside on the agenda to allow for this.

Thank you.

Jack Speranza
Vice-Chairman
Hopkinton Conservation Commission