



**CITY OF GARDNER
CONSERVATION COMMISSION
Minutes of the Meeting of
February 25, 2019
Hubbard Conference Room
Gardner City Hall Annex Room 203**

Members Present:

Chairman Greg Dumas, Norman Beauregard, David Beauregard, Duncan Burns, Michael Hermanson, and David Orwig. Also present was Conservation Agent Jeffrey Legros.

Members Absent:

Donna Lehtinen

Guests & Visitors:

Kyle Purdy, ERM; Christina Hoffman, EMR; Sue Rousseau, 211 Betty Spring Road, Alan Rousseau, 211 Betty Spring Road; James Clune, Resident.

Public Hearings

- 6:30** The Gardner Conservation Commission resumed the joint Public Hearing under MGL, Ch. 131, § 40, Wetlands Protection Act and the City of Gardner Wetlands Protection Ordinance on the Notice of Intent filed by Princeton Repower, LLC, 30 North Gould Street, Suite R, Sheridan WY, 82801, represented by Environmental Resources Management, for the construction of a 5.78 MW ground-mounted photovoltaic solar array to be constructed on 24 parcels totaling approximately 23-acres of land along Princeton Street and Keyes Road in Gardner on land currently owned by Cedar Hills, LLC, 52 Congress St., Boston, MA 02108. Work will include site preparation, including grading and clearing of vegetation, maintenance, construction, and extension of existing roads, construction of stormwater management infrastructure & Best Management Practices and installation of photovoltaic panels, mounting racks, and electrical utilities. Resource Area impacts will include work within the buffer zone of Bordering Vegetated Wetlands. No work will occur within the 100-foot Buffer Zone of a Potential Vernal Pool or the 30-foot 'No-Disturb' Zone of all Wetland Resource Areas. No structures will occur within the 60-foot 'No Build' Zone.
- 6:31** Kyle Purdy, ERM, presented a status update outline related generally to the NOIs for 160-0625, 160-0626, and 160-0627. He noted for the record that the applicant requested Continuations of the Hearings on January 28th and February 11th to allow for more time to prepare information requested by the Commission

and to coordinate the third-party peer review of the projects as requested by the Planning Board for the joint-benefit of the Planning Board and Conservation Commission's review. Mr. Purdy indicated that the Peer Review has since commenced and that a site visit was conducted on February 14th with the selected Peer Reviewer, Tighe & Bond, himself, and the City of Gardner's Conservation Agent and the Director of Community Development and Planning.

Mr. Purdy, following an outline he presented to the Commission began to discuss the Requests for Certificates of Compliance submitted by ERM on behalf of Urban Green Technologies, representing the current property owner, Cedar Hills, LLC, related to work regulated by the previous Orders of Conditions (160-0329, 160-0355, and 160-0340 through 160-0354) issued to Gardner Zine, LLC for the previously proposed development of the Cedar Hills Subdivision (never completed).

Conservation Agent Legros noted that the aforementioned Requests for Certificate of Compliance were scheduled to be considered later in the Agenda and that discussion of those matters should be limited to their relation to the current Public Hearing or reserved for later discussion at that point in the Agenda.

6:40 Chairman Dumas noted that the Commission had not yet received the cut and fill information requested on January 14th. Given this, and given that the Peer Review of the project had not yet been performed he suggested that perhaps the matter should be continued until the next meeting pending receipt of this information.

Agent Legros recommended to the Commission that it may be most useful for Mr. Purdy to present the responses to comments prepared by ERM in a memo in response to the Meeting of January 14th, the last time information was presented as part of this Hearing. These responses were submitted by hand on January 28, 2019 and were forwarded to the Commission for review but have not yet been presented by the applicant as part of the proceedings of the Public Hearing.

Mr. Purdy reviewed, for the record, a copy of the Memo dated January 24, 2019 detailing his responses to comments received at the last meeting.

7:10 In regard to the responses provided in the memo as numbers 9 & 10, Commission member D. Orwig asked about the proposed trail and conveyance of Lots 95 and 96 to the Conservation Commission which were previously proposed by the applicant's representative in a letter to the Gardner City Council dated July 30, 2018 (Re: Request for City Council Reconsideration West Street Solar Overlay Expansion Gardner, Massachusetts) and required under the Special Conditions of the previous Cedar Hills Subdivision approval and as a Special Condition of the MassDEP Superseding Order of Conditions (160-0329).

Mr. Purdy stated that he would have to confer with Urban Green Technologies and report back to the Commission on this matter.

It was the Commission's impression that the conveyance of Lots 95 and 96 were a requirement of previous approvals.

- 7:15** Ms. Hoffman, ERM, indicated that she believed the conveyance of lots 95 and 96 and discussions of a trail and CR were outside of the Commission's scope and jurisdiction under the Wetlands Protection Act.

Agent Legros responded that providing protections to Wetland Resource Areas and their buffer zones and ensuring access to those areas by the Commission for monitoring and protection purposes could be necessary to meet the Commission's responsibilities and their duties under the Wetlands Protection Act and local Wetlands Protection Ordinance and that, perhaps, that is why a Conservation Restriction and conveyance of land was previously required under other Orders and proposed by the applicant to City Council as part of the approval process of a Solar Zoning Overlay District expansion to include the area of land now being discussed for a solar development as part of this Hearing.

- 7:20** Chairman Dumas asked Mr. Purdy to seek an answer to these questions and be prepared to answer them at the next hearing. He also asked that the cut and fill information (requested on January 14th) be prepared and presented to the Commission for their review as requested.

Mr. Purdy did not have any additional information to present and stated that the cut and fill plans were being prepared and that he would provide them to the Commission when they become available. He also stated that he would be awaiting the results of the Peer Review and would prepare a response accordingly.

At the time of the Hearing Mr. Purdy had not yet reviewed comments which were provided by Mass DEP by email just prior to tonight's Hearing. He stated that he will also review them and respond accordingly.

- 7:21** A motion was made by N. Beauregard to continue the hearing until March 11, 2019 pending the receipt of additional requested information and the results of the peer review to be conducted by Tighe & Bond. The motion was seconded by D. Burns and voted unanimously, all in favor.

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- 7:22** The Gardner Conservation Commission resumed the joint Public Hearing under MGL, Ch. 131, § 40, Wetlands Protection Act and the City of Gardner Wetlands Protection Ordinance on the Notice of Intent filed by Redzico Dev, LLC, 1201 Orange Street, Suite 600, Wilmington, DE, 19801, represented by Environmental Resources Management, for the construction of a 6.42 MW ground-mounted

photovoltaic solar array to be constructed on 18 parcels totaling approximately 24-acres of land along Princeton Street and Keyes Road in Gardner on land currently owned by Cedar Hills, LLC, 52 Congress St., Boston, MA 02108. Work will include site preparation, including grading and clearing of vegetation, maintenance, construction, and extension of existing roads, construction of stormwater management infrastructure & Best Management Practices and installation of photovoltaic panels, mounting racks, and electrical utilities. Resource Area impacts will include work within the buffer zone of Bordering Vegetated Wetlands. No work will occur within the 100-foot Buffer Zone of a Potential Vernal Pool or the 30-foot 'No-Disturb' Zone of all Wetland Resource Areas. No structures will occur within the 60-foot 'No Build' Zone.

7:23 A motion was made by D. Beauregard to continue the hearing until March 11, 2019, pending the receipt of additional requested information and the results of the peer review to be conducted by Tighe & Bond. The motion was seconded by M. Hermanson and voted unanimously, all in favor.

7:23 The Gardner Conservation Commission resumed the joint Public Hearing under MGL, Ch. 131, § 40, Wetlands Protection Act and the City of Gardner Wetlands Protection Ordinance on the Notice of Intent filed by Imperial Blue Systems, LLC, 9 Loockerman Street, Suite 202, Dover, DE, 19901, represented by Environmental Resources Management, for the construction of a 6.59 MW ground-mounted photovoltaic solar array to be constructed on 31 parcels totaling approximately 33-acres of land along Princeton Street and Keyes Road in Gardner on land currently owned by Cedar Hills, LLC, 52 Congress St., Boston, MA 02108. Work will include site preparation, including grading and clearing of vegetation, maintenance, construction, and extension of existing roads, construction of stormwater management infrastructure & Best Management Practices and installation of photovoltaic panels, mounting racks, and electrical utilities. Resource Area impacts will include work within the buffer zone of Bordering Vegetated Wetlands. No work will occur within the 100-foot Buffer Zone of a Potential Certified Vernal Pool will occur. As part of this project, a 3,000 square-foot Wetlands Replication Area is being proposed to account for a condition of the previous, and outstanding, Order of Conditions associated with the site. Other than that Wetland Replication work, there will be no disturbances within the 30-foot 'No-Disturb' Zone of all Wetland Resource Areas. No structures will occur within the 60-foot 'No Build' Zone.

7:24 A motion was made by D. Burns to continue the hearing until March 11, 2019, at the applicants request pending the receipt of additional requested information and the results of the peer review to be conducted by Tighe & Bond. The motion was seconded by D. Beauregard and voted unanimously, all in favor.

Meeting Chairman Dumas called the meeting of February 25, 2019 to order.

Minutes

7:58 A motion to approve the Minutes of the Meeting of January 28, 2019 was made by D. Beauregard. The motion was seconded by D. Orwig and voted unanimously, all in favor with N. Beauregard abstaining as he was not present.

7:59 A motion to approve the Minutes of the Meeting of February 11, 2019 was made by N. Beauregard. The motion was seconded by D. Burns and voted unanimously, all in favor with Chairman Dumas abstaining as he was not present.

Orders of Conditions

None

Request for Determination of Applicability

None

Request for Certificate of Compliance

7:25 DEP File #160-0329: Cedar Hills Subdivision Site Work and Culvert (partially constructed, previously approved subdivision)

The Commission asked the applicant if they had sought information from the original engineer to assess the completeness and specifications of the culvert relative to the approved plan.

Mr. Purdy indicated that the original plan engineer is since deceased and that information from Andrysick Land Surveying had not yet been requested.

Agent Legros indicated that a letter of substantial compliance from a licensed Engineer or Surveyor confirming that the culvert is designed to the approved specifications should be provided as required and noted that Andrysick Land Surveying (now a division of Hancock Associates) is still active and had recently conducted a survey for the City of Gardner.

7:26 A motion was made by D. Beauregard to continue the request until the Meeting of March 11th pending additional information and a letter of substantial compliance. The motion was seconded by D. Burns and voted unanimously, all in favor.

7:27 DEP File #'s 160-0340 – 0354: Cedar Hills Subdivision House Lots (These CoC Requests are related to the previously proposed Cedar Hills subdivision which was not completed and upon which site several solar projects are being proposed as discussed in the above Public Hearings of this Meeting Agenda.)

A site walk was conducted by the Agent with Kyle Purdy on February 14th and previous site visits indicate that while some infrastructure work was done on site including the stream crossing and culvert (160-0329), none of the house lot

construction was commenced. Therefore, the Agent recommended a Certificate of Compliance be issued for the following Orders of Conditions:

7:29 A motion was made by D. Orwig to issue fifteen (15) Certificates of Compliance (DEP File #'s 160-0340; 160-0341; 160-0342; 160-0343; 160-0344; 160-0345; 160-0346; 160-0347; 160-0348; 160-0349; 160-0350; 160-0351; 160-0352; 160-0353; and 160-0354) for the formerly approved Cedar Hills Subdivision house lots upon which construction was never commenced. The motion was seconded by D. Beaugard and voted unanimously, all in favor.

7:30 **DEP File #'s 160-0355:** Cedar Hills Subdivision Off-site Improvements (These CoC Requests are related to the previously proposed Cedar Hills subdivision which was not completed and upon which site several solar projects are being proposed as discussed in the above Public Hearings of this Meeting Agenda.)

Off-site improvements were proposed and conditioned as part of the previously approved subdivision. These improvements were to include the Parker Pond Sewer rehabilitation and Princeton Street force main layout. It is unclear which of these improvements were initiated and/or completed under this Order. There is some indication that at least the Sewer line was replaced along Keyes Road. No real documentation has yet been provided by the applicant and was not given as part of this meeting. While the applicant has provided an anecdotal statement to the effect that the Keyes Road Sewer work was completed, the Commission requested confirmation of such before they could issue a Certificate of Compliance.

7:31 A motion was made by D. Orwig to continue the Request for Certificate of Compliance (DEP File #160-0355) until the meeting of March 11, 2019 pending additional information, documentation, and/or confirmation of the work completed under this Order. The motion was seconded by D. Burns and voted unanimously, all in favor.

Request for Extension of Order of Conditions

None

Request for Minor Changes of Work

None

Enforcement Order

- **35 Eastwood Circle Wetland Restoration Planting Plan:**
Mr. Samuel, the owner of 35 Eastwood Circle contacted Agent Legros to inform him that he intends to sell his home at 35 Eastwood Circle in March. He stated that he has every intention to complete the required remediation plantings either prior to leaving or, in his absence by assigning a representative or contractor to complete the work. He stated that he will purchase the plants in advance and

provide receipt of such purchase to the Commission and that he will provide the name of his assigned representative or contractor who will finalize the planting.

Agent Legros will follow-up with him and his Real Estate Agent to ensure that the Commission has this affirmation in writing and that there is an agreement in place if the sale of the home is to occur prior to this work being completed.

- **Sapphire Park As-Built Plan Structures within the ‘No Build’ Zone:**
Sapphire Park Management Corp. has requested a continuation of this matter until the meeting of March 25th due to unavoidable circumstances outside of their control which have caused a delay in the Engineers ability to design the Wetland Replication Area.

The Commission asked the agent to notify Mr. Donell through Sapphire Management Corp that if they do not meet the March 25th deadline that the Commission will consider it to be a violation of the Enforcement Order and would pursue fines as described in the Enforcement Order. The matter will be tabled until March 25th.

- **DEP File #160-0610: West St. Solar Project, Borrego Solar**
The Commission is still awaiting a letter from Borrego Solar and plans for corrective actions. An incident report was submitted but it did not describe the violation in relation to the existing Order of Conditions or the impacted Wetland Resource Areas. A Request for an Amended Order of Conditions will follow. Additional remediation may be required pending review of the applicant letter and input from Mass DEP.

Agent Legros will confer with MassDEP and other Conservation Agents for guidance on related incidents and actions. An Enforcement Order will be drafted upon receipt of the letter from Borrego and further review and guidance. Remediation or construction oversight monitoring may be required as part of this Enforcement Action.

Emergency Certification

None

Presentations

None

New Business

- None

Old Business

- **Arbor Day Seedling Program**
The matter was tabled until the next meeting

- **Gardner Fish & Gun Club, Clark Street 0.5-Acre parcel at Bailey Brook**
The P&S has been signed by the President of the Gardner Fish & Gun Club and is currently being presented for the Mayor's signature. The due survey, title examination, and appraisal contracts are being reviewed by the City Solicitor and awaiting final signatures. Work will commence upon final execution of contracts.

Motion to Adjourn

8:00 A motion to adjourn was made by N. Beauregard. The motion was seconded by D. Burns and voted unanimously, all in favor.

Respectfully submitted,

Jeffrey D. Legros, Conservation Agent

All materials used at the meeting are available for viewing at the office of the Conservation Agent, Room 202 of the City Hall Annex.

Minutes are available as follows:

- Minutes are available on the City of Gardner website (www.gardner-ma.gov) under Conservation Commission.
- By appointment or request in Conservation Agent's office, Room 202 of the City Hall Annex
- Community Development & Planning office, Room 201 of the City Hall Annex