



**CITY OF GARDNER
CONSERVATION COMMISSION
Minutes of the Meeting of
January 14, 2019
Hubbard Conference Room
Gardner City Hall Annex Room 203**

Members Present:

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

Members Absent:

David Beauregard

Guests & Visitors:

JoAn Gould, Resident, Princeton Street; Alan Rousseau, Resident, 211 Betty Spring Rd, and abutter of Cedar Hills Solar Projects; Sue Rousseau, Resident, 211 Betty Spring Rd, and abutter of Cedar Hills Solar Projects; Laura M. Casker, Resident, 36 Rugby St; John Drobinski, ERM, Cedar Hills Solar Projects; Kyle Purdy, ERM, Cedar Hills Solar Projects; Matt Noehre, Urban Green Technologies, Cedar Hills Solar Projects; Martin Bowers, 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 the City of Gardner, Engineering Dept., represented by Fuss & O'Neill, for repairs to Wrights Reservoir Dam associated with the gate valve, spillway, earthen embankment and dike slopes. The dam is located Wrights Reservoir off of High Street in Gardner and on property owned by Adolf Jandris & Sons, Inc., 202 High Street, Gardner. Resource Area impacts will include work within a Bordering Vegetated Wetland, Land Under Waterbodies and Waterways, Bank, Bordering Land Subject to Flooding, and the Riverfront Area of the stream draining from Wrights Reservoir to Mahoney Brook.

6:31 Conservation Agent Legros presented a written Request for Continuation submitted by Fuss & O'Neill on behalf of the City of Gardner Engineering Department. The request stated that comments from Mass DEP and Mass DCR Office of Dam Safety had been received and that the applicant requests time to adequately review and address those comments in advance of the next meeting.

6:32 A motion was made by D. Burns to Continue the Hearing until the Meeting of January 25, 2019, at the applicants request, pending review and response to comments provided by Mass Department of Environmental Protection and Department of Conservation and Recreation, Office of Dam Safety related to their comments on review of the NOI associated with Wrights Reservoir (pond) Dam Repair Project. The motion was seconded by D. Lehtinen and voted unanimously, all in favor.

6:33 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 Abbreviated Notice of Resource Area Delineation filed by Joseph Geenough, Cedar Hills, LLC, represented by Environmental Resources Management. The applicant is requesting the confirmation of the presence of Wetland Resource Areas and their boundaries, as delineated by SWCA Environmental Consultants, on parcels located along Keyes Road and Princeton Street on the site of the formerly proposed Cedar Hills Subdivision. Resource Areas and buffer zones to be confirmed include Bordering Vegetated Wetland, Isolated Vegetated Wetlands and Isolated Land Subject to Flooding, and Potential and Certified Vernal Pools. No work is proposed as part of this ANRAD application.

Kyle Purdy, Environmental Resources Management (ERM), representing Urban Green Technologies on behalf of the applicant, Joseph Greenough, Cedar Hills, LLC, addressed previous comments related to the potential or presumed Riverfront Area located on the site. While SWCA Environmental Consultants, the consulting firm who conducted the wetlands delineations provided supporting documentation that indicated that the stream in question may not a perennial stream, there was information and conditions on the site that would indicate that it may be a perennial stream. Since the full documentation required to meet the burden of proof could not be provided by the applicant within a feasible amount of time the applicant stated that they would provide a 100-foot protective buffer consistent with the inner-riparian zone of the Riverfront Area to provide necessary protection to that Resource Area.

Given that portions of the riverfront area have already been disturbed associated with roadways, culvert, and stormwater drainage of the previously proposed subdivision, the area was considered “previously developed” and the proposed 100-foot Inner-riparian ‘No-Disturb’ buffer was not objected to.

With respect to the Otter River it has been confirmed to be located at a distance of greater than 200-feet from the project and property and, as such, there was no objection to the delineation, as flagged and presented, having no ‘Riverfront Area’ of the Otter River on the site of Cedar Hills LLC.

With regard to discrepancies within the ANRAD report and Wetlands Delineation Data with respect to elevations, as pointed out by Commission Member D. Orwig, it was determined that those differences were the result of elevations being given in ‘Meters’ versus ‘Feet’.

Mr. Purdy stated that those discrepancies would be corrected in the report and that all elevations will be consistently given in ‘feet’ above sea level.

Commission Members stated that the term “gravel pit” found within the Wetland Delineation forms was not an accurate representation of the approved former use as a proposed housing subdivision project.

Mr. Purdy stated that the term was not meant literally, or indicative or any allowed or approved uses, but rather to describe the physical appearance or condition of the site by the wetland delineation consultant in their data collection forms.

Hearing no further questions from the Commission members, Chairman Dumas opened the floor to public questions.

Chairman Dumas recognized Alan Rousseau, project abutter and resident of Gardner. Mr. Rousseau questioned whether the stream was truly intermittent and not perennial. He also noted that, despite the fact that the Otter River is outside of the jurisdictional 200-foot Riverfront Area, it was within close proximity of the project and should be taken into consideration as all of the water from this site drains to the Otter River. Additionally, he noted that water from this site also drains directly to Parker Pond and that this waterbody should also be taken into consideration.

Chairman Dumas stated that they have provided evidence that it qualifies as intermittent but that they have agreed to delineate a 100-foot protective, ‘no-disturb’, buffer zone to be inclusive of the inner-riparian zone of the stream in questions.

6:50 A motion was made by M. Hermanson to close the hearing and issue an Order of Resource Area Delineation confirming the delineated Resource Areas as presented with the changes made to the 100-foot Inner-Riparian Buffer Zone of the stream identified on the property, and pending receipt of an updated ANRAD Report and Plans to include those changes and revisions associated with the conversion of meters to feet for all elevations. The motion was seconded by D. Burns and voted unanimously, all in favor.

6:51 The Gardner Conservation Commission opened 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.

Kyle Purdy, Environmental Resources Management (ERM), representing Urban Green Technologies on behalf of the applicant, described the proposed project as one of four (potentially five under the full build-out scenario) solar arrays, three of which are located within a 100-foot of a confirmed Wetland Resource Area and for which Notices of Intent have been filed (including Princeton Repower, the subject of this Hearing, and Redzico Dev, and Imperial Blue Systems, to be addressed in the following two hearings, respectively, during this same meeting).

Mr. Purdy stated that the Princeton Repower array will be approximately 5.78 MW and consist of approximately 14,000 individual panels.

He stated that no panels are proposed within the 60-foot 'No-Build' Zone of the Gardner Wetlands Protection Ordinance and that only site clearing and grading would occur within this zone.

He stated that no work would occur within the 30-foot 'No-Disturb' Zone of the Gardner Wetlands Protection Ordinance. He also stated that no work (including clearing) or any other disturbances or structures would occur within the 100-foot 'No-Disturb' Zone of the Certified Vernal Pool located within the proposed Imperial Blue Systems Project or the Potential Vernal Pool located on site and within the bounds of this proposed project.

Chairman Dumas asked why the condition of the site remains in disrepair with former construction materials abandoned on the site. He followed that question up by asking how long the solar company has been involved in this project during the preliminary planning and preparatory stages leading up to this point in the permitting process.

John Drobinski, ERM, stated that the condition of the site is the remanence of the former subdivision project and that the proposed projects would address those issues as part of the proposed project.

Matt Noehre, stated that he has been participating in this project since March of 2018.

Agent Legros added that the Commission would have some oversight as part of the Certificates of Compliance approval process which will be filed with the Commission to properly document and record that construction of the former subdivision project, which was subject to several Orders of Conditions issued by the Gardner Conservation Commission and Mass DEP, was either never commenced or incomplete at the time of permit expiration. The applicants were notified of the need to submit the necessary Requests for Certificates of Compliance at the Development Review Committee meeting by Agent Legros on October 25, 2018.

The Commission also asked about access to Parkers Pond and whether or not lots 95 & 96 were still going to be conveyed to the City as agreed upon and conditioned during the previous subdivision approvals process and as previously stated by the applicant.

The Commission also asked if a final fencing plan including wildlife passage would be submitted.

The Commission also asked if a recreational or interpretive trail would be included in the plan as previously stated by the applicant. Agent Legros noted that Freedoms Way Heritage Area has cultural grant opportunities for such trails but that he felt it should be addressed by the applicant and added that there is great opportunity for a trail that could include educational interpretive signs on wetlands, vernal pools, historical and cultural resources like the Keyes Homestead Cellar Hole located on site, and renewable, green energy, specifically solar power.

In order to address public comments and questions of the Commission additional information was requested by the Commission to include*:

- Summary Tables describing the projects size, scope, and disturbances relative to Wetland Resource Areas and associated buffer zones.
- Cut and Fill plans or diagrams (including volumes) to better understand site grading and eventual drainage flow patterns and potential effects on associated Wetland Resource Areas.
- A presentation of current standards or practices for blasting which would be implemented by this project if any blasting were to become necessary.
- Responses to comments and revised plans or additional information requested as part of the Hearing.

- Review of the results of the required Planning Board Peer Review to be conducted by Tighe and Bond with specific regard to stormwater and drainage.

* These comments and requested information are relevant to all three solar projects presented as part of the Hearings of this meeting. Information specific to each project should be provided.

7:06 A motion was made by D. Burns to continue the hearing until January 28, 2019, pending the receipt of additional requested information and the results of the peer review to be conducted by Tighe & Bond as required by the Planning Board which is critical in the assessment of potential impacts of this project. The motion was seconded by D. Orwig and voted unanimously, all in favor.

7:07 The Gardner Conservation Commission will hold a 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.

Kyle Purdy, Environmental Resources Management (ERM), representing Urban Green Technologies on behalf of the applicant, described the proposed project as one of four (potentially five under the full build-out scenario) solar arrays, three of which are located within a 100-foot of a confirmed Wetland Resource Area and for which Notices of Intent have been filed (including Redzico Dev, the subject of this Hearing, and Princeton Repower (discussed in the previous Hearing), and Imperial Blue Systems, to be addressed in the following hearing).

Mr. Purdy stated that the Redzico Dev array will be approximately 6.42 MW and will consist of approximately 14,000 individual panels.

He stated that no panels are proposed within the 60-foot 'No-Build' Zone of the Gardner Wetlands Protection Ordinance and that only site clearing and grading would occur within this zone.

He stated that no work would occur within the 30-foot 'No-Disturb' Zone of the Gardner Wetlands Protection Ordinance. He also stated that no work (including clearing) or any other disturbances or structures would occur within the 100-foot 'No-Disturb' Zone of the Certified Vernal Pool located within the proposed Imperial Blue Systems Project or the Potential Vernal Pool located within the proposed Princeton Repower Project.

- 7:15** Agent Legros asked if consideration was given to flow patterns relative to the location of Wetland Resource Areas when determining site grades or if only the direction and aspect of panels was taken into account.

Mr. Purdy responded that the proposed site grading was based on the existing conditions relative to the proposed layout of the panels.

To address comments submitted by the public and made part of the record of this file, Mr. Purdy stated that no blasting was proposed as part of this project and would only be used as a last resort.

Agent Legros asked what the level of groundwater was relative to the panel ballast and racking system.

Mr. Purdy stated that the panels ballast racking system will penetrate to approximately 8-foot depth and that the water table on site is approximately 30-foot deep.

- 7:24** A motion was made by N. Beauregard to continue the hearing until January 28, 2019, pending the receipt of additional requested information and the results of the peer review to be conducted by Tighe & Bond as required by the Planning Board which is critical in the assessment of potential impacts of this project. The motion was seconded by D. Lehtinen and voted unanimously, all in favor.

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- 7:25** The Gardner Conservation Commission will hold a 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.

Kyle Purdy, Environmental Resources Management (ERM), representing Urban Green Technologies on behalf of the applicant, described the proposed project as one of four (potentially five under the full build-out scenario) solar arrays, three of which are located within a 100-foot of a confirmed Wetland Resource Area and for which Notices of Intent have been filed (including Imperial Blue Systems, the subject of this Hearing, and Princeton Repower (discussed in a previous Hearing), and Redzico Dev, addressed in the preceding hearing).

Mr. Purdy stated that the Redzico Dev array will be approximately 6.59 MW and will consist of approximately 16,000 individual panels.

He stated that no panels are proposed within the 60-foot 'No-Build' Zone of the Gardner Wetlands Protection Ordinance and that only site clearing and grading would occur within this zone.

He stated that no work would occur within the 30-foot 'No-Disturb' Zone of the Gardner Wetlands Protection Ordinance. He also stated that no work (including clearing) or any other disturbances or structures would occur within the 100-foot 'No-Disturb' Zone of the Certified Vernal Pool located within this proposed (Imperial Blue Systems) or of the Potential Vernal Pool located within the proposed Princeton Repower Project.

He stated that a Wetland Replication Area of 3,000 square-foot will be constructed within the eastern portion of this project near the existing culvert between the existing roadway and the existing wetland resource area which is located adjacent to the stream. This replication area was relocated from the original location, which was proposed and required of the former subdivision project to accommodate for the wetland disturbance associated with the construction of the culvert, as it will pose a lesser impact to resource areas than the originally proposed location which will not be disturbed or altered as part of this proposed project.

D. Orwig asked about detention basins, vegetated swales, drywells, and specifically asked the applicant to comment on the absence of any "point-source-discharge" points in the NOI applications.

Mr. Purdy stated that the stormwater design handles all stormwater onsite through a series of swales and “dry-wells” for infiltration and that stormwater is dispersed and energy dissipated using this design so that it does not accumulate or necessitate any point-source outfall discharge points.

Chairman Dumas recognized JoAn Gould, public attendee. Ms. Gould asked if the applicant had ever worked in close proximity to public and private wells before.

Mr. Purdy and Mr. Drobinski answered in the affirmative.

Chairman Dumas recognized public attendee, A. Rousseau. Mr. Rousseau asked about the cubic yards of fill moved or relocated as part of this project.

Mr. Purdy stated that no material would be removed from the site.

Mr. Dumas recognized public attendee, Joan Gould. Ms. Gould asked how the wells would be protected during construction and stated that the plan references blasting.

Mr. Purdy stated that the wells would not be impacted and that standard accepted procedures would be used and that the activity, if needed, would be regulated by the Building Department to ensure that it is done properly.

Chairman Dumas requested cut and fill diagrams again as this project specifically could require the greatest amount of cut (and potential blasting should it be needed) due to its position as the lowest proposed elevation point of the site.

Chairman Dumas requested again that the applicant provide a presentation on the current standard practices for blasting and on the procedures that will be implemented by the project should it be required.

- 7:44** A motion was made by N. Beauregard to continue the hearing until January 28, 2019, pending the receipt of additional requested information and the results of the peer review to be conducted by Tighe & Bond as required by the Planning Board which is critical in the assessment of potential impacts of this project. The motion was seconded by D. Lehtinen and voted unanimously, all in favor.

Meeting Chairman Dumas called the meeting of January 14, 2019 to order.

Minutes

- 7:45** A motion to approve the Minutes of the Meeting of October 22, 2018 was made by N. Beauregard. The motion was seconded by D. Orwig and voted

unanimously, 5-0, all in favor, with M. Hermanson abstaining as he was not present at the meeting.

7:45 The Minutes of the Meeting of November 26, 2018 were tabled until the next meeting pending further review and revisions.

7:46 The Minutes of the Meeting of December 10, 2018 were tabled until the next meeting pending further review and revisions.

Orders of Conditions (Order of Resource Area Delineation)

(6:50) On a motion made by M. Hermanson an Order of Resource Area Delineation confirming the delineated Resource Areas as presented with the changes made to the 100-foot Inner-Riparian Buffer Zone of the stream identified on the property, and pending receipt of an updated ANRAD Report and Plans to include those changes and revisions associated with the conversion of meters to feet for all elevations. The motion was seconded by D. Burns and voted unanimously, all in favor.

Request for Determination of Applicability

None

Request for Certificate of Compliance

7:47 DEP File# 160-0070 – 400 Clark Street: Agent Legros described the site inspection walk through and noted that the home and all associated work were completed years ago. All erosion controls had been removed as all areas were stabilized and grass was long since established. The applicant also removed some debris and wood and an old chicken wire fence from within the buffer zone.

7:48 Requests for Certificate of Compliance for DEP File #'s 160-0560, 160-0561, and 160-0567: Based on his site visit the Agent has recommended tabling the Requests until Spring so that the applicant can remove silt fence, install any buffer zone signs, and get wetlands acknowledgement forms signed by the residents.

Request for Extension of Order of Conditions

None

Request for Minor Changes of Work

8:06 DEP File #160-0612: Otter River Road Solar Project:

A motion was made by M. Hermanson to continue the request until the meeting of January 28, 2019 pending additional information detailing the areas of elevation change and attendance of a project representative. The motion was seconded by D. Lehtinen and voted unanimously, all in favor.

Enforcement Order

- **35 Eastwood Circle Wetland Restoration Planting Plan:**
There is no new update and the matter will remain tabled until the Spring of 2019 with the understanding that a plan will be submitted by April 1st and that the work will be done by May 15th. Agent Legros will notify the violator.
- **Sapphire Park As-Built Plan Structures within the ‘No Build’ Zone:**
No new update; the matter will be tabled until the Meeting of February 25, 2019.

Emergency Certification

None

Presentations

None

New Business

- **Conservation Acquisition – Gardner Fish & Gun Club 0.5-Acre Parcel of Land**
On a motion by D. Beauregard the Commission voted to support the acquisition of the Fish & Gun Club Parcel. The motion was seconded by N. Beauregard and voted unanimously, 5-0, all in favor, with M. Hermanson abstaining as he is a club member.
- **Assignment of Associate, Non-Voting Member and Volunteer**
A motion was made by N. Beauregard to assign Martin Bowers as a Volunteer, Non-Voting Associate Member of the Conservation Commission. The motion was seconded by D. Lehtinen and voted unanimously, all in favor.

Old Business

None

Motion to Adjourn

8:25 A motion to adjourn was made by N. Beauregard. The motion was seconded by D. Orwig 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