

REGULAR MEETING MINUTES
WINDSOR INLAND WETLANDS & WATERCOURSES COMMISSION
TUESDAY DECEMBER 3RD, 2024 7:00PM
HYBRID MEETING – COUNCIL CHAMBERS AND ONLINE
Online webinar: <https://us02web.zoom.us/j/85435818689>

Chairman Fraysier called the meeting to order at 7:03 p.m.

1. ROLL CALL

Present: Chairman Fraysier, Vice Chairman Elder, Secretary Towers, Commissioners B. Stearns, N. Osowiecki* and alternate Commissioner M. Cote.

Also present was Wetland Agent, Chloe Thompson.

2. PUBLIC COMMUNICATIONS (3-minute limit on items other than Public Hearings) – None; communications closed at 7:04pm.

3. BUSINESS MEETING

a. MINUTES:

Commissioner Towers made a **motion to approve the minutes for November 6th, 2024 as amended.** Commissioner Elkins seconded the motion. **Vote 5-0-0**

b. NEW BUSINESS

i. Application 24-220: 89 & 99 Lamberton Road, Verogy – Solar Array

W.A. Thompson stated that she distributed comments to the IWWC and the applicant party just this afternoon, therefore it would be best to review after the presentation as the applicant has not had sufficient time to review and reply to such.

Brad Parsons and Torre Babich from Verogy introduced themselves as the representatives for the application. B. Parsons explained the details of the application to the Commission. W.A. Thompson displayed the comments. Referring to comment #5 B. Parsons explained that the surveyors were unable to collect the locations of flags 52-62 because the vegetation was extremely thick therefore the line was estimated from depressions shown in LiDAR data. The wetland line breaks between flag 52 and 1A which is the location of an abandoned farm road; this is where the access to the site is currently proposed. B. Parsons added that only certain parts of the wetlands were delineated as they didn't expect to be disturbing areas on the eastern side of the wetlands; the way the wetland lines are a little confusing. Chairman Fraysier asked if the ditch was observed in the field to ensure the wetland line did in fact follow the depression in the LiDAR data. B. Parsons stated that the ditch was delineated, but the surveyor was unable to use the equipment to collect the locations. The

wetland scientist went into the field with the surveyors to make sure all of the data was collected correctly. This drainage ditch was constructed when the building on 99 Lamberton was initially constructed.

B. Parsons stated that they forgot to include a wetland impact analysis report with their submission, but one has been prepared and will be submitted for review. B. Parsons added that there are no direct impacts to wetlands and watercourses with the exception of the proximity of the stormwater basin. Chairman Fraysier asked if there would be impacts to the wetlands where the planned access road is. B. Parsons stated that there are no proposed impacts to this area, but believed there was more information that could be provided in regard to silt fencing and making the entrance more visible on site to ensure those passing would be mindful of the wetlands (orange construction fencing).

W.A. Thompson asked if the opposite side of the wetland boundary along the ditch could be added to the plans. B. Parsons stated that the wetland scientist was unsure if the ditch had a clear bank on the southern side to be able to draw or flag the boundary. W.A. Thompson stated that this was one of the reasons for her comments asking for clarification. Referring to comment #1 in her memo, W.A. Thompson asked if there was any consideration to accessing the site further north where there is a larger break in the wetland boundary. B. Parsons stated that there is a ridgeline to the north which would require a lot more regrading to allow equipment to access the site. W.A. Thompson stated that they would most likely have to improve the existing roadway, which has a very small opening. B. Parsons stated that it is about 10 feet wide, and they can try to make it narrower if needed, but speaking to the engineer, he confirmed that the road is a viable access route without direct wetland impacts. B. Parsons added that they could add extra protections in this area to ensure it isn't impacted.

Referring to the comments about the recently delineated wetlands compared to the "data from other sources", W.A. Thompson asked if the wetland scientist could either delineate or recertify the accuracy of the wetland boundaries as drawn on the plan. B. Parsons stated that this was taken from a previous delineation, and will provide more information on the date this was surveyed.

Chairman Fraysier asked for information on the wetland functions and values, and stated that this is a detrimental impact to the upland review area, therefore knowing more information would be helpful in being able to make a decision. B. Parsons stated that there was additional information just submitted that wasn't included in the packets, but they can provide further detail.

Chairman Fraysier asked for more information on how these are affixed to the ground. B. Parsons explained the two options they are considering which is going over a gravel base; they typically do not use gravel but a pollinator mix that only grows 3 feet and mowed biannually. Commissioner Osowiecki asked if the gravel base was necessary. B. Parsons stated that he has not asked for the Fire Marshal's requirements, but a previous project in Windsor required gravel. W.A. Thompson said that she's unsure, but this requirement may have changed and recommended B. Parsons reach out to the Fire Marshal. B. Parsons stated that the impact would be greatly reduced if this were possible.

Chairman Fraysier asked why the solar panels couldn't be added to the roof instead. B. Parsons stated he believes that there was consideration for this but it there were either structural issues, or not enough area to produce the energy goals they have.

***Commissioner Osowiecki joined the meeting at 7:32pm.**

Chairman Fraysier asked if there was any analysis conducted on the heat island effects of the array. B. Parsons stated that he could gather this information, but the panels are not significantly hot themselves. Chairman Fraysier stated he would like to know if these dark panels would almost be similar to asphalt, where the heat is absorbed and stored. B. Parsons stated that these do not behave in a similar way to asphalt and the heat isn't radiating from them.

Chairman Fraysier asked if there was a pipe conveying flow under the access road. B. Parsons stated that there is no existing pipe. Vice Chairman Elder asked if there was an intermittent stream in this area. B. Parsons confirmed this and said there is another ditch on the eastern side of the road running alongside the parking lot. On the west side of the road the water flows further west on a nearly flat grade until flag 52, then flows down gradient. Vice Chairman Elder asked the following questions about the access road: What time of year will this road be improved or constructed? How do you plan to protect the watercourse from excessive turbulence? How will the road be constructed topography-wise; will it be at grade or above the watercourse? Assuming this would be constructed in dry conditions, but if there were water at the time how would flow be managed during construction; are you planning to have any kind of pumping or treatment of the water to remove sediments? B. Parsons stated that the plan would be to create a channel along the existing road to construct the entrance with orange construction fencing. The intent is to have the road constructed at its existing grade so the surface would be excavated and replaced with gravel. Vice Chairman Elder asked to clarify that there is no conveyance of water flow between the wetlands. B. Parsons stated that there isn't any that he is aware of; the grade is very level and there may or may not be a need for this, but he will reach out to the wetland scientist to confirm. Vice Chairman Elder suggested that the access road be constructed at a higher elevation to allow for some type of conveyance of flow or fauna if necessary. W.A. Thompson stated that generally speaking, it sounds there is a lot more information needed on the access road and this appears to be progressing into a direct wetland impact. B. Parsons stated that they can reconsider whether or not the entrance should be to the north as previously mentioned, but they would still like to install the electrical trench through the currently proposed access road. Chairman Fraysier stated that it would be beneficial to discuss the alternatives of relocating the electrical trench as well to the northern entrance option as this could still pose an impact. B. Parsons stated that there might be issues with a reduced voltage and configuration of the underground infrastructure, but they will look into this further.

Chairman Fraysier asked if the alternative of putting the solar panels on the portions of the property that are already developed, rather than impacting 2.3 acres of upland review area. Commissioner Towers mentioned that there are facilities in Windsor that have structures placed over existing parking lots with solar panels, and asked if this was discussed. B. Parsons stated that he believes this

was discussed, and these generally are more expensive but less productive than ground mounted panels. Commissioner Osowiecki agreed with the need to know the reasoning for why these two alternatives were not viable.

Chairman Fraysier and the Commissioners reviewed the information they requested from the applicant.

Vice Chairman Elder made a **motion to accept application 24-220: 89 & 99 Lamberton Road, Verogy – Solar Array**. Commissioner Towers seconded the motion. **Vote 6-0-0**

ii. Application 24-221: 801 Stone Road, Dudley & Lorraine Blake – Single Family Home Construction

W.A. Thompson stated that this property received an approval previously from the wetland agent, but this proposal included a new wetland delineation showing more wetlands on the property, however all of the activity is in the upland review area, with no direct impact on wetlands or watercourses. W.A. Thompson added that she provided the applicant and their engineer with initial comments to extend a portion of the line and to place a conservation easement on the property, of which has been completed.

Dudley Blake introduced himself as the representative for this application. D. Blake stated that he and his wife recently purchased the property to build a home and none of the activity is expected to have an impact on the wetlands. Commissioner Osowiecki agreed with W.A. Thompson's recommendations.

Chairman Fraysier explained that the Commission has begun requiring conservation easements on residential developments and explained the importance of this protection.

D. Blake stated that the clearing limits on the plans is an overrepresentation of the area they would like to clear, as they will be maintaining as much of the forest canopy as they can. There was a brief discussion on establishing permanent markers on the property along the easement. W.A. Thompson stated that within the easement language provided to the property owner and the engineer, there are specifications on the permanent markers to be placed on the property.

Commissioner Osowiecki made a **motion to delegate to the agent for approval application 24-221: 801 Stone Road, Dudley & Lorraine Blake – Single Family Home Construction, with the condition of installing permanent markers along the conservation easement boundaries**. Commissioner Towers seconded the motion. **Vote 6-0-0**

4. VIOLATIONS

a. Remediation Review

i. V23-122: 364 Addison Road, Mark Scott – Cease & Desist Order

W.A. Thompson stated that she distributed comments to the IWWC and the applicant party this afternoon, and proposed they be discussed given the lack of time for proper review. W.A. Thompson displayed and read the comment memo in review of the recently submitted restoration plan, updated site plans and NDDDB Determination letter. At the previous meeting the IWWC required action items from the property owner that have been completed.

Brian Denno, L.S. of Denno Land Surveying and Consulting introduced himself as the representative of this violation. Also present as an attendee was Alecia Scott, property owner.

B. Denno stated that he has been in contact with the Army Corps of Engineers who will be reviewing the proposed restoration documents and providing a response letter. B. Denno stated that he has supervised the corrective actions so far, confirmed they have been completed correctly and provided the Commission with site photos taken afterward. B. Denno reviewed the details of the existing conditions and the restoration plan. B. Denno stated that he agrees with W.A. Thompson's comments to have the plantings and invasive species removal to be supervised or conducted by SSES.

Chairman Fraysier thanked B. Denno for the attention to detail in compiling this, and asked to incorporate W.A. Thompson's comments. Chairman Fraysier asked if the work is expected to begin in the spring and completed in the fall. B. Denno stated that all of the plantings should be completed in the spring, and inspected in the fall.

B. Denno stated that the property owners are planning on constructing a building on this property, and would have to return to the Commission for approval. W.A. Thompson asked if they would be amenable to establishing a conservation easement on the property around the restoration area. B. Denno stated that he would discuss this with the property owner, but this area wouldn't be able to be touched anyway as a minimum.

Chairman Fraysier noted that the plans state E&S controls will be inspected throughout the winter and asked if there was any work expected to occur prior to the restoration plan. B. Denno stated that the E&S controls will be inspected daily and after rain events, but there is no work to occur throughout the winter. B. Denno stated that the property owner has issues with dumping, and suggested installing barriers to prevent this to the property owner.

Chairman Fraysier asked W.A. Thompson about the process for approving the restoration plan. W.A. Thompson stated that they can modify the Cease and Correct Order to include the restoration plan, and once it is complied with the order no longer be in effect.

5. Authorized Agent Actions

W.A. Thompson explained the following agent action:

- a. AA24-219: 2000 Day Hill Road, ABB Inc. – Demolition of Derelict Structures

6. AGENT REPORTS

a. Previous Violation Update

- i. V24-129: 94 Winthrop Road, Mark Mars – Cease & Correct Order

Commissioner Stearns recused himself from this application.

W.A. Thompson explained the corrective actions ordered to the property owner at the last meeting; immediately install sediment and erosion controls around the deposited soils, and remove the soil from the property by November 27th. On November 26th a wetland delineation report was emailed from Ian Cole, wetland scientist, who determined there were no wetlands on the property. W.A. Thompson stated that a copy of the email exchange between herself, Ian Cole, and property owner Mark Mars, including her response, was provided to the Commissioners. W.A. Thompson reported conducting a site visit on November 26th, during which she observed that soil had been spread across the property in the area identified by the property owner as the intended fill location, despite the fact that there was an active Cease and Correct Order in place. W.A. Thompson stated that while there has been new information provided, the Official Wetlands Map has not been amended; the minutes were read from the previous meeting where this was explained and confirmed by the property owner at the time as an understanding. W.A. Thompson stated that the new information makes this more difficult to process, however there has still been a violation of an active Order which typically warrants the issuance of fines as explained in the Order. The possible solutions are either to issue the citation or require the property owner to submit the necessary materials for a wetland map amendment within a specified timeframe, with fines imposed if the materials are not submitted by the deadline. Chairman Fraysier and W.A. Thompson noted the most recent petition that was presented to the IWWC. W.A. Thompson added that she would also need accurate locations of the newly flagged wetlands to represent the boundary in the Official Wetland Map. W.A. Thompson also noted that the wetland was delineated on property that does not belong to Mr. Mars, and written consent may be required from the owner.

Mark Mars addressed the Commission as the property owner. Chairman Fraysier asked how much area has been filled in with soil. M. Mars explained that while using heavy machinery to remove the soil, some of it was dispersed in the process. M. Mars added that he also had to avoid utility lines in the area which made this even more difficult. Chairman Fraysier asked how much of the soil has been removed, and how much of it remains on the property. M. Mars stated that three trucks of soil was brought out, and roughly two trucks of soil were removed. Chairman Fraysier asked Mr. Mars if he had any photos of the area. Mr. Mars did not. Mr. Mars stated that all he was trying to do was raise the elevation of his yard so he could now the lawn and avoid damaging his neighbor's fence. Mr. Mars stated that he had wood chips delivered and can spread this over the soil that was deposited if the Commission would allow, and then once this is settled he can spread the rest of the soil so he can improve his lawn.

Chairman Fraysier noted that Mr. Mars stated two thirds of the soil has been removed from the site, and asked how much area the rest of the soil is covering. Mr. Mars said that it is roughly 50 feet from the rear edge of his property and roughly 12 feet wide. Chairman Fraysier stated that it appears the soil was spread out. Mr. Mars stated that there are barriers to protect the wetlands along the rear of the property; silt fencing and hay wattles. Mr. Mars stated that he has also had a stockpile of wood chips delivered to the property which he can place over the top of the soil.

W.A. Thompson stated that while she cannot estimate the volume of the soil, it was clear during the site visit that the soil had been distributed around the area and a swale was filled in the process, which is in violation of and a deliberate disregard of the existing Order. W.A. Thompson read the minutes from the previous meeting where this was explained to Mr. Mars in detail; while Ian Cole's wetland delineation is helpful information, it has not been adopted into the Official Wetland Map. Mr. Mars stated that he had the soils tested to determine that there were no wetlands on the property and he doesn't know what to do at this point. W.A. Thompson stated that she spoke with the Engineering Department, and now that the soil has been spread, the best way to stabilize this over the winter would be to have hay wattles down gradient and mulch placed over the disturbed soils; this was also recommended by Ian Cole.

W.A. Thompson stated that if the map were to be amended as shown in the report submitted by Ian Cole, the rear of the property would most likely still fall in the upland review area. W.A. Thompson reviewed the recommendations mentioned earlier by the Engineering Department to stabilize the soils, and added that activity still occurred with an active Order in place to cease all activity. Chairman Fraysier asked where the swale was on the property that was filled in. W.A. Thompson said there is a drainage swale between the properties that leads to the rear of, into the wood line. The soil from the site photos is spread across a much larger area than when it was stockpiled, therefore appears to have been spread around as initially intended. M. Mars stated that the disturbed soils were created when he was trying to remove the soil with heavy machinery, and topsoil was inevitably pushed around; he was avoiding his neighbor's fence, and the ground was very wet.

Commissioner Osowiecki asked M. Mars if he would be amenable to going through the map amendment process. M. Mars stated that he's hired Ian Cole who can provide any other documentation needed for this. Chairman Fraysier stated that the map amendment and the violation are two separate processes. Most of the soil was removed and it could have been done in a way that minimized disturbance but there isn't much else to do right now. M. Mars stated that he can cover the disturbed soils. Chairman Fraysier stated that he wasn't entirely certain that the soil was spread deliberately; Commissioner Osowiecki agreed. Chairman Fraysier stated that the map amendment should be completed immediately, but it would not resolve the Cease and Correct Order. Vice Chairman Elder proposed requiring a deadline to submit the necessary materials for a map amendment. Chairman Fraysier noted the fact that the amendment would only apply to activity going forward, and the Order was issued based on the existing map. W.A. Thompson stated that the amount of disturbance to remove the soil has made this situation a little more complicated, but there are ways to ensure the soil is stabilized until vegetation can be established. New information can be used to influence the corrective actions, of which could be the amended map, and may influence the required restoration for this Order. W.A. Thompson stated that there is more information needed to begin the amendment process which was given to Ian Cole and M. Mars the email exchange the Commission received a copy of. Chairman Fraysier proposed M. Mars add hay wattles, and mulch over the soil with no further activity in this area until the wetland map

amendment process be completed. M. Mars asked if he could use machinery to place the mulch. Chairman Fraysier stated that this should be done with a wheelbarrow, by hand, to minimize any further disturbance. Chairman Fraysier and W.A. Thompson clarified that the mulch is to be placed on top of all disturbed soils, and hay wattles go around the edge. M. Mars said that he would complete this with the recommendations from Ian Cole as well. Commissioner Cote stated that we are expecting rain and snow tomorrow therefore there is a need to have protections in place immediately.

There was general discussion on the required deadline to submit the materials for a wetland map amendment and installation of sediment and erosion controls.

Commissioner Osowiecki made a motion to order the following corrective actions to be completed for Violation 24-129: 94 Winthrop Road, Mark Mars – Cease & Correct Order:

1. Install hay wattles around any disturbed or newly placed soil by December 4th, 2024;
2. Deposit mulch on the surface of any disturbed or newly deposited soils by December 6th, 2024 and;
3. In writing, provide the Wetland Agent with a date by which a Petition for Wetland Map Amendment will be submitted by December 6th, 2024.

Commissioner Towers seconded the motion. Vote 6-0-0

7. PETITIONS FROM COMMISSIONERS

- a. CACIWC Conference Review

Commissioners who attended the conference reviewed some of the key topics discussed.

8. ADJOURNMENT

Commissioner Cote made a motion to adjourn at 9:40 p.m. Commissioner Elder seconded the motion. Vote 6-0-0

I certify that these minutes were approved on

Marlene Towers, Secretary
Inland Wetlands and Watercourses Commission

