

THE INLAND WETLANDS COMMISSION OF THE TOWN OF AVON HELD A VIRTUAL REGULAR MEETING ON TUESDAY, November 9, 2021, AT 7:00 P.M., VIA GOTOMEETING: by web, <https://global.gotomeeting.com/join/174799141>; or by phone, United States: [+1 \(224\) 501-3412](tel:+12245013412), Access Code: [174799141#](https://global.gotomeeting.com/join/174799141).

Present were Chair Clifford Thier and Vice-chair Michael Beauchamp; and Commissioners Bob Breckinridge, Martha Dean, Michael Sacks and Jed Usich. Also present was Emily Kyle, Planning and Community Development Specialist/Wetlands Agent.

Chair Thier called the meeting to order at 7:00 p.m. E. Kyle took attendance for the meeting.

OTHER BUSINESS:

Continued Enforcement Hearing: Mr. Thang Tran - 425 Waterville Road (Assessor's Map #026, Lot #4500425); removal of mature trees/saplings along, and adjacent to, the banks of a watercourse and/or near wetlands associated with the property

E. Kyle started the meeting by showing the Agenda on the screen. This is a Continued Enforcement Hearing. David Whitney is on this meeting to represent the property owner, Thang Tran.

D. Whitney began by mentioning that at last month's Inland Wetlands Commission meeting, the Commission discussed a remediation plan that showed plantings primarily along the intermittent watercourse on the north side of the site. D. Whitney said that there was some discussion and that plan was denied by a vote of 4-3 because there was some concern that the plantings were not more in the area where the original vegetation was cut down. D. Whitney submitted a revised plan that E. Kyle showed on the screen. D. Whitney pointed out that he moved some of the trees out into the upland review area. He also added two evergreen trees to fill out the area. So there are four more plantings than were on the original plan. The plan still is providing a preponderance of vegetation along the watercourse as Michael Klein had originally suggested but it moves some plants to recreate to some degree what the site originally looked like. D. Whitney did run this plan by M. Klein and he submitted a letter dated October 21, 2021. The letter states that this remediation plan reflects M. Klein's recommendations and in his professional opinion the plan will effectively remediate the adverse impacts, if any, associated with the unauthorized removal of trees in the upland review area on the site. D. Whitney stated that at John McCahill's (former Planning and Community Development Specialist/Wetlands Agent) request and because of the Commission's concern about what happens if the owner wants to sell this property before he enacted the remediation plan and planted the trees, D. Whitney submitted a special note in draft form (shown on the screen by E. Kyle). The language could be revised if anyone feels it's necessary. The intent of the note is to put it on the plans, make mylars of the plans, and put it on the Avon Land Records as well as at the Planning and Zoning office so that if anyone was looking to purchase this property, they would be aware that there is a remediation plan that still had to be enacted. D. Whitney welcomes any edits to that special note.

Chair Thier thanked D. Whitney and proceeded to questions from the Commission members. M. Dean had no questions. B. Breckinridge had no questions.

M. Sacks asked what the value is of the flowering plants. There are five of them planted in positions throughout the back areas. M. Sacks asked whether the purposes the Commission was trying to achieve would be better served if the kind of deciduous trees or evergreens that are being planted elsewhere were used. M. Sacks suggested that those kind of trees would work better to restore this area. D. Whitney replied that M. Klein thought that a variety of vegetation would be better. If the Commission doesn't want any specific plants, he will revise the plan again. D. Whitney is deferring to M. Klein on the selection of the vegetation. M. Sacks would like to know why because he understood that flowering plants do not serve the same purpose and the kind of things that could be achieved by deciduous trees. D. Whitney does not know why but believes that a variety of plants make sense to create a buffer – both lower plantings and higher plantings. D. Whitney stated that this meeting could be continued until December and he could get an answer from M. Klein. M. Sacks then asked about the possibility of restoring the trees that were cut down in the area that has been mowed. He asked about the consequences of allowing the trees to recoup by themselves – what if you don't do the mowing and the planting. He asked how much recuperation could be achieved simply by these trees' seeds or the trees growing from within the old stumps. He asked if this would serve the area better than mowing everything around it. D. Whitney reflected back on M. Klein's original letter of September 16, 2021, where he said in his opinion the removal of trees in the upland review area of the onsite intermittent watercourse would not have significantly impaired its functions and values. At the last meeting, M. Klein testified that the primary function of this intermittent watercourse was conveyance of stormwater and that he did not think there was any adverse impact on the functions of the watercourse by removal of the trees. D. Whitney stated that M. Klein was not saying that it is right that the trees were cut down without permission but that the trees do not have much effect on the intermittent water course in his opinion. M. Sacks did not think that was the relevant question here. M. Sacks said that we have an area that is very much disrupted from what it originally was and we are now talking about a plan to bring back what was originally there. He said that is what the objective should be and if so, we can look at other ways in which you could encourage the trees to grow and develop and possibly make use of what is already there rather than simply rely upon the planting of new trees. There is quite a bit of potential for restoration just within the earth itself but we'd have to get more of an opinion about this and what would be best to achieve this. D. Whitney stated that it was up to this Commission.

J. Usish is fine with these revisions to the remediation plan and was fine with the last plan. He has no questions.

Chair Thier asked D. Whitney what kind of maintenance this plan requires in terms of watering new trees. Chair Thier asked if the proposed trees require any kind of upkeep in the first two years of their lives. D. Whitney stated that it depended on the climate and M. Klein stated in his letter that the health and the performance of these measures should be monitored for two years after installation with reports submitted to the Commission. If the Commission wants to add to that, it would be up to the Commission. Chair Thier commented that M. Klein is recommending two years of monitoring until the new plantings are hardy enough. D. Whitney said that 2-3 years of monitoring is standard for other applications. Chair Thier asked what would happen if a tree didn't make it. D. Whitney stated that it was his understanding that the tree would have to be replaced. D. Whitney read the draft of the special note which says that after the installation of the proposed plantings, they will be maintained in good condition and replaced if necessary. They

shall not be removed, relocated, cut or subject to any activities that would harm them, until or unless, at some future time when or if the Commission grants approval for regulated activities. M. Klein wanted to make sure that for at least two years the trees would remain in good condition and would be replaced if they weren't.

Vice Chair Beauchamp had no questions. The plan looks OK to him. Chair Thier asked if anyone had further questions. There were none.

Vice Chair Beauchamp then made a motion to approve the remediation plan with the special note included. J. Usish seconded the motion. Chair Thier asked if there was any discussion. Vice Chair Beauchamp, M. Dean, B. Breckinridge, J. Usich, and Chair Thier approved. M. Sacks opposed. Motion has been approved.

E. Kyle asked if the Cease and Desist Order would be lifted. Chair Thier felt that it should be left on the Land Records. E. Kyle understands that the Cease and Desist will be upheld.

COMMUNICATIONS FROM THE PUBLIC:

Chair Thier stated that B. Breckinridge could introduce the member of the public that would like to speak. Rick Dubiel is the Co-President of the Avon Land Trust and he has a question with regard to one of their properties for an opinion from the Commission. R. Dubiel stated that the Land Trust has a trail above Hunter's Run where there is one small section of the trail that gets muddy in the springtime. A Boy Scout has volunteered to build a small boardwalk over this seasonally wet area as his Eagle Scout project. It would rest on horizontal timbers, it would not be permanent, and it would be slightly elevated above ground level. His question is if a permit is needed from Inland Wetlands to carry out this Boy Scout project for the Land Trust. Chair Thier recollects that this is something that J. McCahill would evaluate as a project and work with the applicant. This is not the kind of thing that would come before the Commission especially because it is a non permitted feature. B. Breckinridge agrees because in the past the Land Trust worked with J. McCahill on minor things like that. E. Kyle stated that her experience in other municipalities with similar Boy Scout projects is that she would receive drawings or plans or concept sketches and she would work directly with that participant and any other parties involved and make the determination at that time. She would agree with the Board member that typically they are pretty minor in nature and would not necessarily need to come before the Board but she would be able to give better guidance with a little more information. R. Dubiel will share the Scout's power point information with E. Kyle.

STAFF COMMENTS:

There were no staff comments.

APPROVAL OF MINUTES:

Chair Thier asked if anyone had any correction to the minutes. He then asked if anyone wanted to make a motion to accept the minutes. B. Breckinridge made a motion to approve the October 5, 2021 minutes. M. Dean seconded the motion. The minutes were adopted unanimously.

NEXT REGULARLY SCHEDULED MEETING:

December 7, 2021

J. Usich then made a motion to adjourn. M. Dean voted to second the motion. The motion passed unanimously.

There being no further business, the meeting adjourned at 7:24 p.m.

Janet Stokesbury, Clerk
Inland Wetlands Commission
Town of Avon Department of Planning and Community Development