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BOARD OF SELECTMEN: Little Herring Pond property an 'Area of Critical Environmental Concern'

PLYMOUTH – It was 1982 and the town was looking at a preliminary proposal for more than 800 homes in South Plymouth. That was back before the town began advocating to preserve open space, when green space was often dingy brown and the Charles River was, as the song says, "dirty water."

On the eastern edge of what eventually became known as the Ponds of Plymouth, there was a relatively small, undeveloped parcel of land adjacent to nearby Little Herring Pond about which residents of the area were especially concerned.

It was at the headwaters of one of the largest and most famous herring runs in the area. It was an area critical to the public water supply, an important recreational fishing area and also contained several state-listed rare and endangered species as well as the remains of "the core habitation area for the Herring Pond Wampanoag tribe."

Fortunately, in those first preliminary plans it was designated as a "recreation area."

Now, 30 years later, that recreation area faces a proposal for residential development and Herring Ponds Watershed

Association Vice President Lee Pulis says his group worries the games being played there today are not the ones people were thinking of 30 years ago.

Pulis and other members of the watershed group met with selectmen this week and said they want to help find an alternative to the project, now called the Little Herring Pond VOSD (Village Open Space Development).

"We contend this project represents overbuilding in the wrong place," Pulis told the board, "a unique and environmentally sensitive area of critical environmental concern."

The site is actually designated by the state as an ACEC (Area of Critical Environmental Concern), one of only 28 such sites in Massachusetts that have been singled out because of the quality, uniqueness and significance of their natural and cultural resources.

When the ACEC designation was given to the Herring River Watershed, the state says, it "created a framework for local and regional stewardship of these critical resource areas and ecosystems." The designation "requires stricter environmental review of certain kinds of proposed development under state jurisdiction within the ACEC boundaries."

The ACEC designation did not seem to pose a challenge for the original developers or the town as one after another of the master plans developed for the Ponds of Plymouth identified parcel 1022b as either a recreational area or as open space.

In 1988, concerned residents of the area were happy to see that on the Ponds at Plymouth Recreation and Open Space Master Plan the property was now designated as "open space."

A 2004 town document titled "Ponds of Plymouth – Lots shown as Open Space on Subdivision Approval" included the same parcel.

In 2011, the Wildlands Trust produced a map of the adjacent Pickerel Pond Preserve that included the lot in question, labeling it as open space "in perpetuity." Perpetuity, in this case, lasted close to 10 years.

"Only since (the Little Herring Pond VOSD) proposal began moving through the Planning Board this spring have puzzled residents awakened to a decision made nine years ago, on June 13, 2005, in a closed executive session of the Planning Board," Pulis said.

At that time, as Pulis put it, "a deal was struck," which restored the development rights for this parcel and another (where 29 homes have been proposed) to the same developer under a different company name.

At the very least, Pulis said, the town owes residents an explanation for how and why this happened.

Director of Planning and Development Lee Hartmann has one.

"In the early 1980s the Ponds came in as an 825-lot, thoroughly conventional subdivision," Hartmann said. "They didn't seek any waivers. They were going to build sidewalks on both sides of the street, and they were only proposing single family lots."

This was a relatively unsophisticated time in regards to planning, with far less required of developers, Hartmann explained. So, while the town was happy when the developer suggested setting aside some of the property for open space, or recreational space, it wasn't a requirement.

Hartmann acknowledged that areas on the plans, as they evolved, noted recreational and open space but noted that when the developer officially filed those plans, the town belatedly discovered those notations were gone.

That was when the Planning Board began to negotiate, in executive session, with the developer, concerning how the lots in question would be designated. The parcel in question didn't make the cut.

"The Planning Board went through them, lot by lot, and designated a number of them as restricted," Hartmann said. "Back in those days, notes were often written right on to the plans, this one a beach lot, that one open space, and so on. We're more sophisticated now. Today, even if a developer says that they are going to voluntarily restrict acreage to open space, we make sure that it is memorialized on the plan."

It's an explanation, but is it a solution?

Pulis said the Herring Pond Watershed Association wants to help the town investigate and address what he calls "an environmental mistake," and work to find a solution that "fits rather than flaunts key tenets of the town's own Master Plan, strategic action plan, and 2009 Open Space and Recreation Plan."

Hartmann said the Planning Board and the Department of Marine and Environmental Affairs (DMEA) want the same thing.

"I have heard from the watershed group, and from DMEA Director David Gould. We would all like to see this property protected," Hartmann said. He also offered the assurance that Monday night, when the issue returns to the Planning Board, he will be at least one of the people to make the case for that



Though the original plans for the Ponds of Plymouth called for it to be open space, residents of the area were surprised to learn that the west side of Little Herring Pond is now open for development. Wicked Local file photo/Frank Mand

happening.

"We can't promise an outcome. The developers have certain rights, and we have to deal with the project on its merits," Hartmann said. "But this is a piece of property we'd like to protect. So, working with David Gould and perhaps with the CPC, we are hoping to find a solution that is fair to everyone."

The Herring Pond Watershed Association wants the same, and maybe a little more.

"I would just suggest you take a look at what the process was by which most people in South Plymouth were fooled into thinking this was open space, and it isn't," Pulis said. "Let's make this right."

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