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TOWN of WILMINGTON
DEPARTMENT OF PLANNING & CONSERVATION

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CONSERVATION COMMISSION MINUTES

September 2, 2020

Donald Pearson called the meeting to order at 7:06 pm and stated the following:

"Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L.c. 30A, §18, and the Governor's March 15, 2020 Order imposing strict limitations on the number of people that may gather in one place, members of the public who wish to watch and listen to the meeting may do so in the following manner: WCTV (Channel 9 – Comcast Xfinity; Channel 37 Verizon FIOS, and live stream wctv.org). **No in-person attendance of members of the public will be permitted,** but every effort will be made to ensure that the public can adequately access the proceedings in real time, via technological means. Members of the public who would like to listen to this meeting while in progress may also do so via telephone by dialing 1-646-558-8656 and enter meeting ID 850-9299-7368 then press # and press # again at the next voice prompt. Members of the public attending this meeting virtually will be allowed to make comments if they wish to do so, during the portion of the hearing designated for public comment, by following the steps previously noted then press *9 on their telephone keypad. This will notify the meeting host that the caller wishes to speak. All callers using this feature will be placed in queue in the order they entered the prompt. In the event that despite our best efforts, we are not able to provide for real-time access, we will post a record of this meeting on the Town's website as soon as we are able."

The following members were in attendance: Donald Pearson, Theron Bradley, Vincent Licciardi, Alexander Rittershaus, Laura deWahl, Michael McInnis, and Thomas Ollila. Valerie Gingrich, Director of Planning and Conservation, Cameron Lynch, Conservation Agent, and Catherine Pepe, Senior Clerk of Planning & Conservation were also present.

V. Gingrich introduced Cameron Lynch, the Town of Wilmington's new Conservation Agent.

REQUEST FOR DETERMINATION OF APPLICABILITY – 30 North Street – Map 78 Parcel 29B

Documents: Request for Determination of Applicability application, received August 14, 2020
 "Proposed Plot Plan", dated January 6, 2020

Present in: Rory & Elizabeth Desmond, Owners

E. Desmond presented the proposed construction of a 6' x 24' covered porch on the front of their home. The porch will be built on sonotubes, with crushed stone under the porch and native plantings around the perimeter of the porch.

V. Gingrich advised that the proposed porch is about 60' from the BVW and suggested erosion controls around the limit of work. V. Licciardi asked if the existing shed on the property met setbacks. R. Desmond advised that the shed is up on cinder blocks and was there when they purchased the home. V. Gingrich advised that it does not meet the 15' no-disturb, but the shed has

been there for several years and considered an existing condition. D. Pearson asked approximately how far the shed is from the wetlands. R. Desmond advised between 10' – 15'. All commission members agreed to allow the existing shed to remain but a new shed would require proper permitting.

Upon motion duly made by L. deWahl and seconded by V. Licciardi,

V. Licciardi, T. Bradley, L. deWahl, T. Ollila, M. McInnis, A. Rittershaus, and D. Pearson voted 7 – 0 to issue a Negative 3 Determination of Applicability for 30 North Street – Map 78 Parcel 29B with the condition that erosion controls be installed and maintained

REQUEST FOR DETERMINATION OF APPLICABILITY– Railroad Right-Of-Way, Wilmington

Documents: Request for Determination of Applicability application, August 3, 2020
Letter from Fair Dermody Consulting Engineers, dated July 15, 2020
"Plan USGS Right of Way Maps by Rail Line and Community", 5 pages, dated July 15, 2020

Present in Interest: Matthew Donovan, Fair Dermody Consulting Engineers

M. Donovan presented the MBTA's proposed five (5) year vegetation management for the three (3) MBTA railroad lines that run through Wilmington. The vegetation management plan is required to maintain safety. Physical, chemical, and mechanical applications are used in the appropriate areas for vegetation management. The yellow zones will never be sprayed, the blue zones will be sprayed as needed, and the railroad tracks are always sprayed. A federally licensed firm will administer the application. The Town's Board of Health, Board of Selectmen, Conservation Commission, and Massachusetts Department of Agricultural Resources receive annual update reports that also list the restrictions in the sensitive areas.

V. Gingrich confirmed that the maps match the maps that were previously permitted.

V. Licciardi asked what is done where chemical application cannot be used. M. Donovan advised that those areas use physical and mechanical applications. T. Bradley asked how Zone 1 & Zone 2 are determined. M. Donovan advised that the definitions for DEP Zone 1 & DEP Zone 2 can be found in DEP Regulations, Section 8 and CMR 11.04 which details what is included in those zones.

M. McInnis asked if the railroad will have to comply with the Town's tree removal policy. V. Gingrich advised that the Town has never applied this policy to the MBTA as they may not be able to comply with it. M. McInnis asked the applicant to verify what the limit of the roadbed consists of. M. Donovan stated that it is ditch-to-ditch, or about 6" past the end of the railroad ties. M. McInnis also asked if the abutters are notified when there is spraying near their properties. M. Donovan advised that abutters are not notified directly. The Board of Health, Board of Selectman, and Conservation Commission are notified and the Department of Agricultural publishes the information annually.

D. Pearson asked what the areas that do not have a legend on the map mean. M. Donovan advised that those areas have no spraying restrictions. M. Donovan advised that mechanical elimination is used in the sensitive areas and that they do not spray in areas of platforms or near streets. D. Pearson asked how the applicant tracks the vegetation that is treated each year. M. Donovan advised that Keolis employs an environmental monitor to keep track of the areas that are treated each year and advise the applicator treating the vegetation accordingly.

Upon motion duly made by T. Bradley and seconded by V. Licciardi,

V. Licciardi, T. Bradley, L. deWahl, M. McInnis, T. Ollila, A. Rittershaus, and D. Pearson voted 7 – 0 to issue a Negative 3 Determination of Applicability for the Railroad Right-of-Way, Wilmington

Following later discussion regarding the requested Negative Determination numbers and

Upon motion duly made by D. Pearson and seconded by L. deWahl,

V. Licciardi, T. Bradley, L. deWahl, T. Ollila, M. McInnis, A. Rittershaus, and D. Pearson voted 7 – 0 to change the decision from a Negative 3 to a Negative 2 Determination of Applicability for the Railroad Right-of-Way 5- Year Vegetation Management Plan in Wilmington

REQUEST FOR DETERMINATION OF APPLICABILITY – 15 Winston Avenue – Map 8 Parcel 91A

Documents: Request for Determination of Applicability application, received August 19, 2020
“Oliver MassGIS Online Map” as modified by applicant, dated August 18, 2020
“Winston Avenue 81G Plan”, as modified by applicant, dated July 21, 2020
“Plan of Land”, dated August 22, 2020

Present in Interest: Peter de Bernardo, Gibraltar Pools Corp.

P. de Bernardo presented the proposed installation of an above ground pool about 25' from the wetlands. A small excavator will come in to remove the required earth, washed mason sand is installed in the excavated area, and then the pool installed on top of the washed mason sand. Installation usually takes one (1) day.

V. Gingrich advised that proposed pool is 25' from the wetland and that erosion controls must be installed. The Town's Engineering Division commented that the area is within the Groundwater Protection District and the amount of impervious coverage on the site needs to be calculated. If it is 15% or less the applicant will require a special permit from the Board of Appeals.

M. McInnis asked the applicant to clarify which plan will be used for the Determination of Applicability. P. de Bernardo confirmed that it will be the updated plot plan showing the 30' front setback.

V. Licciardi asked what kind of filter is used with this pool. P. deBernardo advised that the pool has a cartridge filter that is cleaned about six (6) times a year. The cartridge lasts for three (3) years and cleaned by either spraying it with a hose or soaking it in a bucket.

T. Bradley asked for clarification of the cantilever safety ledge and rail barrier. P. deBernardo explained that a two (2) foot ledge cantilevers out from the edge of the pool and is designed to help reach anyone in distress. The rail meets the barrier codes. L. deWahl asked if the sand under the pool could erode into the wetlands. P. deBernardo advised that the sand is directly under the pool liner, not around the perimeter of the pool, and will not erode into the wetlands. L. deWahl also requested that the applicant clean the filter far enough away from the wetlands so none of the debris goes into the wetlands.

A. Rittershaus asked if the pool has to be drained at the end of the season. P. deBernardo explained that this pool does not have to be drained at the end of the season. D. Pearson asked if the filter be located as far away from the wetlands as possible. P. deBernardo confirmed that the filter would be placed on the side of the pool closest to the house, which will be about 50' from the wetlands.

Upon motion duly made by M. McInnis and seconded by L. deWahl,

V. Licciardi, T. Bradley, L. deWahl, T. Ollila, M. McInnis, A. Rittershaus, and D. Pearson voted 7 - 0 to issue a Negative 3 Determination of Applicability for 15 Winston Avenue – Map 8 Parcel 91A with the added conditions that erosion controls be installed and that the filter not be cleaned near the wetlands

CONTINUED PUBLIC HEARING – NOTICE OF INTENT – Shady Lane Drive – Map 79 Parcel Road ROW near Parcel 15A – DEP File #344-1461

Documents: Letter from Paul Alunni, Town of Wilmington Engineering Division, dated August 28, 2020

V. Gingrich advised that P. Alunni submitted a letter requesting to continue the Public Hearing for Shady Lane Drive to the October 7, 2020 Conservation Commission meeting.

Upon motion duly made by D. Pearson and seconded by L. deWahl,

V. Licciardi, T. Bradley, L. deWahl, T. Ollila, M. McInnis, A. Rittershaus, and D. Pearson voted 7 – 0 to continue the Public Hearing for Shady Lane Drive – Map 79 Parcel Road ROW near Parcel 15A – DEP File #344-1461 to the October 7, 2020 Conservation Commission meeting.

CONTINUED PUBLIC HEARING – 687 Main Street – Map 31 Parcel 11A – DEP FILE #344-1451

Documents: Letter from Stephen R. Dresser, Dresser, Williams, & Way, Inc., dated August 12, 2020
Letter from Stephen R. Dresser, Dresser, Williams, & Way, Inc., dated August 19, 2020
Notice of Intent, revised page 3, received August 19, 2020
Stormwater Drainage Report, dated August 12, 2020
“Notice of Intent Plans”, 6 pages, dated August 12, 2020
“Existing Watershed Plan”, 2 pages, dated August 12, 2020
Letter from Valerie Gingrich, Town of Wilmington Planning & Conservation Department, dated August 31, 2020
Memorandum from Paul Alunni, Town of Wilmington Engineering Division, dated September 1, 2020
Environmental Site Assessment Report, Tennessee Gas Pipeline Fee Property, dated July 31, 1997

Present in Interest: Attorney John McKenna

J. McKenna reviewed that the Notice of Intent (NOI) was submitted in response to a Notice of Violation for the installation of pavement within Bordering Land Subject to Flooding (BLSF) and Riverfront Area. The Town of Wilmington submitted comments from the Planning & Conservation Department and the Engineering Division. The applicant’s engineer has responded to the Planning and Conservation Department comments and still has to respond to the comments received from the Engineering Division. J. McKenna would like to meet with the Town’s Planning & Conservation Department and the Engineering Division to review and resolve the most recent comments from the Engineering Division.

V. Gingrich advised that the site is within Riverfront Area (Maple Meadow Brook flows right next to the property) and the unauthorized pavement was done within the 100’ Riverfront no-disturb area

and the 200' Riverfront Area. The area was previously gravel and dirt and pavement of that area does not meet the Redevelopment criteria for previously developed Riverfront Area. In addition, most, if not the entire site, is in Floodplain and the Groundwater Protection District and the amount of impervious cover needs to be calculated. The site needs additional infiltration and the applicant will have to obtain a special permit from the Zoning Board of Appeals as well as submit for site plan and stormwater permits for the Planning Board. The Town's Engineering Division has several comments that need to be addressed as well.

J. McKenna would like to continue the meeting to the November 4, 2020 Conservation Commission meeting. V. Gingrich advised that the applicant has not put sufficient effort into resolving this violation and some progress needs to be made for the October 7, 2020 meeting.

T. Bradley would like to see a progress report at the October 7, 2020 Conservation Commission meeting. J. McKenna confirmed his understanding of a progress report.

M. McInnis asked if the redevelopment will be addressed by the Planning Board, Conservation Commission, or both. V. Gingrich advised that there are two (2) kinds of redevelopment. One is Riverfront Area redevelopment, which comes under the Conservation Commission, and the other is Stormwater redevelopment, which comes under the Planning Board. J. McKenna would like to meet with Planning & Conservation Department and the Engineering Division to resolve the outstanding issues and move forward.

Upon motion duly made by L. deWahl and seconded by V. Licciardi,

V. Licciardi, T. Ollila, L. deWahl, T. Bradley, A. Rittershaus, M. McInnis, and D. Pearson voted 7 – 0 to continue the Public Hearing for 687 Main Street – Map 31 Parcel 11 – DEP File #344-1451 to the October 7, 2020 Conservation Commission meeting

CONTINUED PUBLIC HEARING – 63 Federal Street – Map 64 Parcel 3B – DEP File #344-1466

Documents: "Conditions Plan Set", 3 pages, dated August 10, 2020

Present in Interest: Joseph Orzel, Lucas Environmental, LLC
Shawn DeHart, owner

J. Orzel reviewed the proposed addition to the single family home and the revised plans. The revised plans show a stockpile location, erosion controls, rain barrel locations for the roof runoff, and the 15' no-disturb area.

J. Orzel reviewed the three (3) highlighted conditions in the Draft Order of Conditions. Condition #22 wants revised plans showing additional rain barrel information before beginning construction, Condition #44 wants the lawn clippings removed from the BVW and the 15' no-disturb area and Condition #48 for the demarcation. J. Orzel would like the wording in condition #48 changed. Boulders are too big and the homeowners do not want to put up a fence.

V. Gingrich advised that the revised plans show a stockpile area and that some of the erosion controls were moved. V. Gingrich stated that Condition #48 is a standard condition for demarcation and that the Commission can discuss what kind of demarcation they want used. In addition, clarification is needed as to which portion of the house will have roof runoff directed to the proposed rain barrels of if any of the current structure has gutters. S. DeHart thinks the rain barrels are for the addition.

V. Licciardi asked if rain barrels will be placed on the addition or the main house or both? J. Orzel would like to confirm placement with the architect and submit the plan to the Conservation Commission. V. Licciardi prefers boulders as demarcation. D. Pearson suggested a mixture of shrubs and boulders. S. DeHart advised that placing the demarcation 15' from the wetlands will take away from the existing backyard and requested a compromise. T. Bradley asked if the applicant would like to continue the public Hearing. J. Orzel stated that the applicant would not like to continue. T. Bradley asked if the rain barrels are required for the addition or the existing home and the addition. V. Gingrich confirmed just for the addition. T. Bradley would like either a fence or boulders for the demarcation.

V. Gingrich advised that there is a slope in the backyard and that the top of the slope goes down to the wetlands. Demarcation at the top of the slope might be an appropriate option for demarcation even if it falls within the 15' setback.

L. deWahl agreed to a top of slope demarcation though would like to adhere to the 15' no disturb setback as close as possible. T. Ollila asked if after a site visit, V. Gingrich thought it agreeable to locating the demarcation closer than the 15' no-disturb setback. V. Gingrich re-iterated that the top of slope or to follow the contour of the floodplain might be the most suitable.

M. McInnis suggested the applicant offer recommendations and possibly put the proposed solutions into the Order of Conditions. M. McInnis reminded the applicant that these conditions are in perpetuity. D. Pearson suggested a combination of shrubs, boulders, and fencing. S. DeHart is agreeable to vegetation and signs along the top of slope but is concerned about losing almost one-half of the existing yard to demarcation. V. Gingrich suggested in the areas where there is a break in the vegetation, that additional demarcation be placed and asked the Commission for guidance on what they would like for demarcation in that area. S. DeHart would like to use vegetation in the areas closest to the yard and then boulders in areas further away from the yard. V. Gingrich can revise Condition #48 to read "permanent demarcation in the form of native shrubs and/or boulders 2 ½ - 3' in diameter placed 2' apart shall be installed along the 15' setback or top of slope as approved by the Conservation Agent, in a permanent manner to prevent future encroachment.

Upon motion duly made by L. deWahl and seconded by V. Licciardi,

V. Licciardi, M. McInnis, L. deWahl, T. Ollila, T. Bradley, A. Rittershaus, and D. Pearson voted 7 - 0 to close the Public Hearing for 63 Federal Street – Map 64 Parcel 3B – DEP File #344-1466

Upon motion duly made by L. deWahl and seconded by V. Licciardi,

V. Licciardi, T. Bradley, T. Ollila, L. deWahl, A. Rittershaus, and D. Pearson voted 6 – 0 to approve the Order of Conditions for 63 Federal Street – Map 64 Parcel 3B – DEP File #344-1466 with the amended Condition #48. M. McInnis abstained due to technical difficulties.

**CONTINUED PUBLIC HEARING –REQUEST FOR AMENDMENT TO ORDER OF CONDITIONS
– 635 Main Street – Map 40 Parcel 1 – DEP File #344-1432**

Documents: Letter from Jon Tilton, Williams & Sparages to Town of Wilmington Conservation Commission, dated June 17, 2020
Letter from Jon Tilton, Williams & Sparages to DEP, dated June 17, 2020
NOI form page 3, received June 17, 2020
"Grading Plan", dated June 2, 2020
"Drainage Plan", dated June 2, 2020
"Utility Plan", dated June 2, 2020

Letter from Jon Tilton, Williams & Sparages to V. Gingrich, Town of Wilmington, dated August 18, 2020

"Grading Plan", dated July 27, 2020

"Drainage Plan", dated July 27, 2020

"Utility Plan", dated July 27, 2020

Drawing of Proposed Roof Leader Overflow Detail Infiltration Basin #1, received August 27, 2020

Present in Interest: Jon Tilton, Williams & Sparages
Jacqueline Senarian, Massachusetts Equity Investors, LLC

J. Tilton reviewed DEP's request to amend the Order of Conditions. DEP appealed the original decision on February 25, 2020 and asked for a 1:1 replication of 200 square feet of wetlands on the site. The revised plans show 250 square feet of replication, which is greater than the 1:1 ratio DEP asked for. In addition, DEP asked for replication details, watering station details, and revised erosion control details around the areas that are going to have debris cleaned by hand. DEP also requested additional Special Conditions be added to the existing Special Conditions.

V. Gingrich reminded the Commission of the debris piles, how much of the wooded vegetation would be disturbed to get to the debris, and the finger like piece of wetland. The original Order of Conditions did not require replication of the finger-like piece of wetland, but Dep wanted it replicated. In addition, DEP wanted a catch basin instead of the proposed rip rap apron and other minor changes. DEP sent the conditions they wanted added to the Amended Order and if the Commission agrees to them, DEP will drop their appeal.

Upon motion duly made by V. Licciardi and seconded by L. deWahl,

V. Licciardi, T. Bradley, T. Ollila, L. deWahl, A. Rittershaus, M. McInnis, and D. Pearson voted 7 - 0 to close the Public Hearing for 635 Main Street – Map 40 Parcel 1 – DEP File #344-1432

Upon motion duly made by L. deWahl and seconded by L. deWahl,

V. Licciardi, T. Bradley, T. Ollila, L. deWahl, A. Rittershaus, M. McInnis, and D. Pearson voted 7 - 0 to approve the Amendment to the Order of Conditions for 635 Main Street – Map 40 Parcel 1 – DEP File #344-1432

PUBLIC HEARING – NOTICE OF INTENT – 378 – 384 Middlesex Avenue & 200 Jefferson Road - Map 89 Parcels 8, 9, 10, 13A, & 13B – DEP File E344-1467

Documents: Notice of Intent, received July 29, 2020
"Notice of Intent Site Plan Princeton Wilmington Apartment Homes", dated July 28, 2020
Email from Valerie Gingrich, Town of Wilmington, Director of Planning & Conservation, dated August 27, 2020
Letter from David Cowell, Hancock Associates, dated August 30, 2020
Email from Joseph Peznola, Hancock Associates, dated August 31, 2020
Princeton Properties Management, Inc. Snow Removal and Grounds Maintenance Seasonal Contract, 7 pages, received August 31, 2020
"Grading, Drainage, and Utilities Plan", 2 pages, dated August 31, 2020
"Permit Site Plan Princeton Wilmington Apartment Homes, dated May 6, 2020
Email from Valerie Gingrich, Town of Wilmington, Director of Planning & Conservation, dated September 1, 2020
Email from Joseph Peznola, Hancock Associates, dated September 1, 2020

Snow and Snowmelt Management Princeton at Wilmington Apartment Homes, dated September 2020

Memorandum from Paul Alunni, Town of Wilmington, Engineering Division, dated September 1, 2020

"Snow Storage Layout and Materials Plan", 2 pages, dated July 28, 2020

Email from Valerie Gingrich, Town of Wilmington, dated September 2, 2020

Email from Joseph Peznola, Town of Wilmington, dated September 2, 2020

Present in Interest: Joseph Peznola, Hancock Associates
Andrew Chaban, Princeton Properties
Dan Endyke, Princeton Properties
Jeff Brown, Princeton Properties
Alex Weisheit, KP Law

A. Weisheit of KP Law, the Town's Counsel, informed the Commission that the Order of Resource Area Delineation (ORAD) that the Commission approved at the July 1, 2020 meeting was appealed by the Headwater Stream Team. He then stated, that per DEP, it is ok to review the Notice of Intent (NOI) and potentially issue an Order of Conditions (OOC) while the ORAD appeal is pending. A. Weisheit also advised that the Final Order of Resource Area Delineation (FORAD) from the early 2000's expired three (3) years after it was issued and is not relevant to this NOI or the pending ORAD appeal.

J. Peznola reviewed the proposed construction of a 108-unit apartment community project that has received approval from the Board of Appeals. The 23-acre site includes 378 to 384 Middlesex and a portion of 200 Jefferson Road and runs along the railroad from Middlesex Avenue back to Lubbers Brook. The property's resource areas include Riverfront, Bordering Land Subject to Flooding (BLSF), Bordering Vegetated Wetlands (BVW), Land Under Water, and Inland Bank. The properties at 378 – 384 Middlesex are fully developed and have two (2) retail buildings, septic systems, and pavement. 200 Jefferson Road is partially developed and part of the parking lot had been subdivided for use in part of this development. All of the work in the Riverfront is outside the 100' riparian. It will not be within the Floodplain or BLSF, but will be within the 100' of BVW. T Bradley asked if improvements will be made to the Jefferson Road catch basin. J. Peznola advised that Jefferson Road will be re-graded, repaved, sidewalks and curbs installed, and improvements made to the current stormwater system. The two (2) building sites will have some porous pavement in accordance to DEP guidelines on the use of porous pavement which will aid in water re-charge.

The work within the Riverfront includes work to prior disturbed area (Redevelopment) as well as work in undisturbed areas. Total area of Riverfront is about 440,000 square feet and the proposed project will impact 38,538 square feet which is less than the 10% impact that is allowed.

The Redevelopment area includes the buildings and pavement at 378 – 384 Middlesex Avenue. The applicant proposes a decrease to the impervious area at those addresses and enhancements to the Riverfront. They will clean up the debris in the Riverfront area and vegetate it with native species that will help buffer the development from the Riverfront and provide habitat for wildlife. The Snow Management Plan includes the prohibition on sanding and de-icing chemicals as well as showing where the snow stockpiles will go and when the stockpiles should be removed from the site.

J. Peznola then went on to the Riverfront regulation that requires that an alternative analysis be provided if Riverfront area is disturbed. The alternative analysis has been provided and shows that the project is in compliance with the performance of standards for work within associated resource areas. J. Peznola advised that there is no habitat for rare species that requires protection. J.

Peznola then went on to review the alternatives and advised that in order for an alternative to be considered, the applicant has to prove that there are no practicable and substantially equivalent economically feasible alternatives to the proposed project with less adverse effects on the interest of the Act. The definition of practicable is in the regulations and this project meets that requirement as well as the 40B requirements set forth by the State. There are no practicable and substantially equivalent alternatives to the project and that the necessary protections to the Riverfront and resource areas have been provided for.

J. Peznola advised that comments from both V. Gingrich and P. Alunni have been addressed. The plans were revised and submitted to show the 15' setback, the stormwater management plan was revised, and the garage entrance was moved out of the inner riparian.

V. Gingrich stated that the Riverfront and wetland lines as approved in the ORAD are used in the plans submitted with this NOI. The NOI explains that where the current Riverfront line stops, the applicant used the settlement line from the previous FORAD for the remainder of the Riverfront.. V. Gingrich asked J. Peznola to clarify the request to confirm lines that were confirmed in the ORAD. J. Peznola stated the Riverfront line had two (2) flags Z100 and Z101 added in the ORAD and that they are about 100' from Z31. The total 440,000 square feet of Riverfront was calculated going from Z101 to MAHW flag #27 from the FORAD Settlement Plan and along the Settlement Plan MAWH to the end of the property. If they used a line more southwest, it would add to the Riverfront and decided to be more conservative and go with the smallest total Riverfront. J. Peznola confirmed that the request is to reconfirm the lines approved in the ORAD.

V. Gingrich confirmed that the garage entrance has shifted to stay out of the 100' Riverfront area and that all the erosion controls will be placed outside of the 100' Riverfront area. V. Gingrich suggested adding a condition to stake out the 100' Riverfront area prior to construction and the installation of erosion controls to limit any disturbance in that area. The proposed restoration just before the brook enters the culvert is currently mostly lawn. The applicant is proposing to remove the lawn, plant native plantings, and make it a more natural area, which is a benefit to the Riverfront area, especially so close to the brook. As mentioned in her comment letter, V. Gingrich advised that the area in the back of the existing parking lot is currently vegetated and cautioned the Commission that a full restoration of the area may not be warranted. She suggested removing the debris and the invasive species by hand would be less disruptive than bringing in equipment and doing a full restoration. J. Peznola agreed and stated that their wetland scientist would work with the Town to reach an agreement on which plantings be removed and what species should be planted to benefit the Riverfront. The applicant's goal is to create a natural vegetated area that does not require maintenance.

V. Gingrich suggested that a condition be added to ensure that the proposed plant list be native for the resource areas and the buffer zone. V. Gingrich asked the applicant to put the 15' no-disturb on the plan. Most of the site meets the 15' no-disturb except in one (1) spot behind building B's retaining wall. V. Gingrich reminded the Commission that the 15' no-disturb is a policy, not a by-law and advised the Commission to look at the function of that area rather than the distance to the wetlands. She suggested more native plantings in that area and less maintained lawn. V. Gingrich suggested a demarcation line to keep the lawn and its related maintenance as far away from the wetlands as possible. The Snow Management Plan details the kind of chemicals that will be used on the site, but the plan needs to be revised to give a more accurate distance for snow storage. V. Gingrich advised that DEP recommends a distance of 50' where possible. The applicant will be responsible for snow removal on the part of Jefferson Road towards the rear of the road. V. Gingrich recommends adding a condition that any snow that does not fit into the snow storage areas be removed from the area. A. Chaban agreed to that. V. Gingrich confirmed that signage cautioning the snow removal contractor about the wetlands is welcome and that it be stated in the maintenance contract with the snow removal contractor. A. Chaban agreed to that. V. Gingrich

asked for a more specific description of where the de-icing materials will be stored. J. Peznola advised that the de-icing materials will probably be stored in a secure room in Building A. V. Gingrich suggested some clerical changes on the plans.

V. Gingrich stated that P. Alunni of the Town's Engineering Division, recommends educational signs on the site regarding porous pavement, asked for more detail on the culvert under Jefferson Road, and to add a concrete sidewalk to a section of Jefferson Road. J. Peznola agreed to the recommendations.

D. Pearson asked for confirmation that the applicant agrees to the Engineering Division's comments and that they be added to the Order of Conditions. J. Peznola agreed to the conditions.

T. Bradley asked if the retail area will be changed. J. Peznola advised that the retail area at 378 – 384 Middlesex Avenue will be razed and Building A will be constructed in that area. L. deWahl would like to see a post and rail fence behind Building B. A. Chaban agreed to the post and rail fence. L. deWahl asked if the applicant will replace any trees that are removed. J. Peznola advised that most of the work being done is on currently paved area, but some areas around Buildings A and B will have vegetation removed. They do have a detailed landscape plan but it does not detail the number of trees being removed. L. deWahl would like to see a detail of the number of trees being removed and the number of trees and/or shrubs that will be planted. J. Peznola agreed to the detail.

D. Pearson asked for clarification regarding the total Riverfront calculation and if it is for new development. J. Peznola confirmed that it is, specifically for unaltered development. 10,000 square feet for Jefferson Road and about 30,000 square feet on Middlesex Avenue. J. Peznola advised that the development is an overall improvement to the site, between the stormwater improvements, the removal of invasive species, the removal of paved areas and installation of porous pavement, and the overall landscaping. D. Pearson asked if the applicant is depending on curbing or something else to keep the water, sand and oil away from the wetlands. J. Peznola advised that the area is pitched away from the wetlands, that it is all porous pavement, and that the infiltration rate exceeds the worse possible storm. It is specifically designed to cull the oils and impurities out of the water before it penetrates. J. Peznola advised that curbing is proposed to keep the snow from being pushed into the wetlands. D. Pearson asked if there was concern about the high water table and porous pavement. J. Peznola advised that all requirements are met with the porous pavement installation and that mounding calculations were done to ensure that they fully meet DEP requirements. J. Peznola informed the Commission that there will be retaining walls along the outer perimeter of the parking lot to aid in the protection of the wetlands. D. Pearson asked if the applicant will plant trees in the area where the brook flows under Middlesex Avenue. J. Peznola advised that the landscape plan has included that area.

Suzanne Sullivan advised that the ORAD and the Mean Annual High Water line was appealed. S. Sullivan asked the height of the retaining walls along the edge of the parking lot and inner riparian zone. J. Peznola advised the walls will be 3' high. S. Sullivan disagrees that the 3' retaining walls and some plantings are considered restoration and disagrees with how the Riverfront disturbance was calculated. She would like additional sites looked at for alternatives. S. Sullivan would like the Commission to request a wildlife habitat evaluation under 310CMR 10.6 of the Wetlands Protection Act. J. Peznola advised that the regulations require that they check for endangered species and there is no endangered species habitat. J. Peznola advised that the 10% allowed impact to Riverfront pertains to new impact and not previously disturbed area. J. Peznola advised that the wetland scientist will do an assessment of the wildlife that may be impacted by the work being done in the area.

T. Bradley, T. Ollila, V. Licciardi, A. Rittershaus, M. McInnis, L. deWahl, and D. Pearson all agreed to have the applicant submit a wildlife habitat evaluation and tree inventory.

T. Bradley asked if the Town can get an opinion if the 10% applies to new development and if the redevelopment is separate from that calculation.

The Commission discussed the possibility of a special meeting for this NOI. D. Pearson then proposed continuing the Public Hearing to the October 7, 2020 Conservation Commission meeting when all Commissioners would be in attendance. L. deWahl, T. Bradley, V. Licciardi, A. Rittershaus, M. McInnis, T. Ollila, D. Pearson, and A. Chaban agreed to continue to the October 7, 2020 Conservation Commission Meeting. D. Pearson summarized that the applicant will submit a wildlife habitat evaluation, an accounting of the trees and shrubs that may be removed in the buffer zone, a clarification of the 10% allowable impact, and clarification of the retaining wall as an improvement to the site prior to the meeting for review and discussion at the October 7, 2020 meeting. V. Gingrich will have a draft Order of Conditions prepared for that meeting as well.

Upon motion duly made by L. deWahl and seconded by V. Licciardi,

T. Bradley, T. Ollila, V. Licciardi, A. Rittershaus, L. deWahl, M. McInnis, and D. Pearson voted 7 - 0 to continue the Public Hearing for 378-384 Middlesex Avenue & 200 Jefferson Road - Map 89 Parcels 8, 9, 10, 13A, & 13B – DEP File #344-1467 to the October 7, 2020 Conservation Commission meeting

**CONTINUED PUBLIC HEARING – ABBREVIATED NOTICE OF RESOURCE AREA
DELINEATION – 26 Douglas Avenue – Map 65 Parcel 5E – DEP File #344-1444**

Documents: Letter from Norse Environmental Services, Inc., dated August 24, 2020

V. Gingrich advised that Norse Environmental Services submitted a letter on behalf of the applicants, Janine and Patrick Finn, requesting to withdraw the Abbreviated Notice of Resource Area Delineation application.

Upon motion duly made by L. deWahl and seconded by V. Licciardi,

T. Bradley, T. Ollila, L. deWahl, V. Licciardi, M. McInnis, A. Rittershaus, and D. Pearson voted 7 - 0 to approve the withdrawal of the Abbreviated Notice of Resource Area Delineation for 26 Douglas Avenue – Map 65 Parcel 5E – DEP File #344-1444

**REQUEST FOR CERTIFICATE OF COMPLIANCE – 14 Somerset Place – Map 78 Parcel 53 –
DEP File #344-536**

Documents: Request for Certificate of Compliance, received August 11, 2020
“Certificate of Compliance Plan”, dated August 10, 2020

V. Gingrich advised that all conditions have been met.

Upon motion duly made by L. DeWahl and seconded by V. Licciardi,

T. Bradley, T. Ollila, V. Licciardi, M. McInnis, A. Rittershaus, L. deWahl, and D. Pearson voted 7 - 0 to issue the Certificate of Compliance for 14 Somerset Place – Map 78 Parcel 53 – DEP File #344-536

**REQUEST FOR CERTIFICATE OF COMPLIANCE – 70 Taplin Avenue – Map 44 Parcel 72 –
DEP File #344-1398**

Documents: Request for Certificate of Compliance, received August 19, 2020

"As-Built Plan", dated August 18, 2020
Email from Dion DeJesus, dated September 2, 2020

V. Gingrich advised that the applicant emailed a request to table the Request for Certificate of Compliance for 70 Taplin Avenue until the October 7, 2020 Conservation Commission meeting. Additional information is needed from the applicant and will be submitted in time to review for the October 7, 2020 meeting.

Upon motion duly made by L. deWahl and seconded by V. Licciardi,

T. Bradley, T. Ollila, A. Rittershaus, L. deWahl, V. Licciardi, M. McInnis, and D. Pearson voted 7 - 0 to table the Request for Certificate of Compliance for 70 Taplin Avenue – Map 44 Parcel 72 – DEP File #344-1398 until the October 7, 2020 Conservation Commission meeting

REQUEST FOR CERTIFICATE OF COMPLIANCE – Railroad Right-of-Way – Map R2 – DEP File #344-1211

Documents: Email from Samuel Moffett, TRC Companies
Invasive Species Removal Protocol from Seekamp Environmental Consulting, Inc., dated August 21, 2020
"Wetland Resource Areas Plan", dated April 3, 2017
Pictures, received August 31, 2020

Present in Interest: Samuel Moffet, TRC Companies
Clary Coutu, Keolis Commuter Services

V. Gingrich advised that Keolis has submitted a report that the Japanese knotweed has been treated and the certificate is ready to issue.

Upon motion duly made by L. deWahl and seconded by V. Licciardi,

T. Bradley, L. deWahl, V. Licciardi, T. Ollila, M. McInnis, A. Rittershaus, and D. Pearson voted 7 – 0 to issue the Request for Certificate of Compliance for Railroad Right-of-Way – Map R2 – DEP File #344-1211

ENFORCEMENT ORDER

31 Eleanor Drive – Map 4 Parcel 21 – V. Gingrich advised that the restoration plan was submitted and the planting plan meets the requirements of the Enforcement Order. All Commission members agreed to the planting plan.

Upon motion duly made V. Licciardi and seconded by L. deWahl

V. Licciardi, T. Bradley, L. deWahl, V. Licciardi, T. Ollila, M. McInnis, A. Rittershaus, and D. Pearson voted 7 – 0 to issue a return to compliance letter for 31 Eleanor Drive – Map 4 Parcel 21

NOTICE OF VIOLATION

1A Kendall Street – Map 21 Parcel 33 – The Planning & Conservation Department received notifications that vegetation was being removed in an area believed to be wetlands. An Order of Conditions exists on the property for construction of the house with a 15' no-disturb zone established in that Order. A site visit was made and based on the BVW and 15' no-disturb zone from the Order of Conditions, a Notice of Violation was issued and sent to the homeowner. The homeowner contracted Norse Environmental to review the site who then advised the homeowner

that the area in question is isolated wetland. V. Gingrich asked the owner to contact an engineer in order to determine if it is Isolated Land Subject to Flooding (ILSF). V. Gingrich contacted DEP about the possibility of removing the Order of Conditions. DEP advised that if the homeowner can prove it is isolated wetlands and not ILSF then they can overcome the existing Order of Conditions on the property. V. Gingrich is currently waiting on a report confirming that the area is not ILSF.

F. Issa stated that Norse Environmental and LJR Engineering advised that the area is an isolated wetland and not ILSF. D. Pearson asked if the survey should include 1A Kendall Street and the neighbor's property. F. Issa has received advice from Norse Environmental Services, Inc. and from LJR Engineering, Inc. that it is isolated wetlands and not ILSF. D. Pearson asked what is needed to resolve this. V. Gingrich advised that the regulations give specific requirements as to what has to be submitted to prove whether the area is jurisdictional or not. The report Norse Environmental submitted did not address if the area is ILSF and V. Gingrich reiterated that this must be done to release the property from the Order of Conditions.

V. Gingrich suggested reviewing the progress at the October 7, 2020 Conservation Commission meeting. F. Issa would like to submit the report next week and have a resolution sooner than the October 7, 2020 meeting. F. Issa asked if V. Gingrich could review the report once it is submitted and if she could approve the project. V. Licciardi, T. Ollila, L. deWahl, A. Rittershaus, M. McInnis, T. Bradley, and D. Pearson agreed to have V. Gingrich evaluate the report once it is submitted.

ADMINISTRATIVE TREE OR SHRUB REMOVAL

12 Webber Street – Map 30F Parcel 8F – The homeowner requested to remove five (5) trees that are hollow at the base and will replace them with the required number of shrubs.

12 Earles Row – Map 96 Parcel 206 – The roots to one tree were undermined by drainage coming out of a drainage pipe and the tree is leaning towards the neighbor's house. The tree will be removed and because it was a damaged tree and did not require replacement.

EMERGENCY CERTIFICATION - Shawsheen Avenue ROW near Map 36 Parcel 179

The bridge that goes over the Shawsheen River by the aquaduct has a drainage pipe in the wall that was crushed by a rock and the water is coming out through the wall. DPW is concerned about the stability of the shoulder and didn't want to risk a storm taking out the shoulder and undermining the bridge. DPW would like to remove the rock and replace a portion of the pipe for now and then come in front of the Commission at a later date to insert a sleeve in the pipe.

Upon motion duly made V. Licciardi and seconded by L. deWahl

V. Licciardi, T. Bradley, T. Ollila, L. deWahl, A. Rittershaus, M. McInnis, and D. Pearson voted 7 – 0 to ratify the Emergency Certification for Shawsheen Avenue ROW near map 36 Parcel 179

DISCUSSION

Monitoring Report – 61 Ashwood Avenue – Map R4 Parcel 121 – DEP File #344-1413

V. Gingrich advised the final vegetation restoration report looks good and is ready to issue a return to compliance.

Upon motion duly made L. deWahl and seconded by

V. Licciardi, T. Bradley, T. Ollila, L. deWahl, A. Rittershaus, M. McInnis, and D. Pearson voted 7 – 0 to issue a return to compliance letter for 61 Ashwood Avenue – Map R4 Parcel 121 – DEP File #344-1413

MINUTES - July 1, 2020

Upon motion duly made by T. Bradley and seconded by L. DeWahl,

T. Bradley, T. Ollila, V. Licciardi, L. deWahl, M. McInnis and D. Pearson voted 6 - 0 to accept the minutes for the July 1, 2020 Conservation Commission meeting with one (1) amendment

MINUTES – August 5, 2020

Upon motion duly made by L. deWahl and seconded by V. Licciardi,

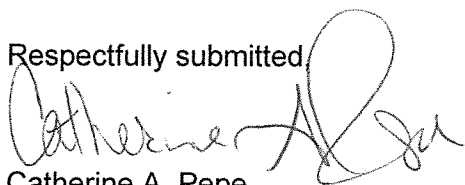
T. Bradley, T. Ollila, V. Licciardi, L. deWahl, A. Rittershaus, and D. Pearson voted 6 - 0 to accept the August 5, 2020 Conservation Commission meeting with one (1) amendment

Next meeting – October 7, 2020

There being no additional business to come before the Conservation Commission, it was

VOTED BY: L. deWahl, V. Licciardi, T. Ollila, T. Bradley, A. Rittershaus, M. McInnis, and D. Pearson to adjourn the meeting at 11:01 pm.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Catherine A. Pepe".

Catherine A. Pepe
Senior Clerk