



## TOWN OF WILMINGTON

TOWN OF WILMINGTON, MA

## DEPARTMENT OF PLANNING &amp; CONSERVATION

121 GLEN ROAD, WILMINGTON, MA 01887 [www.wilmingtonma.gov](http://www.wilmingtonma.gov) (978) 658-8238

## CONSERVATION COMMISSION MINUTES

October 5, 2022

Donald Pearson called the meeting to order at 7:03 p.m. after stating the following:

This meeting of the Wilmington Conservation Commission is being conducted via remote participation. **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 participate in the meeting via Zoom can do so by clicking on this link:

<https://us02web.zoom.us/j/87963189377?pwd=bWplZGNROGd1cW5UcnFGdk8xZnJtdz09>

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: 879 6318 9377 and then enter the following passcode: 898308 if asked. 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. 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.

Donald Pearson, Theron Bradley, Vincent Licciardi, Alex Rittershaus, Melissa Gavegnano, and William Wierzbicki were present. Valerie Gingrich, Director of Planning & Conservation, Cameron Lynch, Conservation Agent, and Erika Speight, Conservation Senior Clerk were also present.

**PUBLIC MEETING – REQUEST FOR DETERMINATION OF APPLICABILITY – 9 Stonehedge Drive  
– Map 107 Parcel 15**

Documents: RDA Application & Materials, received September 21, 2022  
"Certified Plot Plan of Lot 15," dated February 23, 1995  
"As-Built Plan of Land," dated December 8, 2009

Present in Interest: Gregory Stewart, Owner & Applicant  
Missy Lobsien, Owner & Applicant

G. Stewart introduced himself and stated that he filed an RDA to cut down some trees near his house and make the yard a bit bigger. He continued by saying himself and his fiancé purchased the home in late April of this year. They met with C. Lynch multiple times and had him out to the property to evaluate the premises and wanted to hear if there was any feedback prior to proceeding.

C. Lynch stated that when going through the application, twenty-seven (27) trees sounds like a lot, but a lot of the trees are on the smaller side, and the homeowners have a lot of replacements which will more than satisfy the Commission's replacement policy. He continued saying they talked about bringing in fill, but that's not necessarily to bring the level of the yard up, it's to smooth it out because they're going to be taking out some of the stumps so that they don't have a bumpy yard. The fence gets about 20' from the wetlands at its closest point and the only comment they have is to put up erosion control in the back corner where it gets close when they're doing the fill, but other than that they don't have any comments.

V. Licciardi asked if they know how much fill they need to bring in.

G. Stewart stated it is not fill per say, they're going to be filling in the holes of the stumps depending on how big the stumps are. He stated he is going to bring in loam for the grass to take and stabilize, outside of that he is estimating maybe two (2) dump trucks of loam to get the grass to take.

T. Bradley confirmed with C. Lynch that he is confident with the approximate distance from the Bordering Vegetated Wetlands (BVWs).

C. Lynch stated the previous homeowners came in right before they bought the house for a Certificate of Compliance (CoC) and a lot of the flags are still up on the property.

D. Pearson stated he noticed the 20' distance was measured, and at that point the wetland line stopped on the plot plan. He continued by asking if it turned away from the lot line from that point further.

C. Lynch stated it kind of drifts away, but that is the closest point to the wetlands. He continued by saying he went out to the property, and he staked out that back corner and measured it out in person as well to double check.

D. Pearson stated the only other comment he'd like to make is that there is a 25' no structure policy that is in place, so if they are planning to put up a shed or something in that corner, it would be a problem. He continued saying any structure would have to be 25' away from the wetland.

G. Stewart stated they are not planning to put a structure up, however if they were, they want to make sure that they do things right, so they would file with the Commission for that. He continued saying there is no plans to put any structure or shed in that area.

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

VOTED: To issue a Negative Three (3) Determination of Applicability for 9 Stonehedge Drive – Map 107 Parcel 15

**PUBLIC MEETING – REQUEST FOR DETERMINATION OF APPLICABILITY – 887 Woburn Street – Map 37 Parcel 4 & 4A**

Documents: RDA Application & Materials, received September 21, 2022  
"Site Locus Map," dated September 20, 2022  
"Site Plan," dated September 19, 2022

Present in Interest: Laura Bugay, Green Seal Environmental, LLC, Representative  
Robert Peterson, Peterson Law, Attorney  
Anthony Martignetti, Owner & Applicant

L. Bugay introduced herself and gave an overview of the project stating it is a redevelopment project that will include the demolition of existing buildings on the site, construction of one (1) new building, installation of pavement, site grading, the rehabilitation of an onsite existing rail spur, as well as the installation of additional rail track onsite for car storage and access into the proposed new building. She continued by saying they filed an RDA because they do not have wetlands on their site, only a small portion of the work will occur in the outer limits of the 100' buffer zone. The proposed work within the buffer zone is limited to the rehabilitation of the existing rail spur which will entail replacing the wooden ties, refreshing the stone ballast, and resetting the rails. There will also be the installation of new track which will be approximately parallel with the existing spur in general with the same elevation. Both the rail lines will be set in and surrounded by stone ballast impervious. At the very edge of the 100' buffer

zone, there will be some proposed new pavement and curbing for the site access driveway. No buildings are proposed in the 100' buffer zone and the limit of work is outside 50' from the estimated wetland. L. Bugay explained the site redevelopment will also include installation of stormwater controls, consisting of deep sump catch basins with hoods, as well as oil grit separators for enhanced stormwater treatment. This will be a significant improvement for the existing conditions as there's no stormwater treatment there currently. She continued by saying the wetlands shown on the plans are estimated and taken from Mass GIS, its not the result of delineation. They didn't delineate for a couple of reasons, one being the wetlands are not on their property, the second being because the MBTA rail line which is slightly elevated and then there is a six-foot tall Earthen berm on the west side of the rail line, those two separate the site from the wetlands, and third being even if the wetlands were closer to the rail and closer to that berm, it really would only extend the buffer zone another 10', max 15' into their site and there wouldn't be any other impacts from that buffer zone moving in, it would just be contained within that limit of paving. They are proposing perimeter erosion control for construction to prevent any potential sedimentation from leaving the site. They're also subject to a construction general permit which will require stormwater inspections throughout construction. Post construction, the only features that will be located within the buffer zone will be the existing rail spur, the new sidetrack, which are both set on stone and impervious, and then that little sliver of new pavement for the site driveway, which is equipped with curbing and stormwater controls to treat the stormwater and direct it to the southeast corner of the site, so they do not anticipate any impacts to the wetlands post construction.

C. Lynch stated the wetlands weren't delineated and are on an adjacent parcel across the railroad track. He stated that is a question for the Commission whether they would like to see the wetlands delineated. They are across the railroad track which is elevated and there is a berm on the other side, but that is something for the Commission to discuss if they want to see those delineated.

V. Gingrich stated she received an email from the Town Engineer regarding this proposal and he expressed that the plan is conceptual, its not stamped by a professional engineer or land surveyor. The Town Engineer stated he wasn't given enough information with this submission to perform his typical review of a project of this size and scale for compliance with state stormwater and local stormwater. As the applicant stated the project is mostly outside the buffer zone. There is trackwork that is happening within the buffer zone and there is pavement curbing that is happening within the buffer zone. She continued by saying they don't know exactly where the 100' buffer is projected out to because of the estimated delineation. She explained they really wanted to frame that for the Commission. Typically, a project of this size would be field delineated with filing a Notice of Intent (NOI) so that there is ongoing conditions associated with the project because a portion of it is in the buffer zone. She continued by saying if the Commission feels comfortable that the wetlands are sufficiently located far enough and there is enough impediments to impacts on those BVWs, the Commission can provide a negative determination for this as its more of a comfort level whether they feel that they have enough information or not.

D. Pearson asked if they knew when the wetlands were delineated last.

R. Peterson stated relative to a wetland delineation for this site, he doesn't have an exact date when they were last flagged but he did say he can bring to the Commission's attention that back in 2020, the MBTA brought through their vegetation and maintenance plan to the Commission for a Determination of Applicability, which they received a negative determination. They had submitted that plan to the Planning Department which showed where the wetlands were back in 2020, under the applicable CMRs which are good for five (5) years, relative to right of ways and maintenance. Further back, it was stated in the minutes that the plan as submitted by Keolis did confirm to all other wetland maps that had been previously submitted to the board in previous iterations of their plans. He explained L. Bugay can expand on how she came up with the wetland vegetation line.

D. Pearson asked if L. Bugay can provide a date that it was delineated.

L. Bugay stated she doesn't have any data of delineation in the past, she explained that they used the Mass GIS data layer and overlaid it onto their AutoCAD plans. She continued by saying that is the same wetlands that were shown in the Keolis application for vegetation management which is the property that bisects the wetlands from their property. She believes the Town's right of way management application had a plan that shows the same wetlands based on GIS. Even if the wetlands were closer, the wetlands would have to be on top of the northbound rail line which is the most eastern rail line for the buffer to touch the very western corner of the building. All the area there is just driveway and pavement. She explained that they aren't going to have any kind of storage or anything out there. Vehicles will travel in by the east side of the site across the north side of the site, out of the building and turn. She continued by saying they need that pavement for turning radius so they cannot have anything stored out there for that reason, mainly travel ways.

D. Pearson stated that the plans provided are low resolution and don't have any elevations on them. He continued by saying it is a little hard to tell.

L. Bugay explained that she thought it was important to show the overlay between existing conditions and what is going to be demolished and then proposed conditions. This project will need to go through site plan review which there will be stormwater design review as part of that with full plan sets for everything that the Planning Board needs and requires for their submittals. It will not be very much different from what is shown on the plans here.

V. Licciardi asked if they had any tests done to see if there are any contaminants on the lot.

L. Bugay stated that the property historically was the E C Whitney & Son Incorporated site, they really abused this property, and they had some releases on site. She explained that it is a Massachusetts Contingency Plan (MCP) site, they have monitoring wells; they're working with DEP to close out investigations and close out the site in their purview. As part of construction, anything that would need to be done for removal of the impacted soils will be conducted in accordance with the MCP, with soil management plans, and managed appropriately.

W. Wierzbicki stated that on the east end of the plans across the road there is a couple of ponds. He asked how close they are to the proposed project.

L. Bugay stated that the pond to the southeast side of the site is over 230' away from the corner of the property.

W. Wierzbicki stated he knows some of the history at E C Whitney & Son Incorporated and was concerned with the distance of the ponds across and some of the wetlands.

L. Bugay stated that the applicant has done significant work on this site pertaining to clean up. The redevelopment of the site and the continuing of the MCP activities is just part of the final cleanup of this blighted property.

T. Bradley asked C. Lynch if he is comfortable that even without delineation that there is no wetland impact or if he believes there is a chance there is. If so, he would like to see it delineated.

C. Lynch stated him and V. Gingrich both went onsite and met their team out there. It is across the railroad tracks which is elevated and there is a berm on the other side of the railroad tracks. He stated it would take a lot, but it is ultimately the Commission's decision.

T. Bradley asked if it's probably well protected just by the elevated rail.

C. Lynch stated it protects it more than some other sites.

D. Pearson stated he is leaning in the direction of the tracks providing some protection as well. He also is persuaded that the Planning process is going to shake out a lot of the things that might be uncertainties here. He asked V. Gingrich if there are some things that come out in Planning that would impact the wetlands, would the project be redirected to the Conservation Commission for another look.

V. Gingrich stated that if the plans change within the buffer zone as shown on these plans, they will need to come back. As shown, it's not a lot of buffer zone projecting onto their work area other than the track work, there is a little bit of edge of pavement which hugs the parking that's proposed there but doesn't quite touch the stormwater. If the plans change within the buffer zone, then they would have to come back for another review. The question is are there ongoing conditions where the Commission would want to put on the buffer zone in this case or not since it's a lot of rail tracks and does it quite apply to this situation. The tracks are very elevated, so there is a lot of stone between the site itself and the wetlands. They stated there is going to be a curb along edge of pavement, which isn't shown, however she imagines they'd have to have a curb along there directing stormwater. Whether the Commission wants to put ongoing conditions on the piece of buffer zone that's under review would be the question. If the Commission does want to put ongoing conditions on, that's typically done through an Order rather than a determination, but if they don't think that there's anything that applies here, then a determination would do the trick.

D. Pearson polled the Commissioner's, and all are comfortable with a determination.

Upon motion duly made by T. Bradley and seconded by A. Rittershaus, it was unanimously

VOTED: To issue a Negative Three (3) Determination of Applicability for 887 Woburn Street – Map 37 Parcel 4 & 4A

**PUBLIC MEETING – REQUEST FOR DETERMINATION OF APPLICABILITY – 326 Ballardvale Street Lot 3A – Map R3 Parcel 25A**

Documents: RDA Application & Materials, received September 21, 2022  
"Site Development Plans for Public Utility Development," dated September 6, 2022/Submitted for RDA September 21, 2022

Present in Interest: Hamid Jaffari, Reading Municipal Light  
Tim Williams, Allen & Major Associates, Inc., Representative  
Bob Peterson, Peterson Law, Attorney

B. Peterson introduced himself and explained that Reading Municipal Light is proposing to construct a high voltage electrical substation, intended to replace the existing substation, which is in the Maple Meadow Brook on Wildwood Street. The property contains 148,224 sq ft. of area. He continued saying it is presently undeveloped and contains grass woodlands and a delineated intermittent stream running along the southern north portion of the lot. Of the 148,224 sq ft. contained within the confines of the lot, approximately 28,311 sq ft. lies within the 100' buffer zone. He explained that the grade of the lot is very steep, and it runs from high to low, from the rear of the lot out to Ballardvale Street. To the northern most portion of the lot, there is an existing right of way. In the middle of the lot shown is where the existing driveway was and where the prior structures used to be; that used to be a residential area. B. Peterson explained that submitted with the RDA was a full set of civil plans, which is intended to be

filed with the Planning Board tomorrow, as well as a complete drainage analysis prepared by Allen & Major Associates.

T. Williams stated that late fall of last year, Goddard Consulting went out and flagged the wetland resource areas and identified the area within this parcel that is being worked on as an intermittent stream. There is a 500-year flood plain, however they are working outside all these resource areas. He explained that this site formally was a single-family residence and looked as if there was a one-story metal building right up against the intermittent stream with an associated paved driveway. Of the 3.4 acres, they are proposing to impact about 1.6 acres of this parcel. Proposing to do all the work outside the 100' buffer zone as well as the 500-year flood plain, by means of segregating the site by a retaining wall. From there, the topography changes, and up on top of the hill is where the substation is proposed to go, which will include the towers, the control center, and a future storage area as well. T. Williams explained that Reading Municipal Light would like to permit a 10,000 sq ft. building, but they aren't sure if they're going to build it in conjunction with the substation or at a later date. They will be utilizing the existing curb cut that provides access to the back of the National Grid building, which is the building to the west. From that, they are essentially going to elongate the curb cut through a site plan approval process and request a waiver for that for some relief from that curb cut extension. He explained that the curb cut is essentially designed to accommodate the low bed tractor trailer that will deliver the structures, and they've made accommodations from a meeting with the Fire Department for truck turning. All the work associated with the curb cut and the paved surface is going to be outside the buffer zone. The substation itself is going to be 3 quarter-inch crushed stone. As part of the project, they did incorporate a full-blown drainage system, which will include deep sump catch basins, water quality treatment devices, an underground detention system and flow back to the intermittent stream, but all work will be outside the resource areas. He continued by saying it is very low impact; the site is completely gravel outside of the paved driveway leading up to the site. In the packet, they have included an erosion control plan, a utility plan, relocate utilities from National Grid because right now, water, gas, and sewer bisect the site and they are going to relocate those with all the work being outside the buffer zone. T. Williams explained nobody will be on site except maybe once a week to check on the site, otherwise everything will be handled remotely when in operation. He is hoping the Commission sees this as a negative determination as all work is outside the buffer zone and the 500-year flood plain.

C. Lynch stated the retaining wall is going to be right at the 100' buffer zone and they have the erosion controls proposed, so there are no comments.

W. Wierzbicki asked if there is going to be any type of transformers or oil filled transformers located inside of the substation that would be likely to leak into the pond or surrounding areas.

H. Jaffari stated there will be two (2) transformers that contain oil and there is going to be an oil containment right underneath, which is how it is normally designed.

T. Bradley asked if they could talk about the retaining wall that is going to be installed and asked if they could convince him that it isn't going to serve as a dam that's going to burst someday and flood into the wetlands.

T. Williams stated that is going to be a retaining wall that will essentially be 6 to 10 feet tall, because the site kind of falls off significantly down toward the intermittent stream. He explained that is going to be fully engineered by a third-party proprietary retaining wall, so there should be no concerns about the failure of that wall.

T. Bradley asked how they will control and ensure the quality of any water that's going to leak under or around the wall.

T. Williams stated that the wall will probably be designed with an underdrain system, and it will be a proprietary wall, so they will get full design plans from the wall manufacturer, stamped by a structural engineer registered in the Commonwealth of Massachusetts. He continued by saying for the Commission's assurance that it is not going to fail, nobody wants that wall to fail, so they rely on the product manufacturer to design the wall based on soil conditions and the height of the wall as well.

D. Pearson asked if the underdrain system would drain presumably away from the wetlands.

T. Williams stated if there was an underdrain that was required behind the wall, they can bring that back out and tie that into their discharge point from the detention system proposed for this site to mitigate stormwater generated from the paved surfaces in the storage building.

D. Pearson asked if it would be treated water.

T. Williams answered if anything was going to come through there, it would be ground water for the most part. Although, this is a ledge site and the ledge is down between three (3) and seven (7) feet, there is significant ledge on this property and to level it, there should be no concerns with ground water. He stated belts and suspenders will work with a wall manufacturer to make sure that there is no concerns about contaminated water or the wall failing in general.

D. Pearson asked if they are going to have to fill or blast or both.

T. Williams stated it is a combination of both. He said he doesn't have those numbers as far as what the quantities are, but they will be working with the contractors. This project will require a plan because more than an acre is being disturbed. He explained that this is just the initial kick off and there is still quite a bit of work to be done on this project relative to construction documents.

Upon motion duly made by W. Wierzbicki and seconded by V. Licciardi, it was unanimously

VOTED: To issue a Negative Three (3) Determination of Applicability for 326 Ballardvale Street – Map R3 Parcel 25A

**CONTINUED PUBLIC HEARING – NOTICE OF INTENT – Cross Street – Map 40 Parcel 11 – DEP File #344-1504**

Documents: Planning & Conservation Review Letter, dated September 21, 2022  
Engineering Review Letter, dated September 22, 2022  
Narrative Response to Site Design Standards, dated September 29, 2022  
"Site Plans," revised September 28, 2022  
NOI and Stormwater Report, revised September 28, 2022  
Response to Engineering, dated September 15, 2022  
Response to Planning & Conservation, dated September 29, 2022

Present in Interest: Benjamin Minnix, Eaglebrook Engineering & Survey, LLC.  
Michael Juliano, Eaglebrook Engineering & Survey, LLC., Representative  
Jonathan Main, Owner & Applicant  
Robert Peterson, Peterson Law, Attorney

R. Peterson introduced himself and explained that they have been before the Commission for the past few hearings. The original plan set prepared in which they were developing this property with two (2) buildings consisting of eight (8) units each. After lengthy conversations with the Commission, it was readily apparent that the Commission sought remedial measures to pull both the building and the retaining wall away from the wetlands and over the course of the past two months, they have taken measures to do that. On or about August 25<sup>th</sup>, they had submitted the proposal which is now before the Commission for one (1) three-story building consisting of eighteen (18) residential units with associated stormwater controls, plantings, grading and upland mitigation. He continued saying what is before the Commission tonight pulls the building further away from the wetlands and also gives much more of a buffer from the retaining wall, which is necessary for site development. He continued by saying they did receive comment letters from Planning & Conservation as well as the Engineering Division, and they have made all the requested edits and changes to those plans, which have been resubmitted.

B. Minnix shared his screen and showed the site layout of the proposed revisions. Instead of the previous submission with two (2) buildings, it is now one (1) proposed building slab on grade with eighteen (18) residential units. They have moved the proposed utility room from around the corner to the back to coordinate with the architect plans, while still providing access around the side for the Fire Department. The biggest improvement is they moved the proposed retaining wall farther away from the wetland, the Commission's policy being a minimum of a 15' setback for any of that sitework. Because of the 20' requirement for parking off the front property line, they could pull the retaining wall away from the wetland 14'. Previously submitted was 5' off the wetland and with the new layout, they've been able to move it to 14' at the narrowest point. Ten percent (10%) of the retaining wall will be approximately 14' off the wetlands, the rest of the wall gets significantly farther away to 17' in one area and beyond 15' in other areas. The proposed building was also able to be pulled farther away compared to the previous design, prior being 16' away from the wetland line and now proposed to be 30.5' away at the closest point. He explained they are still within 50', however it is an improvement from the previous submittal. The proposed parking lot has been minimized as much as possible, while also meeting zoning requirements for a minimum number of spaces of proposed thirty-six (36) spots. They have also revised the landscape plan to show additional plantings and shade trees. Before they were proposing shrubs and typical low ground cover vegetation around the building, but also shade trees along the right of way, shade trees in the parking lot area, and proposing upland mitigation plantings in the area which is not being touched otherwise. Additional upland mitigation trees behind the retaining wall as well. They will be saving existing trees as much as possible, the large oak tree at the back of the proposed sidewalk is staying as it provides a fair amount of shade for the parking lot. The proposed snow storage area is predominantly going to be on the graded slope and the erosion control seed mix will help prevent erosion from that snow melt. Snow storage will be along the front of the parking lot. He explained that one of the biggest advantages for the Town will be collecting the surface runoff from Cross Street and working with the Town Engineer, they've come up with a design along Cross Street where they're collecting the runoff from just about the start of the intersection at Main Street, all the way to the existing driveway at the Yentile Farm Recreational Facility. By doing so, there will be two (2) catch basins. Proposing a pipe that goes along the roadway line which will infiltrate water, and then discharge approximately at the back of the retaining wall slope before it reaches the wetland.

R. Peterson stated that they have submitted with the revised plan sets, numerous narratives relative to the site as well as response letters responding specifically to the Engineering Division and Planning comments and asked if the Commission had any specific comments relative to those documents.

M. Juliano stated a letter was submitted September 28<sup>th</sup> to the Commission explaining some of the mitigation that they will be providing regarding request for a waiver on the guidance setbacks and he wanted to confirm that each member of the Commission has received a copy of that.



The Commission members confirmed they received a copy.

M. Juliano went over a few of the mitigation items, this new layout reduces the amount of impervious area by about 2,300 sq ft. and he believes it is a positive impact based on the new layout. The wall and fence will provide a physical barrier between the developed side and the wetland side. He explained that this is like a project that the applicant and Eaglebrook Engineering had done in Wakefield on two (2) projects in the last six or seven years where the physical barrier prevents any encroachment into that area whether it be grass clippings or anything else. It is certainly a positive, concerning the wetlands to have that barrier. The wetland to the northwest which is behind the proposed building, that area is disturbed, and they are proposing to clean that up as far as debris in the wetland and in the buffer zone. He explained like B. Minnix stated, they will be treating stormwater runoff coming from Cross Street, which is stormwater not on their site, but coming offsite from the public way. Originally the design was to let it flow as it does today over land and then into the resource area, but they will be collecting it and trying to treat it, so he believes this is a positive impact as far as treating the public way pavement. He continued by saying their project is not only meeting the local stormwater bylaws, but also meeting the wetland protection act stormwater regulations. With the planting mitigation, being proposed on both the northwest and the east portion of the site, they feel that it is a justification for the Commission to grant them waivers on the guidance setbacks.

C. Lynch stated there are no comments at this time. He continued by saying since the revisions were submitted after the deadline, staff hasn't had time to review them prior to this meeting.

M. Gavegnano had no comments. She would like to see once the staff has time to review the revised plans if they have additional concerns.

A. Rittershaus asked if there will be an Operation & Maintenance (O&M) plan for the site and will the mitigation plantings be required in that O&M document, and would it be an ongoing requirement that can be maintained.

R. Peterson stated there will be an O&M plan required relative to site plan approval and any conditions on this site. He stated V. Gingrich and C. Lynch can condition the ongoing maintenance of all plantings especially the upland mitigation. Relative to the landscape plan, it should be a standard condition of site plan approval that they are required to maintain in an acceptable fashion any and all landscaping of the property.

M. Juliano stated in addition to the Planning Board, the Commission can provide conditions as far as maintenance and the vegetation that will be planted as part of the conditions of the order in addition to the Planning Board conditions.

B. Minnix added that they do have an O&M plan as part of the stormwater report so that is already provided or at least within the confines of the retaining wall. He stated if there are additional conditions required, that would be as part of the additional landscaping and upland area.

T. Bradley stated that from time-to-time paths and sidewalks and whatnot, the Commission doesn't consider a structure, but the parking area concrete for thirty-six (36) cars seems to him it's a structure and he's concerned about the structure impacting wetlands. It moves right up close to the 15' buffer line instead of staying 50' away and asked if they've considered any alternatives to this parking arrangement if the building is going to be three-stories, perhaps a two-story parking garage or something to keep it further from the wetlands.

R. Peterson explained that the parking area shown on the plans is the best possible solution on site given the fact that they have to maintain a 20' setback in the front and they're trying to meet the 50' structure as best as possible. He continued by saying doing a parking garage in that area he would consider that to be a structure whereas the parking lot wouldn't be in the general accepted terms of what a structure is and wouldn't arise to that threshold. What was discussed with the Planning Board relative to parking is they were worried about providing excess parking and they explained to the Planning Board that they are in a delicate balancing scheme with meeting the requirements of the Planning Board while also meeting the requirements and trying to meet the policies of the Conservation Commission as well.

M. Juliano added over the past year and a half they've come up with numerous layouts and this submission is the best configuration that fits this site.

B. Minnix clarified some of the design constraints as far as why there is a proposed retaining wall in the back. He explained certainly it would be nice if they could work with the slope to provide a parking facility that's in line with the existing grade. Unfortunately, with the termination of ground water and requirements for stormwater systems they do have to raise the parking lot to provide enough space within the ground for the stormwater system, otherwise they would have to do surface treatment or a detention pond which would take up more area. The retaining wall in their opinion also provides a solid and permanent buffer between the parking lot and the wetland.

D. Pearson stated in one of the narratives, there was talk about bicycle amenities and he's not too sure what that meant and if it meant bike racks, or bike lanes, or bike storage as he doesn't see anything like that on the plans. He asked them to elaborate on that.

R. Peterson answered by saying the Planning Director asked them to provide a site plan narrative, which newly adopted at the 2022 Annual Town meeting explained that a site design criteria for the neighborhood mixed use district and what the site design standards for the traditional neighborhood mixed use district is to create an active streetscape, which is more geared toward specifically the areas around Lowell and Woburn Street whereas this particular property was the subject of a 2021 Annual Town meeting rezone article. He provided an analysis of how they meet the new requirements as best as possible for Planning Board to review. He continued saying there are no active bike racks or anything such on the plans because they believe it to be more applicable to other areas of neighborhood mixed use whereas they are directly across the street from a recreational facility in which there are numerous avenues for walking ability and walking paths where they are providing further access to but at this time, they have not added anything. They are open to the discussion when it gets to the Planning phase, but nothing like that has been requested by the Planning Board.

D. Pearson stated he doesn't believe it would be unreasonable and asked if there was any storage area where they could keep items like this or would residents have to bring it into their apartment.

R. Peterson stated there is plenty of storage area to the east where they could put the bike racks. He continued saying it hasn't been brought up as it is more of a planning aspect, but they are open to it if it's what the Planning Board would want and there is no issue putting them there for all occupants of the building.

D. Pearson mentioned he noticed that one of the dumpster locations is at the closest point to the wetlands. He continued saying they make it sound as if it's going to be in an enclosure that'll include a fence to keep from stuff blowing out the back and into the wetlands. He continued by asking if that is the only place they could put it or could it be isolated with the fences being effective. If trash does blow

out and go into the wetlands, would there be something in the O&M manual to state people would be retrieving things that have gone into the wetlands that shouldn't have.

B. Minnix explained that the location of the dumpster pad is based on a turning analysis software that they conducted for the parking lot and for a truck to enter and exit the parking lot as well as provide enough space to physically be able to lift the dumpsters, this was the best space. Also, a dumpster shouldn't be placed at the end of the parking lot to the opposite end of the building as it will lead to potential trash being left along the building by residents. It is the best location that they came up with and pulled it away from the wetland as much as possible. As far as trash, the retaining wall will have approximately 1 ½ to 2 feet of view from the high side. From the parking lot side on top of that will be a fence. In great windstorms there may be some trash that still blows over, but he doesn't believe they have any objections as far as maintenance requirements to ensure that the area is cleaned out in the back.

R. Peterson stated that the fence that will be surrounding the dumpsters on this site will be nearly identical to what is currently constituted at his site at 600 & 598 North Ave in Wakefield. He continued saying he has been out to those sites, and it is a similar situation as the dumpsters are situated against a retaining wall which abuts wetlands and it is readily able to maintain the dumpster enclosure itself and keep any trash that may otherwise blow out or be able to blow out into any wetlands under control and these are easier standard dumpsters with a top that can be removed and to his knowledge it has not been an issue in Wakefield.

D. Pearson asked if things do blow from the dumpster into the wetlands, is there a request that retrieving them can be a maintenance function specified in an O&M plan.

V. Gingrich stated if the Commission would like the applicant to include a periodic inspection of the wetlands behind the retaining wall, that is something they can put into their O&M plan. She continued by saying she noticed that the snow storage on the right side of the site gets close to the wetlands, the Commission likes to see it at least 50' away and she believes there is a grade there that leads it down into the wetlands and commented to consider if there is a better spot to put the snow on this site.

D. Pearson asked if the snow storage area that's shown on the plans would be simply scooped up and dropped into the snow storage area as there would be no way to push it. He asked if he understood that correctly.

B. Minnix stated the snow would be pushed by a plow across the parking lot. He stated it will not be scooped up and dropped any closer to the street. He mentioned they are doing erosion control and seed mix to control the erosion with the snow melt. Any additional snow would have to be trucked off site because as mentioned, it is a tight site.

No comments were made by the public.

R. Peterson asked if there has been a uniform application relative to a 50' setback for a multi-family development.

V. Gingrich stated that the Commission likes to see the 50' setback, however, there have been deviations from that in the past.

Upon motion duly made by W. Wierzbicki and seconded by M. Gavegnano, it was unanimously

VOTED: To continue the Public Hearing for Cross Street – Map 40 Parcel 11 – DEP File #344-1504 to the November 2, 2022, Conservation Commission meeting

**CONTINUED PUBLIC HEARING – NOTICE OF INTENT – Marion Street, Eagleview Subdivision – Map 5 Parcels 2J, 3, 3A, 3C, 3D, 3E – DEP File #344-1494**

Documents: REC Review of NOI Response Letter, dated September 19, 2022  
Engineering Response Letter, dated September 29, 2022

Request to continue to the November 2, 2022, Conservation Commission meeting.

Upon motion duly made by V. Licciardi and seconded by A. Rittershaus, it was unanimously

VOTED: To continue the Public Hearing for Marion Street, Eagleview Subdivision – Map 5 Parcels 2J, 3, 3A, 3C, 3D, 3E – DEP File #344-1494 to the November 2, 2022, Conservation Commission meeting

**CONTINUED PUBLIC HEARING – NOTICE OF INTENT – 3 Darby Lane – Map 10 Parcel 50 – DEP File #344-1511**

Documents: Engineering Response Letter, dated September 29, 2022  
Engineering Review Letter, dated October 4, 2022  
NOI Report, revised September 28, 2022  
Septic System Plan, revised October 3, 2022

Present in Interest: James Castellano MM, Owner & Applicant

J. Castellano stated that he received the draft Order of Conditions via email and is happy to go over them. He continued saying that the revised plans were submitted and most of the changes were addressed. He believes the Town Engineer had a few comments.

D. Pearson asked to review the draft Order of Conditions.

C. Lynch stated it is a standard Order of Conditions. The Town Engineer had a few comments that he mentioned that were put into the Order of Conditions.

D. Pearson asked to look at the Order of Conditions and if the Commission is okay with it, they can close the hearing and issue them.

V. Gingrich shared her screen and displayed the draft Order of Conditions.

C. Lynch explained that the nonstandard condition is #22 based off the Town Engineer's comment. He continued by saying they removed a few conditions that would apply to a single-family home like demarcation and a few others because of the setbacks as they are going to have a trail that goes behind the homes, so the property itself is going to be far away from the wetlands and the other one was a compost area that is usually put for single-family homes that they removed as well.

D. Pearson asked if it will be removed on all single-family home conditions or just for Darby Lane.

C. Lynch stated he believes it will just be for Darby Lane.

V. Gingrich stated that may be something to discuss since compost bins seem to be unpopular. Whether that should be required or not, staff took them out, they weren't shown on plans, and they weren't proposed so they didn't add it to the conditions but if the Commission would like to add it, they can feel free to do so. With these three (3) properties, the buffer zone comes into just the back portion of these lots so essentially almost ninety percent (90%) of the lot is outside of the buffer zone completely. It is quite a distance from the wetlands, there is a trail between the property and the wetland, so in this case staff did not include that compost area.

T. Bradley asked about 3 Darby Lane and said there was a gutter requirement for the house and its not there for 5 and 7 Darby Lane and asked what the reason is for having it on 3 Darby Lane and not for 5 Darby Lane and 7 Darby Lane.

V. Gingrich stated there are gutters on their subdivision plan for 3 Darby Lane and they were designed to outlet and flow overland and into the pond next to it, that's how the overall subdivision stormwater was designed. She continued saying the other two (2) homes each have an underground stormwater infiltration system of their own. In this case for 3 Darby Lane, they had a pipe that went from the gutters themselves into the pond, which the pond is already there so they think it would be simpler and more appropriate for the gutters to outlet and flow towards the pond in the front, so that was the change for this. She continued saying as for the other two (2) homes, they have their own infiltration systems for the gutters.

No comments were made by the public.

Upon motion duly made by V. Licciardi and seconded by A. Rittershaus, it was unanimously

VOTED: To close the Public Hearing for 3 Darby Lane – Map 10 Parcel 5O – DEP File #344-1511

Upon motion duly made by A. Rittershaus and seconded by V. Licciardi, it was unanimously

VOTED: To issue the Order of Conditions for 3 Darby Lane – Map 10 Parcel 5O – DEP File #344-1511

**CONTINUED PUBLIC HEARING – NOTICE OF INTENT – 5 Darby Lane – Map 10 Parcel 5N – DEP File #344-1509**

Documents: Engineering Response Letter, dated September 29, 2022  
Engineering Review Letter, dated October 4, 2022  
NOI Report, revised September 28, 2022  
Septic System Plan, revised October 3, 2022

Present in Interest: James Castellano MM, Owner & Applicant

C. Lynch explained it is the same process as 3 Darby Lane, as they were waiting for comments from the Town Engineer. He continued saying they added condition #22, per the Town Engineer's request.

V. Gingrich explained he asked for the pipe invert previously and she believes it was added to a different system on a different lot. There are some details to be put on there, it's not going to change the plan and the driveway grade is steep and doesn't meet the regulations. These are outside of the buffer zone so it's easy to condition that as the plan be changed with those things especially since they are outside of the buffer zone.

D. Pearson asked if the ongoing conditions are the same as 3 Darby Lane.

V. Gingrich stated that they added a requirement for an O&M plan for that underground infiltration system which is typically required with the stormwater permits, that it be submitted for review and recorded prior to occupancy of the home. She continued saying that the ongoing conditions related to demarcation was removed because the property is almost entirely outside of the buffer zone.

No comments were made from the Commission.

No comments were made by the public.

Upon motion duly made by V. Licciardi and seconded by W. Wierzbicki, it was unanimously

VOTED: To close the Public Hearing for 5 Darby Lane – Map 10 Parcel 5N – DEP File #344-1509

Upon motion duly made by A. Rittershaus and seconded by V. Licciardi, it was unanimously

VOTED: To issue the Order of Conditions for 5 Darby Lane – Map 10 Parcel 5N – DEP File #344-1509

**CONTINUED PUBLIC HEARING – NOTICE OF INTENT – 7 Darby Lane – Map 10 Parcel 5M – DEP File #344-1508**

Documents: Engineering Response Letter, dated September 29, 2022  
Engineering Review Letter, dated October 4, 2022  
NOI Report, revised September 28, 2022  
Septic System Plan, revised October 3, 2022

Present in Interest: James Castellano MM, Owner & Applicant

C. Lynch stated it is the same as 3 Darby Lane and 5 Darby Lane. Condition #22 is the added one for the Town Engineer's comment. He continued by saying in the ongoing conditions they removed the demarcation and compost area as well.

No comments were made from the Commission.

No comments were made by the public.

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

VOTED: To close the Public Hearing for 7 Darby Lane – Map 10 Parcel 5O – DEP File #344-1508

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

VOTED: To issue the Order of Conditions for 7 Darby Lane – Map 10 Parcel 5O – DEP File #344-1508

**CONTINUED PUBLIC HEARING – ABBREVIATED NOTICE OF RESOURCE AREA DELINEATION – 800 Salem Street – Map R1 Parcel 24 – DEP File #344-????**

Requested to continue to the November 2, 2022, Conservation Commission meeting.

Upon motion duly made by W. Wierzbicki and seconded by V. Licciardi, it was unanimously

VOTED: To continue the Public Hearing for 800 Salem Street – Map R1 Parcel 24 – DEP File #344-???? to the November 2, 2022, Conservation Commission meeting

**REQUEST FOR CERTIFICATE OF COMPLIANCE – 1 Sgt. Veloza Way – Map R2 Parcel 40 – DEP File #344-1454**

Documents: None.

Present: Elizabeth Wallis, Hayes Engineering Inc., Representative

E. Wallis explained that at the last meeting, the Commission wanted to see compost bins placed at the lots under consideration. She explained that they have been installed as requested and she has photographs for the Commission's review if they would like to see them. She believes that was the only outstanding item that the Commission wanted to see. She is happy to answer any additional questions about what other work had been done.

D. Pearson asked if this is now the case for 1, 4, & 5 Sgt. Veloza Way and 101 McDonald Road.

E. Wallis confirmed that is correct.

D. Pearson confirmed with C. Lynch that everything else is all set for the Certificate of Compliance.

C. Lynch stated that is all that was discussed at the last meeting and he believes that is sufficient as to what the Commission was looking for.

D. Pearson stated there was some conversation about patios as well that weren't present on the plans, but he believes the Commission felt as if they wished it had been included in the plans and that they'd been told about them, but he stated they are going to go ahead anyway.

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

VOTED: To issue the Certificate of Compliance for 1 Sgt. Veloza Way – Map R2 Parcel 40 – DEP File #344-1454 to the November 2, 2022, Conservation Commission meeting

**REQUEST FOR CERTIFICATE OF COMPLIANCE – 4 Sgt. Veloza Way – Map R2 Parcel 43 – DEP File #344-1381**

Documents: None.

Present: Elizabeth Wallis, Hayes Engineering Inc., Representative

See above minutes for 1 Sgt. Veloza Way, as multiple projects were presented together.

Upon motion duly made by T. Bradley and seconded by M. Gavegnano, it was unanimously

VOTED: To issue the Certificate of Compliance for 4 Sgt. Veloza Way – Map R2 Parcel 43 DEP File #344-1381 to the November 2, 2022, Conservation Commission meeting

**REQUEST FOR CERTIFICATE OF COMPLIANCE – 5 Sgt. Veloza Way – Map R2 Parcel 41 – DEP File #344-1455**

Documents: Email update from Elizabeth Wallis, received September 28, 2022

Present: Elizabeth Wallis, Hayes Engineering Inc., Representative

See above minutes for 1 Sgt. Veloza Way, as multiple projects were presented together.

Upon motion duly made by W. Wierzbicki and seconded by V. Licciardi, it was unanimously

VOTED: To issue the Certificate of Compliance for 5 Sgt. Veloza Way – Map R2 Parcel 41 DEP File #344-1455 to the November 2, 2022, Conservation Commission meeting

**REQUEST FOR CERTIFICATE OF COMPLIANCE – 101 McDonald Road – Map R2 Parcel 45 – DEP File #344-1388**

Documents: None.

Present: Elizabeth Wallis, Hayes Engineering Inc., Representative

See above minutes for 1 Sgt. Veloza Way, as multiple projects were presented together.

Upon motion duly made by W. Wierzbicki and seconded by V. Licciardi, it was unanimously

VOTED: To issue the Certificate of Compliance for 101 McDonald Road – Map R2 Parcel 45 DEP File #344-1388 to the November 2, 2022, Conservation Commission meeting

**REQUEST FOR CERTIFICATE OF COMPLIANCE – 401 Andover Street – Map R3 Parcel 8 & 10 – DEP File #344-1355**

Documents: Request for Certificate of Compliance, received August 29, 2022  
“Final As-Built Plan,” dated December 10, 2021

C. Lynch explained that just as a reminder, this is Spruce Farms- Hensey Way, which is the 55+ neighborhood off Andover Street. He continued saying residents have been living there for a while and construction ended a while back and it looks good out there. There are no comments.

Upon motion duly made by T. Bradley and seconded by W. Wierzbicki, it was unanimously

VOTED: To issue the Certificate of Compliance for 401 Andover Street – Map R3 Parcel 8 & 10 DEP File #344-1355

**REQUEST FOR CERTIFICATE OF COMPLIANCE – 63 Federal Street – Map 64 Parcel 3B – DEP File #344-1466**

Documents: Request for Certificate of Compliance, received September 17, 2022  
“As-Built Plan,” dated August 11, 2022

C. Lynch explained that this was an addition that came in a few years back. He continued saying they



finished and submitted all their paperwork, but they did not have their demarcation up. They are going to be planting some bushes along the 15' no disturb between now and the next meeting, and they will be ready to resubmit for the November 2, 2022, Conservation Commission meeting.

Upon motion duly made by T. Bradley and seconded by W. Wierzbicki, it was unanimously

VOTED: To table the Certificate of Compliance for 63 Federal Street – Map 64 Parcel 3B DEP File #344-1466 to the November 2, 2022, Conservation Commission meeting

**REQUEST FOR CERTIFICATE OF COMPLIANCE – 30 Kilbuck Street – Map 74 Parcel 6 – DEP File #344-215**

Documents: Request for Certificate of Compliance, received September 18, 2022  
“Plan for Certificate of Compliance,” dated September 13, 2022

C. Lynch explained the house was built in the 1980's and they never ended up getting a Certificate of Compliance. He continued saying the only thing to point out in this is that there is an above ground pool on the property that staff did not have any record of approval. He stated that there was no installation date recorded because the homeowners that just moved in are brand new and they don't have any history of the house either.

D. Pearson asked if there is an as-built plan.

C. Lynch confirmed that the plan provided is an as-built plan and shows the pool on it.

D. Pearson stated the choices are to have them come in and explain the pool, or simply say the pool looks okay and the Commission will bless it as is.

C. Lynch stated it is a standard above ground pool. The wetlands haven't been delineated, but the pool has a thick tree line between it and the wetlands and there is yard between the pool and the tree line. There is a decent buffer, but nothing special about the pool.

D. Pearson asked if that is the only thing that is a cause for concern.

C. Lynch stated that is correct, it is the only thing that was not approved.

D. Pearson asked if it is okay for the Commission to say they approve it as built and issue a Certificate, sort of blessing the pool after the fact.

C. Lynch stated he believes that is okay or the other option is having the homeowners come in and file for the pool.

V. Gingrich stated there was a violation on this property prior to Covid, when Ryan was still the Conservation Agent, they had done some filling in the backyard. There was a violation and they agreed to take out the fill and restore it. She stated she doesn't remember seeing an above ground pool at that point, just a few years ago. She doesn't know if it is new, but it wasn't on the original plans for the house, and they didn't find an RDA for it. It looks like it is within 50' of the wetlands, so the question is if the Commission would like them to file an RDA so that they can approve the pool and then issue the Certificate, or if they want to issue the Certificate with the pool shown. She believes that by issuing the Certificate would cause confusion in the future because there still wouldn't be an approval for the pool,

but she's sure that's something that can be handled as well. It is up to the Commission if they want to require that extra step or not.

V. Licciardi stated he thinks they should take a step to legalize the pool in the simplest step possible.

C. Lynch stated the only step to do that would be to file an RDA.

D. Pearson confirmed the work to be done would be simply build a pool that's already there as an after the fact.

C. Lynch confirmed.

M. Gavegnano, W. Wierzbicki, T. Bradley, and A. Rittershaus stated they agreed, the homeowners should file an RDA.

D. Pearson asked if they could file an RDA and request a Certificate of Compliance at the same meeting.

V. Gingrich stated if they file an RDA for the next meeting, both items can be on the agenda.

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

VOTED: To table the Certificate of Compliance for 30 Kilmarnock Street – Map 74 Parcel 6 DEP File #344-215

**REQUEST FOR CERTIFICATE OF COMPLIANCE – 1902 Sandy Lane – Map 106 Parcel 138 – DEP File #344-475**

Documents: Request for Certificate of Compliance, received September 20, 2022  
"As-Built Conditions Plan of Land," dated April 7, 2022

C. Lynch explained that this was one of those subdivisions that was filed under one NOI a while back. He continued saying this property happens to be outside of the buffer zone, so there are no comments.

D. Pearson asked if its outside of the buffer zone, does it require a Certificate of Compliance (COC).

C. Lynch stated it does require a COC because every house is filed under one NOI. They all umbrella under one and are looked at as the same even though some may be well outside the buffer zone.

V. Gingrich stated some closing attorneys like to see a formal Certificate for each property in the subdivision, while others are okay with an indication from staff that its outside the buffer zone and doesn't apply. She explained there is a varied level of formality that is acceptable. In this case, there was a formal request for the partial COC.

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

VOTED: To issue the Certificate of Compliance for 1902 Sandy Lane – Map 106 Parcel 138 DEP File #344-475

## ENFORCEMENT ORDER

### 702 Sandy Lane – Map 106 Parcel 124

C. Lynch explained that they have finally submitted a restoration narrative and an existing conditions plan with the wetlands. They proposed plantings on the Town owned land and on the Conservation land as restoration, but in the existing conditions plan, they have a substantial gap that was created with the previously established demarcation line, which gives them easy access to get back there. One comment that staff has is that the rock wall that is on the property now is 2' high and can be stepped over, so its not necessarily the best demarcation. He continued saying something more substantial like a fence or some plantings to define that border would be beneficial.

D. Pearson asked if it is a pretty stone wall or just a bunch of rocks tumbled into a wall.

C. Lynch stated it looks like it was put there when the whole subdivision was built. It's more of just rocks that you'd see on the side of the road.

D. Pearson asked if C. Lynch thinks it would be better to have a fence opposed to plugging it up and building it up to the 2' of rock.

C. Lynch stated that is up to the Commission. He continued saying its only 2' tall and with the history of them going back there, he's not sure if a 2' stone wall would do much good.

D. Pearson stated a point also made was that they had some documentation showing where some things had been removed and there's a separate list of things to be restored. He asked if it's the homeowners plan to have someone from the staff look and see if they put the stuff, or does he think the Commission should have them show them where they're going to put the stuff in the area where the trees were cut down.

C. Lynch stated if the Commission would like to see them put onto an actual plan, they can or they can have the locations verified by staff in the field before or after plantings.

D. Pearson asked if some advice can be given to the homeowners in terms of giving the Commission a plan. He asked if staff feels that the homeowners need to be closely watched.

C. Lynch stated he doesn't believe it is a bad thing to closely watch them, however he believes they are also in the same boat of wanting to get it done.

D. Pearson asked if they can plant in the next month.

C. Lynch stated he believes they are ready to plant as soon as possible. He and V. Gingrich discussed setting a November 1<sup>st</sup> deadline and having those plans in before the next meeting to be reviewed.

D. Pearson polled the Commissioners to see if all felt comfortable about the plantings.

All Commissioners are okay with the planting plan.

D. Pearson asked about demarcation and if it is adequate to build up the wall so that there is no hole there or do they want to see something more that offers more resistance.

V. Licciardi asked is there are boulders on site.

C. Lynch stated they have a fence on one side between their attached neighbor and they also have one on the other side of the property as well just not on that back portion. They have fencing on two (2) sides of the yard if he is remembering correctly.

V. Gingrich stated it looks like some of the pieces of stone were taken off the stone wall to create access to the rear parcel. She stated she doesn't remember seeing those lying around, but she doesn't know if these homeowners will continue to own the property either, so a recurrence of what happened before may not happen again by the same people. As a minimum, she thinks the Commission may want to see the stone wall plugged up to create that line there. As C. Lynch stated, they do have fencing on the other side, so she thinks there was a little bit of pushback on the fence idea from one of the owners of the property. She thinks they're looking to button this up as simply as possible, but certainly up to the Commission and what they'd like to see.

D. Pearson asked the Commissioners how they felt about having the homeowners patch the stone wall and call it a day.

All the Commissioners were in agreement to patch the wall.

D. Pearson stated they are going to ask them to plant the plantings that they've supplied and consult with C. Lynch as to where they should go and fill the gap in the wall as if it were never there.

C. Lynch asked the Commission if they wanted to set the deadline for demarcation as November 1<sup>st</sup> along with the plantings.

The Commission confirmed.

#### **55A & 65 Chestnut Street – Map 16 Parcels 2A & 1A**

C. Lynch stated as a refresher, the homeowner of 55A Chestnut Street cut down an unknown number of trees on 65 Chestnut Street's property and a Notice of Violation (NOV) was sent out. They submitted a restoration plan with the location of the plantings on the plan as well as a buffer zone restoration narrative. C. Lynch explained they have nine (9) plantings, three (3) red maples and six (6) sweet pepper bushes as replacements and are going to remove all the down debris that is in the area.

D. Pearson asked if they are going to be encouraged to do it before November 1<sup>st</sup>.

C. Lynch stated that is the deadline that was discussed.

V. Gingrich stated she doesn't think it's a bad idea to do a vote to approve the restoration plan and set that deadline. She doesn't believe it would hurt to do that in both cases, this one and the one before, just to make it formal.

L. Craig, the homeowner at 65 Chestnut Street commented that after the Conservation Commission became involved and three (3) months had gone by, the homeowners just submitted this report. He continued saying it seems to be lacking in a bunch of different ways. Unfortunately, he received the restoration plan a day ago. The homeowners and the team planning this out neglected to relay this to him, but thankfully C. Lynch passed the restoration plan along to him. He hopes that the Commission would give him additional time to look at the plan and go over some of the issues with it. He believes additional time would be helpful as he's only had one day to review the information. He stated there are missing items on the plan for certain, and he'd like to look at the land and go over it in more detail, however there are more things that are missing on the plan. He explained if you look near the top of the

plan, you can see a designated wood pile that came from a tree that is not listed in that area. He'd like an additional break down or at least an attempt at knowing the number of trees that were removed and explained that the restoration plan is limited. He added that the property owner at 55A Chestnut Street is a repeat offender and continued to remove trees after being notified that this was a problem, and he has photos and evidence of that. He believes something more significant as to cleaning the debris left back there and planting of more trees would be helpful, perhaps a fence, he is open to suggestions, but the restoration plan in his eyes is not accurate and is very minimal to say the least.

D. Pearson asked if between April and now if he attempted to get a better sense of exactly how many trees were cut down and where they were located.

L. Craig stated he has lots of pictures that show the trees, but he believed that since there would be a wetland scientist involved that would be some part of the documentation that would be required there. He explained he's not trained in this area and it's certainly not his expertise, and he wouldn't presume to show evidence beyond some photos and the extent of it. He would hope that the Commission would ask for that additional information.

D. Pearson asked if this was his first chance to review the proposed restoration plan.

L. Craig stated that is correct. He received the plan from C. Lynch and not from the homeowners of 55A Chestnut Street. He was given this plan yesterday and he expected as just a condition of participation in this process that they present these things to him and give some sort of notification, yet they haven't discussed the plan with him whatsoever.

D. Pearson stated he feels extra time is needed to allow L. Craig to look over the situation and material that specifies the fix before moving forward. He polled the Commissioners to see how they felt.

V. Licciardi asked if he knows exactly how many trees were cut on his property.

L. Craig stated they cut a bunch of trees and then mulched them and spread the mulch everywhere, so he was hoping as part of the Commission's order to have a wetland scientist and a land surveyor come out, that would identify it.

V. Licciardi reiterated that the question was how many trees were cut on his property.

L. Craig stated it was a bunch, he'd need to go out and count, he didn't expect to be presenting the number of trees or any of these specific details, he was hoping that would've been part of that there, but he can tell the Commission that there are portions on the restoration plan that are not accurate.

V. Licciardi stated he should've known at the time that the trees were cut how many were cut, and then addressed it at that time.

L. Craig stated he notified the Commission immediately after, he may have known this in April or May, when he brought it to the Commission's attention at that point, however it is October, and he doesn't have that information in front of him.

D. Pearson stated he's only had a day or so to look at the proposed remediation. He stated maybe it would've been better to have a better sense of what happened in the first place and asked if he has old photographs that he can resort back to in order to identify how many trees were lost to sort of address his feelings of there not being enough trees as a replacement. He continued saying he needs to have

some sort of evidence that a greater number has been taken down. He believes there is still time to give him more time to review the proposed restoration plan, more than just one day.

L. Craig stated he appreciates that and added it is somewhat difficult to determine the number of trees when they grind up the stumps and turn it into woodchips, but he will take a look at it.

V. Gingrich stated as someone whose been out on site, it was pretty much impossible to tell the location and the number of trees cut down. She stated you can tell that there had been clearing, but there was a thick layer of debris, you couldn't find any stumps, more so the branches and some of the wood that was taken down, but for some reason it wasn't a very clear-cut view of what happened or how many trees came down. She stated as someone whose been out there, it is difficult to tell.

D. Pearson stated he guesses that leaves historic photographic evidence as his way of confirmation that more trees were taken down than what is being replaced. He continued by saying they'll lose a growing season by granting extra time, so that is the downside but the fact that the homeowner just heard about it doesn't seem right either.

V. Licciardi stated it doesn't look as if there's going to be any planting soon, so it looks like it'll have to be early Spring. He continued saying the two homeowners will have to get together and iron this out.

M. Gavegnano stated he should've been given the report earlier than yesterday by the homeowner who cut down the trees on his property. It's not fair to him to not have a chance to review it prior to tonight's meeting.

W. Wierzbicki agreed.

T. Bradley recommended that the homeowner review the tree replacement policy which is as far as the Commission could take it and if that's not satisfactory, he's going to need to find an avenue other than this Commission to have his property restored. He stated they may be talking about two different restoration plans, one that the Commission can enforce and one that he may pursue on his own.

D. Pearson stated what he is hearing is that there's been a proposal to plant trees on his property and the neighbor's property, and the number of trees is calculated using the Commission's tree replacement policy. After L. Craig reviews the proposal, and if he believes the number of trees taken down is undercounted, he'll have to come up with some kind of statement to that effect and basically recalculate the number of trees that are going to be replaced to a mutual satisfaction.

L. Craig stated he believes he understands, and he will work with C. Lynch to come up with a plan.

D. Pearson stated by the next meeting it would be good to hear from both 55A & 65 Chestnut Street homeowners that they've had a second meeting on this.

V. Gingrich clarified that the restoration plans be endorsed by both parties.

D. Pearson stated amended or endorsed.

C. Lynch stated he will reach out to the homeowners at 55A Chestnut Street and let them know that the best way to remediate it would be to reach out to the homeowner at 65 Chestnut Street and talk through the restoration plan.

**4 Wilton Drive – Map 21 Parcel 3M**

C. Lynch explained he received an email stating that the homeowner has been on vacation, and he said he will have everything ready to present for the next meeting.

D. Pearson asked if it's the same as having it fixed by the next meeting or having him say what he intends to do.

C. Lynch said he believes it's going to be intending on what he's going to do. It doesn't necessarily seem he knows what to do, the Commission tells him, and he doesn't really follow those instructions so once he gets back, he thinks a site visit will be necessary to learn what his progress is and see where he's at and if he knows what exactly he needs to be submitting to the Commission.

**DISCUSSION****911 Main Street – Map 25 Parcel 4 – DEP File #344-1400**

C. Lynch stated the applicant was at the last meeting and stated he would provide monthly reports and hasn't submitted anything yet.

V. Gingrich stated herself and C. Lynch did meet with him and his Engineer and they're looking at potentially some revisions to the plan; this property was altered without approval. She continued by saying they provided Enforcement, and they filed a Notice of Intent (NOI), and she explained this is a situation where NOIs and Enforcement Orders don't work out so great as there isn't a way to ensure that work is happening. The work that needs to happen is he needs to take the fill out of the stormwater basin and do some other alterations to the site. His order is going to expire in the Spring. She just wanted to report that there has been no monthly report received, haven't seen any progress, and he is considering coming in with some changes to the plans, but wanted to keep the Commission updated with this as it is a long-standing site that is out of compliance and some actions may need to be taken in the near future.

D. Pearson clarified something did happen in the last month as there's been some discussions with he and his Engineer.

V. Gingrich stated they came in to discuss potentially instead of doing the basin, maybe doing some underground infiltration. There has been no progress on that since, but confirmed there was a meeting since the last meeting. She stated staff will keep the Commission updated on this as it's been a long time and they want to see this resolved.

D. Pearson stated next time staff gets in contact with him, tell him the Commission is serious about the monthly reports as they got the impression he was going to do it, yet it hasn't happened. He continued saying there isn't much the Commission can do about it since it's an NOI.

V. Gingrich stated they can issue additional enforcement.

D. Pearson stated the Commission will look into doing that if he's going to ignore them.

**687 Main Street – Map 39 Parcel 11A – DEP File #344-1473**

V. Gingrich stated this parcel is the U-Haul where they did site changes without approval. They did file an NOI; it was approved by the Commission. She continued to say that there was an agreement with

them that construction would start last year and all they've seen so far was installation of erosion controls. She explained this is another one that their waiting to see the site come back into compliance. They did not submit monthly reports which were asked of them. She explained additional enforcement may be needed if no progress is seen.

D. Pearson stated he remembers that was a long-drawn-out conversation with a lot of compromise and meetings and he said he hasn't realized it's been a year with not much happening.

V. Gingrich stated the staff will put their strongest message out to them to get them to report back with some progress. She continued saying she wanted to bring this up, so the Commission is aware of it so it wasn't a surprise.

D. Pearson stated he thought there was a half dozen meetings or something like that.

A. Rittershaus asked if it would be possible to require something.

V. Gingrich stated they can require something and asked if a required monthly report or progress report is what their thinking of.

A. Rittershaus stated to have them show up to the next meeting and they can go from there as far as enforcement.

D. Pearson liked the idea and said if they show up in person, they can ask what the problems have been.

V. Gingrich stated she will request that for both of those properties.

#### **635 Main Street – Map 40 Parcel 1 – DEP File #344-1432**

V. Gingrich stated that there were some issues during construction and staff didn't receive all the items that they were supposed to receive for monitoring and progress during the construction of the replication area and she explained they are attending tonight to report back to the Commission on the information that should've been submitted, the coordination that should have happened, and are going to go over with the Commission how the replication area was constructed and how it looks.

G. Procopio introduced himself and explained he is one of the owners of the project at 635 Main Street. He explained it is two (2) buildings that are being built on Main Street with town houses at the front of the property and an apartment building at the rear of the property along the MBTA line. He explained they are speaking tonight because for majority of construction the required environmental monitoring was not in place. He explained it was an oversight entirely on his part and they have taken steps to ensure it won't happen again. Monitoring is in place now and their employees performed the work. Construction photos were taken throughout the process with photos from each day. The cast in place retaining wall that divides the site and separates the wetlands from the actual site portion they're working on was constructed very early on in the process to delineate that line between Conservation land and the construction project. He explained everything is built to plan and there are photos and soil testing data that show that as well as as-builts to back it up. He wanted to point out they do have a contract in place for the post construction monitoring as they are approaching that now. They have taken steps to ensure they are in alignment there. He stated they will likely be requesting an extension for the order to collect post construction monitoring. They did have a meeting with C. Lynch and V. Gingrich and their recommendation was to come before the Commission.



D. Pearson asked if he could give the Commission a few specifics.

T. Ackerly introduced himself and explained his team went on site and looked at the area back in July and then again in late August to do an evaluation of the wetland replication area and helped prepare a report summarizing their findings. He explained that some of the highlights of the findings were most importantly the wetland replication area constructed at the correct elevation, which is nearly identical to the adjacent wetland on the other side of the erosion controls. That is usually the biggest issue seen with replication areas and them not getting enough hydrology, which is what usually causes them to fail. In the report sent to the Commission, there was a bill certifying that the material was a sandy loam variety. They did soil augering within the replication area as well. He continued saying the depth of the sandy loam seems to be about 12 inches, some areas a little deeper likely because some areas did slope a bit, so some areas probably received more fill than others. He explained most importantly is wetland vegetation growth in the wetland replication area and all the shrubs are currently there, he believes one (1) might be missing, back in July a few were replaced, and they did that. When he went out in September, they were all there minus one. Aside from that they tried to highlight some of the species seen within the replication area and most of those were species that would be seen within the New England wetland mix that was proposed to be the mix used within the wetland replication area. He added that the adjacent wetland is a weird area, it's not how people would imagine a wetland and looks like upland out there, with pines and buck thorns, so that specific area is a nice little pocket of tall grasses and smaller wetland species. He mentioned they will be out there for another year as it's only been one growing season and they will keep monitoring to see how it performs, but so far things are looking pretty good out there and they've done everything asked in terms of helping replace the plantings as needed. He sees no issues with how it is performing at this point, even though it was a dry year. He explained most species did okay.

V. Gingrich stated the staff didn't have any questions or concerns about the report. They looked it over and thought they provided some of the necessary information to confirm the area had been constructed properly without having those kinds of check-ins along the way. She continued saying staff wanted them to report back to the Commission because those conditions weren't followed and set a path forward for the monitoring that's required by the order and leading to the closeout with the Certificate in the future.

D. Pearson asked if there is anything in the way of their retrospective documentation that's needed to document the construction and post construction steps were followed correctly or is it sufficient to move ahead with monitoring and say that's the major concern that it seems to be working or needs to be tweaked.

V. Gingrich stated that's the question that they wanted the Commission to consider, that's why staff asked them to provide the write up that they did confirming what the soils were and some of the details, the elevation, the soils, some of the things that would've been checked at that time of construction. What they gave the Commission seemed to give a little bit of assurance that the area was built the way it was intended.

D. Pearson asked if that is the level of detail that she was anticipating had they gotten it live during the process.

V. Gingrich stated in her opinion it's as good as they can get without going back in the past. They looked at the soils, they looked at the elevation, they looked at the vegetation and she thinks the ongoing monitoring will also shed some light onto whether its functioning.

D. Pearson stated it's a good new start then and from the sound of it, the Commission is waiting to get

another report in time for the next growing season.

T. Ackley stated that is his understanding of the requirements in the order.

D. Pearson asked if that is what V. Gingrich and C. Lynch are looking for as well. Clarifying that once the process starts up, it's not interrupted or stopped and that it's a work in progress now.

V. Gingrich stated that the expectation would be that the conditions in the order be followed.

No comments were made by the Commission.

#### **10 Pond Street – Map 34 Parcel 146 – DEP File #344-1067**

V. Gingrich stated staff sent a letter out to the homeowner letting them know that the Commission would be discussing this item tonight. She explained there was a Notice of Violation (NOV) that went out in 2019, when R. Hale was still the Conservation Agent. There was observed a lot of activity that was not permitted. She explained there was a dock built, there was fill in the flood plain, there's a whole list of things with letter included in the Commission packets. She explained it was her fault that it dropped off the radar when R. Hale left, but they would like to resurface this and get it resolved. Her thought is that because there is an actual structure that was built within Silver Lake, they're going to consult with DEP on how this Enforcement should be approached. She believes that structure would need a Chapter 91 license and would need to go through DEP and through the Conservation Commission for these items. The plan is to consult with DEP on getting a gameplan for Enforcement and report back to the Commission at the next meeting.

D. Pearson asked about the removal of the sediment trap and the connection to some plumbing that brings water back into Silver Lake. He asked if there is anything that is a hazard now that needs to be acted on very quickly as opposed to the time it would take to talk with DEP and then talk to the homeowners or if anything needed to be acted on quick.

V. Gingrich stated she doesn't know that this is going to be an easy one. She remembers sitting down with the homeowner and the building inspector and talking through the issues. The homeowner indicated that he would jump right on it and resolve this when that clearly wasn't the case, so in her opinion she believes its best to coordinate with DEP. It's gone on for quite some time and she thinks they will have to be involved in this.

D. Pearson asked if it is still the same homeowners.

V. Gingrich confirmed. She stated they will get a gameplan together.

#### **MINUTES – September 7, 2022**

Upon motion duly made by A. Rittershaus and seconded by V. Licciardi,

D. Pearson, T. Bradley, V. Licciardi, M. Gavegnano, A. Rittershaus, and W. Wierzbicki voted 6-0 to accept the minutes for the September 7, 2022, Conservation Commission meeting.

#### **NEXT MEETING – November 2, 2022**

## ADJOURN

There being no additional business to come before the Conservation Commission, A. Rittershaus motioned and V. Licciardi seconded, it was

VOTED: By D. Pearson, T. Bradley, V. Licciardi, A. Rittershaus, M. Gavegnano, and W. Wierzbicki to adjourn the meeting at 9:49 p.m.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Erika Speight".

Erika Speight  
Senior Clerk

