



Norton Conservation Commission

70 East Main Street

Norton MA 02766

508-285-0275

Email: conservation@nortonma.us

<https://www.nortonma.org/conservation-commission>

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Monday, November 22, 2021

6:30 pm

****Remote Participation Only****

Next Meetings:

12-13-21

01-10-22

01-24-22

02-14-22

<https://us02web.zoom.us/j/86843792971?pwd=eWJQRWJyMGVpZUFXd0tNb2xic2xuUT09> When prompted, enter the **Meeting ID: 868 4379 2971, Password: 679612** . 1-646-558-8656

Chairperson to read about Public Meetings:

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 limitation on the number of people that may gather in one place, this meeting of the **Norton Conservation Commission** will be conducted via remote participation to the greatest extent possible. Specific information and the general guidelines for remote participation by members of the public and/or parties with a right and/or requirement to attend this meeting can be found at the end of this agenda.

Members of the public attending this public hearing/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 raising their hand virtually or pressing *9 if participating by phone.

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. In the event that we are unable to do so, despite best efforts, we will post on the **Norton Cable website** (<https://www.nortonmediacenter.org/>) an audio or video recording, transcript, or other comprehensive record of proceedings as soon as possible after the meeting.

Minutes

****Public Hearings and possible Commission deliberations will be taken in order of this Agenda****

6:30pm Open meeting

Members Present	<ul style="list-style-type: none">• Julian Kadish, Chair• Kerry Malloy Snyder• Eugene Blood	<ul style="list-style-type: none">• Daniel Doyle, Jr.• Daniel Pearson• Ronald O'Reilly
Members Absent	<ul style="list-style-type: none">• Lisa Carrozza, Vice Chair	

Other Representatives	<ul style="list-style-type: none"> • John Thomas, Conservation Agent • Megan Harrop, Conservation Secretary
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I. NEW PUBLIC HEARINGS

N/A

II. CONTINUED PUBLIC HEARINGS

A. (DEP# 250-1070) Notice of Intent - 0 Rear Eddy Street - Widak/Sher Corp. LTD

(Map 32, Parcel 31) <https://tinyurl.com/rearEDDYSherCorp>

(Continued from 1/25/2021, 2/8/2021, 3/8/2021, 3/22/2021, 4/12/2021, 5/10/2021, 6/14/2021, 7/26/21, 8/30/2021, 9/27/2021, 10/18/21, 11/8/2021)

The proposed project is to construct a common driveway with associated stormwater management, septic system, utilities, retaining walls and grading for 4 duplex units within 100 feet of bordering vegetated wetland.

Applicant/ Representative Present	<p>Applicant -Sam Widak</p> <p>Representative- Tim McGuire, Goddard Consulting</p> <p>Engineer- Craig Cygawnoski</p>
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Tim McGuire: We have submitted supplemental information in regards to the pond status as a pond and the status of the floodplain which has no base flood plain. The applicant felt the supplemental information that was provided was not discussed in enough detail. We wish to put the stormwater issues aside for now as the stormwater management will be heavily influenced based on the status of the pond.

Supplemental information in regards to the pond status as a pond including DEP's list of integrated waters and compilations of lakes, ponds, reservoirs and impoundments in Massachusetts. Historically the commission and the town have treated Meadow Brook as a pond. The previous conservation agent signed off on inquiry forms for this property, as well as previous determination of applicability that have been filed. The regulatory compliance is Ponds are lacking ravine characteristics such as unidirectional flow. We have submitted videos showing lack of flow, the commission in a previous meeting has asked us to use a flow meter and the applicant would prefer to continue with discussion based on the information already submitted. The Wetland Protection act also defines ponds as bodies of at least 10,000 sqft

labeled as such on the most recent USGS map, which Meadow Brook is. The pond is listed on the DEP list of integrated water bodies and has its own PALIS number (pond and lake identification system). We have submitted other documentation from the town and other sources indicating that it is a pond.

In regards to the floodplain, there is no base flood elevation. It is the duty as the applicant to provide information supporting that. According to the wetlands protection act when there is no flood data available to determine the boundary of BLSF, it should be the maximum lateral extent of flood water that has been observed or recorded. We have submitted a letter signed by an abutter Matthew Pickett where Matthew says the highest flood water that he has seen and the surveyor shot that in as an elevation of 61.7. We are doing a conservative estimate and showing the floodplain as 62.5. The average high-water level is 61.9. Because the estimated elevations are so close together and are close to what the surveyors observed in the field that it is sufficient evidence and no further calculations should be needed to find flood plain elevation. I want to remind the commission they are still keeping out of the 25ft buffer zone and there are no impacts to wetlands and there are no anticipated flooding issues. We ask the commission to consider the estimation an appropriate flood plain line.

Kerry: I want to see more data on the flow and whether it is unidirectional flow. The common name of a water body is not dispositive on whether or not it is a pond or a river. Just because it is called Meadow Brook Pond doesn't mean it is actually a pond. From the map it does look like it is meandering and it is long. So, I would like more information on whether there are true riverine characteristics.

Julian: What would the applicant offer us in regard to that? Would a flowmeter help?

Tim: A flow meter would help but, in my experience, it has been an unconventional ask. In the past I have used the orange peel test which was demonstrated in a previous submission. The video showed the orange peel in the water for a minute and there was no flow. And as long as the boards are not removed from the impoundment, which there is no intention to do so, there is no flow occurring. In regards to Kerry's comments on the naming of the pond, the regulation defines ponds as those that are shown on the most recent USGS map. When ponds are not labeled, they can be demonstrated with preliminary lack of riverine characteristics. We feel that we have submitted a great deal of information at this point external of including a flow meter.

Kerry: The commission is not bound by the USGS map and in my experience, there have been ponds that have been called ponds but they are actually rivers even though there is an impoundment, and the DEP has recognized that. I don't think enough information is given to determine the body of water is a pond. Just given the conflicting information as some abutters have stated that it does have riverine characteristics especially when the flow is low.

Tim: What information from the abutters are you referencing?

Dan Doyle: Winslow farms

Tim: We received the letter from the abutter stating that it had riverine characteristics and we addressed that in a letter. Everything in the abutters letter was addressed.

Dan Doyle: The flow meter would be supplemental, if the orange peel test didn't show flow then the flow meter would not show any either. Why wouldn't it be used as supplemental clarification?

Tim: The flowmeter could be used as supplement clarification. However, the applicant has expressed frustration with the amount of effort they are putting in to make a determination, for what has been previously considered by the commission as a pond. The applicant has expressed grievances and feels he is not being treated as other individuals in town who have had similar projects in the vicinity of the body of water.

John Thomas: As the applicant you need to provide information. Not just the application. If there was a historic line for Meadow Brook Pond. You can take a look at the projects of concern, and have them show that the work that was issued by the commission is actually potentially in the riverfront area. You have not done this yet.

Julian: If you define it as a pond, projects adjacent to pond borders don't fall under the riverfront requirements. Why would this not be a problem with every impounded water body across the state? From the mills act in 1837 a huge number of impoundments were created across the state. How do we distinguish between any impounded body, potentially having an original path? How do we define where we define the riverfront and where we don't when we have apparent impoundment?

Tim: Similar to Winnecunnet, Meadow brook is the perineal stream that flows into Winnecunnet in the North. Likewise, to this water body it is the same perennial stream flowing into that. The Wetland regulations determinism of the stream where it enters the pond. So, for Winnecunnet at the far side where Meadow Brook comes out of it, it would be considered to stop being perineal at that point and have a buffer zone from the bank of the pond moving on. Winnecunnet doesn't have an impoundment. With the impoundment in place for Meadow Brook and with lack of "primarily" riverine characteristics, not just any characteristic that could be considered as such, but "primarily" seeing as they have the paucity of those features in this instance Meadow Brook pond as it has previously been should continue to be considered a pond.

Julian: In terms of all of the areas that have been impounded, it is my understanding that the area under the waterbody that has been restricted from natural flow, no longer has riverfront applied to it. If that is the case why is this being discussed in this manner?

Kerry: An impoundment wouldn't be a pond if it has riverine characteristics currently. If it has no flow then it is likely a pond but I have never seen a reliance on just the orange peel test. If it is low flow, you're not going to get that by just observing it for a minute. There have been water bodies labeled as ponds in this state and are not considered ponds for purposes of the Wetlands Protection act, they do have riverine characteristics and are therefore considered rivers.

Julian: All ponds have to have some flow; you're not saying that all ponds have to have no flow?

Kerry: No, it has to be observable or measurable

Tim: And it has to be unidirectional as well

Julian: But potential flow, the actual water flow or water movement is going to be slow enough that it's going to be obscured by any measuring device on the surface that is impacted by wind. To me I don't know how we can define the pond portion as riverine if there is not substantial flow that we can observe closely.

Tim: The regulations do state "primarily" riverine characteristics, including unidirectional flow. It is not the end all be all. There are no undercut banks in this pond, no vegetation along the sides. No indication that the area is or has been treated as a river. We are including the riverfront as part of the proposal as a reminder. Including from the impoundment on, as the river does not flow underground for more than 200ft. We would also include it if the project extended further west. But we are impacting a very small portion of the parcel relatively speaking. The lack of primarily riverine characteristics leads us in our professional opinion to maintain that this area is a pond.

Julian: Would DEP define this as a pond or riverine?

Tim: If DEP is referencing the definition in the Wetlands Protection Act, I would think they would refer to it as a pond. Being that it is labeled as such on the most recent USGS map. and with the evidence provided, I think that with the evidence we provided that would be enough for them to consider it lacking in primarily riverine characteristics. If I tossed the banana peel in the water and it floated 10ft down within the 10 mins that I looked at it, then that would warrant further discussion. But because that is not the case, we still maintain that it is a pond.

Dan Pearson: It would be a pity if we find ourselves here having the same discussion in the future. I know it was asked in the last meeting or the meeting before that if the commission had a flowmeter. How does one acquire one? Can someone go out there and stick the flowmeter in the water?

Julian: How would that help though? If you put the flow meter in the portion of the brook before the pond it is going to register a number, if you put it in the outflow, it would register a number, if you put it in the middle of the pond it will register a number.

Dan Doyle: What's to say that it couldn't register a number in the middle of the pond?

Julian: It's a matter of the movement of water in a restricted banking area, versus a very broad cross section. The flow by geometry will be remarkably reduced in the cross section of the pond. At what number do you decide ok it is a pond?

Tim: There is no exact number in the wetland's protection act saying that you need to have X amount of flow as measured by a flow meter.

John Thomas: You have a man-made impoundment that is keeping the water at bay, aka the dam, I don't know how useful the flowmeter will be. If you open the dam the meter will run high, if you close the dam the meter will run low. Depending on how you have the dam will skew the results.

Dan Pearson: So, the dam is as much of an issue if not more on whether this body of water is a pond or river?

Tim: That is correct. The impoundment is key within the determination here. There is no intention of opening the dam. It is the intention of the applicant to sell the houses once they are constructed with waterfront views, so the buyer can use the pond for recreation, fish, and canoeing.

Dan Pearson: So, then an issue would be on how to put language in an OOC to make sure that the dam stays as is.

Tim: Previous conservation agent Jennifer Carlino, wanted to see a homeowner's association be established so it would be their responsibility to manage the dam.

John Thomas: So, would the homeowners file with the state or the HOA would file with the state for the annual maintenance report?

Tim: Is the question whether they would file individually or as a HOA

John Thomas: Yes.

Tim: Off the top of my head the HOA would file because it will be a shared entity, and I see the applicant is nodding as well. That is not a discussion I have been heavily involved in. If the commission is interested in how the impoundment would be managed in perpetuity, we would be happy to provide that.

John Thomas: I think that would be helpful.

Tim: We are making our proposal based on the existing conditions of the dam and proposed future conditions and that we do not want to remove it. If we did there is no doubt there would be unidirectional flow, and riverine characteristics, perhaps not primarily. That's not the case here and we are hoping that the commission would consider making their decision based on existing conditions.

Kerry: I don't think we want to restrict what will happen in the future. We don't know what will happen in the future with the dam. We just want to make sure it is maintained while it is there.

Tim: Certainly. The information we can get on how we plan to have the HOA set up. In its existing condition We plan to leave it as is as a pond, and use it recreationally.

John Thomas: Note that the pond itself is artificially managed, because of the dam structure. I'm just going to read verbatim what the act states, "Rivers and streams that are perennial under natural conditions but are significantly affected by drawdown from withdrawals of water supply wells, direct withdrawals, impoundments, or other human-made flow reductions or diversions shall be considered perennial." I just want to leave the commission with that.

Julian: I guess at this point it is still not a settled issue, on whether we are going to consider it a pond or a river.

Tim: If the issue is not settled. It seems that the only thing outstanding is the use of a flowmeter but then there were repeated disagreements of the applicability of that. At this point we have cited the regulations and included previous examples and USGS maps. We are not sure what the commission will require to make a well-informed decision at this point.

Julian: I can only speculate in the area of the law. Ponds are areas where flow goes way down, because of the way that the water is spread out based on impoundment or lay of the land. To me it's not a difficult question. I can see the body of water where the river spreads out and I

know that channels can be either really narrow or really wide based on geography. I do not know if I can help based on my individual review.

Tim: If the commission would be comfortable, if they feel they have had enough information to have a roll call vote on whether they will be considering it a pond or river. The applicant has been happy to work with the commission and to do all the revision Chessia has asked for. In our opinion we have provided enough evidence that the wetlands protection act requires to make a determination.

Julian: I don't know that there is a place to have a roll call vote in the middle of a hearing. I don't want to sway things but I don't see an issue here. I would like to see some examples of an area that might be considered a pond, was also considered a river and has a riverfront. I don't see that in this case, but other commission members may have different views. Stormwater issues are still under discussion but is there anything further to discuss?

Tim: We still wish to discuss the floodplain before we continue.

Julian: Sam also wanted to say something. Go ahead Sam

Sam: Chartley pond is also a man-made dam, for Chartley Brook. Barrowsville Pond is a man-made dam from the Wading River. Was there ever a flowmeter established with those from any applicants. From what John Thomas sited, where does that confusion come into my prospective project. Just like other things in town, it was dammed up in the 1800's, for the ice industry. This information comes from Norton's own website, this is the only privately owned one. Seeing as the town owns all the other bodies of water in Norton and they consider the dammed-up bodies as ponds, what makes this any different? Meadow Brook Pond is privately owned and does not have access to the public. Also, what is a flowmeter going to do if you don't even tell us where to put it?

Julian: I think the only point of this discussion is if we need to apply riverfront requirements. If the commission says we do, then that will be something that has to be confirmed by the DEP to hold any weight. That's why I asked what DEP would say. DEP does not always have the same interpretation as the commission.

Tim: We have heard a lot of input from Kerry and Julian. Where does the rest of the commission fall on this issue?

Dan Doyle: I have been back and forth on this. One thing I am sure that everyone noticed is that Meadow Brook is significantly smaller than Chartley. Meadow Brook is 13 and Chartley is 37.

Tim: That is a good point. However, the WPA states that ponds are anything greater than 10,000sqft. So even though there are some large ponds in town, it still meets the threshold that DEP would look for.

Julian: Part of our deliberation is that if we consider this a pond, will DEP agree with that. The applicant feels it is a pond so if we rule it as a river there will be an appeal. So that's what's on the table. I'm not sure how much more we can illuminate this, in reference to the discussion. You were going to talk about the floodplain.

Tim: Is there any direction for the applicant going forward? Not sure what other evidence we could provide to strengthen our case or disprove it.

Julian: This is something we haven't had to deal with in a public hearing. John, do you think there is a place for a straw vote?

John Thomas: I wouldn't do a straw vote. I would deliberate amongst yourselves and discuss and come to some sort of consensus. You can weigh in with all the members to see how they feel. The applicant has obviously provided information, whether you think the flowmeter is required to put the nail in the coffin. At the same point they provided the information, there is some language in the act that I have some questions on.

Julian: I will be blunt and say that I personally can't support defining this as not a pond. I guess we need to look at the language you are referring to as part of our deliberation and see if that language applies. We also need to include Lisa in this. I think it is going to have to move forward as a continuation.

Tim: Will the commission address this externally and get back to us at the next meeting?

John Thomas: The commissions cannot collaborate, because of open meeting law. But they can talk to me individually.

Tim: Then we will continue discussion with you John?

John Thomas: Yes.

Julian: I think we have to define, if we are going to make the case that this is not a pond, as to what the qualities are for the members to reach their conclusion and vice versa. I think we can define that through John and then decide if there is any further reason to consider it as ravine. So, we can go ahead with flood plain discussion, would that be helpful?

Tim: As a reminder, there is no established floodplain on site. Therefore, it is the applicant's responsibility to demonstrate it. We are saying that it is at 62.5 which we believe is a more conservative estimate which the regulations allow. Regulations state that when it is not available it can be demonstrated based on observations based on a credible source. We have submitted a signed letter from a neighbor, that states the highest level of the pond that he has seen he has shown to the surveyors which was shot in at 61.7. The average high water of the pond from the surveyor was 61.9 which is extremely close. We are using both measurements in conjecture and still pushing floodplain elevation up to 62.5. We are not impacting any wetlands and we do not anticipate any flood concerns from this project. The vast majority occurs outside of the buffer zone. Only one house in the entirety occurs in the buffer zone, along with several stormwater features, which are subject to change with revisions. We are not anticipating putting the limit of work any closer to the wetland resource areas. At the very closest point of work, is about 26ft. Still outside of the town's 25ft no disturb policy. Those undisturbed buffers would curb any issues of flooding associated with construction. The elevation we are proposing to be the floodplain elevation, is based on credible evidence. Any questions?

John Thomas: Is the floodplain contour upgradient of all the wetland flags?

Tim: I believe so, yes.

John Thomas: Then I am comfortable with it, because your maximum flood level will probably be your wetland line.

Tim: Yeah, yes, I believe that is the average elevation of the wetland.

John Thomas: And there were no other observed areas where there was any extent of flooding upgradient of the wetland line?

Tim: No, not upgradient.

John Thomas: Then that sounds somewhat sufficient for establishing the floodplain for that area.

Julian: And your elevation for your construction. What's the lowest elevation of your construction?

Tim: The lowest, I am not sure off the top of my head. Above elevation 64 certainly. Above conservative estimate.

Julian: And that involves that single structure within the buffer zone. It looks like it does.

Tim: There is more than one structure occurring in the buffer zone. We have a couple corners of the houses in the stormwater feature and parts of the road but yes, the limit of work is above that and away from that at its lowest point topographically.

Julian: So, 62.5 elevation and your number here looks like 66 at the bottom of one of the duplexes. You're about 4ft above the floodplain in your final construction.

Tim: Correct and again the vast majority is kept outside the buffer zone. It is an extremely large property. The property extends back and encapsulates a lot of wetlands to the west. There is a lot of undisturbed land around this pond. As stated, they don't think there should be any issues with the floodplain as presented.

Julian: Alright any further questions from audience or commission members? Still under review of the storm water issues?

Tim: Yes, we submitted some responses, more updates from Margaret Bacon who is working through the storm water comments from Chessia. With clarity with the flood plain and whether it's a pond or river, then we can continue to work through the stormwater aspect of the project.

John Thomas: Just to remind the commission with the tenure of this project being back in early January our peer review consultant has exhausted all his supplemental funds for his peer review services. Once this riverfront and environmental concerns get ironed out, hopefully we can figure out at the next meeting how much time he will need to provide additional review.

Julian: Is this something we will be continuing till the next 12/13/21?

Tim: If the commission believes that is enough time to discuss their opinions with John Thomas, then we would be happy to continue.

Julian: I personally think we can resolve this by the next meeting, without any difficulty.

Dan Doyle: I do as well

Julian: Is the applicant comfortable with the continuance? Any questions?

Tim: Sam is that ok?

Sam: Whatever works for everybody, works for me.

Motion to continue to 12/13/21 made by Kerry Malloy Snyder	Seconded by: Ronald O'Reilly Roll Call Vote: Aye: Eugene Blood, Daniel Pearson, Daniel Doyle, Jr., Kerry Malloy Snyder, Julian Kadish, Ronald O'Reilly Motion carries
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- B. **(DEP# 250-1088)–NOTICE OF INTENT-** 142 East Main Street- Emerson Martins (Map 17, Parcel 62). <https://tinyurl.com/142EMain> (continued from 11/8/2021) Proposed project to expand existing stockyard near bordering vegetative wetlands.

Applicant/ Representative Present	Representative - Craig Cygawnoski and Tim McGuire Applicant - Emerson Martins
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Documents list

- NOI application prepared by Craig Cygawnoski, Land Surveyor received on 10/25/2021
- Plans entitled, "Proposed Stockyard Expansion", prepared by Craig Cygawnoski received 10/25/2021
- Map 17, Parcel 62
- NOI filing fee check #124
- Affidavit of Service
- Notification to Abutters
- Certified abutters list
- Certified mail receipt
- FIRMETTE map
- Topographic map

Tim McGuire, Goddard Consulting: At the end of the last meeting the commission asked some invasive species management to be proposed for the project. Proposed plan to manage invasive species is to remove everything between the new fence and the property line and so far as the new fence extends to the north. Proposing to remove all of that by hand pulling, other methods like herbicide application by a licensed herbicide applicator. It is the wish of the applicant to have this be a one-time treatment of invasives, and not a condition that would require any additional work from applicant in perpetuity, due to funding. Also adding after the invasive are removed they are adding New England conservation seed mix and adding six inches of top soil and seed mix.

John Thomas: Where is the top soil going to go?

Tim: The top soil to be added?

John: Yes

Tim: Across the whole area as shown in purple

John: So, the whole purple patch is going to be placed with soil on top once you remove all the invasive species

Tim: Correct, top soil to be brought in from off site. As the quantity of invasives on site it wouldn't be very productive to reuse soils

John, what is the schedule for the work? How will you remove them?

Tim: As soon as possible

John: So, you would be doing the work in the winter?

Tim asks applicant if approved would starting in the winter be a reasonable time period

Emerson: Yes, whatever is necessary if winter is appropriate

John: There are periods of time that these species are best removed. It would be nice to see a sheet of what the plan is for each specific species and a general understanding of where the dominance is of all these species.

Tim: It's the hope of the applicant to do this all at once. I don't see an issue with doing this in the winter time. It is all things that are identifiable in the winter time.

John: Is he going to hire a contractor who specializes in this, or is he going to hire Goddard consulting?

Tim: I would think he would use us to do the supervision of the area. In terms of the actual removal, I'm not sure if he has his own landscape guys, or any herbicide application in accordance with this plan with a licensed herbicide applicator.

John: We are probably going to condition that that person we get their names and contact information.

Tim: Monitoring is sometimes standard condition; I am clarifying that this is not something that the applicant is not interested in at this time.

John: He is going to have to retrieve a COC when everything is done. So as long as the area identified on the plan is free of invasives and done to completeness, I do not see that being an issue.

Agent confirms for Julian that all the information needed to close has been submitted.

Motion to close public hearing made by Daniel Pearson	Seconded by Daniel Doyle, Jr. Roll Call Vote: Aye - Ronald O'Reilly, Eugene Blood, Daniel Doyle, Jr., Daniel Pearson, Kerry Malloy Snyder, Julian Kadish Motion carries
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- C. **(DEP# 250-1082) – Notice of Intent** – 0 Leonard Street – Jeffrey O'Neill
 (Map 11 & 12, Parcel 25, 25-01, & 15). <https://tinyurl.com/LeonardStBlueStar2>. (Continuation requested – 8/30/2021, 9/13/2021, 9/27/2021, 10/18/2021, 11/8/2021) Proposed project is to build on site and extend previously approved public access road, within 100' of bordering vegetated wetland.

Applicant/ Representative Present	Representative - Brandon Carr
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Document List

- WPA Form 3 – Notice of Intent received 8/11/2021
- Plans entitled, "Notice of intent, Blue Star Business Park Phase 2, MA", prepared by DiPrete Engineering, signed and stamped by Jeffrey O'Neill, dated 7/26/2021
- Stormwater Management Report
- Construction Stormwater Pollution Prevention Plan Template
- Stormwater System Operation and Maintenance Plan
- Map of site
- Legal Notice

Brandon Carr, DiPrete engineering: The proposal for two industrial warehouse buildings and extension of previously approved roadway within 100ft of bvw. For the most part the work proposed, other than the road and a small portion of the parking area, which is in the buffer zone, is mostly creating storm water management areas. No work proposed within the riverbank or no flood compensation associated with this application. Going back and forth with Horsley Whitten, who is the peer reviewer for planning and conservation, and planning on making final submission to them tomorrow. They had some minor stormwater comments, updates they wanted, they wanted documentation added to the operation and maintenance plans, and clarification on one of the phosphorus removal calculations. Brandon states with all of these revisions it seems they meet all the Mass Stormwater requirements and Norton bylaw requirements. Nothing on the plans has changed, only changes to the documentation. They hope to be wrapping up the hearings.

Brandon: We got Horsley's most recent review last Monday and there were only 5-6 comments. Nothing changed the design, just the documentation. We feel we have satisfied the review with stormwater and wetlands related items.

John Thomas: Brandon is spot on with his assessment and Horsley Whitten is comfortable with most of the wetland work. Just minor work with stormwater modifications.

Julian: So, we can possible continue this and possible see into closing the hearing next meeting?

Brandon: Is there any way to close out the public hearing process, and then the OOC can go to the next phase?

Daniel Doyle, Jr.: It may be more than 21 days

Julian: It is actually exactly 21 days. Unless John Thomas is totally comfortable that the major issues are resolved?

John Thomas: It may be in the applicant's best interest to perhaps wait two weeks and then get closed in the next two weeks. I will have the OOC drafted up in anticipation of the next meeting

Motion to continue till 12/13/21, made by Daniel Doyle, Jr.	Seconded by Daniel Pearson Roll Call Vote: Aye - Eugene Blood, Daniel Doyle, Jr., Ronald O'Reilly, Daniel Pearson, Julian Kadish, Kerry Malloy Snyder Motion carries
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D. (DEP# 250-1081) – ANRAD - 0 Barrows Street - DASUCO AZA Realty Trust

Map 27, Parcel 125). <https://tinyurl.com/BarrowsANRAD>

(Continued from 8/30/2021, 9/13/2021, 9/27/2021, 10/18/21, 11/8/2021)

Request for review and confirmation of the greatest horizontal limit of jurisdictional Bordering Vegetated Wetland on the property.

Applicant/ Representative Present	Representative – Ron Strohsahl Applicant- David Levy
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Document List

- WPA Form 4A
- Plans entitled, "0 Barrows Street ANRAD Plan of Land in Norton MA", prepared by Legacy Engineering, signed and stamped by Daniel J. Merrikin, P.E. dated 8/11/2021
- DEP BVW Delineation Field Data Form

- USGS Topographic Quad
- National Flood Hazard Layer FIRMette
- Soil Map
- Legal Notice
- NHESP Priority and Estimated Habitats of Rare Species
- Certified Abutter list
- Notification to abutters
- Affidavit of Service

In the previous hearing they had discussed adjustments made to the plan. Art Allen has responded with comments. As far as Ron was concerned, Art Allen did not seem to have any issues with any adjustments made to the plan. Art also said he did not see the blsf depicted above the floodplain.

John Thomas, conservation agent, agrees with Art Allen's findings and agrees there is enough information to make a motion.

Motion to close made by Dan Pearson	Seconded by: Kerry Malloy Snyder Roll Call Vote: Aye - Ronald O'Reilly, Kerry Malloy Snyder, Daniel Pearson, Daniel Doyle, Jr., Eugene Blood, Julian Kadish Motion Carries
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E. (DEP# 250-1084) – ANRAD – 0 Pine St. – Al Endriunas

(Map 23, Parcel 66 and 158 and Map 24, Parcel 95) <https://tinyurl.com/PINEANRAD> (Continuation requested – 10/18/2021, 11/8/2021) The application requests verification of wetland resource areas.

*****Applicant requested a continuance till 12/13/2021******

Motion to continue made by Daniel Pearson	Seconded by: Daniel Doyle, Jr. Roll Call Vote: Aye - Ronald O'Reilly, Kerry Malloy Snyder, Daniel Pearson, Daniel Doyle, Jr., Eugene Blood, Julian Kadish Motion carries
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III. REQUEST FOR PARTIAL/ CERTIFICATE OF COMPLIANCE

- A. **(DEP# 250-1020) - Request for COC-** 117 Lincoln Street – Paul Freeman Single Family Residence.
(Map 13, Parcel 20) <https://tinyurl.com/117Lincoln>

John Thomas: This was an existing house where they extended the yard, put on a deck and put in a split rail fence. There were a few minor modifications that the agent was willing to work with the resident on. All the work is stabilized now and the agents give his approval for this gentleman to receive his COC.

Motion to issue COC made by Daniel Doyle, Jr.	Seconded by- Ronald O'Reilly Roll Call Vote: Aye - Eugene Blood, Ronald O'Reilly, Kerry Malloy Snyder, Daniel Pearson, Daniel Doyle, Jr., Julian Kadish Motion Carries
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- B. **(DEP# 250-840) – Request for COC-** 300 South Washington street- Condyne – Trimming and pruning of existing billboard (Map 25, Parcel 8-12) <https://tinyurl.com/300SWASHINGTON>

John Thomas: The work was done and appears to be done in accordance with what was proposed at the time. The agent has no issue with the work that was done.

Motion to issue COC made by Daniel Doyle, Jr.	Seconded by - Kerry Malloy Snyder Roll Call Vote: Aye - Daniel Doyle, Jr., Daniel Pearson, Ronald O'Reilly, Eugene Blood, Kerry Malloy Snyder, Julian Kadish
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IV. SIGN AND ISSUE ORDER OF CONDITIONS/ORDER OF RESOURCE AREA DELINEATION

- A. **(DEP#250-1087)-NOTICE OF INTENT-** 53 Clapp Street- Steve Hansen (Map 23, Parcel 165).
<https://tinyurl.com/53ClappSt>

Proposed project to build a single-family home with associated driveway, septic system and retaining wall all within 100 feet of Bordering vegetative wetlands. Agent has provided the commission with the special condition for the project for the commission to approve and review. The commission did not have any issue with the conditions drafted.

Motion to issue OOC made by Kerry Malloy Snyder	Seconded by - Ronald O'Reilly Roll Call Vote: Aye - Ronald O'Reilly, Kerry Malloy Snyder, Julian Kadish, Daniel Doyle, Jr., Daniel Pearson, Eugene Blood Motion carries
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B. (DEP# 250-1081) – ANRAD - 0 Barrows Street - DASUCO AZA Realty Trust
Map 27, Parcel 125). <https://tinyurl.com/BarrowsANRAD>

(Continued from 8/30/2021, 9/13/2021, 9/27/2021, 10/18/21, 11/8/2021)

*Request for review and confirmation of the greatest horizontal limit of jurisdictional Bordering Vegetated
Wetland on the property.*

*Agent has provided the commission with the special conditions for the ORAD for the commission to
approve and review. The commission did not have any issue with the conditions drafted.*

Motion to issue ORAD made by Kerry Malloy Snyder	Seconded by - Daniel Pearson Roll Call Vote: Aye - Ronald O'Reilly, Kerry Malloy Snyder, Julian Kadish, Daniel Pearson, Daniel Doyle, Jr., Eugene Blood Motion carries
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V. REVIEW DRAFT MINUTES

• 10/18/2021

Motion made to accept minutes as modified made by Daniel Pearson	Seconded by: Daniel Doyle, Jr. Aye - Eugene Blood, Daniel Doyle, Daniel Pearson, Kerry Malloy Snyder, Ronald O'Reilly, Julian Kadish Motion Carries
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• 11/8/2021

Motion made to accept minutes as is made by Kerry Malloy Snyder	Seconded by: Ronald O'Reilly Aye- Ronald O'Reilly, Kerry Malloy Snyder, Daniel Pearson, Julian Kadish Abstained- Daniel Doyle, Jr. Eugene Blood
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VI. NEW/OLD BUSINESS

- Site Inspections
- Reservoir Update
- Chartley Pond Update
- Barrowsville Dam
- Report from Staff
- Grants
 - economic development grant: Edith read grant due Feb 1st of next year
- 10/25 Town Meeting

VII. BILL SUMMARY

11/8/2021-11/22/2021			
Name	Amount	Account number	Account name
National Grid	\$10.00	001-171-570-5308	Maintenance of Conservation Areas
Eco Tech	\$2,559.66	243-171-100-5700	Outside Consulting Fee
W.B. Mason	\$ 19.75	001-171-570-5420	Operations - Office supplies
Chessia Consulting	\$ 260.00	242-171-100-5700	WPF - Island Brook Appeal
Chessia Consulting	\$ 1,530.00	243-171-100-5700	Outside Consulting Fee
McGregor & Legere, P.C.	\$ 533.75	242-171-100-5700	WPF - Island Brook Appeal
Comcast	\$ 118.44	001-171-570-5308	Maintenance of Conservation Areas

VIII. RATIFY LAST MEETING'S OPEN SESSION (TOPICS NOT ANTICIPATED 48 HOURS IN ADVANCE)**IX. OPEN SESSION (TOPICS NOT REASONABLY ANTICIPATED 48 HOURS IN ADVANCE)**

Presentation of ESS Lake Management of
Winneconnet, Norton Reservoir, and Chartley Pond

Presenter: Matthew Laidwick

Matt Laidwik: "ESS has been handling the monitoring of Lake Winneconnet, Norton Reservoir, and Chartley Pond for the past several years and, also helping to guide their management under the existing orders of condition that the commission has issued for those projects. As a requirement for those projects, we have to provide an annual update on what we saw and what we're recommending for the next year. The monitoring that we did this year consisted of two

vegetation surveys, we did either an early season or pre-treatment. Vegetation mapping happened in May or June and the difference between the two is if we treated the pond we called it pre-treatment, otherwise we just called it early season and then we did a late season/ post-treatment vegetation mapping event.

In September of this year, we did actually also have one additional thing that we had to do this year as a natural heritage requirement for Lake Winnecunnet. We had to monitor water quality, specifically dissolved oxygen and temperature from April to September. Management actions we actually took this year at Winnecunnet, we didn't do any treatments. Norton Reservoir was treated with diquat and flumioxazin. That was completed both in June and August. It was kind of a split treatment essentially, they went out treated in June, then saw that there were some additional areas of growth in August and treated those at the direction of the town. They also completed a day of hand harvesting of water chestnut in August at Norton Reservoir.

Then at Chartley we did a sonar/fluoridone treatment this year between June and August so that was essentially a whole pond treatment, about 30 acres. We also did a day of hand harvesting there as well. The management work that's actually done here is undertaken by Solitude Lake Management under a separate contract so we're really just sort of monitoring what goes on and reporting to you, and making recommendations for next year. Going back to Lake Winnecunnet we have had to do dissolved oxygen monitoring before as a natural heritage requirement but usually it happens in concert with a treatment. This year they just wanted us to get a year of baseline data so basically, we went out and did what we would normally do just there was no treatment. We completed eight monitoring events at four locations throughout the pond. We did find that dissolved oxygen was actually lower than has been previously observed. The reason for that is really not obvious to me. In mid to late summer, we did have fairly low dissolved oxygen concentrations at a couple of locations. We were basically anoxic about a meter down in the water column. Some of it could have been additional respiration from the regrowth of some of the dense plant beds that have afflicted this particular lake in the past years. There could have been something else going on with the weird weather we had this year. Unfortunately, this is really all we were collecting this year as a requirement for natural heritage so we don't have all the information. Interestingly it's lower than we've ever observed before during treatment years so it definitely didn't seem to have anything to do with the treatment. Moving on to what we actually found with the aquatic plant mapping, if you'll remember there's two aquatic plants in Lake Winnecunnet that we're managing actively, one is

fanwort and the other one is variable leaf milfoil. These maps just show the milfoil, the reason for that being we didn't see any fanwort in June during our early season mapping. You'll see here on the left we did have some semblance of variable leaf milfoil returning to grow in the pond. It was treated last year and the treatment seemed to be fairly successful, but you never really know till the next year. So, we were starting to see some regrowth of these sparse and patchy beds in the spring but they really didn't take off until mid to late summer. I know there were some complaints that came in from abutters to the lake this year indicating that there was a lot of plant growth coming up, and we have the map to sort of back that up. Most of the growth was really restricted to these shallower areas around the margins of the pond, but we did have some growth of fanwort a little bit farther out away from the shoreline into deeper waters. The only reason I didn't show fanwort here is because we only had about two or three acres of that regrowth and it was very sparse but it was there so it is coming back.

Norton reservoir which was treated this year, the conditions in May for the fanwort growth was fairly extensive although a lot of the beds were still kind of sparse to patchy at that time. Just a reminder to the commission that fanwort tends to really get going later in the year. So even though it's definitely there and present in May it still really hasn't filled out to the typical bio volume and biomass that it puts into the water column at that point. When you would expect to see that would be September and as you can see herein the main basin of Norton reservoir really actually knocked the beds back pretty well there's only a few scattered areas here of growth remaining in September. Where we did see an increase in growth down in that southernmost basin it was actually treated but they treated sort of the deeper areas it looks like some of the growth came back in those shallow coves on that southern base. All right, same Norton Reservoir but looking at different species variables milfoil this is the other really big one that we're trying to control with the treatments and this does come up a little bit earlier in the season than fanwort. You can see here on the left we had widespread growth of the variable leaf milfoil although a lot of it was by the end of the season September, we actually had reduced those beds quite significantly. We saw some increase in density in places that were not treated this year because we actually ended up using a contact herbicide here rather than a widespread systemic herbicide treatment. Otherwise, the places that were treated seem to respond fairly well so we did see reduction of variable leaf milfoil when we went back in September. Not widespread in Norton reservoir but definitely the biggest threat because of how it grows is water chestnut and we did have several acres of growth this May when we were out which was a little bit surprising but you will note some of these are sparse beds. So even though we have a total here of four and a half acres of sparse beds that's really just kind of finding a

scattered plant here and there. Problematic are these patchy or dense beds that's where you really start to notice the water testing it is growing to the exclusion of plants. The good news there is they were able to get in and manually harvest most of these beds. There's a little bit of remnant bed at the very apex of that cove in the southwestern basin. For the most part it looked like they did a pretty good job hand harvesting that this year.

Chartley pond is kind of a mystery to us this year. Last year we had done some spot treatments and had requested that the order of conditions be amended to allow us to try some systemic herbicides here. We actually had the ability to use sonar which is fluoridone and we've had very good results when we used that in Norton Reservoir and in Lake Winnecunnet with you know multiple seasons of control. We were hoping to see the same here in Chartley pond because we have the same species essentially affecting this pond, Fanwort and variable leaf milfoil. Even though we started the treatment in June and completed by August we actually ended up having more fanwort growth in September than we did during the pre-treatment survey in May. It's kind of a mystery why this would be the case; typically, sonar is extremely effective against fanwort. In fact, it's one of the few herbicides that is, which is why we used it. We won't really know until next year when we only go back and map the regrowth, but I suspect that it had something to do with the very wet summer that we had which may have diluted some of the applications. Sonar has to be kept up at a low level but it has to be present in the water column for a fairly long period of time to actually have an impact on the target species. If we saw a lot of flushing of the pond over the course of the summer that could have reduced the effectiveness of it. I will say even though we did see some of these patchier beds in September a lot of them had chlorotic leaves which is an indication that the herbicide actually was being taken up. It's just normally by that time we would expect the plants to have started dying back, not just be chlorotic. We're not sure whether we'll see the same sustained results next year as we had seen with our previous treatments of Norton Reservoir and Lake Winnecunnet, but we are hoping for the best. On the other hand, we did actually see better results with the variable milfoil still not as great as we would have liked, but we did see a reduction there in terms of the extent of the bed. We did seem to cut back on a lot of the denser beds which is good and then the really good news for this year is that even though we had some water chestnut remaining in the pond in May when we went out to do our survey, they actually did a great job of hand harvesting this and we couldn't find any in September in fact the pond looked very good lots of open water. If you hadn't been throwing a rake to try to map the other plants in the pond you would have thought that that was in great shape. I think we're making good progress on the water chestnut infestation in Chartley pond which is certainly a step in the right direction. This chart is one that

we update every year just to kind of give you a broader sense. You can see here in 2017 which was the year that we initiated active management of these water bodies. We had a lot of the red dots which means lots of extensive growth and after we did those initial treatments in 2017 we really knocked things back pretty hard. By 2018 we had much less density of the target species in Winnecunnet and Norton. At Chartley the data's kind of skewed because the pond was actually drawn down for dam repairs that year. So, we had to do estimates that were late in the season after the pond refilled. And it's likely that we didn't see as much as we would have during a normal year. Then as you look at 2019 and 2020, we do have some creeping back of those plants that were problematic at Norton Reservoir and again at Winnecunnet pond. Which is why we reinitiating those treatments last year and this year. You know we did see some improvement over last year; the big disappointment this year was just not seeing the immediate results at Chartley Pond that we were hoping to get. These points actually represent the pre-treatment conditions so we're trying to sort of index these by the same time of the year so that they're relatively comparable. These actually reflect the conditions each year in the spring before any management is applied so we are seeing gradual improvement there. Still, we have a way to go but we've also knocked back some of the plants that we knew of that were there in Norton Reservoir. In particular with Eurasian milfoil and swollen bladderwort and haven't seen them again since we were able to get rid of them back in 2020. So, we're hoping that that at least holds up and that we can tackle the rest of these plants as we move forward.

What do we recommend doing for next year? Well, when it counted obviously the regrowth of those extensive beds really seems to necessitate another sonar treatment, we think we can do this effectively. One thing we do need to do because our original approval from heritage, even though it's an annual thing, requires refiling every five years and we are due to refile. So, we can obtain an official determination letter from them again. We are going to be submitting a MESA filing with heritage. I don't anticipate having any issues with that but obviously the commission will be kept in the loop as to the outcome of that uh that filing.

At Norton reservoir we are doing more of the same. I think we had pretty good effectiveness this year and we don't really want to do an entire reservoir treatment if we don't need to. So, I think we're going to try to go another year and see what we can get out of the spot treatments on the herbicide end. Then definitely continue to aggressively hand pull water chestnut so that we don't allow that to continue expanding in the Reservoir. Good news we have not needed any algaecide treatments since we started. They're still in the toolbox in case we need them but we're not anticipating that we will just base on the history here. Where we are actually changing up the strategy a little bit is Chartley. We had gotten some good results in past years

with the spot treatments so we're actually recommending doing that again next year for any areas that do regrow. Now we May find that we're pleasantly surprised next spring when we go out and the sonar treatment from this year was actually more effective than we were anticipating and that would be great. Just in case it's not, we've got that in our pocket and of course we'll continue with the hand pulling there as well to keep water chestnuts at bay. So that's really the end of my presentation and I'm happy to entertain any questions you might have thanks for your attention. ``

No questions for Matt Laidwick.

Motion to close made meeting made by Kerry Malloy Snyder	Seconded by: Daniel Pearson Aye: Daniel Pearson, Daniel Doyle, Jr., Eugene Blood, Kerry Malloy Snyder; Ronald O'Reilly, Julian Kadish
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Respectfully submitted by: Megan Harrop

Minutes approved by the commission on: 12/13/21


Conservation Commission Signature


Julian Kadish, Conservation Commission Chair

12/15/21
Date

X. PUBLIC REMOTE PARTICIPATION PROCEDURE

For this meeting, members of the public who wish to participate in the meeting may do so in the following manner:

1. To participate in the meeting, we recommend downloading the zoom app  before the meeting. (This may not be necessary because you can click the link below but we have found that this makes logging in to the meeting easier.)

2. **Join the Zoom Meeting at 6:30pm.** Using your computer or smart phone go the Zoom app and click "join a meeting" or click on:

<https://us02web.zoom.us/j/86843792971?pwd=eWJQRWJyMGVpZUFXd0tNb2xic2xuUT09> When prompted, enter the **Meeting ID: 868 4379 2971, Password: 679612**

- The site can be a little tricky so if it doesn't work the first time, try again. Try copying and pasting the link into a google chrome browser if internet explorer or another browser doesn't work for you.
 - Using "connecting to video and audio through the computer" has been the easiest method. So make sure your computer's video/audio is on.
 - If you cannot hear, you may need to phone in by calling 1-646-558-8656, same meeting ID and password as above. If it asks for a participant id you can just hit #. Please put your phone on mute until the Chairman asks for your comments.
 - Everyone will be placed on mute at the beginning of the meeting as you sign in but you should be able to hear. We will unmute you when we reach the public question and answer portion of our meeting.
3. If, for some reason, neither option is working for you, you can email the Conservation Commission at conservation@nortonmaus.com to ask your questions. We will read your email address, name and comments into the public record.
 4. The standard procedure for a public hearing is a presentation by the applicant's representative, questions and comments by the Conservation Commission and Director, then opening questions and comments to the abutters. Please be patient and wait for your turn to participate.
 5. If there are no additional questions by the Conservation Commission or Director, the hearing would typically close; however, to ensure adequate opportunity for public participation, those specific hearings will be continued until the next meeting. This will be announced. You will have until the next meeting to provide your comments and questions before the Commission closes the hearing and makes a decision.

