



Norton Conservation Commission

70 East Main Street

Norton MA 02766

508-285-0275

508-285-0277 fax

conservation@nortonmaus.com

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Monday, October 28, 2019

6:30 pm

2nd Floor Conference Room

Norton Town Hall

Minutes

6:30pm Open meeting

The meeting was called to order at 6:30pm.

Attendance: Scott Ollerhead, Julian Kadish, Gene Blood, Dan Pearson, Ron O'Reilly, Conservation Secretary Melissa Quirk and Conservation Director Jennifer Carlino

Absent: Lisa Carrozza, Daniel Doyle, Jr.

WETLAND HEARINGS AND POSSIBLE COMMISSION DELIBERATIONS

Wetland hearings will be taken in order.

A. Request for Determination of Applicability (DET #1090). Norton Water Department, Newland Street (Map 5, Parcel 235). The proposed project involves install water main pipes within 100 feet of wetlands and 200 feet of the Canoe River.

Frank Fournier of the Norton Water Department attended the hearing.

However, since Ollerhead and Blood recused, there was no quorum. The hearing was continued to the next meeting, November 4th.

B. Request for Determination of Applicability (DET #1089). Joshua Glaser, 10 Dean Street (Map 27, Parcel 172). The proposed project involves plans to repair and construct a stone wall and construct a stone parking area within 100 feet of wetlands.

Document List – 10 Dean Street

- 1. WPA Form 1 – Request for Determination of Applicability – received 10/10/19*
- 2. Plans entitled, "RDA Conservation Application 10 Dean Street Norton MA", prepared by Collins Civil Engineering Group, Inc., signed and stamped by George Collins, dated 9/3/19*

Joshua Glaser attended the hearing to explain the project. He is looking to repair the rock wall that has always been there. It washes out from the water from the road. Ollerhead questioned if he was digging or is it at surface level. Glaser stated once the river or the ditch dries up probably in August, he will go in with a shovel and flatten it out. The parking area is a stone parking area next to the driveway where he is looking to gain more space. Kadish asked Carlino if the wall falls within maintenance. Carlino explained the wall is the bank of the stream. Kadish questioned that since the wall was there before, wouldn't it be considered a maintenance project.? The only issue would be the additional parking area. Carlino stated the stabilization of the wall and erosion and sediment control would be the issues to look at in approving the project. Glaser stated he did put the sock up. Ollerhead clarified that he is looking to do the work next August when everything is dry. Glaser stated he could do the parking spot now but would need to wait to do the wall. Carlino stated some work was already started but he stopped and came in right away to do the permit application. Pearson asked about the as-built plan on the previous permit for the septic system. Glaser stated he bought the house 4 years ago. The septic was already in. Carlino stated the previous owner had a permit for the project but never closed it out. There is a lien on the property since the ConCom never received the as-built plans to close out the permit. Glaser stated he would provide the plans.

Motion was made to close the public hearing for DET#1089 by Kadish, seconded by Pearson. Motion passes.

Motion was made to issue a negative 3 Determination for DET#1089 by Kadish, seconded by Pearson. Motion passes.

C. Notice of Intent (#250-1050). Michael Tracy of The Judge Rotenberg Educational Center, Inc. 31 Shelly Road (Map 21, Parcel 164). For a proposed project to reconstruct an existing driveway within 100 feet of wetlands.

Document List – The Judge Rotenberg Educational Center, Inc. 31 Shelly Road

- 1. WPA Form 3 – Notice of Intent received 10/10/19*
- 2. Plans entitled, "Driveway Re-Paving Project", prepared by PMP Associates, signed and stamped by Edward Jacobs and Gregory Driscoll Jr., dated 10/10/19*

Amanda Langer of Jacobs Driscoll Engineering attended the hearing on behalf of the applicant. She explained they are looking to repave the existing driveway. The current driveway is concrete and broken down. Buses have trouble getting in and out with the condition of the driveway. Initially they planned to pulverize in place. After speaking with several excavating companies, it

was determined it would be best to excavate and remove the old materials off site. Langer showed where the wetlands are on the plan. They were planning to do sedimentation control by the wetlands. However, after receiving Carlino's comments, they changed to orange wire back silt fence where it directly abuts the wetlands. Kadish clarified that the material is just being excavated and replaced? Langer replies the concrete being excavated will be disposed off-site and replaced with asphalt. Kadish questions the length of the driveway and duration of the project. Langer replies it is about 1200 feet long and will take 5 to 10 days. Ollerhead questions the grading and is it a relatively flat area? Langer explains there is some slope changing and grading. They are planning to raise the driveway up about 6 inches. They believe the concrete may be breaking down due to the freeze and thaw. Carlino questions what the treatment is on the side slopes. Langer states they will maintain what is there now. Carlino clarifies if they are going up 6 inches, what will that be? Langer replies stone. They will revise the plan to spec the stone. Ollerhead asked if they would be removing any trees during construction. Langer showed where trees would be removed for a new turn around area. As far as utility clearing, the contractor will be coordinating with the utility companies to verify if there is any maintenance needed for trimming the trees back. Carlino stated they would need to come back for an amended OOC because that is wetland alteration which is not listed on the permit application. Carlino asked Langer to address the culverts and the list of comments from the office. Langer states the culverts are all in well-functioning order. They were inspected and don't for see them needing to be replaced. They have stone retaining walls around them. Langer showed the culverts on the plan. Ollerhead asked if the 3 culverts are all the same construction and diameter. Langer states yes. Carlino asked if there were concerns about the culvert while the concrete is being removed. Langer states no. They are very solid. Pearson asked if they will be using a backhoe. Yes. Langer addressed the comment about electric conduits. She did a site inspection herself. The majority of the conduits from the beginning of the driveway to the first pole are white PVC above ground and will be removed and disposed of.

Nick, Master Electrician and Director of Maintenance, addressed the electrical conduits going from the utility pole to the transformer. He states, if they were done according to code, they should be down about 4 feet and encased in concrete right up to the transformer. Ollerhead clarifies this is no where near where they will be digging. Langer states the concrete layer is only about 4 to 6 inches.

Langer states the snow storage areas have been added to the plan as requested. Hay bales will not be used. It will be all straw waddle. Carlino questions the size of the waddle. Langer states any place that is near the wetland where the straw could possibly get into the wetland, they replaced with the wire back fencing as shown on the plan. Carlino states they may need dewatering and concrete washout. Langer shows a dewatering basin on the plan. She said it is typically used as a concrete washout as well. Carlino asks if the dewatering basin is lined with poly. Langer states it is washed stone with silt fence finished with straw bales, however they

could do poly if they want. Carlino suggests they show a separate detail for the concrete washout. Langer states they can send revised plans by the end of the week.

Motion was made to close the public hearing for DEP#250-1050 by Kadish, seconded by Pearson. Motion passes.

D. Request for Amendment to Existing Order of Conditions ((#250-996). Thomas Powers, 19 King Philip Road (Map 25, Parcel 73-19). (continued from 9/9/19, 10/7/19) The proposed project is to raise the existing house above the floodplain elevation within 100 feet of wetlands and within the 100-year floodplain.

Document List – 19 King Philip Road

- 1. Plans entitled, “Existing and Proposed Structural Framing Plans”, prepared by NativeTEC, signed and stamped by Robert Marini, PE, dated 3/4/19, rev 4/10/19*
- 2. Plans entitled, “Existing and Proposed Site Plan and Section Detail”, prepared by NativeTec, signed and stamped by Robert Marini, PE, dated 10/1/19.*
- 3. NativeTec letter dated 8/2/19, rev 10/2/19.*
- 4. WPA Form 3 – Notice of Intent received 10/7/19.*
- 5. Revised WPA Form 3 – Notice of Intent received 10/15/19*
- 6. NativeTec letter dated 8/2/19, rev 10/10/19*
- 7. Plans entitled, “Existing and Proposed Structural Framing Plans”, prepared by NativeTEC, signed and stamped by Robert Marini, PE, dated 3/4/19, rev 4/10/19*

Rob Marini of NativeTec and the applicant Tom Powers attended the hearing. Marini explained the main scheme it to raise the existing house as opposed to building a new house. He shows the existing house as it sits now. It is in the flood plain on Winnecunnet Pond. The plan is to elevate the house and insert steel beams within the concrete foundation. The house will sit on concrete piers. Below the house will be gravel and stone which will be more pervious. The existing tool shed will also be elevated. They will not be cutting down any trees consistent with Natural Heritage’s review. They will just have an arborist limb the trees. Carlino asked Marini to update what was asked for at the last meeting. He states abutters were informed and provided the receipts. DEP was notified. He has gone back and forth with Natural Heritage. He provided the signed NOI. Marini addressed some of Carlino’s previous comments. He stated there is a temporary fence around the scope of work. Carlino clarifies page 2, #5 states the piers for the house are 2 feet in diameter? Marini states they are 1 and ½ to 2 feet. At the bottom, they fan out to 2 feet, but the main stem is 1 and ½ feet. Carlino questions the note under. Marini states it is a typo. Ollerhead clarifies there is no 4 foot diameter as stated in the note on the plan.

Carlino questions the decking posts. She states he calculates the amount he needs to excavate for the concrete footing which is the temporary alteration. The permanent alteration is just the pier itself times the number of piers. Marini states he showed that in compensatory storage areas. Carlino states she must be able to confirm that and it must be shown on the plan. Marini states 54 posts. It is shown on each elevation on the chart. Carlino questions the diameter of the decking post. Marini states 4x4 or 6x6. He asks how that affects what they are presenting. Carlino states the application says proposed alteration is zero. However, they are doing work in the flood plain which is why they are before us. It needs to be quantified on the application. Marini asks how all of that can fit on the application. Ollerhead states it is only the total amount of impact for that resource area. Powers states it is 71 cubic feet. Ollerhead states that must be on the application. Marini states it is less than proposed so it is not an impact. Carlino explains they must be able to confirm what is on the plan with the application. She shows and explains the impervious area. Carlino questions the entire square footage of the area he is altering with stone. Marini states he is increasing the flood storage. It will never be exactly explicit on the plan like she is asking. Carlino states that is not accurate. There is an existing OOC with a total impervious coverage of 1827.1 square feet. He is saying his proposed end product is smaller except his numbers are 1972 square feet. Marini states yes, it is slightly higher. However, he is increasing the storage. He is elevating the house. He can follow through and answer the questions on how the posts are segregated from the gravel area that surrounds the house, but can they condition the plan based on that. Carlino states they are not sure if they can approve it yet. The ConCom is trying to make sure they can approve it. Ollerhead states the application needs to list all the impacts to each resource area separately with totals for each one. Then it must demonstrate how each performance standard is met in each resource area. It must all be spelled out. It's not right now. Marini states he lists by foot and by elevation how they are gaining incremental storage. Kadish states it would be easier to fill in the numbers according to what was requested. Marini states he will do that but asks if they can close the public hearing based on that. He feels it is clear they have met the spirit of the regulations. He states he has achieved the performance standards. There is a gain of compensatory storage of over 2900 cubic feet. Ollerhead states they can close now if they want and submit the final package. Then if it meets the standards, the ConCom will approve it or if it doesn't meet the standards they won't. If you're confident you have demonstrated everything you need to demonstrate, they can close. Carlino states the ConCom will make their decision based on what the applicant has given them. Kadish states it would be better to have all the requested information and clear before closing the hearing. Marini asks if they have any other questions. Kadish explains the Wetlands Protection Act requires a certain way the format of the information is laid out in the application. There is a pre-development and post-development number to be on the application in addition to a temporary and permanent number. The applicant states the

spirit of the law has been abided by, but Kadish states it will not fly well. Marini states he can not find anything more elaborate than what he has provided. Marini states he will address it. Ollerhead noted the bill for the legal notice has not been paid yet. Kadish suggests getting all the information for the next hearing in a week. Marini states he just wants to close the hearing and he will get Carlino what she wants. Kadish states what he is hearing is that unless he can provide the information, it may be denied. So why not try to work with it and get it approved. Marini states if they close the hearing, he will send Carlino what she is asking for and get it down on paper. Pearson states the ConCom is not hitting them with any exceptions. This is the standard way of doing things. Ollerhead asks if he has been before Commissions before and presented wetlands hearings to them. Marini states he has been doing this for 30 years. Pearson points out the requests are what all of the ConCom is asking and WPA. They are not being singled out.

Motion was made to close the public hearing for DEP#250-996 by Kadish, seconded by Pearson. Motion passes.

- E. Abbreviated Notice of Resource Area Delineation (#250-1030). John Quattrochi. East Hodges Street (Map 36 Parcel 2-0)** (cont. from 10/22/18, 11/19/18, 12/17/18, 1/28/19, 2/11/19, 2/25/19, 3/11/19, 3/25/19, 4/8/19, 4/29/19, 6/10/19, 6/24/19, 7/8/19, 7/22/19, 9/19/19, 9/23/19, 10/7/19). For proposed plans to verify wetland resource areas.

Quattrochi East Hodges Street ANRAD

Document list

- 1. Request for Determination prepared by Goddard Consulting. dated 10/8/18*
- 2. "Land owned by Court Company, Inc. in Norton, Massachusetts" prepared by E. Otis Dyer, R.P.L. S. Signed and stamped by Everett Otis Dyer. Dated 3/21/18, revised 11/1/18.*
- 3. Email from Carlino to Goddard re: topo missing from the plans dated 11/7/18.*
- 4. Letter to Goddard from Carlino dated 11/26/18.*
- 5. Goddard letter to Conservation dated 1/8/19.*
- 6. Peer review RFP 1/25/19, peer review responses from Garrett Group, EcoTec and Garner, Letter that peer review is required dated 2-12-19*
- 7. 2-19-19 Goddard letter re: inspections, con com email dated 2/25/19 re: inspections*
- 8. Request for continuance for 4/8/19 hearing to review wetland line in response to EcoTec*
- 9. Email from Carlino to Goddard re: EcoTec peer review 3-21-19*
- 10. Goddard letter to Conservation re: Response to Peer Review dated 5/23/19*
- 11. StreamStats Report for Stream West of Court Co. Property dated 5/23/19*

12. Site plans entitled "Land Owned by Court Company, Inc. in Norton, Massachusetts" prepared by E. Otis Dyer, R.P.L.S., signed and stamped by Everett Otis Dyer. Dated 3/21/18, revised 12/20/18. (5 sheets)

Val Costa, Wetland Scientist with Goddard Consulting, attended the hearing on behalf of the applicant. Costa submitted the ILSF calculations that the ConCom had requested. Since the last meeting, he has added the vernal pool areas as requested to the plan. He understands some of the information was just provided and understands it is up to the ConCom if they want to act on the new information or continue the hearing to give them time to review the information. Carlino noted ILSF calculations are typically sent out for review.

The applicant requested a continuance to 11/4/19. Motion was made to continue the public hearing for DEP#250-1030 to November 4, 2019 by Pearson, seconded by Kadish. Motion passes.

- F. Notice of Intent (#250-1032). Albert Faxon. Oak Street (Map 15 Parcel 9).** (cont. from 10/22/18, 11/19/18, 12/17/18, 2/11/19, 2/25/19, 3/11/19, 3/25/19, 4/8/19, 4/29/19, 6/10/19, 6/24/19, 7/8/19, 7/22/19, 9/9/19, 9/23/19, 10/7/19). For proposed plans to construct a driveway associated with a new single-family house within 100 feet of wetlands.

250-1032

Faxon Oak Street

Document list

1. Notice of Intent (NOI) application prepared by Goddard Consulting, dated 10/9/18.
2. "Plan of Proposed Driveway Crossing at Rear Land 219 Oak Street in Norton, MA", prepared by RIM Engineering Co. Inc., signed and stamped by Craig Cyganowski, dated 9/6/18, final revised plan Dec 5, 2018
3. Letter from J. Carlino to S. Goddard regarding comments on NOI site inspection. Dated 10/26/18.
4. Dec 7, 2018 supplemental packet submitted by Goddard
5. John Chessia peer review dated Jan 25, 2019.
6. Peer review RFP 1/25/19, peer review responses from Garrett Group, EcoTec and Garner, Letter that peer review is required dated 2-12-19
7. 2-21-19 Garrett Group peer review letter
8. 2-19-19 Goddard letter re: inspections
9. Vernal pool inspection/protocol edits April 2019
10. Goddard letter dated 9/3/19 submitting revised plan and supplemental information for the NOI
 - Wetland Replication Plan Norton Oak Street dated 12/5/18, rev 8/29/19
 - Detailed Wildlife Habitat Evaluation dated 8/30/19

- Draft Stormwater Pollution Prevention Plan dated 9/2/19
- Plans entitled, "Plan of Proposed Driveway Crossing at Lot 2 213 Oak Street" prepared by RIM Engineering Co., Inc., signed and stamped by Craig Cygawnoski and Ralph Maloon, dated 9/6/18, rev 8/2/19.

Val Costa, Dan Wells and Scott Goddard of Goddard Consulting along with Marc Garrett of The Garrett Group attended the hearing on behalf of the applicant.

Val Costa, Wetland Scientist with Goddard Consulting, updated the ConCom on their progress. Costa explained it is basically a 10 foot driveway crossing into the wetland at a 2 to 1 slope. The previous design was a 3 to 1 slope, but the design was changed at the request of the ConCom to diminish the wetland impacts. The previous design included three 12" pipes. The ConCom requested the pipes be changed to 3 feet wide to accommodate the wildlife crossing. He did a site walk with the ConCom and peer reviewers in February. They requested a vernal pool survey be done. A wetland line for the area was agreed on. Dan Wells, Senior Life Biologist with Goddard Consulting, did the vernal pool survey. Chessia commented on the project. They requested they look at a small depression at the driveway entrance to see if this area would qualify as an area subject to flooding. Costa states they went back and did the calculations and flagged the area. Costa states it is too shallow and does not qualify as ILSF. Chessia requested they provide some type of stormwater management feature to accommodate for the stormwater that will be displaced. They added a swale to the driveway entrance to accommodate for that. With the vernal pool survey, they concluded that the entire BVW classifies as a vernal pool habitat. Therefore, they revised the crossings to be 12 feet wide by 4 feet high box culverts with 3 foot wide culverts at each end. As mitigation for the proposed impacts, they are proposing a deed restriction on all of the upland and wetland area. As of now, they feel they have provided all of the requested information.

Dan Wells discussed the vernal pool survey he did April 9th. He performs quite a few of these each year so he is in tune to the timing of the peak amphibian egg laying activity. On April 9th, he had determined that he had seen egg masses in other vernal pools in eastern Massachusetts. With a large vernal pool like this surrounded by quite a bit of mature upland forest, he expected it would be a pretty productive vernal pool. Surprisingly, he found only one real cluster of wood frog egg masses. There were 18 in total. They were about 50-60 feet from the proposed driveway crossing. He did a 2nd survey April 17th and found the same thing. His conclusion is that clearly this is a vernal pool. At the time of the survey, the entire wetland was flooded. Wells discussed his Wildlife Habitat Evaluation on the impact area itself as well as through the resource area. He provided photos and descriptions of the habitat. He stated it is pretty uniform in habitat type. When performing these evaluations, you are looking for the uncommon. There was nothing unique in this surveyed area. Of this large vernal pool system, he calculated the impact from the resource area is only about 3 percent of the entire vernal pool. A very small percentage of the vernal pool is being altered. There would be no direct displacement of egg masses. There would be no impediment to their breeding. By having the 3 separate culverts, it

provides 3 opportunities to migrate. He discussed maintaining the hydrology of the vernal pool. With this design, the water will flow freely through the culvert system. Therefore, he does not expect an impact to the hydrology of the vernal pool. With the mitigation of these culverts, and the fact that there is not a significantly large breed using this vernal pool, the key to mitigation is permanently protecting all of the upland forest surrounding the development. The frogs only use this vernal pool for the breeding season. They are in the upland forest for the majority of their life cycle. By permanently protecting all of this upland, it ensures there will be a long-term breeding viability at this site. It is providing permanent access to their non-breeding habitat. He states the direct impact to the wood frogs is pretty minimal based on the number of egg masses observed and location of the driveway. He feels there are suitable micro habitats sufficient for egg deposition. Kadish questions if the underlying soils to the crossing will be able to support the weight of the roadway. Wells states that is beyond his expertise. Scott Goddard explains they would have to excavate the upper organic layer to get to the solid substrate. Kadish asked if he believes that solid substrate is fairly close underneath. Goddard says yes. Pearson asked if there was no way to go around. Costa replies that Garrett suggested they put the driveway in an area which he shows on the plan. Garrett states that in his peer review for the ConCom, he requested an alternative analysis to justify the proposed crossing vs another crossing which he shows on the plan. He has not seen an alternatives analysis which indicates that this is the only and the best crossing. Garrett saw an alternative. He is not saying it is the best alternative, but one in which he saw the driveway accessing a narrower portion of the wetland which he shows on the plan. He is not saying that is what they should do, but feels that should be argued out as being not practical. He understands practicality, however under Wetlands Protection, there is a process by which you justify the proposed action as the preferable alternative. That was the limitation of his comment. He has not seen the analysis. Costa responds the issue with crossing the driveway where was shown is that the Faxons (the applicant) do not own the property where it would cross. Costa shows the property line. He states they did approach that property owner to propose a shared driveway to avoid the buffer zone and that property owner was not interested. Costa states the impact would still be the same. Would still be impacting the vernal pool, BVW and buffer zone. Goddard adds it was also closer to the deeper water areas where the egg masses were which they were trying to avoid. Garrett states these may be valid arguments, but he is hearing them for the 1st time. Garrett states there may be other alternatives. He understands they all will have impacts for wetlands which you try to minimize, but an alternatives analysis justifying this crossing would be useful. Ollerhead asked if it had been determined if the design the way it is would meet the stormwater bylaw. Costa states they suggested the ConCom insert a condition in the OOC that they submit a SWPPP for the project. Carlino states those are two different things. There is the town stormwater management bylaw which requires infiltration of impervious area. If you revise the plan and show a swale along the edge of the driveway and infiltrate the roof run-off, they will probably meet that requirement under the stormwater bylaw. As far as the SWPPP, the ConCom received a draft but it was on the old template. It should be on the most recent template. Costa will revise the plan and the SWPPP. Carlino asked if the vernal pool habitat boundary is labeled on the plan. Costa will add that label. Carlino questioned where the replication area is. She states, from the edge of that, the buffer zone should be bumped out since you're making it a

wetland. Carlino questioned if the isolated wetland at the front near the driveway needs to be labeled. Costa states it is just a small ponded area with no wetland plants. Garrett suggests labeling it "non-jurisdictional depression". Carlino referred to Chessia's comments from January. Most of them were about making sure the size of the culverts were appropriate and the town and stormwater management bylaw. She provided Chessia's estimate for the revised package received. That estimate is for \$2500 and the ConCom should decide if they need to go forward with that. Is everybody comfortable with the explanation of the culvert size and whether or not that is necessary? Costa states Chessia requested they have 3 foot wide box culverts and now they are 12 feet with the 3 foot wide at each end by the driveway. Carlino clarifies Costa will address the stormwater management bylaw. Carlino asks the ConCom if they are comfortable. They say yes.

Garrett is in agreement that while he does not question the quality of the wetland or the wildlife evaluation, he thinks it would be useful to have the vernal pool data sheets available. Also, it is his understanding that the applicant will be submitting to Natural Heritage and he believes they will want them. He feels they should be done and afforded to the ConCom. His other concern is whether this is going to be a conservation restriction or a deed restriction for conservation. A conservation restriction is a specific instrument that has state control. It is very powerful in the protection of environmental issues for conservation. It is not totally impenetrable but largely impenetrable because to change the status of that instrument you need a legislative action from Boston to do so. The shortcoming in this consideration for conservation restriction is this is a small piece of land not tied to anything of value that he is aware of. A conservation restriction requires a 3rd party steward to be involved in the monitoring and maintenance. It may be difficult to find that entity. An alternative is a deed restriction which could be practical. There is still a maintenance issue involved. The deed restriction would need to be crafted in such a way that it too is almost impenetrable and unchangeable. If the ConCom chooses to go with a deed restriction in perpetuity, perpetuity does not mean forever. Most deed restrictions have 30 year sunset clauses. If the ConCom goes that route, he suggests the ConCom work with town counsel to craft the most plausible language for the maximum amount of protection. Whichever restriction is used, the plan must be labeled in such a way. Right now, the plan says conservation restriction. Ollerhead asks if the deed restriction requires 3rd party oversight. Garrett states it should to make it work, but he believes it is more attractive to a 3rd party. There is a little more flexibility in that choice of 3rd party. Garrett states they are proposing it is the property owner. That's nice if it works but someone will have to make sure the property owner is doing it. It should be clearly in the chain of title attached to the deed. That is why he believes if they go the deed restriction route, they should go to town counsel to formulate the most powerful deed restriction to stand on its merit.

Carlino asks Costa if a conservation restriction is what they are proposing since that is what the plan says. Costa states they are open to whatever the ConCom decides. Carlino notes to the ConCom the ability to allow alteration of that wetland through the vernal pool, is that their burden of proof showing that there won't be any impact to that habitat in the future? Permanent restriction is probably the best way for them to do that. Ollerhead states probably conservation

restriction since the other is not permanent. Garretts adds if leaning toward the conservation restriction, the 3rd party should be identified before you agree to it. Otherwise this could go on forever. In his experience, it can be very difficult to identify that 3rd party. They just do not want to get involved. Kadish asked if land preservation is ever willing? Carlino states they do shy away from conservation restrictions, but they can certainly be asked. The ConCom holds 34 of them. Ollerhead clarifies the ConCom would need to have this decided before we come up with the OOC. Carlino states there is a model deed that DCS has. Costa will send revised plans within 1 to 2 weeks.

The applicant requested a continuance to 11/18/19. Motion was made to continue the public hearing for DEP#250-1032 to November 18, 2019 by Pearson, seconded by Kadish. Motion passes.

Motion was made to issue the Order of Conditions as discussed for DEP#250-1032 by Carrozza, seconded by Kadish. Motion passes

G. Notice of Intent (#250-1037). Next Grid Redwood LLC. 54 Plain St. (Map 18, parcel 9). (continued from 1/28/19, 2/25/19, 3/11/19, 4/8/19, 4/29/19, 5/20/19, 6/10/19, 6/24/19, 7/22/19, 9/9/19, 9/23/19, 10/7/19) For proposed plans to install a ground mounted solar array, driveway, stormwater, utilities within 100 feet of wetland in the Canoe River Area of Critical Environmental Concern.

Christopher King of Atlantic Design Engineers, Daniel Serber of NextGrid and Zee Sanders, Project Manager of Reach Construction attended the hearing on behalf of the applicant.

King apologized for the miscommunication on behalf of the project team. Recently there were some activities that were performed on the site. The civil engineers did receive the cease and desist. It was forwarded to the appropriate individuals and they put a stop to the operations. They believe they have satisfied the conditions and stabilized the areas of the Enforcement Order. He wanted to address that and apologize on behalf of the project team for the miscommunication.

Carlino stated there was confusion as to how that could even possibly happen when they are not even finished with the wetland permitting process. The ConCom had requested that whoever signed the notice to proceed and whoever did the work come in and explain how there really is a miscommunication vs just saying there is one.

Serber explained, as the developer, they needed to do a geotechnical survey. They already had done some clearing of the road with the test bit. They told the company that was to do the grubbing and clearing of the shrubbery (not the trees) to recut the way into the back of the project so they could do geotechnical activities. That is all he had communicated to Reach Construction. He was personally shocked to find out what had gone on at the site. When he

received the cease and desist and received the pictures, he was completely shocked. After communicating with the landscaping company who would have done that work after they received this permit, it appears they took the liberty of going ahead and do that themselves. He was working with Reach who had hired the sub-contractor.

Zee Sanders of Reach Construction stated that once they realized they needed the geotechnical services, they clearly stated to the contractor to just clear the enough space to allow the geotechnical technician in. In his perspective, he thinks because the company knew that they were intended to get the rest of the work they got a little zealous and did more than what they asked so that he would be ahead. They had discussed the status of the project and that they would like to contract for further services once they got cleared. He thinks they jumped ahead and he apologized. Ollerhead asked how many days did this clearing take place? How did nobody this was taking place. Sanders stated it was just one day. Kadish states we are requesting you focus on putting in order the administrative review and completing it. Then you go forward. Carlino clarifies that most of the team is from out of state. Who is in Massachusetts overseeing everything? Serber replies there is no current work being done in Massachusetts so that's why Atlantic Design is the engineer contractor. Serber states he has no reason to continually visit a site where no construction is taking place. Ollerhead states that is the issue. There is no oversight. Somebody needs to be watching what is going on. Kadish states this project was initiated in January. Can we just wrap it up? Can we get a reasonable OOC that people can abide by? Carlino states it seems like they are getting close. They just submitted revised stormwater information.

King replies that it had been a while since they were before the ConCom. He wanted to bring them up to speed and address the elephant in the room first. As you know the project was submitted in January. It is a challenging site from a stormwater point as addressed in Mr. Chessia's reviews. They sent a revised design in October which is the last design you have seen. The latest change is the gravel road which was required from the Fire Department through the Planning Board process. It basically frames the site and drains everything back into the site. There was some concern with potential downstream flooding impacts. That required them to basically go off-site and model the restriction under the driveway under the Perry property that goes down to the horse barn area as well as the culvert under Plain Street. They believe the latest package submitted to Mr. Chessia has consistency with calculations and refined topographic survey in the culvert areas to allow him to better ascertain if the model is accurately compiled. It will show that they will actually reduce peak rate of run-off at the property per the stormwater policy, and it will not cause downstream flooding at the two restrictions that were identified during the pier review. Carlino had requested some changes which they made. They are as anxious as the ConCom to get an OOC for this site. He believes, at this point, it is all contingent on Mr. Chessia's review. Carlino stated she went to the site today. They do have straw down in the disturbed areas. It is thin but should be adequate to stabilize.

King stated a check is being overnighted for Mr. Chessia so hopefully the review can commence. He stated the design is not significantly different from what was proposed previously. It is just moving around some of the outlet pipes, providing additional calculations with consistency with the updated field survey to demonstrate they are meeting the standards as far as the off-site impact.

Ollerhead clarified no work is being done now or over the next few weeks. King stated only survey work would be done so they can progress.

The applicant requested a continuance to 11/18/19. Motion was made to continue the public hearing for DEP#250-1037 to November 18, 2019 by Kadish, seconded by Pearson. Motion passes.

SIGN AND ISSUE ORDER OF CONDITIONS/ORDER OF RESOURCE AREA DELINEATION

REQUEST FOR PARTIAL/FULL CERTIFICATE OF COMPLIANCE

- H. Request for Full Certificate of Compliance (#250-348). Lucas Cronin. 164 Dean Street (Map 35, Parcel 23).** For a proposed project to remove debris from stream for mosquito control and better water flow within 100 feet of wetland area.

Motion was made to issue a Full Certificate of Compliance for DEP#250-348 by Kadish, seconded by O'Reilly. Motion passes.

- I. Request for Full Certificate of Compliance (#250-1002). Condyne Construction, Inc. 240 South Washington Street. (Map 25, Parcel 7).** For proposed plans to construct a commercial building, driveway, utilities and stormwater management within 100 feet of wetland and rare species habitat.

Carlino states they went into the buffer zone within the 25 feet with a crane for the building. The ConCom had approved that as long as they provided a restoration area. They ended up making a landscaped area behind the NDZ visual barrier fence. The landscape company keeps maintaining it instead of letting it grow back. They removed all of the wildlife habitat features that were required to be put in there. They have been mowing the grasses and the wildflowers that were supposed to be there. Carlino provides photos. She notified Mark Dibb. He responded today and acknowledged the work. Brad suggests in order to ensure it will not be maintained in the future and allowed to grow as planned, could he get a written statement from the new building owner acknowledging that it will no longer be touched? Carlino noted there is a fence with markers that state "Buffer Zone Do Not Disturb". Now all of the wildlife habitat features have to be put back in. Kadish stated it

should not take long to fill back in if it is left alone. He suggests no action vs denying the COC. Kadish and Ollerhead discuss not issuing at this time and revisit in 6 months or a year. Kadish suggests tabling the discussion of issuing a Full Certificate of Compliance until there is an indication that the owners or managers of the property are going to abide by the NDZ.

Motion was made to table the discussion of issuing a Full Certificate of Compliance at this time for DEP#250-1002 by Kadish, seconded by O'Reilly. Motion passes.

- J. Request for Full Certificate of Compliance (#250-570). Audrey Lazarz. 29 Bay Road (Map 19, Parcel 88-01).** For proposed residential and two commercial sewer tie ins within wetland resource areas.

Carlino states we received the DEP form and the letter requesting the COC. Carlino told them they don't have to do the as-built plan as long as they submit photos, but she has not received photos and doesn't expect them since she has requested them several times. She states it is a sewer tie-in. The ConCom discussed and felt it was fine.

Motion was made to issue a Full Certificate of Compliance for DEP#250-570 by Kadish, seconded by O'Reilly. Motion passes.

- K. Request for Full Certificate of Compliance (#250-651). Rubin Norton LLC. 308 East Main Street (Map 5, Parcel 38&252).** For a proposed project to expand a parking lot with associated grading, landscaping and drainage improvements within 100 feet of wetland area.

Scott Goddard of Goddard Consulting and Bob Salvo, contractor, attended the hearing on behalf of the applicant.

Goddard addressed the trash. He states it is gone and he has pictures. Carlino states she also has pictures showing trash and a fence falling down as recent as last week. Salvo states the trash was gone as of June. Ollerhead asks what is going on with the fence. Carlino states they need to come up with a serious plan of how they are going to stop having that much trash. Salvo agrees. He thinks it should be in the next OOC for the new building to move forward. Carlino states that was done last time. Salvo feels it could be worked out with the new OOC in order to move forward. Carlino states it could be worked out with the owner and the property manager. Salvo states it has been maintained and cleaned up daily. Kadish asks if it's a silt fence. Carlino states it is apparently to keep the trash out. Salvo states it is a temporary fence. A permanent fence will be there when the new building is being constructed. It will be a permanent net. He states the trash is blowing around from when the trucks unload. Kadish questions the type of trash. Carlino shows photos showing bubble pack and plastic. Carlino states the trash needs to be permanently addressed, not just when they are trying to get a permit. Goddard stated they are trying to get a permit on a new project and clean up the paper

trail on the old so they can move forward. He agrees it sounds like there needs to be trash cleaned up. Carlino questioned regular maintenance of the stormwater basin. Salvo states it has been moved twice. Carlino asks about cleaning catch basins and street sweeping. Salvo states it is all in the packet with dates and paid receipts. Goddard provides receipts from the sewer company from June. Carlino asks if it was just done the one time or is it an annual maintenance program the way it's supposed to be. Ollerhead asks what happens in a month if the ConCom were to issue this now. Is there a plan in place? Goddard states they are looking at a new OOC in the operations and maintenance plan. Carlino states they have an operations and maintenance plan now. Salvo states he was involved in this project from the beginning. The gentleman that filed this original application no longer works for the company. That paperwork never got transferred over to the manager that is there now. That paperwork lapsed. They take full responsibility for what has happened. Ollerhead clarifies the person there now knows about the O&M plan and what they need to do? Ollerhead asks if we issue this permit now, there will be no issues when you come before us in a month for the new permit? Salvo states yes. Goddard states the other application has already been submitted, they just need to reactivate it. They just hit the pause button while they tried to resolve this COC. Salvo states he is trying to get these people not to move. There are 5 tractor trailers staged on the site now with furniture with no place to go in the building. Once those are gone, there will be more of a parking area. He wants to proceed to do the OOC that are in place. Kadish states he is willing to extend the trust as long as we get some kind of response. Ollerhead is also.

Motion was made to issue a Full Certificate of Compliance for DEP#250-651 by Kadish, seconded by Pearson. Motion passes.

L. Request for Full Certificate of Compliance (#250-1042). Sylvia Markley. 8 Agoritsa (Map 11, Parcel 57). For replacement of septic system in 100 year floodplain.

Carlino states she has the request, the DEP form and the as-built plan, but it is not fully stabilized. We were told they would temporarily stabilize over winter and finish in the spring. Their estimate is about \$2000. The ConCom could do a partial with a bond.

Motion was made to issue a Partial Certificate of Compliance with a \$2000 bond for DEP#250-1042 by Kadish, seconded by O'Reilly. Motion passes.

M. Request for Full Certificate of Compliance (#250-968). Bill Brandon. 131 taunton ave (Map 28, Parcel 10). For wetland crossing for driveway to single family home. Bond Release.

No action.

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

N. Full Certificate of Compliance DEP# 250-478

Motion was made to ratify the Full Certificate of Compliance for DEP#250-478 issued at the 10/7/19 meeting by Kadish, seconded by O'Reilly. Motion passes.

O. Full Certificate of Compliance DEP# 250-282

Motion was made to ratify the Full Certificate of Compliance for DEP#250-282 issued at the 10/7/19 meeting by Kadish, seconded by O'Reilly. Motion passes.

REVIEW DRAFT MINUTES

10-7-19 Motion was made to accept meeting minutes of 10/7/19 by Pearson, seconded by Kadish. Motion passes

OLD BUSINESS

DEP 250-1036- Bay Rd solar – Con com comment letter submitted, Beals & Thomas confirmation of filing an Environmental Notification Form (ENF) under Massachusetts Environmental Policy Act (MEPA), notice to be published in Environmental Monitor <http://eeaonline.eea.state.ma.us/eea/emepa/emonitor.aspx>

DEP 250-983 Island Brook– Con com comment letter submitted

NEW BUSINESS

Site Inspections - schedule 68 Dean

An on-site inspection on 11/5 at 5pm was scheduled. Carlino will send an email to the resident to confirm.

Violations

77 Charlotte: Carlino stated a number of residents complained that 3 dump loads of fill were brought to the site. She did a site inspection and met with the owner. It doesn't look like quite that much, but it was certainly a wetland violation. He is fully cooperating. He got the cease and desist. Carlino met him on site and told him he needed to get the area flagged and they will talk about sediment control. He did immediately remove all the fill, but he called a wetland scientist to flag the area. It should be happening soon. They will flag the wetland areas, put it on a plan and then talk about site stabilization.

12 Woodward- Carlino received a call from DEP saying they had received complaints about wetland fill. Carlino went to the site and found no violation. The resident brought up that the neighbors, years ago before the new people bought the property, had a wetland violation. They pulled back all the soil and had to put up a retaining wall. Carlino showed photos of what the person at 12 Woodward is now looking at by the edge of their property. Carlino brought this up so that when the ConCom is reviewing projects, they are not just looking at the property itself. We should also be looking at it from the abutter's perspective.

68 Dean
10 Dean St
211 Oak and 21 Kensington
4 Kensington

Reservoir Update - Emergency Action Plan submitted – will be submitted next week

Chartley Pond Update - Emergency Action Plan submitted

Barrowsville Dam

Report from Staff

Waterbodies Committee update

Grants

Forest stewardship plans for Edith Read and Erikson, \$3,000.00 received

Taunton River Stewardship Council, \$5,000.00 applied

MVP application due next month, Regional and town projects proposed

Dam and Seawall Grant, close out next month

BILL SUMMARY

Summary list of bills signed period – October 7 – October 28, 2019

FY2020

Vendor	Amount	Town Account #
Item		
National Grid	\$10.00	001-171-570-5308 – Maint. Conservation Areas
pool meter		
Chartley Landscaping	\$425.00	001-171-570-5315 – Professional Services
reservoir & chartley		
Chartley Landscaping	\$225.00	001-171-570-5308 – Maint. Conservation Areas
read & johnson		
Chessia Consulting	\$1,187.50	242-171-000-5700 – Wetland Protection Fund
Island Brook Appeal		
Horsley Witten	\$3,510.00	243-171-100-5700 – Outside Consulting Fees
Leonard St		
W.B. Mason	\$9.98	001-171-570-5420 – Office Supplies
Office Supplies		
Pare Corporation	\$1,417.50	448-171-000-5800 – Chartley Dam
Chartley Dam		

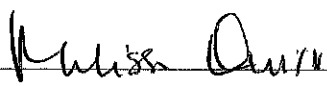
New items in red

OPEN SESSION (TOPICS NOT REASONABLY ANTICIPATED 48 HOURS IN ADVANCE)

Carlino stated an Emergency Certificate came up today so that the Building Inspector can take down the building at Reed & Barton. It is within riverfront area. They do need to install sediment and erosion controls. It is for the abatement, demolition and removal of buildings E, F and G on Cross Street. Carlino noted pre-construction meeting with the contractor and inspection and approval of sediment and erosion controls.

Motion was made to issue an Emergency Certificate for the Reed & Barton facility at 47 Elm Street by Kadish, seconded by O'Reilly. Motion passes.

Motion to adjourn by Kadish, seconded by O'Reilly. Motion passes and meeting closes at 9:00pm.

Respectfully submitted by: Melissa Quirk 

Minutes approved by the Commission on 11/18/19 (Date)

Conservation Commission Signature:



Scott Ollerhead, Conservation Commission Chairman

1/13/20

Date