

Middleborough Conservation Commission  
October 20, 2022

Unless specified everyone was present in the Select Board Meeting Room at the Middleborough Town Hall: Diane Stewart, Chair; Nancy Ockers, 1<sup>st</sup> Co-Vice Chair; Melissa Guimont, 2<sup>nd</sup> Co-Vice Chair (left at 9:06PM); Peter Gately, Adam Guaraldi, via Zoom 7:10PM, Jacqueline Jones, via Zoom 8:00PM, and Edward Medeiros. Also present was Patricia Cassady, Agent, and Catherine Pipher, Clerk.

Excused absence: Peter Gately

Meeting started at 6:53PM. Diane Stewart chaired.

Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and Governor Baker's March 15, 2020 Order imposing strict limitations on the number of people that may gather in one place, this meeting of the Middleborough Conservation Commission was conducted via remote participation to the greatest extent possible.

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**Senior Clerk**

**Town and State Guidance Updates**

Stewart said there is an update from KP Law about Supreme Judicial Court Finds Local Zoning Prohibition on Solar Energy Systems Unlawful.

**Minutes**

A motion was made by Edward Medeiros, to approve the meeting minutes from October 6, 2022, 2<sup>nd</sup> by Melissa Guimont. Nancy Ockers abstained, the remainder in favor.

**Request for Group Use**

The Samuel Fuller School had their Annual Trail Race on Saturday October 8, 2022 at Pratt Farm.

**Conservation Lands:**

**Pratt Farm**

**Small Dam**

Cassady said she asked Medeiros for specifications on the pipe. She said she thinks the pipe is about 12' long. She said she took the measurements from the PARE Corp. report. 3' diameter and 4' wide inlet. Medeiros said he does not think the pipe needs to be dug out. He said the top of the pipe is crushed in. Medeiros said he feels they could dig it out and take a section of it out, cap it, and put something over it. He said they can board it up to stop the water, while they work on it. Medeiros said he thinks this will be more cost efficient. Cassady said they could meet on site. Medeiros said he brought Jeff Youngquist to look at the culvert, and he said if they replace it, it could take a while because they would have to file for a lot of different permits.

**Trail Map**

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Cassady said she spoke with Joe Osborne, and he said he was going to look at the mapping software, to see if he could use different symbols. Osborne said he will check into that and get back to the Commission.

**Morgan**

Pipher said the sign will be installed tomorrow.

**Tarragon**

Cassady said this was discussed at Monday night's Select Board meeting. She said they want to do a site visit with the different departments. There is no set date yet.

**Morton Estates – 308 Old Center Street, to vote and sign for land donation**

Stewart said they received some information from Attorney Mather. Cassady said the deed was received for the 7.4 acres that was originally part of the land where the subdivision is being built. Cassady said the plan was being signed at the meeting on Tuesday night by the Planning Board. Marcus Baptiste will pick up the signed paper work from the Conservation office on Friday and bring it to the Select Board for them to sign at their Monday night meeting.

A motion was made by Edward Medeiros, to sign the acceptance of deed for the parcel of land off of Old Center Street that is being gifted to the town from Old Beach Investments, LLC, 2<sup>nd</sup> by Nancy Ockers. Unanimously voted.

**Discussion with Brian Grady, GAF Engineering, regarding 685 & 687 Wareham Street**

Present was Brian Grady, GAF Engineering. Grady said they have modified the plan. Before they had a piece of land resembling a hockey stick for the proposal for the land swap and they have gotten rid of the land on the right. They have altered about 8,000sq.ft. In exchange for the altered land, J.H.Taylor, owns about 1.72 acres, almost 80,000sq.ft. Grady said he knows the Commission had concerns with switching upland for wetland. Grady said all of the leg work would be on Mr. Andrews to do if there is any interest in pursuing this. Stewart asked how much of the 75,000sq.ft. is upland. Grady said they have not flagged or delineated it. Grady said there is more upland than what is shown on the GIS map. He said there might be 3,000-4,000sq.ft. of upland but it is adjacent to wetlands, so it is not as useable. Cassady said they have encroachment on Select Board property and Conservation property. Cassady said this will need to be handled separately because the Conservation property is under Article 97 under the state constitution. Grady said they got rid of the Select Board considerations as far as the swap. It was about 1 acre that was disturbed on the Conservation property. Grady said yes, but that property was not disturbed by Andrews, it was disturbed by Landers. Grady said in the past, there was a road and Landers cleared trees and widened the path. However, the 8,000sq.ft. was disturbed by Andrews. Ockers asked what will be put up to prevent this from happening again. Grady said they have staked the property line since this has happened. They have also pulled back vehicles and erect a barrier along the property line. Ockers said they cannot really speak on the swap because it is Select Board property. Stewart said the Select Board would probably want the Conservation Commission's opinion on this. Ockers said she appreciates the 10% land swap, but

it is all wetlands and not really useable. Cassady said it seems like they would have to go before the Select Board. Grady said if the Commission has no interest in this, then they will not move any further. Medeiros said he feels they should be doing what is best for the Town as well as Conservation. The 0.26 acres that they appear to want to deed to the Middleborough Gas & Electric Company, appears that 0.5 - 0.75 of that may be dry. Medeiros said Andrews has been before the Commission numerous times and he is always going further than he should. Medeiros said he would like the Commission to find out from Middleborough G & E which piece of land would benefit them. Medeiros would also like to see a post and fence up the property line and the piece that the town would be deeding him in the back. Medeiros suggested using stones as a barrier too. They would need to be about 3'-4' around. Guimont said she hopes he does not encroach anymore.

Stewart asked if anyone from the public would like to be heard, hearing none.

Stewart wants to schedule a site walk and put them back on the November 17<sup>th</sup> agenda.

**Request to Amend Order of Conditions for 24 Plymouth Street, (M 010 & 019 - easement, L 5173, easement on 5077 & 918), Michael Bumpus, Town of Middleborough DPW (Weston & Sampson) DEP#220-1392**

Stewart read the legal ad into the record. Proof of mailing was received.

Present was Allie Goldberg, Weston & Sampson, via Zoom. Goldberg said they would like to extend the access road. They need a bigger turn around space for the big trucks delivering chemicals to the site. They need 2500 sq.ft. of additional gravel roadway. They will be filing with the Select Board as well. Ockers said she is concerned with the roadway being gravel because the gravel will move towards the wetlands when the trucks turn around. Goldberg said they are using dense grade gravel, and they have compaction requirements. Cassady said the whole roadway is gravel and has held up pretty well. Medeiros said the 2 lines that are closest to flag number WD2 they could put rocks, jersey barriers, or 2x2x6 cement blocks at the end of the turnaround. Medeiros said he would like to see them closer to the wetland area than to the actual well. Medeiros said they could put this in the conditions. Medeiros said he would like them to start 6" below the adjoining property and come up at least 3' higher than the gravel roadway so the truck would literally back into it. Medeiros asked Goldberg, how long the parallel line to the back of the tractor trailer is. Goldberg said it is about 50'x 20'. Guimont asked where will the snow storage go. Goldberg said the chemical deliveries will not be very frequent, and she has not asked him where he is planning to plow. Goldberg said she could ask him though. Cassady said she does not believe they are treating the access road with salt because it is a well site and they will not want it to get into the well. Goldberg said standard practice is that they do not use salt near a well site. Guaraldi said it will be very unlikely that they would use any chemicals on gravel roads.

Stewart asked if anyone from the public would like to be heard, hearing none.

A motion was made by Edward Medeiros, to close the hearing, 2<sup>nd</sup> by Melissa Guimont. Roll call vote: Adam Guaraldi Aye, Melissa Guimont Aye, Edward Medeiros Aye, Nancy Ockers Aye, and Diane Stewart Aye. Unanimously voted.

A motion was made by Edward Medeiros, to approve the request to Amend the Standard Order of Conditions, with 2 Special Conditions, #1. That they put a concrete barrier preferably 2x2 blocks that goes parallel with the trucks and behind the truck turn around approximately 50' long x 20' wide to protect the environment from the gravel and is to be placed 6" into merging ground and at least 3' above the gravel roadway #2. Not to use any salt for snow removal, 2<sup>nd</sup> by Melissa Guimont. Roll call vote: Adam Guaraldi Aye, Melissa Guimont Aye, Edward Medeiros Aye, Nancy Ockers Aye, and Diane Stewart Aye. Unanimously voted.

**Request to Amend Order of Conditions for Christina Estates Definitive Subdivision, (M 66, L 549 & 1319), Sachem Street Associates LLC, (OHI Engineering, Inc.) DEP#220-1337.**  
Stewart read the legal ad into the record. Proof of mailing was received.

Present was Dave Stahley and Greg Flemming, both representing the developer. Stahley stated that he was before the Commission last April talking about the gravel driveway versus the notes on the minor modification for some drainage changes, which had the word "paving" to it. He said at that time, it was left that if they wanted to pursue having that word "paved driveway" removed, they would need to do a formal modification to the minor modification. Stahley said they had OHI Engineering draft a letter denoting such a request. Stahley stated that the subdivision was approved in 2006 and on Sheet C-11 it showed a gravel driveway in the cross section and the detail. He said when you fast forward to 2018 the subdivision went through another review process because a lot of time had passed and the subdivision had not been built. At that time the developer wanted to proceed, so the engineer worked with Paul Fellini, Planning Board, and there were some revisions that needed to be made. Stahley said he was not part of that process, but after reviewing the documents that the 2018 plan continued to show that gravel driveway being in place in the detail. Stahley said one of the important comments that Paul Fellini first had when he was speaking with Silva Engineering was that any changes to the 2006 plan needed to be clearly denoted because the plans from 2006 were not changing, unless such a change was shown. Stahley said since the 2018 plan and the 2006 plan, both show the gravel driveway in the detail on sheet C-11. He said that detail remained and did not change. Stahley said there is a second component to this that needs to be considered and that is the drainage calculations because the drainage calculations for that subdivision are important because it had more than 5 lots. Stahley said the drainage calculations for 2006 and for 2018 both show that the roadway is gravel. Stahley said he included the drainage calculations in the package when he submitted OHI Engineering's letter. He said this was important because we have a set of plans that is unchanged, we had a set of drainage calculations that is unchanged so it sets a precedent in where Larry Silva is beginning, when he came to you in May 2019 for a minor modification. Stahley said at that point in time when Silva came, he was dealing with an approved subdivision plan from 2018 and an Order of Conditions based on that subdivision plan showing a gravel driveway. Stahley said in March 2019, PMP Associates along with I.W.Harding Construction

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were on the site, PMP being the consultant for the Planning Board that monitors the work, and they noticed there is a box culvert location that didn't correctly align with the topography of the property. Stahley said PMP sent a Memo requesting that the engineer for the project, change the location of the box culvert, to align more properly with the topography of the land. Silva's office prepared that plan and brought it before the Conservation Commission on May 16, 2019, and that plan is also in the package. Stahley said the plan was to show the changes to the drainage and that was the specific reason for him coming before the Commission. Stahley said the minutes of the meeting confirm that. Stahley said the only discussion shown in the minutes of the meeting dealt with drainage. He said there was no discussion about changing the surface of the gravel road to a paved road, or any changes to the drainage calculations. Stahley said they also reviewed the video of the meeting. Stahley said at no time was there any discussion about paving the driveway. Stahley said he is not sure why his office put that note in there that said paved driveway, on the modification plan. Stahley said it could have been an oversight from whom ever drafted the plan. Stahley said they are before the Commission because they are trying to complete the subdivision and get it accepted. Stahley said that they are scheduled to get the top paving on the roadway hopefully by next week, weather depending. Stahley said all of the vegetation has been established, PMP will be doing their final inspection, and then in the spring they will be going to the Town Meeting for acceptance. Stahley said because this note is on the minor modification plan, their understanding is that the Commission would be looking for that driveway to be paved. Stahley said they have submitted the request to remove that note for a paved driveway, so that the Order of Conditions agrees with what the filed and approved Planning Board Plan has on it for a graveled road and meets the drainage calculation requirements.

Stewart said she feels that they have discussed this ad nauseam over multiple years. Stewart said she knows that they came in 2020 or 2021 to have a discussion and that is why they are here before the Commission again.

A motion was made by Edward Medeiros, to accept the letter submitted by Douglas Berardi, received October 17, 2022, into the record, 2<sup>nd</sup> by Nancy Ockers. Roll call vote: Adam Guaraldi Aye, Melissa Guimont Aye, Edward Medeiros Aye, Nancy Ockers Aye, and Diane Stewart Aye. Unanimously voted.

A motion was made by Edward Medeiros, to accept the letter submitted by Shawn and Katelyn Manfredo, dated October 14, 2022, into the record, 2<sup>nd</sup> by Nancy Ockers. Roll call vote: Adam Guaraldi Aye, Melissa Guimont Aye, Edward Medeiros Aye, Nancy Ockers Aye, and Diane Stewart Aye. Unanimously voted.

A motion was made by Edward Medeiros, to accept the letter submitted by Douglas and Kathleen Dyer, dated October 19, 2022, into the record, 2<sup>nd</sup> by Nancy Ockers. Roll call vote: Adam Guaraldi Aye, Melissa Guimont Aye, Edward Medeiros Aye, Nancy Ockers Aye, and Diane Stewart Aye. Unanimously voted.

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Stewart read the letters into the record.

Cassady asked why they would construct a swale on lot 5A if they were not going to have an impervious surface. Cassady said it is obvious that the water is not making it to the swale, from the pictures that were submitted from the owners. Ockers said she remembers the initial Zoom meeting and going over the progression of the plans and she vividly remembers the statement at the end of the meeting being "I will pave it". Ockers said she remembers it being discussed that paving the common driveway would be better for the culvert and that specific area because stuff would not be able to go over by the 25' buffer. Ockers said it was very clear that it was going to be paved to the people buying those houses. She said not only is it important for the buyers but it is very important for the environment. Ockers said she is not in favor of amending this and does not see any compelling reason to change it. Medeiros said their interest is to protect the environment for the Town of Middleborough. He said they are here to protect the town and its inhabitants. He said the history of this project is the history, he said you start from the beginning and end up with a decision. He said there is a letter dated September 11, 2020, to the Planning Board from Cassady stating that she spoke with James Shalek on the phone and he stated that he was going to pave the common driveway. Medeiros read the letter into the record. Medeiros said he feels they should not amend the Order of Conditions. Guimont said she remembers walking the property and thinking it was a mud pit. She thanked the abutters for writing in letters. She stated that she is not in favor of amending the Order of Conditions and this needs to be paved. Guaraldi said he agrees with the Commission and is not in favor of amending the Order of Conditions and believes this needs to be paved.

Stewart asked what reason would they have to not pave it, since they have been talking about it being paved for years. Stewart asked what reason would they have that it is better for the wetlands, wildlife, and the area that this Commission is to protect to keep it unpaved. Stahley said there is a number of things. Stahley said he knows that things go through a history and they are where they are now, but the history is the history. He said it has been filed twice with the Registry of Deeds, been signed by the Planning Board, and the Conservation Commission has issued an Order of Conditions based on those drawings. Stahley said the plans from 2006 went through 5 different review processes. Stewart politely said not to cut you off, but it does not answer her question. She said given the fact that they approved the Amended Plans in 2019, people have purchased house since then, the common driveway has been degraded and not maintained to the detriment of that area, what specifically would meet the requirements of the Wetlands Protection Act, how would keeping it the way it is will improve it, rather than paving it. Stahley said paving it will not improve it. He said the puddle the Commission saw in the pictures of the driveway were caused from the people that built the house. He said if you look at the reports from the Planning Board's consultant, they inspected that road after it was constructed. Stahley said they continued to inspect it and it was certified by Silva Engineering, when the Form J lots were created. He said the driveway and drainage were constructed correctly. He said there has never been drainage issues until that house was constructed. Stahley said it would just create a puddle on black top if they pave it, and the gravel would drain faster. Stahley said they are trying to get this paved because they caused this issue. Stewart said no they

are trying to get it paved on the conditions of which they purchased their homes. Medeiros said he does not feel they should be discussing puddles or who might have altered the plans/history. Medeiros said the vote is for whether the Commission wants to decide to pave the driveway or not. Medeiros said he does not see anything that was presented tonight of why they should not pave it. Stahley said Shalek agreed to this plan but did not have access to review the plans. Stewart said he is the owner of the property and does have access to the plans. She said if there was a mistake made in 2018 they should've fixed it then. Medeiros said if he wants to sue Silva then he can, but it has nothing to do with the Conservation Commission. Stewart asked if there are other driveways in this subdivision that are paved. Stahley said the main road is paved and has a complete drainage system. Cassady said she believes all of the other driveways in this subdivision are paved. She said they cannot go back to the 2006 plans because it was expired and the extension was not given. Cassady said when they started this process over the wetland line had changed and they needed to file a new Notice of Intent. Cassady said the cross section states it is gravel but the legend states it is paved. Whether it was an error or not, the Commission voted to have it paved.

Stewart asked if anyone from the public would like to be heard.

Douglas Berardi, owner of Lot 6A, now known as 75 Christina Way. Berardi said a lot went into purchasing this lot, the Order of Conditions states that it is to be paved and it has been recorded with the Registry of Deeds. Berardi said he has proof that it shows the driveway is to be paved, and is the plan of record. He said he cares deeply about this issue.

A motion was made by Edward Medeiros, to close the hearing, 2<sup>nd</sup> by Nancy Ockers. Roll call vote: Adam Guaraldi Aye, Melissa Guimont Aye, Jacqueline Jones Abstained, Edward Medeiros Aye, Nancy Ockers Aye, and Diane Stewart Aye. One abstention, the remainder in favor.

A motion was made by Edward Medeiros, to deny the request to amend the Order of Conditions, for Christina Estates subdivision, DEP#SE220-1337, 2<sup>nd</sup> by Nancy Ockers. Roll call vote: Adam Guaraldi Aye, Melissa Guimont Aye, Jacqueline Jones Abstained, Edward Medeiros Aye, Nancy Ockers Aye, and Diane Stewart Aye. One abstention, the remainder in favor.

**Request for Extension for Christina Estates Definitive Subdivision, James Shalek, Sachem Street Associates LLC, DEP#SE220-1337.**

Stewart said they received a letter dated September 19, 2022, to request 2-year extension to finish up a few things, such paving the roadway, to have it accepted by the town.

Present was David Stahley.

Stewart asked if anyone from the public would like to be heard, hearing none.

A motion was made by Melissa Guimont, to approve the 2-year extension for Christina Estates, DEP#SE220-1337, 2<sup>nd</sup> by Edward Medeiros. Roll call vote: Adam Guaraldi Aye, Melissa

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Guimont Aye, Jacqueline Jones Aye, Edward Medeiros Aye, Nancy Ockers Aye, and Diane Stewart Aye. Unanimously voted.

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Notice of Intent for Precinct Street – Lot 2, (M 23, L 2985), Demon Realty Trust, (Zenith Consulting Engineers, LLC) DEP#SE220-1567.**

Edward Medeiros recused himself.

Stewart read the legal ad into the record. Proof of mailing was received.

A motion was made by Melissa Guimont, to accept the revised plans dated September 22, 2022, into the record, 2<sup>nd</sup> by Nancy Ockers. Roll call vote: Adam Guaraldi Aye, Melissa Guimont Aye, Jacqueline Jones Aye, Nancy Ockers Aye, and Diane Stewart Aye. Unanimously voted.

A motion was made by Melissa Guimont, to accept the letter from Natural Heritage dated October 14, 2022, into the record, 2<sup>nd</sup> by Nancy Ockers. Roll call vote: Adam Guaraldi Aye, Melissa Guimont Aye, Jacqueline Jones Aye, Nancy Ockers Aye, and Diane Stewart Aye. Unanimously voted.

Stewart read the letter into the record.

Present was Nyles Zager, Zenith Consulting Eng. Zager said this was part of a 6 lot Approval Not Required Subdivision (ANR). Zager said they have approval for lots 1, 5, & 6, and they are now looking to get lots 2, 3, & 4 approved. Zager said they were before the Commission before for a Stormwater Management Plan for all 6 lots. There was an Order of Conditions issued for all 6 lots. Rain gardens are part of this design and proposed in the rear of the homes. This was part of the MESA process with Natural Heritage. He said they are proposing a single-family 3-bedroom home with associated driveway, septic, town water, landscaping, and grading within the 100' buffer. He said they are proposing split rail fence with sign at any portion of the project that is within 50' of the wetlands. He said they will also be putting up a conservation restriction sign with detail on the plan. He said they have also provided a construction entrance pad. Zager said the wetland line was approved with the original filing.

Cassady said she went out to the site today, and had a difficult time finding the old wetland flags and the house has not been staked out. Cassady said the wetland in the front is a 4-series but there was a 3-10 wetland flag there. Zager said they are the same exact plans that were approved before but he will go out and look at them. Cassady said she would like to see the flags refreshed, the house staked out, and look at the different series flags. Ockers asked what is going on with the waterline issue. Cassady said she is still waiting on an As-Built to see where and how much of the wetland was impacted. Ockers asked if Cassady was comfortable moving forward with these plans before they get the As-Built plans. Cassady said the As-Built would be helpful to have. Zager said he can get the As-Built done. Ockers asked what changed between the September 19<sup>th</sup> plans and the September 27<sup>th</sup> plans. Zager said the leaching field moved 8' to the east from the test pit.



Stewart asked if anyone from the public would like to be heard, hearing none.

Stewart asked Zager to stake out the house, refresh the flags, and get the As-Built for the drainage, and then Cassady can go back out to look at it.

A motion was made by Melissa Guimont, to continue the hearing to November 3, 2022, 2<sup>nd</sup> by Nancy Ockers. Roll call vote: Adam Guaraldi Aye, Melissa Guimont Aye, Jacqueline Jones Aye, Nancy Ockers Aye, and Diane Stewart Aye. Unanimously voted.

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**Notice of Intent for Precinct Street – Lot 3, (M 23, L 2968), Demon Realty Trust, (Zenith Consulting Engineers, LLC) DEP#SE220-1568.**

Stewart read the legal ad into the record. Proof of mailing was received.

A motion was made by Nancy Ockers, to accept the letter from Natural Heritage dated October 14, 2022, into the record, 2<sup>nd</sup> by Melissa Guimont. Roll call vote: Adam Guaraldi Aye, Melissa Guimont Aye, Jacqueline Jones Aye, Nancy Ockers Aye, and Diane Stewart Aye. Unanimously voted.

Present was Nyles Zager, Zenith Consulting Eng. Zager said they are proposing a single-family 3-bedroom home with associated driveway, septic, town water, landscaping, and grading within the 100' buffer. He said they are proposing split rail fence with sign at any portion of the project that is within 50' of the wetlands. He said they will also be putting up a conservation restriction sign with detail on the plan. He said they have also provided a construction entrance pad. Cassady said she went out to the property today and said that the 4 series might be a 3 series. She would like the house to be staked out and the wetland flags to be refreshed.

Stewart asked if anyone from the public would like to be heard, hearing none.

A motion was made by Nancy Ockers, to continue the hearing to November 3, 2022, 2<sup>nd</sup> by Melissa Guimont. Roll call vote: Adam Guaraldi Aye, Melissa Guimont Aye, Jacqueline Jones Aye, Nancy Ockers Aye, and Diane Stewart Aye. Unanimously voted.

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**Notice of Intent for Precinct Street – Lot 4, (M 23, L 3018), Demon Realty Trust, (Zenith Consulting Engineers, LLC) DEP#SE220-1569**

Stewart read the legal ad into the record. Proof of mailing was received.

A motion was made by Nancy Ockers, to accept the revised plans dated September 27, 2022, into the record, 2<sup>nd</sup> by Melissa Guimont. Roll call vote: Adam Guaraldi Aye, Melissa Guimont Aye, Jacqueline Jones Aye, Nancy Ockers Aye, and Diane Stewart Aye. Unanimously voted.

A motion was made by Nancy Ockers, to accept the letter from Natural Heritage dated October 14, 2022, into the record, 2<sup>nd</sup> by Melissa Guimont. Roll call vote: Adam Guaraldi Aye, Melissa

Guimont Aye, Jacqueline Jones Aye, Nancy Ockers Aye, and Diane Stewart Aye. Unanimously voted.

Present was Nyles Zager, Zenith Consulting Eng. Zager said they are proposing a single-family 3-bedroom home with associated driveway, septic, town water, landscaping, and grading within the 100' buffer. He said they are proposing split rail fence with sign at any portion of the project that is within 50' of the wetlands. He said they will also be putting up a conservation restriction sign with detail on the plan. He said they have also provided a construction entrance pad.

Stewart asked if anyone from the public would like to be heard, hearing none.

A motion was made by Nancy Ockers, to continue the hearing to November 3, 2022, 2<sup>nd</sup> by Melissa Guimont. Roll call vote: Adam Guaraldi Aye, Melissa Guimont Aye, Jacqueline Jones Aye, Nancy Ockers Aye, and Diane Stewart Aye. Unanimously voted.

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**Continuation of Abbreviated Notice of Resource Area Delineation for Harding Street, (Map 38, Lots 5965M, 4217, 4375, & 2681 & Map 47, Lot 445), Sean Chrisom, LPC Northeast, LLC (LEC Environmental Consultants, Inc.) DEP#220-1560**

Edward Medeiros returned to the meeting. Nancy Ockers stepped away.

A motion was made by Edward Medeiros, to continue the hearing to November 3, 2022, 2<sup>nd</sup> by Melissa Guimont. Roll call vote: Adam Guaraldi Aye, Melissa Guimont Aye, Jacqueline Jones Aye, Edward Medeiros Aye, and Diane Stewart Aye. Unanimously voted.

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**Continuation of Notice of Intent for Harding Street, (M 47, L 462), Liana Haddad, Raycon Construction, (Silva Engineering Associates, P.C.) DEP#SE220-1562**

A motion was made by Edward Medeiros, to continue the hearing to November 3, 2022, 2<sup>nd</sup> by Melissa Guimont. Roll call vote: Adam Guaraldi Aye, Melissa Guimont Aye, Jacqueline Jones Aye, Edward Medeiros Aye, and Diane Stewart Aye. Unanimously voted.

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**Continuation of Notice of Intent for 0 Cedar Street, (M 8, L 1724), Ashley Herman, (Webby Engineering), DEP#SE220-1529**

Nancy Ockers returned to the meeting.

A motion was made by Edward Medeiros, to continue the hearing to November 17, 2022, 2<sup>nd</sup> by Melissa Guimont. Roll call vote: Adam Guaraldi Aye, Melissa Guimont Aye, Jacqueline Jones Aye, Edward Medeiros Aye, Nancy Ockers Aye, and Diane Stewart Aye. Unanimously voted.

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**Notice of Intent for 177 East Grove Street, (M-L 71-2415, 72-152, 72-1099, 72-2616, 72-2726, 72-2738, & 72-6017), Douglas Troyer, HIP VI Enterprises LLC, (Goddard Consulting, LLC), DEP#SE220-1572**

Stewart read the legal ad into the record. Proof of mailing was received.

Scott Goddard, Goddard Consulting and Keith Curran, Bohler. Goddard said the owners and the developers from Hillwood, were also present. Goddard said they are proposing a large industrial project which will be called Nemasket Logistics Center. Goddard said this property is over 147 acres of land. He said there are 2 isolated wetlands. He said the total project area will be about 79 acres, and of that 79 acres, only 4 acres is in the most outer part of the buffer zone. Goddard said the original concept was 1 building totaling 1.2 million sq.ft., which didn't seem to be the best option. They have since reduced the project size. It is now 3 buildings totaling around 900,000sq.ft. Goddard said there will be no alteration to the BVW, no alteration to the Riverfront Area, and there will be limited work in the buffer zone. There will be a portion of the parking lot and stormwater grading within the buffer. None of the buildings will touch the 100' buffer. He said they are planning to alter one of the non-jurisdictional isolated wetlands, which is 4,100sq.ft. Curran said there will be 7 surface basins, 1 small subsurface chamber system, water quality units, and 4 bays. He said they are getting full treatment with 90% TSS removal and 60% phosphorus removal. He said they go above and beyond the requirement. He said they are in the ORW. Goddard said this has been submitted to the ZBA as well, and is before them at their November 10<sup>th</sup> meeting. Goddard said he is assuming there will be some sort of stormwater peer review. Cassady said ZBA submitted the plans that is for this project, and they asked for everyone to submit a memo. She said she submitted a memo letter yesterday that stated they would like to be kept in the loop with their peer review engineer. Ockers said on Page 303 it says proposed property line adjustments to be completed through the ANR process. Curran said they have not done the land swap yet. Medeiros said on page C-305 behind proposed building B, at wetland flags R18-R21, the proposed tree line appears to be at the 25' no touch. Curran said the proposed grading is outside of the 25' no touch and they will fix the plan. Medeiros said on sheet C-405, they have a 25' embankment at the 25' no touch and Medeiros would like them to put silt fence in and he would like them to change the detail. Medeiros said when you go to sheet C-605 and C-608 it does show the fence there but it says proposed silt fence but does not show the silt sock. Medeiros said he wants to see the silt fence and the silt sock within the 50' during construction. Medeiros asked if they know what zone this is in for the WRPD. Curran said Z4. Medeiros said the WPA states that the two areas of isolated wetlands, you can fill, but the WRPD bylaw has been interpreted to say that you cannot touch 25' around the non-jurisdictional wetland. Goddard said he is aware of the language and knows that it could come up again. Cassady asked if those two areas were Isolated Land Subject to Flooding and Goddard said they are. Goddard said they are very flat sloped areas and not like basins. Cassady asked if either of them are potential vernal pools and Goddard said no. Cassady asked if they were done with the MEPA process, and Goddard said no they have submitted the ENF and received the certificate back. They are still putting it together.

Stewart asked if anyone from the public would like to be heard, hearing none.

A motion was made by Edward Medeiros, to continue the hearing to December 1, 2022, 2<sup>nd</sup> by Nancy Ockers. Roll call vote: Adam Guaraldi Aye, Jacqueline Jones Aye, Edward Medeiros Aye, Nancy Ockers Aye, and Diane Stewart Aye. Unanimously voted.

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Melissa Guimont left at 9:06PM.

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**Request for Extension for 22 Valley Road, Anders Martenson, III, (Michael O’Shaughnessy ESQ.) DEP#SE220-1371.**

They are requesting a 2-year extension. Medeiros asked about the silt fence. Cassidy said she has been out there but it was in the spring. Medeiros was wondering if they should issue it without checking the silt fence, Cassidy said yes, and she can go out there and check it.

A motion was made by Edward Medeiros, to approve the 2-year extension and have Cassidy check the silt fence, 2<sup>nd</sup> by Nancy Ockers. Roll call vote: Adam Guaraldi Aye, Jacqueline Jones Aye, Edward Medeiros Aye, Nancy Ockers Aye, and Diane Stewart Aye. Unanimously voted.

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**Request for Certificate of Compliance for Middleborough Park @ 495, DEP#SE220-905.**

Cassidy said the work was not completed for this project. Partial site work was completed, but the Order of Conditions has lapsed. Temporary drainage basins were put in on lot 9. Cassidy said she recommends issuing the Certificate of Compliance. Medeiros said they did put in the drainage basins, but they have since modified the road and the drainage goes into a new basin.

A motion was made by Edward Medeiros, to issue a Certificate of Compliance for Middleborough Park @495, DEP#SE220-905, 2<sup>nd</sup> by Nancy Ockers. Roll call vote: Adam Guaraldi Aye, Jacqueline Jones Aye, Edward Medeiros Aye, Nancy Ockers Aye, and Diane Stewart Aye. Unanimously voted.

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**Request for Certificate of Compliance for 265 France Street, DEP#SE220-1424**

Cassidy said she went to the site today and the conservation signs were up, but there was a playground within the 25’ and they have been maintaining the lawn. Cassidy said she is going to contact them and put them on the next agenda.

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**Request for Certificate of Compliance for 12 Beach Street, DEP#SE220-1475**

Cassidy said everything is stabilized, they have put up the split rail fence, and conservation signs.

A motion was made by Edward Medeiros, to issue a Certificate of Compliance for 12 Beach Street, DEP#SE220-1475, 2<sup>nd</sup> by Nancy Ockers. Roll call vote: Adam Guaraldi Aye, Jacqueline Jones Aye, Edward Medeiros Aye, Nancy Ockers Aye, and Diane Stewart Aye. Unanimously voted.

A motion was made by Edward Medeiros, to accept the As-Built dated September 9, 2022, into the record, 2<sup>nd</sup> by Nancy Ockers. Roll call vote: Adam Guaraldi Aye, Jacqueline Jones Aye, Edward Medeiros Aye, Nancy Ockers Aye, and Diane Stewart Aye. Unanimously voted.

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**Mail/Correspondence**

South Coast Rail Construction Updates.

River Street Forestry Plan was received. Cassady said right now they are only going to be working in the front of the property. She said when they go to work in the back of the property, they are going to have to do a road improvement, which will require them to file with Conservation. This is 65 River Street.

Email from a conservation scientist from Natural Heritage stating that there was a vernal pool decertification letter for Leona Drive. Cassady said there is a particular person that certified at least 20 vernal pools in other towns and they are now realizing that false information was submitted by this person. Medeiros said they excavated where the Christmas Tree Shop was and it created a hole and someone certified it as a vernal pool. They had no right to be on the property.

Email from Karen Foye, about the wireless microphones and the scheduling for meetings.

A letter was submitted about the Water Dept. land being taken over and cared for by the Conservation Commission.

Memo from the Health Agent regarding 473 Wareham Street.

Harvestwood construction updates.

There is a National GIS Day at BSU on November 16<sup>th</sup>.

Dave Cavanaugh, Herring Commission, said there is going to be a Massachusetts River Herring Network annual meeting Tues October 25th from 9:30-3:30.

310 Plymouth Street – feels the town is giving the wrong information to potential buyers. Cassady said she sent an email stating that animals cannot be in the wetlands but can be near the wetlands.

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**Agent:**

Edward Medeiros recused himself.

**Ch.61A Thompson & Precinct St.**

Cassady said we do have the 3 appraisals. She said she also reached out to Marea Gabriel, Nature Conservancy who runs the Eastern Box Turtle Grant Program. She said they are going to speak on Monday morning. Gabriel said normally you submitted the application and you get a pre-approval, they will hold the funding while they work through the steps towards final approval. Steps 4 & 5 will be developing the Conservation Restriction. Cassady said in order to do the application they will need to get the appraisal.

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|---|------------|
| 1. Real Worth Appraising and Consulting | \$3,500.00 |
| 2. Appraiser Collaborative              | \$4,000.00 |
| 3. Land Vest Consulting                 | \$6,850.00 |

Appraiser Collaborative said they will need a \$2,000.00 retainer and would be able to complete this by December 31<sup>st</sup>. Cassidy said they can use the trust fund for the funding of the appraisal.

Edward Medeiros, spoke as a citizen, said he is still trying to expedite this process, but asked Cassidy if they use the funding from the trust fund maybe they could ask the Peirce Trustees to reimburse them. Stewart said that would be great if they could do that. Cassidy said she will look into it.

A motion was made by Nancy Ockers, to hire Appraisers Collaborative, in the amount of \$4,000.00 with a \$2,000.00 retainer, 2<sup>nd</sup> by Jacqueline Jones. Roll call vote: Adam Guaraldi Aye, Jacqueline Jones Aye, Nancy Ockers Aye, and Diane Stewart Aye. Unanimously voted.

**Precinct Street**

Cassidy said she wants an As-Built to show the disturbance. Medeiros, spoke as citizen, said he will push them to reflag and get the As-Built done.

**415 Plymouth Street – Picone**

Edward Medeiros returned to the meeting.

Cassidy said on October 26<sup>th</sup> she will be having a Zoom meeting with all of the attorneys and other partners on the project from 9-10AM. Cassidy said she will send out the Zoom link to the Commission, if they would like to attend.

**October 3, 2022, Special Town Meeting**

Cassidy said she did receive all the certified warrant articles from Allison Ferreira. Cassidy thanked Ferreira for getting them to her in a timely manner.

**Nemasket River Sediment**

There will be a site visit with everyone involved with this project on November 1, 2022, at 9AM via Zoom. Cassidy said they were very happy with the MBTA bridge project.

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A motion was made by Nancy Ockers, to adjourn at 9:38PM, 2<sup>nd</sup> by Edward Medeiros. Roll call vote: Adam Guaraldi Aye, Jacqueline Jones Aye, Edward Medeiros Aye, Nancy Ockers Aye, and Diane Stewart. Unanimously voted.  
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Respectfully Submitted By:

October 20, 2022  
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Catherine Pipher  
Minutes Clerk

**DATE APPROVED:** November 3, 2022