



## TOWN OF WILMINGTON

### DEPARTMENT OF PLANNING & CONSERVATION

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

### CONSERVATION COMMISSION MINUTES

March 6, 2024

Donald Pearson called the meeting to order at 7:02 p.m. Theron Bradley, Michael McInnis, Jean Marie Cole, and Laurie Finne were also present. W. Wierzbicki and F. Silveira were absent. Valerie Gingrich, Director of Planning & Conservation, Cameron Lynch, Conservation Agent, and Erika Speight, Conservation Senior Clerk were also present.

#### PUBLIC HEARING – NOTICE OF INTENT – 271 Main Street – Map 43 Parcel 4 – DEP File #344-1542

Documents: NOI application & materials, received January 31, 2024  
 "Site Development Plan," dated January 9, 2024  
 "Stormwater Management Report," dated January 9, 2024

Present in Interest: Garrett Horsfall, Kelly Engineering Group, LLC, Representative  
 Jon Crandall, McGovern Automotive Group

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TOWN OF WILMINGTON, MA

G. Horsfall introduced himself and explained that the site is approximately four (4) acres on Route 38, Main Street. To the south is commercial property, with the railroad right of way on the west, and a commercial plaza to the north. Currently, there is one (1) curb cut access via Main Street. The existing building is approximately 11,000 square feet with 191 striped parking spaces on the site. There is a Bordering Vegetated Wetland (BVW) located on the southerly portion of the site and a BVW across the railroad track, which was unable to be delineated due to trespass law, however the wetland scientist directed an approximate delineation, noted that the railroad track is in between the Resource Area and site itself. The majority of the drainage goes to the BVW system, a portion in the front splits into two (2) with a portion draining to a manhole and catch basin combo inlet and dumping out to the state highway drainage system. The proposed site is for a new Hyundai dealership; a 26,000 square foot modern facility. The curb cut along Main Street will remain and they will be redoing the entire parking, landscaping, utilities, and stormwater management system associated with the project. They will be maintaining the tree buffer line that exists on site today. The project in total removes about 9,300 square feet of impervious area on the site and within the Buffer Zone, they are proposing a conservation wildlife seed mix in the section that they will be removing pavement. There is a small retaining wall proposed, 1'-2' in height, which is within the 50' setback to properly manage stormwater. There are four (4) subsurface recharge systems, with minimal stormwater management off site.

C. Lynch stated they still need a lighting plan showing no light going into the BVWs. For erosion control, he suggested silt fence with straw waddle at the base and encouraged more native plantings within the 15', along with the conservation seed mix. He explained that signage should be placed along the edge of the wetland and parking area, along with no snow storage signs in the conservation area. C. Lynch explained that the Commission typically doesn't like to see a structure within the 50' no structure, but since they are only proposing a 2' wall, the Town wouldn't really consider it a structure. He asked the representative to explain how it'll work while keeping the dealership open throughout construction.

J. Crandall explained that they were going to try to keep the repair section of the dealership open and take that down at the end since it is beyond where the new building will sit, but they are still going to look for an offsite location for service.

M. McInnis recommended putting up standardized signage through the Commission.

C. Lynch confirmed and stated once they get to that point, the Commission can discuss what signage they'd like to see.

T. Bradley asked if C. Lynch is comfortable with the wetland delineation.

C. Lynch confirmed.

T. Bradley stated they will be reducing impervious area significantly and asked if they'll be making any areas pervious that are not currently.

G. Horsfall answered no and stated maybe with the exception of small landscape around the building, but wherever they can pull some pavement back they'll do so.

No comments were made from the public.

Upon motion duly made by J. Cole and seconded by M. McInnis, it was unanimously

VOTED: To continue the Public Hearing for 271 Main Street – Map 43 Parcel 4 – DEP File #344-1542 to the April 3, 2024, Conservation Commission meeting

**PUBLIC HEARING – NOTICE OF INTENT – 181 & 187 Ballardvale Street – Map R2 Parcels 20A & 20G – DEP File #344-????**

Documents: NOI application & materials, received February 21, 2024  
“Proposed Office Campus Re-Use Life Science/Biomanufacturing Conversion,” dated January 10, 2023  
“Stormwater Management Analysis,” dated January 10, 2024

Present in Interest: Nichole Langley, Highpoint Engineering, Civil Engineer

N. Langley introduced herself and explained that the property consists of two (2) lots and the applicant is proposing to consolidate those lots and create one (1) lot for the construction of a new two-story building in the rear of the property, approximately 66,100 square feet. The original use of the property prior to the 1980's was a gravel pit, and in 1983, the property was developed where the two (2) existing buildings that are shown on site were created. There is an entrance into the property that runs between the two (2) buildings with 26-foot-wide drive aisles and a landscaped center. The stormwater management system that is there today has no water quality treatment; it collects runoff and conveys it to a swale wetland system in the southwest corner of the property. Then, it is piped under the access driveway and ultimately discharged to the wetland system in the southern corner of the property. There are three (3) discharge points from the property to the wetland system. They are proposing to install erosion control for construction in the form of filter socks and silt fence. All existing and future catch basins will be installed with a silt sack and anti-tracking pads will be installed prior to the construction area, which will help prevent construction debris from being tracked onto the main roadway. They are proposing a reduction of the drive aisles on the main roadway from 26' to 20', which they have worked with the Fire Department, and it has been accepted by them, and then will be creating a turnaround

area at the end of the entrance driveway, approximately 40' shorter than what is there today. At the end, they are proposing a new two-story building with improved landscape features around it, new loading dock area, additional parking, and pedestrian walkways to connect the buildings. The overall project will result in a reduction of impervious area on the site by about 2,500 square feet. They are working closely with the Town Engineer to come up with a stormwater management system that meets his requirements and the protection of the GWPD. They are proposing to install a subsurface infiltration system which will collect runoff from the new roof area and infiltrate it on site and any overflow will be discharged to the existing on-site drainage collection system. She explained that they are also proposing to retrofit the discharge points on the property and install three (3) water quality bypass vaults which will be conveyed to a proprietary water quality system and then from there go to a contact jellyfish filtration system, where it will receive treatment designed for the 1" water quality volume, prior to it discharging to the wetland system. Overall, the project will improve the conditions of the site by reducing the amount of impervious area and increasing recharge and water quality that does not exist today.

C. Lynch stated that the plan shows a 25' no build setback but will need to be moved back to 50'. He explained that typically the Commission would like to see native plantings and suggested adding some plantings within the Buffer Zone. The Engineering Division submitted a comment letter mostly pertaining to stormwater as well. He asked where snow storage would be located and recommended to the Commission that they may want to see more signage along the BVWs, so no snow is being plowed into that area and dumped right into the water.

N. Langley stated they have prepared a draft stormwater pollution prevention plan which does provide snow storage in some parking spaces and islands around the property.

No comments from the public.

Upon motion duly made by J. Cole and seconded by L. Finne, it was unanimously

VOTED: To continue the Public Hearing for 181 & 187 Ballardvale Street – Map R2 Parcels 20A & 20G – DEP File #344-???? to the April 3, 2024, Conservation Commission meeting

**PUBLIC HEARING – NOTICE OF INTENT – 10 Pond Street – Map 34 Parcel 146 – DEP File #344-1543**

Documents: NOI application & materials, received February 21, 2024  
"Restoration Plan," dated October 12, 2023

Present in Interest: Maureen Herald, Norse Environmental Services, Representative

M. Herald stated she was in front of the Commission for an Enforcement Order (EO) two (2) or three (3) months ago. The portion of the plan that is not colored was discussed under an EO in terms of removing the pavement, installing plantings, restoring the no disturb, but as part of the project, filing an after-the-fact Notice of Intent (NOI) was discussed, for the items on the easterly portion of the property. The site itself has an existing dock, an outdoor shower, a kitchen, a concrete patio, a 16' X 16' raft, and a firepit. In addition, they are in the process of preparing a Chapter 91 license for approval, and to obtain that license, they need an Order of Conditions (OOC) from the Commission. There is a wall along the pond, which they included as well, because as part of the Chapter 91 license, any work that wasn't approved needs to be part of the permit. She took some photographs and displayed them to the Commission. She explained that they would like to keep the concrete patio, and they are proposing to

remove a portion of that located within the 15' and put down steppingstones so that they can still utilize and access the dock.

C. Lynch asked the Commission if they'd like to see a revised plan, since the plan shown was for the restoration work and is highlighting the restoration and what's proposed in the NOI could be a little confusing. He stated the Commission can discuss dates for when the floating raft should be removed and include that in the OOC. He explained that since Silver Lake is the only great pond in town, there is no Harbor Master, so Chapter 91 licenses don't usually come up in front of the Commission. He explained in other towns, they have requirements for the floats, like they need to be within 100' of the property. The Commission can discuss requirements similar to that. He asked how the dock will be constructed.

M. Herald explained that it is a stationary dock currently, and is more or less a homemade dock, essentially resting on the existing wall that's on Silver Lake. She went out to take a better look last month, and it was still in the water. She will check with her client to see if they keep it in the water year-round or if they remove it and gather more information.

J. Cole asked for more information about the raft and how it's moored.

M. Herald stated she believes it is anchored to the bottom but will get more information.

J. Cole asked if the Commission would approve the raft or the mooring.

C. Lynch stated both, and the dock as well.

J. Cole asked what the size of the dock is. She asked C. Lynch if the stone blocks are considered a structure.

M. Herald answered 6.5' X 20'.

C. Lynch answered explaining that the patio blocks would not be considered a structure.

M. McInnis asked if the Commission would be addressing new construction or existing construction.

C. Lynch explained that was his initial comment since the plan submitted with this filing was for the restoration work. He stated it is up to the Commission if they'd like to see the NOI filing on a new plan.

M. Herald stated they can focus the plan on the dock portion of the property if that is the Commission's request.

T. Bradley stated there is a lot going on within the plan. He suggested a three (3) column chart of what was originally there, to what was done, and now what is being proposed to be changed, so the Commission can see the comparison.

M. Herald shared the as-built plan to show what was originally approved for the project.

D. Pearson asked if the concrete patio was the original driveway that's been shifted now to be the patio. He asked what the outdoor shower drains to and with respect to the dock, does the wet end of the dock rest on the bottom.

M. Herald stated a portion of the driveway is located within the concrete patio. She isn't sure where the outdoor shower drains to but will find out. She explained that there was a post there in the summer of 2023 that the dock rested on but will verify that as well.

D. Pearson asked if a raft is moored, does their property continue into the water.

M. Herald stated Silver Lake is a great pond, and she believes that all great ponds are owned by the Commonwealth.

D. Pearson stated that he wonders if multiple homeowners will take the idea of this person's raft and at some point, Silver Lake will have multiple rafts and become a less attractive pond.

V. Gingrich stated some towns have Harbor Masters for their great ponds and issue a section 10A float permit that is seasonal. Some towns make an understanding that if you have a small float just off your property, it doesn't necessarily need to be regulated. She explained with this, it's a larger float and its further from the property and it's feeling a little different than the smaller ones that are just off someone's lawn. The Commission can discuss what management needs to happen there; some towns say a distance that has to be within your shoreline to keep things out of the center. Staff will be looking into the size guidelines, how big it should be, where and how far it is from their shore, what it is made of and how it is floating. She explained that more information from the applicant will be necessary for the Commission to decide how they'd like to go about it. She explained that C. Lynch has a call into DEP to see if Wilmington should have a Harbor Master and depending on what the Commission would like to see Resource Area wise, that'll determine the policy around the moorings too.

D. Pearson asked for more specifics regarding the raft, how it's constructed, how it's determined to be safe, and how it will be moored.

J. Cole stated she would like to know if there is liability insurance on the raft, does the applicant post no trespass signs or does he welcome the public on it, questions along those lines.

M. Herald confirmed she will find out more information.

No comments were made by the public.

Upon motion duly made by J. Cole and seconded by T. Bradley, it was unanimously

VOTED: To continue the Public Hearing for 10 Pond Street – Map 34 Parcel 146 – DEP File #344-1543 to the April 3, 2024, Conservation Commission meeting

**CONTINUED PUBLIC HEARING – NOTICE OF INTENT – Middlesex Avenue – Map 66 Parcel 1 – DEP File #344-1538**

Documents: "Wilmington Town Hall & School Administration Building Notice of Intent," revised February 21, 2024  
"Stormwater Operation & Maintenance Plan," revised February 21, 2024  
"Drainage Analysis," revised February 21, 2024  
Response letter to Planning & Conservation, dated February 21, 2024  
Response letter to the Department of Public Works, dated February 23, 2024

Present in Interest: Nathan Ketchel, GGD Consulting Engineers, Inc, Representative  
Phil O'Brien, Johnson Roberts Associates, Inc.

P. O'Brien stated they have made basic modifications to the plan since the last hearing.

N. Ketchel stated back in December, they were in front of the Commission and received comments that needed to be addressed. Since that time, they have addressed those comments and modifications have been made to the plan. One (1) of the bigger changes that were made was the improvements to the circulation of the parking lot, originally proposed were compact parking spaces on the Middlesex Avenue side of the site, but they have rotated those and converted the majority of those back to standard parking spaces and interspersed the compact spaces throughout the rest of the site. He explained that they addressed the Fire Department comments regarding maneuvering their apparatuses through the site. With the parking revision, it resulted in 9,000 square feet of less impervious cover on the site, but there still is a net increase of approximately 15,000'-16,000' with the existing condition. He explained some revisions were made to utilities and stormwater based on the comments made by the Town Engineer, which included eliminating one (1) of the subsurface entrances, making just one (1) remaining, and they created a bioretention cell in the green space between the parking facilities and Middlesex Avenue. They did go out last week and perform an additional test pit that would show seasonal height ground water, approximately 88' to 89' per elevation 89, more than 2' below the proposed facilities. They previously showed a sewer lift station to the sanitary waste from the site over to the high school's lift station and while working with the Town Engineer, they were able to make that system flow by gravity, so that system will pick up the existing Senior Center, the proposed Town Hall/School Administration building, and the 4<sup>th</sup> of July building. A photometric plan was submitted, and there is one (1) light pole that they are looking at relocating, currently shown in proximity to the Resource Area; it will be relocated 30'-35' to the northeast along the parking edge to remove the light from shining into the Resource Area.

C. Lynch stated a draft Order of Conditions (OOC) was sent to the applicant. He explained that the conditions that he will be reading off need to be submitted to the Planning & Conservation department prior to the start of construction. Condition #22 "The Stormwater Report shall be revised to indicate a maximum TSS removal credit of 25% for the proposed water quality units. The Stormwater Report shall be submitted for review and approval to the Department of Planning & Conservation prior to the start of construction." Condition #23 "The Stormwater Report and design shall be revised to reflect the minor changes provided in the supplemental calculation provided by GGD Consulting Engineers, Inc. referenced in Condition #21d. The Stormwater Report shall be submitted for review and approval to the Department of Planning & Conservation prior to the start of construction." Condition #24 "Hydraulic grade line computations shall be provided to the Planning and Conservation Department for the proposed drainpipe system for the 25-year storm event prior to the start of construction." Condition #25 "Water quality unit sizes shall be based on water quality flow equivalent to a depth of runoff (over impervious surfaces) of 0.8-inches." Condition #30 "If soils allow detention basin SDB1 may be changed to infiltration if approved by the Town Engineer." Condition #26 "The Site Lighting Photometric Plan (Page LC0.1) shall be revised to shift the parking lot light pole in the vicinity of the BVWs to avoid light impacts in the BVWs. This plan shall be submitted to the Department of Planning & Conservation for review and approval prior to the start of construction." Condition #27 "The Landscape Planting Plan at Building Area (L2.1) and Planting Plan Overall Site (L2.2) shall be revised to show a Conservation Seed Mix used in the vicinity of the BVWs instead of "Lawn" between the edge of the parking lot and the Landscape Limit of Work Line". These plans should also be revised to show additional plantings along BVWs, number and species shall be coordinated with the Conservation Agent. These plans shall be submitted to the Department of Planning & Conservation for review and approval prior to the start of construction." Condition #28 "The Site Layout & Materials Plan shall be revised to show no snow storage and/or Wetland Resource Area signs along BVWs, number, location, and wording of signs to be coordinated with the Conservation Agent. This plan shall be submitted to the Department of Planning & Conservation for review and approval prior to the start of construction."

J. Cole asked if there would be any recommendations for demarcation because the 25' line is close to the wall.

C. Lynch stated demarcation can be installed along the tree line that'll run up alongside of the building as well as along the parking lot edge that will be closer to the wetlands and the no snow storage signs can be placed there as well. There could be as few or as many as the Commission would like to see, every 10-15' would be a good start unless they have any other ideas.

D. Pearson stated he looked into the geotechnical drainage analysis and noticed that the company that performed it was working without plans back in 2022, and they specified that the foundation should be perched on the hillside, and they stated they'd like to take a look at the final plan. They explained that the substrate should be treated before the foundation is poured and asked if they'll retain that engineering company throughout the project.

P. O'Brien stated that is typical, and when it comes time to put footings, it makes sense to have the geotechnical engineer come and take a look and make sure it is what's expected. He explained that is normal procedure and they will have them on site.

D. Pearson asked about the foundation drains and asked where they will be draining.

N. Ketchel explained the foundation drain will consist of a perforated PVC pipe sent down to the sides between the lowest levels and the footing, bypassing the stormwater systems, to the front of the building towards Middlesex Avenue.

S. Sullivan, a resident at 60 Lawrence Street, commented from the public and asked where the drainage that goes towards Middlesex Avenue will go beyond that. She always believed that it discharged across the street behind the library into the vernal pools.

V. Gingrich stated they did look into that to see where that drainage goes and it goes to Church Street to Adams Street and then discharges into that wetland system off Adams Street, beside the high school entrance.

S. Sullivan requested that trees, shrubs, and native plantings be planted around the bioretention area that is above ground, and not just kept as grass.

N. Ketchel stated there will be various shrubs planted.

M. Lamont, a resident at 17 School Street, commented from the public and asked when they will begin the project.

P. O'Brien stated the next steps are to receive bids from trade bidders and those will go to Consiglia Construction, who is the Town's construction manager, and they'll put together their final price through contract negotiations with them. He is estimating a start time of somewhere between the middle of April to the beginning of May.

D. Pearson asked for clarification of condition #25.

N. Ketchel explained that the .8 inches develops the volume of stormwater that needs to be treated from the system prior to the overflows activated and the runoff going into the municipal system. A measure to come up with that volume, which was part of a supplemental letter that was sent today.

L. Finne suggested shrubs as demarcation in the front, with taller things behind them.

D. Leiskau, a resident at 16 School Street, commented from the public and asked if they took into account the lighting and can assure it won't affect the abutting neighbors' front and back yards.

N. Ketchel stated as part of the photometric planning website, they do look that there be no or minimal light trespass off the site. Based on the new lighting, the light trespass is 0 to .1 off the property.

M. Lamont asked where the dumpsters will be located.

N. Ketchel stated the dumpsters will be in the same location that they are currently, behind the Senior Center building.

C. Jenkins, a resident at 8 Drury Lane, commented from the public and asked where snow storage would be.

N. Ketchel explained that there will be no snow storage in the Resource Areas, but will be along the eastern edge, on the greens and the landscape islands, with no snow storage in the bioretention area.

Upon motion duly made by M. McInnis and seconded by J. Cole, it was unanimously

VOTED: To close the Public Hearing for Middlesex Avenue – Map 66 Parcel 1 – DEP File #344-1538

Upon motion duly made by J. Cole and seconded by L. Finne, it was unanimously

VOTED: To issue the Order of Conditions for Middlesex Avenue – Map 66 Parcel 1 – DEP File #344-1538 as amended.

**CONTINUED PUBLIC HEARING – NOTICE OF INTENT – 2 Darby Lane – Map 10 Parcel 5 – DEP File #344-1535**

Documents: “Notice of Intent” plan, revised February 20, 2024

Present in Interest: Maureen Herald, Norse Environmental Services, Representative

M. Herald stated she had presented this proposal to the Commission a few times prior, and one (1) of the outstanding comments was that the Town Engineer had some concerns regarding the drainage, which has since been addressed.

C. Lynch stated a draft Order of Conditions (OOC) was sent to the applicant and representative. He explained that there are no abnormal special conditions.

P. Chalifour, a resident at 48 Hopkins Street, commented from the public and asked how the existing ledge will be removed from this parcel.

M. Herald stated she believes a lot of the ledge has already been removed and asked where specifically on the parcel he is regarding.

P. Chalifour stated on the entirety of the parcel, in other words the parcel is not ready to be built on yet.



M. Herald stated that this particular subdivision has had a substantial amount of ledge, and the applicant has been chipping the ledge, and as far as she knows he will be chipping the ledge.

P. Chalifour stated that the applicant had been blasting the ledge previously in that subdivision and his property was damaged by the blasting. He explained that the proper protocols were not followed by the blasting company, and he doesn't want to have to revisit that again since his house is only about 100' away from where they would be blasting. He stated if it is by hydraulic hammer only, he can certainly put up with the noise but if in fact there are plans to blast, he would like to know about it as early as possible. He asked for confirmation again that there are no plans to blast, and they plan to chip the ledge.

M. Herald reiterated that is her understanding. She stated that if he would like to provide his name and phone number, she would be more than happy to ask her client to call him.

P. Chalifour stated he doesn't need a phone call, he just wanted to make sure the plan was to chip away the ledge and not blast it.

M. Herald confirmed.

Upon motion duly made by J. Cole and seconded by M. McInnis, it was unanimously

VOTED: To close the Public Hearing for 2 Darby Lane – Map 10 Parcel 5 – DEP File #344-1535

Upon motion duly made by J. Cole and seconded by L. Finne, it was unanimously

VOTED: To issue the Order of Conditions for 2 Darby Lane – Map 10 Parcel 5 – DEP File #344-1535

**CONTINUED PUBLIC HEARING – NOTICE OF INTENT – 16 Darby Lane – Map 10 Parcel 41 – DEP File #344-1534**

Documents: "Notice of Intent" plan, revised February 20, 2024

Present in Interest: Maureen Herald, Norse Environmental Services, Representative

M. Herald stated she would like to request a continuance for this project. She spoke with the Board of Health (BOH) and the septic plan has not been filed with them yet. She knows the Commission likes to see the plan approved by the BOH before issuing an Order, so she would like to continue to next month while they get that squared away.

Upon motion duly made by L. Finne and seconded by M. McInnis, it was unanimously

VOTED: To continue the Public Hearing for 16 Darby Lane – Map 10 Parcel 41 – DEP File #344-1534 to the April 3, 2024, Conservation Commission meeting

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

Documents: "Definitive Subdivision Plan Eagleview Subdivision," revised February 20, 2024  
"Stormwater Report," revised February 26, 2024

Present in Interest: Maureen Herald, Norse Environmental Services, Representative  
Craig Newhouse, C.S Newhouse Builders Inc., Applicant  
Kristen Costa, L.A. Associates

M. Herald stated she would like to provide the Commission with a brief overview in terms of where they are with the project. She explained that though they haven't been in front of the Commission for quite some time, they have been working behind the scenes with the Peer Reviewer Mary Rimmer, addressing the reviews and comment letters, and they feel that they are getting close to addressing all of Mary's comments. They submitted revised materials on February 21<sup>st</sup> and were hoping to have a comment letter for this meeting, but one has not been submitted yet. She explained that the big takeaways are that the two (2) crossings qualify as a limit of project; she believes that M. Rimmer is satisfied with that since it was one (1) of the big obstacles in terms of addressing her comments and she is on board that the two (2) crossings are considered a limit of project. They were able to reduce the numbers significantly of the amount of flood plain impact and the compensatory storage impact on the property. The Planning Board did waive a portion of the roadway at the second crossing from 28' to 26' so they were able to reduce the amount of wetland alteration as well as wetland replication. One (1) of the wetland replication areas was proposed in the 200' Riverfront Area, which was able to be shifted, and now there are no proposed Riverfront alterations for the project at all. She explained they were able to reduce the wetland impact, temporary and permanent, to less than 5,000 square feet. She is hopeful that M. Rimmer will come back with no comments in her review letter, or very minimal comments.

C. Lynch stated that the Department of Environmental Protection (DEP) reached out to staff regarding this project and wondered what was taking so long. He stated that the applicant has requested to continue twenty-three (23) times without presenting, and DEP suggested that they withdraw and resubmit once they have a more definitive plan for the Commission to review. Mary Rimmer is still reviewing, but aside from that, there are still substantial Engineering Division comments and stormwater comments that need to be addressed aside from Conservation comments as well.

V. Gingrich stated that it was pointed out to staff that there is a section in the regulations that if progress isn't being made toward an application within two (2) years, the Commission can deny a project because of that. It wasn't suggested that the Commission deny it, but instead have a conversation about refiling with a new notice that goes out to abutters because it's been over two (2) years since the project came in and notices went out; in theory there may be new abutters. The other challenge that the applicant has with the amount of time it's taking is that there are only three (3) Commission members that are eligible to vote on the project. If they refile, they would be able to have all the members back into the voting pool. She explained that's what Alicia at DEP talked to Cameron about suggesting to the Commission.

D. Pearson asked what the mechanics of refiling would be.

C. Lynch stated they can withdraw without prejudice, and they would be able to refile beginning where they left off.

C. Newhouse stated that he had a conversation with Alicia at DEP, and they went through the legal terminology, reading that "the Notice of Intent (NOI) shall expire when the applicant has failed to diligently pursue the issuance of the final Order of Conditions, etc." He stated that Alicia from DEP told him as long as they're pursuing the project, the intent is if someone started a project and didn't do anything at all, it has a deadline to it. He explained that he has dates of all the things they've done, and he's been working behind the scenes on this project, and there have been several meetings that they've tried to come and present at, but they've been advised they shouldn't for one reason or another.

He explained that they had a Zoom meeting with M. Rimmer, constantly trying to get things to work with the Town Engineer, and though it's been very challenging, there's been a lot of work being done very diligently behind the scenes. He stated when he spoke with Alicia from DEP, she stated that they are absolutely okay with this project to not be withdrawn. He would like the support on this project. He understands that the members able to vote are minimal, and if they need to withdraw to vote, it may come to that. He is willing to work with the Commission and do whatever needs to be done to make it work. He read through the Mullin rule and stated if a Commission can, with the consent of the applicant, rehear the application with the majority of the Commission members present. He explained that he wants to have a fair shot and would like to set this to be reheard without withdrawing. He stated if they go for a vote under the Mullin rule and there's a ten (10) day appeal period, his understanding is that if there's no appeal, that the decision is still good.

M. Herald stated with the concern of people not being notified since it's been a long period of time, she is more than happy to update the abutters list and renotify them, as well as put a Legal Ad in the paper.

D. Pearson stated in this case, there's been a lot of continuances where staff receives an email and it's continued. As Commissioners, they don't have any visibility for what's going on. From the Commission's point of view, if the applicant doesn't show up to the meeting and instead emails a request to continue, it's taken that they didn't show up with no progress. In terms of the voting, he explained that he won't be at the meeting next month, and he's one (1) of the eligible voters.

M. McInnis stated he's unsure if he will be at the next meeting as well, and stated there seems to be some discrepancy from what the applicant stated that DEP had said, and what C. Lynch stated that DEP had said, and he would like to have that resolved first and foremost. He agreed that the applicant should refile to get the Commission caught up on the project and have more eligible voters.

T. Bradley stated he would like to see all the abutters notified as an update. He asked how far down they can go from three (3) voters until they don't have reasonable representation.

V. Gingrich stated a new filing needs to be made in order to notify and refresh. She explained that a new filing needs to be made to restart the eligibility.

C. Newhouse asked if they could get a legal opinion through Town Counsel.

V. Gingrich stated that is from conversations with Town Counsel.

C. Newhouse stated since they didn't receive a Peer Review letter from M. Rimmer tonight, they won't be ready for the next meeting on April 3<sup>rd</sup>, especially if they need to revise the plan. He explained that they need a little more time anyways to respond to comment letters as well.

D. Pearson stated he is leaning towards them refiling.

C. Newhouse asked if they do refile, would there be any flexibility on fees.

C. Lynch stated it would be a brand-new filing with fees. He stated a new DEP file number would be issued as well.

C. Newhouse stated he'd like to be able to work it out with M. Rimmer and finish with her first, before having to refile.

M. Herald stated they'd like to continue the hearing until May 1<sup>st</sup>, that gives them sufficient time to renotify the abutters if that's the Commission's request, work out any details with M. Rimmer, and if she comes back with one (1) or two (2) more comment letters, they're confident they can get that resolved before May, and then come to the meeting on May 1<sup>st</sup> hopefully with a clean letter from M. Rimmer, and if they need to withdraw, they can withdraw at that point. She's not sure why they'd withdraw the project when M. Rimmer is almost done with her review as the Town's representative.

M. McInnis asked if they'd still be willing to renotify the abutters in the meantime.

M. Herald confirmed.

V. Gingrich stated that even if they do refile, M. Rimmer won't be cut off from reviewing the project because if there's changes to stormwater and if there's any impacts that M. Rimmer is looking at, they'll want to make sure that she's still okay with the plans. She explained that she just wanted to add that they don't necessarily have to think about M. Rimmer going away if a refile is necessary.

No comments were made from the public.

Upon motion duly made by M. McInnis and seconded by T. Bradley, it was four (4) in favor (D. Pearson, M. McInnis, T. Bradley, and L. Finne) and one (1) abstention (J. Cole)

VOTED: To continue the Public Hearing for Marion Street, Eagleview Subdivision – Map 5  
Parcels 2J, 3, 3A, 3C, 3D, 3E – DEP File #344-1494 to the May 1, 2024,  
Conservation Commission meeting

**CONTINUED PUBLIC HEARING – NOTICE OF INTENT – 350 Fordham Road – Map 99 Parcel 142  
– DEP File #344-1539**

Documents: NOI Narrative, dated February 29, 2024  
NOI Engineering Review No. 2, dated March 5, 2024

Present in Interest: Thomas Schomburg, Civil Design Consultants, Inc., Representative

T. Schomburg explained that at the previous meeting, the Commission requested that a Peer Review be performed. Since then, the applicant's team contracted with Mary Rimmer and conducted a site visit with Rimmer Consulting and the applicant's wetland scientist, Seekamp Environmental. He explained that revisions were made to the plans and the narrative to address the comments from the site visit, Peer review letter, and Town review letters. He explained that they submitted the data forms earlier today and a restoration plan will be submitted either this week or next week. He explained that he wanted to provide an update to the Commission and opened it up to them for comments or questions.

C. Lynch stated Mary Rimmer submitted a comment letter and is requesting a few more things. He spoke with Patrick Seekamp, and he indicated that he's working on those requests and is hopeful to have them for the next meeting. M. Rimmer requested a few flag changes and requested additional information regarding the hydraulic condition changes that would be altered by increasing the size of the culvert downstream and also more information regarding the culvert itself. He explained that they're still waiting on a few things from Seekamp Environmental. The Engineering Division submitted a comment letter as well and had comments about the materials and pipe being used and mentioned some hydraulic complications as well.

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

VOTED: To continue the Public Hearing for 350 Fordham Road – Map 99 Parcel 142 – DEP File #344-1539 to the April 3, 2024, Conservation Commission meeting

**CONTINUED PUBLIC HEARING – NOTICE OF INTENT – 79 Nichols Street – Map 35 Parcel 29 – DEP File #344-1527**

Documents: “Request to Continue” letter, dated March 1, 2024

Present in Interest: None.

The applicant requested to continue the Public Hearing to the May 1, 2024, Conservation Commission meeting.

Upon motion duly made by J. Cole and seconded by T. Bradley, it was unanimously

VOTED: To continue the Public Hearing for 79 Nichols Street – Map 35 Parcel 29 – DEP File #344-1527 to the May 1, 2024, Conservation Commission meeting

**CONTINUED PUBLIC HEARING – ABBREVIATED NOTICE OF RESOURCE AREA DELINEATION – Birch Street, Fir Street, Alder Street, Hall Street, March Road – Map 49 Parcels 4, 4A, 5, 6, 7, 8, 9, 11 – DEP File #344-1524**

Documents: “Birch Street Subdivision Existing Conditions” plan, revised January 22, 2024

Present in Interest: Maureen Herald, Norse Environmental Services, Representative  
Rich Kirby, LEC Environmental Consultants, Inc.

M. Herald explained that she received an email from LEC about two (2) weeks ago requesting some supplemental information in terms of providing some information regarding Google Earth, some measurements and some snapshots of certain areas. She submitted all the requested information to LEC and explained that LEC has provided a review letter to the Commission late this afternoon.

R. Kirby explained that they were out at the site last June to review the wetland boundary delineation and talk about the Mean Annual High Water (MAHW) delineation associated with Maple Meadow Brook, which is just off site to the west. He reviewed the wetland delineation, which is straight forward, and they recommended some additional flags 44-1 through 44-4 to include and area upgrading the delineation near the gas transmission easements. They hung those flags in the field and were survey located and added to the plan. The Bordering Vegetated Wetland (BVW) delineation is all set in his opinion. With respect to Bordering Land Subject to Flooding (BLSF), there is a FEMA map that shows a zone AE elevation, and while it's not called out specifically on the plan, the elevation 80 is highlighted with bold contour on the plan and the bottom left corner of the plan talks about how the topographic data is in the FEMA data, knowing that the flood plain elevation occurs at elevation 80. He suggested that M. Herald review the recent case (Lubber's Brook) that had been decided regarding MAHW. As the Commission knows, the judge ruled that stream stats can be used as bank full indicators. He explained that M. Herald went through that case law and provided a report with specific items addressing the case law; he reviewed them, and it seems to him that it is pretty reasonable that the delineation that's on the plan is an accurate representation of the stream and that the 200' Riverfront Area extending onto the property seems to be reasonable. LEC has recommended that the Commission issue an Order of

Resource Area Delineation (ORAD) approving the BVW boundary, the extent of BLSF, and Riverfront Boundary on the plan.

S. Sullivan commented from the public and displayed videos and drone footage that she had taken of the area to the Commission. She explained that she believes that the Brook is not properly delineated on the plan.

Molly Courson from the Ipswich River Watershed Association (IRWA) commented from the public and explained that they've sent a few letters to the Commission last May and September. They are also concerned about the way that MAHW has been delineated and agreed with S. Sullivan saying that MAHW can be really complex and often times the MAHW exceeds the top of the bank, multiple times every year even, and she's glad that the videos were shown to the Commission so that they could see the flow. She explained that she wanted to echo what was shown in the videos as well and encourages the Commission to visit the site.

Martha Stevenson, a member from the Headwater Stream Team (HWST) commented from the public and echoed what Molly stated and is curious to know if the Commission has done a site visit at this location and how the Commission defines MAHW and when they think it typically occurs. She requested a copy of LEC's review letter prior to the Commission voting on this ANRAD.

R. Kirby stated that MAHW is defined in the Wetland Protection Act (WPA) regulations. It may not be defined to everyone's liking and he thinks there are some folks that believe it should be defined differently, however they have a set of regulations and they're written the way that they're written, and that's what needs to be thought of. He explained that many of the issues brought up tonight were similar to data that was presented for the Lubber's Brook case. He explained that it's obvious that there is flowing water, but that doesn't mean that overtime the water is changing the shape and dynamics of the channel, based on the videos shown. All the data that has been presented and the context of the State Regulations suggest that the MAHW is located at or near the channel that's there. With respect to the depth of water in the marsh, it's highly unlikely that the depth of the water in the channel is less than the depth of the water in the marsh. That leads to the bank full dimensions that were observed by the applicant being in line with the USGS Stream Stats.

D. Pearson stated that LEC's Peer Review letter was submitted late today, and he thinks the Commission should take the next month to reflect on it and make a site visit to see if the information submitted by the Peer Reviewer is consistent with the way Lubber's Brook was handled. He welcomed S. Sullivan to read the actual definition of MAHW.

S. Sullivan read "Mean Annual High-water Line of a river is the line that is apparent from visible markings or changes in the character of soils or vegetation due to the prolonged presence of water and that distinguishes between predominantly aquatic and predominantly terrestrial land. Field indicators of bank full conditions shall be used to determine the mean annual high-water line. Bank full field indicators include but are not limited to: changes in slope, changes in vegetation, stain lines, top of point bars, changes in bank materials, or bank undercuts." She explained that they are interpreting the definition as it's written.

A resident from the public asked if the Commission will be doing a site visit and if so, how will the public know when it is.

M. Herald stated that nobody from the public is welcome onto the property due to a liability issue. She explained that anyone on the Conservation Commission and LEC are more than welcome onto the property, however no one from the public is welcome onto the property. She understands that the

Commission wants to review the letter and review the Lubber's Brook case, but she is hoping at the next hearing that they can possibly close the ANRAD if everything is addressed and if the Commission is satisfied, and have an ORAD prepared.

D. Pearson stated he thinks it's reasonable to expect a vote at the next meeting.

M. Scopa, a resident at 10 Hall Street, commented from the public and stated that when she drives down Birch Street to take a right onto Lowell Street, often times with heavy rains, the road is flooded out, and she would imagine that means there is some sort of rising water that could be an issue at some point. She explained that often, Lowell Street is flooded up until the Birch Street entrance, with only one way in and out. She wanted to make sure the Commission was aware of that.

Upon motion duly made by J. Cole and seconded by T. Bradley unanimously

**VOTED:** To continue the Public Hearing for Birch Street, Fir Street, Alder Street, Hall Street, March Road – Map 49 Parcels 4, 4A, 5, 6, 7, 8, 9, 11 – DEP File #344-1524 to the April 3, 2024, Conservation Commission meeting

**REQUEST FOR CERTIFICATE OF COMPLIANCE – 175 Lowell Street (Formerly 201 Lowell Street, Parcel B) – Map 48 Parcel 73C – DEP File #344-1479**

Documents: None.

Present in Interest: None.

C. Lynch stated that prior to the last meeting, the Engineering Division submitted a lengthy comment letter that the applicant hasn't addressed yet.

Upon motion duly made by L. Finne and seconded by M. McInnis, it was unanimously

**VOTED:** To table the Certificate of Compliance for 175 Lowell Street (Formerly 201 Lowell Street, Parcel B) – Map 48 Parcel 73C – DEP File #344-1479 to the April 3, 2024, Conservation Commission meeting

**ENFORCEMENT ORDER**

**52 Adams Street – Map 51 Parcel 99 – DEP File #344-1300**

M. Herald stated she was in front of the Commission last month regarding a restoration plan as to how they're going to restore it. She stated that one of the conversations the Commission had was post-and-rail fence or boulders and she explained that her client prefers boulders along the backyard area connecting to the existing post-and-rail fence. She also submitted a wetland restoration report for the Commission's review as well.

C. Lynch stated he has no comments. The only question is if the Commission would like to see boulders or a post-and-rail fence as demarcation.

All Commissioner's were in agreeance with boulders conditioned to be 2 ½' to 3' spaced apart.

M. Herald confirmed and stated that is noted on the plan.

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

VOTED: To approve the Restoration Plan for 52 Adams Street – Map 51 Parcel 99 – DEP File #344-1300

**55 Adams Street – Map 50 Parcel 1A – DEP File #344-669**

M. Herald stated the Commission approved the restoration plan and everything was done and completed last year. She stated that she wrote a fall report and submitted it to the Commission, and asked if the Commission finds it appropriate to release the Enforcement Order (EO).

C. Lynch stated he made a site visit, and it looks well established, so he has no comments.

No comments were made by the Commission.

Upon motion duly made by J. Cole and seconded by L. Finne, it was unanimously

VOTED: To approve the Return to Compliance for 55 Adams Street – Map 50 Parcel 1A – DEP File #344-669

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

C. Lynch stated he spoke with the contractor, and he tore up all the pavement in the back. The place they buy their pavement from opens on April 15<sup>th</sup>, so he is going to go there and start repaving shortly after that. In the meantime, he's going to remove the jersey barriers in the back and install demarcation along the rear of the property. He stated once the pavement place opens, the contractor can get out there right away, weather permitting.

**800 Salem Street – Map R1 Parcel 24 – DEP File #344-1516**

M. Costa briefly explained that the applicant's wetland scientist had submitted a restoration plan, which included the planting of three (3) sweet pepperbush plants in the area that was affected. He explained that sweet pepperbushes are a great plant for Buffer Zones and is great for birds and pollinators. He explained they usually grow between 6'-8' tall and can grow up to 12' tall which is great for that area and will work well with what's out there currently. They are proposing a conservation seed mix spread in the affected area as well with monitoring reports. He displayed photos to the Commission of the area and explained that the majority of the sediment is cleared out of that area. He wanted to note that there is a number of invasive plants where they will be doing these plantings.

C. Lynch stated the only comment would be if the Commission is okay with three (3) plantings or if they'd like to see more.

J. Cole asked what would be a good species that would survive along with the invasive.

C. Lynch stated that would be something for the applicant's wetland scientist to determine. He thinks they'd have to remove a lot of it.

J. Cole suggested seven (7) replacement plantings.

The Commission discussed that six (6) plantings would be adequate in that 25' area.



M. Costa confirmed.

Upon motion duly made by T. Bradley and seconded by L. Finne, it was unanimously

VOTED: To approve the Restoration Plan for 800 Salem Street – Map R1 Parcel 24 – DEP File #344-1516 as amended.

Upon motion duly made by M. McInnis and seconded by J. Cole, it was unanimously

VOTED: To ratify Enforcement Order #1 for 800 Salem Street – Map R1 Parcel 24 – DEP File #344-1516

Upon motion duly made by L. Finne and seconded by J. Cole, it was unanimously

VOTED: To ratify Enforcement Order #2 for 800 Salem Street – Map R1 Parcel 24 – DEP File #344-1516

## DISCUSSION

### MBTA Communities Multi-family Housing Zoning

V. Gingrich gave the Commission a quick overview and stated that in 2020, the State passed a new piece of legislation that requires MBTA communities to have a zoning district for multi-family housing where it's an as of right use. The legislation was followed up with guidelines and more specific requirements; Wilmington being that there be a 50-acre district, capacity for 1,248 units, not building units, just zoning so that someone could build units in the future. It is a requirement of the State, they have to create this district and approve it at Town meeting and that has to happen by the end of this year. The Planning Board came up with a proposal to take to Town meeting on May 4<sup>th</sup>, and the map outlines the areas that they've come up with. Half of the district needs to be within ½ mile of the train station. She explained that a bunch of it is along Main Street, and they also had to avoid the GWPD completely, and they had to avoid floodplain. They found a stretch from the corner of Burlington Avenue and Main Street, north of the Hyundai dealership. That is the Main Street district where they'll allow two (2) stories of residential to be built, another option as to what can be done there now, and if they do a commercial ground floor, they get three (3) stories total. Metro is the Burlington Avenue subdistrict and Deming Way is the other subdistrict that is within ½ mile of the train station. She explained since these already exist, they wanted to target the areas in Town that already have those uses. The portion that is outside the ½ mile district is West Street and the corner of West Street and Lowell Street where the 40B was approved not too long ago, then moving south to the storage facility, and across the street to Regency Place where there are already apartments. She explained that she knows there is a lot of talk about not liking that it's being forced, but she's hoping to have residents take a look at what it is and realize it's not so different than what Wilmington has today. If it doesn't pass, there are grants that the Town won't be able to get, including a grant that they would really like to get for the Martin's Brook culvert on Route 62.

D. Pearson asked if it's a 50% vote.

V. Gingrich confirmed stating that it's a majority vote threshold.

T. Bradley asked if this is essentially changing the zoning regulations, but if all the other Local Bylaw regulations stay in place.

V. Gingrich confirmed. It would allow multi-family zoning, but all the other requirements would still be the same.

M. McInnis asked how the 1,248 units were determined.

V. Gingrich stated there is a spreadsheet. She stated it's not counting what is already existing, it's if it were to be demolished, what would be allowed to be built back. In theory it will be 1,248 units, but she's not sure if it really would be when accounting for sewer, utilities, things like that.

### **Signage & Public Outreach**

C. Lynch stated in regard to signage, a few surrounding Towns use placards around Town to inform people of Conservation Area. He explained that the placards were created for developers to install one (1) for every X number of feet. They can be nailed to a tree or put on a post. He also printed out examples of signage with different wording for different areas for their review. He stated that these are just a few ideas that he wanted to inform the Commission of, and once they agree on one, they can start recommending it to applicants.

The Commission agreed to discuss Public Outreach at the April 3, 2024, Conservation Commission meeting.

### **MINUTES – February 7, 2024**

D. Pearson recommended changing the word "indifferent" on page 11, to neutral. The edit has been made to the February 7, 2024, Conservation Commission minutes.

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

D. Pearson, M. McInnis, J. Cole, and L. Finne voted 4-0 to accept the minutes for the February 7, 2024, Conservation Commission meeting. T. Bradley abstained.

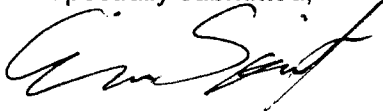
### **NEXT MEETING – April 3, 2024**

### **ADJOURN**

There being no additional business to come before the Conservation Commission, L. Finne motioned and J. Cole seconded, it was

VOTED: By D. Pearson, T. Bradley, M. McInnis, J. Cole, and L. Finne to adjourn the meeting at 10:25 p.m.

Respectfully submitted,



Erika Speight  
Senior Clerk