

Staff Report

Date: October 11, 2019

To: Conservation Commission

From: Whitney McClees, Conservation Agent

Subject: **21 Silver Shell Beach Drive – Request for Determination of Applicability – No DEP#, Fairhaven CON 023-091**

DOCUMENTS REVIEWED

- Request for Determination of Applicability and associated documents
- 310 CMR 10.00
- Fairhaven Wetlands Bylaw (Chapter 192)
- Amended Request for Determination of Applicability and associated documents, dated October 10, 2019.

RESOURCE AREAS ON/NEAR SITE

- Land Subject to Coastal Storm Flowage (LSCSF) Zone VE
 - *Significance:* Land subject to coastal storm flowage is likely to be significant to flood control and storm damage prevention. LSCSF can slow down flood waters and allow them to flow across a natural landform surface, providing frictional resistance and reducing their energy and destruction potential. It can allow flood waters to spread over a wide area without obstructions. Obstructions can cause the channelization of flood waters and storm-wave overwash and an increase in the velocity and volume of flow to adjacent or landward areas. LSCSF can also allow flood waters to be detained, absorbed into the ground, or evaporated into the atmosphere. LSCSF also protects the land from storm erosion by providing a substrate for vegetation that helps to stabilize sediments and slow down flood waters.

Where LSCSF overlaps other coastal resource areas, it plays an important role in determining the delineation and function of these resource areas, specifically coastal beaches and dunes, barrier beaches, and coastal banks.

Particular physical characteristics of LSCSF that are critical to the protection of the flood control and storm damage prevention interests include: topography, slope, surface area, soil characteristics (i.e., composition, size, shape, and density of material), vegetation, erodability, and permeability of sediments. Topography, slope, and permeability are critical for determining how effective an area is in dissipating wave energy, absorbing flood waters, and protecting areas within and landward of these zones from storm damage and flooding.

- Coastal Beach (310 CMR 10.27)
 - *Significance:* Coastal beaches, which are defined to include tidal flats, are significant to storm damage prevention, flood control, and the protection of wildlife habitat. In

addition, tidal flats are likely to be significant to the protection of marine fisheries and, where there are shellfish, land containing shellfish.

Coastal beaches dissipate wave energy by their gentle slope, their permeability, and their granular nature, which permit changes in beach form in response to changes in wave conditions.

Coastal beaches serve as a sediment source for dunes, subtidal areas, and any coastal areas downdrift from any point on the beach. Steep storm waves cause beach sediment to move offshore, resulting in a gentler beach slope and greater energy dissipation. Less steep waves cause an onshore return of beach sediment, where it will be available to provide protection against future storm waves.

Coastal beaches serve the purposes of storm damage prevention and flood control by dissipating wave energy, by reducing the height of storm waves and by providing sediment to supply other coastal features, including coastal dunes, land under the ocean, and other coastal beaches.

A number of birds also nest in the coastal berm, between the toe of a dune and the high tide line. In addition, isolated coastal beaches on small islands are important as haul out areas for harbor seals.

Tidal flats are likely to be significant to the protection of marine fisheries and wildlife habitat because they provide habitats for marine organisms such as polychaete worms and mollusks, which in turn are food sources for fisheries and migratory and wintering birds. Coastal beaches are extremely important in recycling of nutrients derived from storm drift and tidal action.

When coastal beaches are determined to be significant to storm damage prevention or flood control, the following characteristics are critical to the protection of those interests: volume (quantity of sediments) and form, and the ability to respond to wave action.

When coastal beaches are significant to the protection of marine fisheries or wildlife habitat, the following characteristics are critical to the protection of those interests: distribution of sediment grain size, water circulation, water quality, and relief and elevation.

- **Bordering Vegetated Wetland**

- *Significance:* Bordering vegetated wetlands are likely to be significant to public or private water supply, to groundwater supply, to flood control, to storm damage prevention, to prevention of pollution, and to wildlife habitat. Plants and soils of bordering vegetated wetlands remove or detain sediments, nutrients, and toxic substances that occur in run-off and flood waters.

The vegetation in bordering vegetated wetlands acts to slow down and reduce the passage of flood waters during periods of peak flows by providing temporary flood water storage and by facilitating water removal through evaporation and transpiration. This process reduces downstream flood crests and the resulting damage to private and public property. During dry periods, the water retained in bordering vegetated wetlands is essential to the maintenance of base flow levels in rivers and streams, which is important to the protection of water quality and water supplies.

Wetland vegetation provides shade which moderates water temperatures important to fish life. Wetlands flooded by adjacent water bodies and waterways provide food, breeding habitat, and cover for fish.

Bordering vegetated wetlands are probably the Commonwealth's most important inland habitat for wildlife. The hydrologic regime, plant community composition and structure, topography, and water chemistry of bordering vegetated wetlands provide important food, shelter, migratory and overwintering areas, and breeding and nesting areas for many birds, mammals, amphibians, reptiles, and insects.

- Buffer Zone to Bordering Vegetated Wetland and Coastal Beach
 - From 310 CMR 10.00 Preface to the Wetlands Regulations, 2005 Revisions:
 - “Research on the functions of buffer zones and their role in wetlands protection has clearly established that buffer zones play an important role in preservation of the physical, chemical, and biological characteristics of the adjacent resource area. The potential for adverse impacts to resource areas from work in the buffer zone increases with the extent of the work and the proximity to the resource area.”
 - “Extensive work in the inner portion of the buffer zone, particularly clearing of natural vegetation and soil disturbance is likely to alter the physical characteristics of resource areas by changing their soil composition, topography, hydrology, temperature, and the amount of light received. Soil and water chemistry within resource areas may be adversely affected by work in the buffer zone. Alterations to biological conditions in adjacent resource areas may include changes in plant community composition and structure, invertebrate and vertebrate biomass and species composition, and nutrient cycling. These alterations from work in the buffer zone can occur through the disruption and erosion of soil, loss of shading, reduction in nutrient inputs, and changes in litter and soil composition that filters runoff, serving to attenuate pollutants and sustain wildlife habitat within resource areas.”
 - From 310 CMR 10.00 Preface to the 1983 Regulations:
 - “Any project undertaken in close proximity to a wetlands resource area has a high likelihood of resulting in some alteration of that area, either immediately or as a consequence of daily operation of the completed project. The problem becomes particularly severe when Bordering Vegetated Wetlands are involved; inadvertent damage to these sensitive areas can easily occur and in many instances is irreparable.”

PROJECT SUMMARY

- The applicant is seeking to add fill, loam, and seed to the below three areas to bring the grade up to match the street level or yard level:
 - The front yard is below the street level grade and each time it rains, the front yard floods and makes access to the house difficult. The applicant proposes to bring the grade up approximately 8-9 inches using soil and grass seed.
 - The backyard has a holding septic tank in the ground, which is no longer completely covered by soil/grass and is below grade from the rest of the yard, causing a depression.

The applicant proposes to add approximately 4-6 inches of soil and grass seed to level the area to eliminate slip and fall hazards.

- Lot #29 (across Silver Shell Beach Drive) is a small piece of land where the area closest to the street is below street-grade. The applicant proposes to bring in loam and seed to grade a 20' x 32' area level with the street.

COMMENTS

- I see no issues with grading the area in the backyard over the septic tank as the installation of the septic tank was permitted in 2016 and received a Certificate of Compliance. The depression is likely due to settling since the work was completed.
- The area in the front yard falls within Land Subject to Coastal Storm Flowage and is likely outside of the 100-foot buffer zone to the resource areas in the area.
- It is possible that the water is collecting in the front yard due to the installation of the septic system holding tank along the side of the property, funneling more water to the front of the property.
- On Lot #29, the area the applicant proposed to grade to the street falls within the buffer zone to Coastal Beach in addition to LSCSF.
- Gary Lavalette conducted a site visit and provided photographs of the area. He noted that there may be an issue with a slight berm around the storm drain.
- The revised work description, dated October 8, 2019, is as follows:
 - The proposal is to request that the BPW fix/lower the catch basin that is located to the south of the property and to possibly redo (increase the height) of the driveway skirt, in hopes that this will resolve some of the water issue in the front yard. The area will be monitored for approximately 9-12 months from the repairs. Pending the results from this work, if it doesn't resolve the water, then we will revisit putting fill into the yard to absorb the water into the ground and grading it away from the house. Plus, the grade will be match to the Alexandar property (bordering to the north). We also still may contact David Alexandar to do a joint project to the north side yard to correct the low grading on both properties.
 - Lot 29 across the street: add fill to the lower grade/hole so that the water will be absorbed into the ground and pushed to the back of the property
 - BPW voted and approved to make the repairs to the catch basin and driveway skirt during their meeting on 10/7/2019.
- The applicants provided an existing conditions plan of the lot across the street with the existing grades and the gentleman who shot the grades provided two proposals to address the low spot:
 - 1. Bring loam up 2 inches at grass line in rear and grade to street with berm on fence line
 - 2. Approximately 7 feet from the road bring loam up approximately 2 inches with berm along fence line with swell in center, moving water to rear of property.
- It appears both proposals would prevent water from being diverted to the neighbors' property. Either the water will be directed to the street and into the catch basin or it will be directed to the rear of the property to sheet feed out through the vegetation.
- It might be preferable to have the water run to the rear of the property so that pollutants are being filtered out rather than picking up pollutants on the street and then running into the catch basin, which makes its way into the water.
- If a project is needed in the future on both properties (21 and 23 Silver Shell Beach Drive), a joint filing could be done rather than two separate filings.

RECOMMENDATION

- If the Commission is satisfied with the amended RDA, I recommend closing the public hearing and issuing a Negative 3 and Negative 6 Determination with the following conditions:
 - Proposal 2 directing water to the rear of Lot 29 shall be used.
 - At no point shall there be any cutting of vegetation nor shall there be any machinery within a resource area.
 - All fill used shall be clean fill and shall not introduce any foreign material, debris, or species to the area.
 - If the repairs to the catch basin and driveway apron do not solve the issue of water in the front of the property, present a plan to the Conservation Commission for review and approval. If that plan will include both 21 and 23 Silver Shell Beach Drive, a new filing will be needed.

Staff Report

Date: October 10, 2019

To: Conservation Commission

From: Whitney McClees, Conservation Agent

Subject: **Bridge Street, Map 36, Lot 15 – Notice of Intent – DEP# 023-1299,
Fairhaven CON 023-081**

DOCUMENTS REVIEWED

- Notice of Intent and associated documents
- 310 CMR 10.00
- Fairhaven Wetlands Bylaw (Chapter 192)
- Delineating Bordering Vegetated Wetlands Under the Massachusetts Wetlands Protection Act
- Existing Conditions plan (Sheet 2), revised October 5, 2019.
- Peer Review Letter from Environmental Consulting & Restoration, LLC dated October 10, 2019

RESOURCE AREAS ON/NEAR SITE

- Bordering Vegetated Wetland (310 CMR 10.55)
 - *Significance:* Bordering vegetated wetlands are likely to be significant to public or private water supply, to groundwater supply, to flood control, to storm damage prevention, to prevention of pollution, and to wildlife habitat. Plants and soils of bordering vegetated wetlands remove or detain sediments, nutrients, and toxic substances that occur in run-off and flood waters.

The vegetation in bordering vegetated wetlands acts to slow down and reduce the passage of flood waters during periods of peak flows by providing temporary flood water storage and by facilitating water removal through evaporation and transpiration. This process reduces downstream flood crests and the resulting damage to private and public property. During dry periods, the water retained in bordering vegetated wetlands is essential to the maintenance of base flow levels in rivers and streams, which is important to the protection of water quality and water supplies.

Wetland vegetation provides shade which moderates water temperatures important to fish life. Wetlands flooded by adjacent water bodies and waterways provide food, breeding habitat, and cover for fish.

Bordering vegetated wetlands are probably the Commonwealth's most important inland habitat for wildlife. The hydrologic regime, plant community composition and structure, topography, and water chemistry of bordering vegetated wetlands provide important food, shelter, migratory and overwintering areas, and breeding and nesting areas for many birds, mammals, amphibians, reptiles, and insects.

PROJECT SUMMARY

- Proposed construction of an auto dealership with ancillary paved parking in Bordering Vegetated Wetland. Replication proposed.

COMMENTS

- The wetland line approval has lapsed. This was originally filed in April and then withdrawn after I indicated that the line was not accurate and would need to be redelineated.
- This new filing uses the same wetland line as the April filing. In May, large areas outside of the wetland line contained hydric soils. I assessed the soils and vegetation well outside of the line in July and again found hydric soils and wetland vegetation. The USDA soil maps of the area label the soils as hydric as well.
- The property has been consistently mowed, including inside the old wetland line, for the last several years. Per the MassDEP handbook, Delineating Bordering Vegetated Wetlands Under the Massachusetts Wetlands Protection Act, any one of the three indicators is sufficient to determine that the sample location is in a BVW if the site has been disturbed.
- I requested peer reviewer proposals from the following people: John Rockwell, Magdalena Lofstedt, Brad Holmes (Environmental Consulting & Restoration, LLC), Brooke Monroe (Pinebrook Consulting), and Natural Resource Services, Inc.
- John Rockwell is unable to conduct the peer review due to conflict of interest.
- Brad Holmes from ECR, Natural Resource Services, Inc., and Magdalena Lofstedt submitted proposals for the review of the NOI and delineation.
- I did not receive a proposal from Brooke Monroe, Pinebrook Consulting.
- Brad Holmes will be doing the peer review.
- Brad Holmes conducted a field assessment of the line on October 2, 2019 and observed the following:
 - The current conditions of the site allow for a good review of the herbaceous vegetation and soils. I am not in agreement with the majority of the past delineations as shown on the site plan. The western portion of the site consists of a large wet meadow BVW system. The eastern portion of the site is mainly upland with a small section of BVW along the eastern boundary. Brandon was in agreement with me that the majority of the past delineations do not match current conditions. We reflagged the site together and are in agreement with the flags locating the landward limits of BVW.
- The engineer provided a revised Existing Conditions plan dated October 5, 2019. The remainder of the plans have not yet been updated to incorporate this new wetland line.
- Brad Holmes provided a peer review letter, dated October 10, 2019, that noted the following:
 - The October 2nd site review was performed with Brandon Faneuf, PWS of Ecosystems Solutions, Inc.
 - The site review was intended to review existing conditions with a concentration of the delineation of the Bordering Vegetated Wetlands (BVW) following the criteria established by the Massachusetts Department of Environmental Protection (MassDEP).
 - After review of the site and staked wetland delineations, ECR was not in agreement with the delineations designating the landward limit of BVW. The vegetation and soil conditions were not matching conditions as shown on the site plan. More specifically, ECR found the following:
 - The western portion of the site to the west of the intermittent stream/drainage ditch consists mainly as wet meadow BVW. Meaning the vegetation is dominated with wetland species and hydric soils. There is minor

evidence of hydrology within this area such as water staining. ECR and Ecosystem Solutions, Inc. reflagged this wetland line along the western portion of the site, which is significantly different than previously shown. This delineation is shown on the revised NOI plan.

- The eastern portion of the site to the east of the access driveway consists mainly as upland meadow. The stakes areas indicating wetland areas from past delineations does not match wetland conditions. ECR found the majority of this area to consist of uplands. A small portion of this area does contain a wet meadow BVW that is supported by drainage runoff by the nearby parking lot. This BVW also connects to the Route 240 drainage/wetland system. ECR and Ecosystem Solutions, Inc. reflagged this wetland line along the eastern portion of the site, which is significantly different than previously shown. This delineation is shown on the revised NOI plan.
- As a result of the site review, the limit of the BVW was revised and the revised delineation has been surveyed and is shown on the updated Existing Conditions plan dated October 5, 2019.
- As a result of our site review and revised delineation on October 2nd, the limit of the BVW is accurately delineated in the field in compliance with the MassDEP regulations found at 310 CMR 10.55 pertaining to the delineation of BVWs and its associated “Manual”, titled Delineating Bordering Vegetated Wetlands Under the Massachusetts Wetlands Protection Act, A Handbook, March 1995.
- The remaining areas of the site upgradient, or landward, of the BVW line contain upland area.
- The revised Existing Conditions Plan accurately indicates the delineation from the October 2nd field event with two minor exceptions, which are:
 - Connect the BVW line from #Y19 to #A30
 - Wetland Flag #Z11 appears to be in the wrong direction. #Z11 should angle back towards the east.
- This site is currently managed as an upland meadow and wetland meadow.
- Overall, the site contains a majority of native herbaceous wetland and upland plant species. Some non-native invasive vegetation exists within the wetlands such as Purple Loosestrife (*Lythrum salicaria*).
- ECR is able to confirm that the site contains the following wetland resource areas and areas of Conservation Commission jurisdiction:
 - Bordering Vegetated Wetland (BVW) as delineated and described above
 - 100-foot buffer zone to BVW
- This site does contain a USGS mapped intermittent stream. This mapped stream is located within the existing draining ditch located in the western portion of the site. The streambed was dry during the October 2nd site review. This stream is confirmed as intermittent via the Massachusetts StreamStats program since it has a watershed area of less than 0.5 square miles (calculated at 0.16 square miles).
- Once all of the plans and documents have been updated to reflect the revised wetland line and any changes that need to be made, the stormwater report will need to be peer reviewed.

RECOMMENDATION

- I recommend asking the applicant if they would like to request a continuance to a subsequent meeting to allow for time to modify plans and the stormwater report and to allow for time for the stormwater to be peer reviewed.

Staff Report

Date: October 10, 2019

To: Conservation Commission

From: Whitney McClees, Conservation Agent

Subject: **219 Sconticut Neck Road – Request for Determination of Applicability – No DEP#, Fairhaven CON 023-094**

DOCUMENTS REVIEWED

- Request for Determination of Applicability and associated documents
- 310 CMR 10.00
- Fairhaven Wetlands Bylaw (Chapter 192)

RESOURCE AREAS ON/NEAR SITE

- Land Subject to Coastal Storm Flowage (LSCSF) Zones AE and VE
 - *Significance:* Land subject to coastal storm flowage is likely to be significant to flood control and storm damage prevention. LSCSF can slow down flood waters and allow them to flow across a natural landform surface, providing frictional resistance and reducing their energy and destruction potential. It can allow flood waters to spread over a wide area without obstructions. Obstructions can cause the channelization of flood waters and storm-wave overwash and an increase in the velocity and volume of flow to adjacent or landward areas. LSCSF can also allow flood waters to be detained, absorbed into the ground, or evaporated into the atmosphere. LSCSF also protects the land from storm erosion by providing a substrate for vegetation that helps to stabilize sediments and slow down flood waters.

Where LSCSF overlaps other coastal resource areas, it plays an important role in determining the delineation and function of these resource areas, specifically coastal beaches and dunes, barrier beaches, and coastal banks.

Particular physical characteristics of LSCSF that are critical to the protection of the flood control and storm damage prevention interests include: topography, slope, surface area, soil characteristics (i.e., composition, size, shape, and density of material), vegetation, erodability, and permeability of sediments. Topography, slope, and permeability are critical for determining how effective an area is in dissipating wave energy, absorbing flood waters, and protecting areas within and landward of these zones from storm damage and flooding.

- Salt Marsh (310 CMR 10.32)
 - This resource area is located off of the property and no work is proposed in the Salt Marsh. Based on MassGIS, it appears that the project may be just on the edge of the buffer zone if not outside of it.

PROJECT SUMMARY

- Removal of deteriorating rock wall on the northern back yard.
- Add a small amount of fill to raise the grade to match the neighbor's land grade. It will slope at a 4-1 ratio.
- Install a 6-foot fence 6" off the ground approximately 120' in length in place of old rock wall.
- Use removed rock to help rebuild rock wall on east side of backyard approximately 4 feet in height

COMMENTS

- It appears there will be no net change in where the stormwater is going. It will still be directed to the rear of the property.
- The rock wall is already existing, so adding to it does not substantially change existing site conditions with regard to water or wildlife movement.
- The fence and rock wall would likely be exempt if not in the flood zone.

RECOMMENDATION

- I recommend closing the public hearing and issuing a Negative 2 and Negative 6 Determination.

Staff Report

Date: October 10, 2019

To: Conservation Commission

From: Whitney McClees, Conservation Agent

Subject: **732 Sconticut Neck Road – Request for Determination of Applicability – No DEP#, Fairhaven CON 023-096**

DOCUMENTS REVIEWED

- Request for Determination of Applicability and associated documents
- 310 CMR 10.00
- Fairhaven Wetlands Bylaw (Chapter 192)

RESOURCE AREAS ON/NEAR SITE

- Land Subject to Coastal Storm Flowage (LSCSF) Zones VE and AE
 - *Significance:* Land subject to coastal storm flowage is likely to be significant to flood control and storm damage prevention. LSCSF can slow down flood waters and allow them to flow across a natural landform surface, providing frictional resistance and reducing their energy and destruction potential. It can allow flood waters to spread over a wide area without obstructions. Obstructions can cause the channelization of flood waters and storm-wave overwash and an increase in the velocity and volume of flow to adjacent or landward areas. LSCSF can also allow flood waters to be detained, absorbed into the ground, or evaporated into the atmosphere. LSCSF also protects the land from storm erosion by providing a substrate for vegetation that helps to stabilize sediments and slow down flood waters.

Where LSCSF overlaps other coastal resource areas, it plays an important role in determining the delineation and function of these resource areas, specifically coastal beaches and dunes, barrier beaches, and coastal banks.

Particular physical characteristics of LSCSF that are critical to the protection of the flood control and storm damage prevention interests include: topography, slope, surface area, soil characteristics (i.e., composition, size, shape, and density of material), vegetation, erodability, and permeability of sediments. Topography, slope, and permeability are critical for determining how effective an area is in dissipating wave energy, absorbing flood waters, and protecting areas within and landward of these zones from storm damage and flooding.

- Bordering Vegetated Wetland (310 CMR 10.55), Salt Marsh (310 CMR 10.32), Barrier Beach (310 CMR 10.29)
 - No works is proposed within 100 feet of these resource areas.

PROJECT SUMMARY

- The Applicant proposes to bring the property into Title 5 compliance by installing a 1500-gallon septic tank, 1,000-gallon pump chamber and 5-bedroom leaching area. Said system will be located within existing lawn area. The Applicant also proposes the installation of approximately 466 feet of 1.5" poly water service pipe from Sconticut Neck Road to the house located behind the garage. All work will be performed within Land Subject to Coastal Storm Flowage.

COMMENTS

- The project falls entirely within Land Subject to Coastal Storm Flowage. Of the other resource areas on site, the closest is 345 feet away according to the submitted plan titled, "Sewage Disposal System Repair Plan for Property Known as 723 Sconticut Neck Road in Fairhaven, MA", dated September 25, 2019.
- The proposed septic repair will likely result in an improvement to groundwater quality and aid in the prevention of pollution.
- No erosion controls are proposed due to the distance from the other resource areas on site.
- The grades are not substantially changing. The only changes in grade will occur around the leaching area. Other excavation relating to the water and sewer pipes will not change the existing grade.

RECOMMENDATION

- I recommend closing the public hearing and issuing a Negative 2 and Negative 6 Determination.

Staff Report

Date: October 15, 2019

To: Conservation Commission

From: Whitney McClees, Conservation Agent

Subject: **Huttleston Ave, Map 31, Lots 115A & 117C – Notice of Intent – DEP# 023-1308, Fairhaven CON 023-095**

DOCUMENTS REVIEWED

- Notice of Intent and associated documents
- 310 CMR 10.00
- Fairhaven Wetlands Bylaw (Chapter 192)
- Peer Review Letter from GCG Associates, Inc. dated October 11, 2019

RESOURCE AREAS ON/NEAR SITE

- Bordering Vegetated Wetlands (310 CMR 10.55)
 - *Significance:* Bordering vegetated wetlands are likely to be significant to public or private water supply, to groundwater supply, to flood control, to storm damage prevention, to prevention of pollution, and to wildlife habitat. Plants and soils of bordering vegetated wetlands remove or detain sediments, nutrients, and toxic substances that occur in run-off and flood waters.

The vegetation in bordering vegetated wetlands acts to slow down and reduce the passage of flood waters during periods of peak flows by providing temporary flood water storage and by facilitating water removal through evaporation and transpiration. This process reduces downstream flood crests and the resulting damage to private and public property. During dry periods, the water retained in bordering vegetated wetlands is essential to the maintenance of base flow levels in rivers and streams, which is important to the protection of water quality and water supplies.

Wetland vegetation provides shade which moderates water temperatures important to fish life. Wetlands flooded by adjacent water bodies and waterways provide food, breeding habitat, and cover for fish.

Bordering vegetated wetlands are probably the Commonwealth's most important inland habitat for wildlife. The hydrologic regime, plant community composition and structure, topography, and water chemistry of bordering vegetated wetlands provide important food, shelter, migratory and overwintering areas, and breeding and nesting areas for many birds, mammals, amphibians, reptiles, and insects.

PROJECT SUMMARY

- It is proposed to construct four, two-story wood-framed three-unit residential buildings for a total of 12 residential 2-bedroom units. In addition, two ancillary storage buildings will be constructed and will be available as storage rental space for the apartment tenants as 12-foot-wide by 20-foot-deep areas with garage door access. There is also proposed to be a small maintenance building. A total of 26 standard parking spaces and 2 van-accessible spaces are proposed.
- The storm drainage system at the proposed development has been designed to create a reduction in the rate of stormwater runoff from the existing site. The collection and treatment systems will be in the form of deep sump catch basins, sediment forebays, and a detention basin. Hydrologic computations were performed in order to model the volume and rate of flow of stormwater from the site, under both existing and proposed conditions, for a broad range of design storms.

COMMENTS

- There is a current Order of Conditions (SE 023-1245) for these lots which expires March 6, 2020.
- This current OOC approved vegetation clearing up to 25 feet off the wetland line and identifies the resource area as a Bordering Vegetated Wetland.
- The submitted plans identify the resource area as Jurisdictional Isolated Land Subject to Flooding, which is incorrect based on SE 023-1245.
- *Question for Applicant:* Given the previous filing maintained a 25-foot setback to the wetland line, what would the feasibility be of doing the same here?
- The proposed landscaping vegetation is mostly native species with the following exceptions:
 - Japanese Zelkova (*Zelkova serrata*)
 - Green Velvet Boxwood (*Buxus sempervirens*)
 - Dwarf Japanese Juniper (*Juniper procumbens* 'Nana')
- The proposed detention basin also contains some non-native plants.
- *Question for Applicant:* What is the feasibility of using native vegetation for the project?
- Currently, the erosion and sedimentation control is a combination of haybale and silt fence. I would prefer to see no hay being used on site given it has a tendency to introduce invasive species. Additionally, there should be some sort of erosion control on the upgradient side of the silt fence. Ideally, I would like to see a straw wattle or coir fiber log or roll used for erosion control on the upgradient side.
- There is a schematic for a rain garden noted on sheet 6 but I don't see a location for the rain garden noted on the plans.
- The peer reviewer provided comments on the current stormwater design and noted that changes need to be made to be in compliance with both Conservation and Planning regulations.

RECOMMENDATION

- Given the comments from the peer reviewer, I recommend asking the applicant if they would like to continue the public hearing to a subsequent meeting to allow time to address the peer review comments.

Staff Report

Date: October 15, 2019

To: Conservation Commission

From: Whitney McClees, Conservation Agent

Subject: **Violations/Enforcement Orders/Cease and Desist Notices and General Business**

Town Beach on West Island

- I was able to reach Mr. Reilly via phone. His address and phone number had changed from what he had provided us previously, so through the Harbormaster contacting his place of work, he reached out to us.
- Based on the conversation the Harbormaster and I had with Mr. Reilly on October 8, he indicated he would be placing the check in the mail the same day and following up with a tracking number. He was under the impression that his insurance company had already taken care of it.
- I don't have a copy of the tracking number yet, but I have reached out to Mr. Reilly for confirmation that the check has been mailed as he stated to the Harbormaster and me on the phone.
- Mr. Reilly confirmed via email that he would be dropping a check off at Town Hall on October 15, 2019.

16 Silver Shell Beach Drive

- The removal of concrete was observed near the seawall on the property and some of the removed concrete had been stockpiled. A cease and desist was posted on October 7, 2019.
- On October 8, 2019, the property owner called the Conservation Office to seek more information regarding the Cease and Desist. I explained that the property falls within the flood zone as well as other resource areas and that potentially a filing was needed, but I needed more information on the project. She indicated that her contractor was in charge of the project and she would be instructing him to call me.
- I received a call from the contractor shortly thereafter and the contractor informed me they project entailed the removal, repair, and replacement of the existing concrete patio underneath and behind the house up to the existing seawall. The project would not be expanding the impervious surface on the property and all material would be disposed of offsite.
- On October 11, 2019, I received an email from the contractor summarizing the project:
 - We are removing the existing concrete patio slab that was broken/deteriorated and will be installing new concrete slab. All work is within the existing seawall perimeter. No extension or "existing footprint" change will be made. Broken concrete will be (has been) trucked off site.

44 Torrington Road

- I received a report of a potential violation on October 8, 2019 of cutting of vegetation near and possibly within a wetland area.
- I conducted a site visit on October 8, 2019 and observed a large amount of vegetation cutting beyond the stone wall on the property. Additionally, I spoke to one of the property owners in person about the activity and she called the other property owner so I could speak to him. He indicated that based on the appeal of the flood zone on the neighboring properties, he was under the impression that it was all okay. I gave a verbal cease and desist to both property owners and Mr. Fournier confirmed that no further work would occur and that he hadn't intended to do anything untoward.
- According to the FEMA Flood Map, the area beyond the stone wall is within Land Subject to Coastal Storm Flowage Zone AE.
- Additionally, there is a Bordering Vegetated Wetland 23 feet west of the stone wall according to a currently Order of Conditions for the neighboring property.
- Based on where the trees are, it appears they have been felled into a Bordering Vegetated Wetland.
- I was not able to tell from the site visit whether or not the trees had been located in the buffer zone or in the wetland prior to their removal.

131 Dogwood Street

- I received a report from the neighboring property owner that debris was being dumped into the Isolated Vegetated Wetland directly adjacent to 131 Dogwood Street and that large boulders were being moved into the wetland as well.
- I conducted a site visit on October 11, 2019 and observed no debris in the wetland. I observed boulders that had been removed in the construction of the deck and placed at the rear of the property near the wetland line. Based on the wetland flags on the adjacent property, the boulders were outside of the wetland. I told the contractor that since the boulders were outside of the wetland, there was no violation from a Conservation perspective. I told him that as long as the boulders are being placed on existing lawn, not being dug in, and are outside the wetland line, I don't consider that to be a violation.

3 North Street, North Street Layout West of Cherry Street, North Street Marsh

- Contained in separate report

Bills

- Massachusetts Association of Conservation Commissions - \$15.00 for Erosion and Sedimentation Control Field Guide
- Staples - \$110.98 for office supplies
- GCG Associates, Inc. - \$632.50 for stormwater peer review of 46 Scoticut Neck Road
- Forestry Suppliers - \$215.61 for field supplies

Staff Report

Date: October 11, 2019

To: Conservation Commission

From: Whitney McClees, Conservation Agent

Subject: **Violations/Enforcement Orders/Cease and Desist Notices**

3 North Street and North Street Layout West of Cherry Street

- Geoff Haworth conducted a site visit following a report that work had been done outside of the limit of work for SE 023-1273. The findings were:
 - The area known to me as North Street has been graded and sod has been installed. The sod starts at the first wall at 3 North Street and continues to the drainage ditch on North Street west of Cherry Street outside the LOW.
 - Cease and desist notice issued for all activity at 14:30 hours on 10/9/2019 by me. This was issued for work outside the LOW in a resource area and violation of the current Order of Conditions.

North Street Marsh, Assessors Map 15, Lot 43

- I had a conversation with the property owner prior to the September 30, 2019 meeting informing him that if he didn't want to see any further work in the clearing behind Hedge Street that he could choose not to file for a permit. A permit was only necessary if he wanted that area to be maintained. I also discussed with him that the \$300 fine needs to be paid. He indicated that his attorney would be sending a letter to another party for payment of the fine and would be contacting me.
- Currently, I have not heard from the attorney nor have I received payment for the \$300 fine.