

Staff Report

Date: November 18, 2019

To: Conservation Commission

From: Whitney McClees, Conservation Agent

Subject: **46 Charity Stevens Lane – Notice of Intent – DEP# 023-1307,
Fairhaven CON 023-090**

DOCUMENTS REVIEWED

- Notice of Intent and associated documents
- 310 CMR 10.00
- Fairhaven Wetlands Bylaw (Chapter 192)
- Stormwater Peer Review Letter by GCG Associates, Inc. dated September 12, 2019
- Stormwater Peer Review Letter by GCG Associates, Inc. dated September 27, 2019
- Revised plans approved by Planning Board dated October 15, 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.

- Isolated Vegetated Wetland (Fairhaven Wetlands Bylaw, Chapter 192)

- *Significance:* Many Isolated Vegetated Wetlands (IVWs) are extremely important wildlife habitat, and typically provide all or most of the same habitat functions as Bordering Vegetated Wetlands.

Isolated vegetated wetlands are likely to be significant to public or private water supply, to groundwater supply, to prevention of pollution, and to wildlife habitat. Plants and soils of isolated vegetated wetlands remove or detain sediments, nutrients, and toxic substances that occur in run-off and flood waters.

- Bank (310 CMR 10.54)

- *Significance:* Banks are likely to be significant to public or private water supply, to groundwater supply, to flood control, to storm damage prevention, to the prevention of pollution, and to the protection of fisheries and wildlife habitat. When banks are composed of concrete, asphalt, or other artificial impervious material, said banks are likely to be significant to flood control and storm damage prevention.

Banks are areas where groundwater discharges to the surface and where, under some circumstances, surface water recharges the groundwater. Where banks are partially or totally vegetated, the vegetation serves to maintain the banks' stability, which in turn protects water quality by reducing erosion and siltation.

Banks may also provide shade that moderates water temperatures, as well as providing breeding habitat, escape cover, and food, all of which are significant to the protection of fisheries. The topography, plant community composition and structure, and soil structure of banks together provide important food, shelter, migratory and overwintering areas, and breeding areas for wildlife.

Banks act to confine floodwaters during the most frequent storms, preventing the spread of water to adjacent land. Because banks confine water during such storms to an established channel, they maintain water temperature and depths necessary for the protection of fisheries.

An alteration of a bank that permits water to frequently and consistently spread over a large and more shallow area increases the amount of property which is routinely flooded, as well as elevating water temperature and reducing fish habitat within the main channel, particularly during warm weather.

- Land Under Water Bodies or Waterways (310 CMR 10.56)

- *Significance:* Land under water bodies and waterways is likely to be significant to public and private water supply, to groundwater supply, to flood control, to storm damage prevention, to prevention of pollution, and to protection of wildlife habitat. Where such land is composed of concrete, asphalt, or other artificial impervious material, said land is likely to be significant to flood control and storm damage prevention.

Where land under water bodies and waterways is composed of pervious material, such land represents a point of exchange between surface and ground water. The soils and sediments play an important role in the process of detaining and removing dissolved and particulate nutrients (such as nitrogen and phosphorus) from the surface water above. They also serve as traps for toxic substances (such as heavy metal compounds).

Land under water bodies and waterways, in conjunction with banks, serves to confine floodwater within a definite channel during the most frequent storms. An alteration of land under water bodies and waterways that causes water to frequently spread out over

a larger area at a lower depth increases the amount of property which is routinely flooded. Additionally, it results in an elevation of water temperature and a decrease in habitat in the main channel, both of which are detrimental to fisheries, particularly during periods of warm weather and low flows.

The plant community composition and structure, hydrologic regime, topography, soil composition, and water quality of land under water bodies and waterways provide important food, shelter, migratory and overwintering areas, and breeding areas for wildlife.

PROJECT SUMMARY

- This project entails construction of new ground-mounted photovoltaic solar arrays, gravel driveways, stormwater facilities, electrical equipment pads, energy storage systems, and above and below-ground utility lines.

COMMENTS

- The project plans have been revised per Planning Board comment. Per DEP Condition #14 and Special Conditions #7, #8, and #14, amended plans need to be submitted to the Conservation Commission for review and approval.
- There were no changes made to the western array as far as I can tell. Changes were made to the eastern array to reduce the amount of tree cutting.
- The eastern array does not fall under Conservation jurisdiction.

RECOMMENDATION

- I recommend approving the revised plans dated October 15, 2019.

Staff Report

Date: November 20, 2019

To: Conservation Commission

From: Whitney McClees, Conservation Agent

Subject: **8 Hathaway Street – Request for Certificate of Compliance – DEP# 023-1190, Fairhaven CON 023-105**

DOCUMENTS REVIEWED

- Original Notice of Intent and site plan
- Order of Conditions issued June 30, 2014
- Request for Certificate of Compliance and revised plan dated March 9, 2016
- 310 CMR 10.00
- Fairhaven Wetlands Bylaw (Chapter 192)

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.

- 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.

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Banks may also provide shade that moderates water temperatures, as well as providing breeding habitat, escape cover, and food, all of which are significant to the protection of fisheries. The topography, plant community composition and structure, and soil structure of banks together provide important food, shelter, migratory and overwintering areas, and breeding areas for wildlife.

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- Isolated Vegetated Wetland (Fairhaven Wetlands Bylaw, Chapter 192, Section 2A)

- *Significance:* Many Isolated Vegetated Wetlands (IVWs) are extremely important wildlife habitat, and typically provide all or most of the same habitat functions as Bordering Vegetated Wetlands.

Isolated vegetated wetlands are likely to be significant to public or private water supply, to groundwater supply, to prevention of pollution, and to wildlife habitat. Plants and soils of isolated vegetated wetlands remove or detain sediments, nutrients, and toxic substances that occur in run-off and flood waters.

- Coastal Dune (310 CMR 10.28)

- *Significance:* All coastal dunes are likely to be significant to storm damage prevention and flood control, and all coastal dunes on barrier beaches and the coastal dune closest to the coastal beach, in any area are significant to storm damage prevention and flood control. Coastal dunes are also often significant to the protection of wildlife habitat. Coastal dunes aid in storm damage prevention and flood control by supplying sand to coastal beaches. Coastal dunes protect inland coastal areas from storm damage and flooding by storm waves and storm elevated sea levels because such dunes are higher than the coastal beaches which they border. In order to protect this function, coastal dune volume must be maintained while allowing coastal dune shape to conform to natural wind and water flow patterns.

On retreating shorelines, the ability of the coastal dunes bordering the coastal beach to move landward at the rate of shoreline retreat allows these dunes to maintain their form and volume, which in turn promotes their function of protecting against storm damage or flooding.

Dunes are also important nesting habitats and, in some cases, feeding areas for a number of bird species.

When a coastal dune is significant to storm damage prevention, flood control, or the protection of wildlife habitat, the following characteristics are critical to the protection of those interests: the ability of the dune to erode in response to coastal beach conditions; dune volume; dune form, which must be allowed to be changed by wind and natural water flow; vegetative cover; the ability of the dune to move landward or laterally; the ability of the dune to continue serving as bird nesting habitat.

PROJECT SUMMARY

- The Order of Conditions issued on June 30, 2014 approved the construction of a single-family dwelling and the construction of a small replication area.

COMMENTS

- The special conditions attached to the Order of Conditions include:
 - Replication. Prior to any foundation excavation, the replication area shall be constructed. Historic fill which is presently on the site shall be removed from the proposed replication area so that the surface of the replication area is no higher than the adjacent wetlands between WLF-A3 and WLF-A2. The entire area of the replication area shall be at this elevation. Any side slopes transitioning to finish elevations shall be no steeper than 3:1. The area shall be seeded with a soft rush, *Juncus effusus*, seed mix.

- Limit of Work. The haybale line shall also act as the limit of work. Any work outside of the haybale line will require either an amended Order of Conditions, a new Order of Conditions, or a Negative Determination of Applicability.
- The wetland line shown on the approved plan is sufficient information for this Order of Conditions and work within the limit of work as depicted by the proposed haybale line. The approval of the wetland delineation in the Determination of Applicability issued by the Commission is not extended or modified by this Order of Conditions.
- The 2014 plans approved 1900 square feet of impervious surface. The revised 2016 plans of what was constructed show 2,568 square feet of impervious surface.
 - The driveway changed from the plans that were approved in 2014. The driveway on the approved plans was 300 square feet. The driveway that was installed, as shown on the revised plans dated March 9, 2016, is roughly 1,288 square feet.
 - The 2014 plans approved a dwelling of 1,600 square feet. The house that was constructed, as shown on the revised plans dated March 9, 2016, is 1,280 square feet.
- I conducted a site visit on November 20, 2019 and observed the wetland replication area. I looked at the soils, which appear to be hydric. I also observed the side slopes of the replication area. They appear to be nearly a 90-degree drop rather than sloped at a 3:1 ratio. This should be rectified before issuing a Certificate of Compliance. The Commission could consider requesting an as-built plan of the replication area specifically.
- The replication area does appear to have rushes established. I was not able to determine the specific species.

RECOMMENDATION

- I will leave it up to the Commission if they would like to see an as-built on the replication area prior to issuing a Certificate of Compliance.

Staff Report

Date: November 20, 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
- Revised plans dated October 31, 2019

RESOURCE AREAS ON/NEAR SITE

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PROJECT SUMMARY

- It is proposed to construct an auto dealership consisting of a 14,000 square foot building with a paved automotive display area/parking lot. A placed stone retaining wall is proposed along the east edge of the paved area in order to minimize wetland impacts. The existing driveway is proposed to be relocated westerly while still providing a 25 foot offset zone to the wetlands. A rain garden will occupy that 25 foot wide area. A detention basin is proposed at the eastern side of the parcel. It will be notched into the water table. It has been designed as a constructed pocket wetlands in order to remove suspended solids.

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. Meanint 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).
- The applicant provided revised plans based on the new wetland line. My comments are as follows:

- *Question for Applicant:* Note 6 on the Title Sheet indicates that the Conservation Commission requested that the applicant seek a variation to Stormwater Management section of the Zoning Bylaw Section 198-31.1.C(3). Can you elaborate on that?
- It appears that the majority of paved areas are 25+ feet away from the edge of the wetland line.
- Both the eastern and western stormwater structures will be located within 1-2 feet of the wetland lines in some cases, with grading changes very close to the wetland line.
- Proposed grade changes for the detention basin appear to range from less than a foot to 5 feet.
- Grade changes for the raingarden are proposed to range from a decrease of approximately 1 foot to an increase of approximately 2-3 feet.
- *Question for Applicant:* With the proximity to the line and the changes in grade that are being proposed, will there be enough room to maneuver machinery while staying out of the wetland?
- *Question for Applicant:* The line near wetland flag WF-Y17 on Sheet 7 says see Note 4, though I do not see a note 4 on the sheet. Was this a typo and meant to read Note 3?
- On Sheet 7, I count 8 *Ilex crenata* rather than 6.
- All of the proposed rain garden plants are native. Most of the landscaping plants are non-native.

Planting Schedule				
Trees				
Symbol	QTY	Botanical Name	Common Name	Status
SR	5	<i>Syringa reticulata</i> 'Ivory Silk'	Ivory Silk Japanese Tree Lilac	Non-Native, Introduced
AG	10	<i>Amelanchier x grandiflora</i> 'Autumn Brilliance'	Autumn Brilliance Serviceberry	Native Hybrid
Shrubs				
CH	13	<i>Cephalotaxus harringtonia</i> 'Prostrata'	Prostrate Japanese Plum Yew	Non-Native
CA	15	<i>Clethra alnifolia</i> 'Ruby Spice'	Ruby Spice Summersweet	Native
IC	6	<i>Ilex crenata</i> 'Helleri'	Heller Holly	Non-Native
JH	120	<i>Juniperus horizontalis</i> 'Bar Harbor'	Bar Harbor Juniper	Native
JP	78	<i>Juniperus procumbens</i> 'Nana'	Dwarf Japanese Garden Juniper	Non-Native
RH	14	<i>Rhododendron</i> 'Henry's Red'	Henry's Red Rhododendron	Native Hybrid
RP	21	<i>Rhododendron</i> 'Purple Gem'	Purple Gem Rhododendron	Native Hybrid
RR	9	<i>Rosa rugosa</i> 'Frau Dagmar Hastropp'	Frau Dagmar Hastropp Rose	Non-Native, Introduced
SA	14	<i>Spiraea japonica</i> 'Alpina'	Alpina Spirea	Non-Native, Introduced
Perennials				
HR	415	<i>Hemerocallis x</i> 'Happy Returns'	Happy Returns Daylily	Non-Native
NF	365	<i>Nepeta x faassenii</i> 'Blue Wonder'	Blue Wonder Catmint	Non-Native
PA	46	<i>Pennisetum alopecuroides</i>	Hamel Dwarf Fountain Grass	Non-Native, Introduced
RF	435	<i>Rudbeckia fulgida</i> 'Goldsturm'	Goldsturm Black-Eyed Susan	Native
Rain Garden Plants				
AG	150	<i>Andropogon gerardii</i>	Big Bluestem	Native
AN	100	<i>Aster novae-angliae</i>	New England Aster	Native
EM	50	<i>Eupatorium maculatum</i>	Joe-Pye Weed	Native
EG	100	<i>Euthamia graminifolia</i>	Grass-Leaved Goldenrod	Native
IV	50	<i>Iris versicolor</i>	Blue Flag Iris	Native
JT	150	<i>Juncus tenuis</i>	Path Ruse	Native
ZA	200	<i>Zizia aurea</i> golden	Golden Alexanders	Native

- *Question for Applicant:* Note 3 says after removing existing vegetation from area west of wetlands, seed with Ernst Seeds Mesic to Dry Pollinator Mix. Would this be in the location indicated by Note 4? Additionally, this mix appears to be a mix native to the Mid-Atlantic with predominately Pennsylvania ecotypes due to the fact that the company is based in Pennsylvania. Is there a Northeastern alternative?

- *Question for Applicant:* What are the details on the stone wall along the east edge of the paved area? I didn't see anything on the detail sheet.
- *Question for Applicant:* Is there a long-term invasive species management plan given the history of the site with multiflora rose?
- *Question for Applicant:* How do you propose to mark the edges of the wetland to prevent it from being mowed again?
- *Question for Applicant:* Silt fencing is referred to in the Stormwater Report but I do not see any depicted on the plans. Where is the proposed location for erosion and sedimentation controls?
- The stormwater report notes the use of haybales. Haybales are likely to introduce invasive species, so I would prefer to see the use of straw bales or wattles for catch basins and drainage swales and in conjunction with silt fencing/filter fabric.
- *Question for Applicant:* The stormwater report refers to temporary stabilized construction entrances. Where will these be located?
- *Question for Applicant:* Do you have a proposed location for concrete truck washout?
- *Question for Applicant:* Will this project need a SWPPP?
- Based on communication from the stormwater peer reviewer, I should have their review by the end of the day on Friday. As such, I will be providing an updated staff report at Monday's meeting once I've had time to review the report.

RECOMMENDATION

- I have not yet seen the stormwater peer review, so I cannot make a recommendation at this time.

Staff Report

Date: November 20, 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
- Revised plans dated November 8, 2019

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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.
- *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?
 - No changes were made to the plants in the revised plans.
- 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.
 - No changes to erosion and sedimentation control on revised plans.
- The submitted revised plans still identify the resource area as Jurisdictional Isolated Land Subject to Flooding, which is incorrect based on SE 023-1245.
- I have not yet received comments from the stormwater peer reviewer. If I receive them prior to Monday's meeting, I will provide an updated staff report at the meeting.

RECOMMENDATION

- I have not yet received a response from the stormwater peer reviewer and cannot make a recommendation at this time.

Staff Report

Date: November 19, 2019

To: Conservation Commission

From: Whitney McClees, Conservation Agent

Subject: **240 Alden Road – Abbreviated Notice of Resource Area Delineation – DEP# 023-1303, Fairhaven CON 023-075**

DOCUMENTS REVIEWED

- ANRAD application and associated documents
- 310 CMR 10.00
- Fairhaven Wetlands Bylaw (Chapter 192)
- Peer Review by Natural Resource Services, Inc. dated August 21, 2019
- Response letter dated October 1, 2019 and revised plans dated October 31, 2019
- Peer Review letter by Natural Resource Services, Inc. dated November 15, 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.

- Bank (310 CMR 10.54)

- *Significance:* Banks are likely to be significant to public or private water supply, to groundwater supply, to flood control, to storm damage prevention, to the prevention of pollution, and to the protection of fisheries and wildlife habitat. When banks are composed of concrete, asphalt, or other artificial impervious material, said banks are likely to be significant to flood control and storm damage prevention.

Banks are areas where groundwater discharges to the surface and where, under some circumstances, surface water recharges the groundwater. Where banks are partially or totally vegetated, the vegetation serves to maintain the banks' stability, which in turn protects water quality by reducing erosion and siltation.

Banks may also provide shade that moderates water temperatures, as well as providing breeding habitat, escape cover, and food, all of which are significant to the protection of fisheries. The topography, plant community composition and structure, and soil structure of banks together provide important food, shelter, migratory and overwintering areas, and breeding areas for wildlife.

Banks act to confine floodwaters during the most frequent storms, preventing the spread of water to adjacent land. Because banks confine water during such storms to an established channel, they maintain water temperature and depths necessary for the protection of fisheries.

An alteration of a bank that permits water to frequently and consistently spread over a large and more shallow area increases the amount of property which is routinely flooded, as well as elevating water temperature and reducing fish habitat within the main channel, particularly during warm weather.

- Land Under Water Bodies and Waterways (310 CMR 10.56)

- *Significance:* Land under water bodies and waterways is likely to be significant to public and private water supply, to groundwater supply, to flood control, to storm damage prevention, to prevention of pollution, and to protection of fisheries and wildlife habitat. Where such land is composed of concrete, asphalt, or other artificial impervious material, said land is likely to be significant to flood control and storm damage prevention.

Where land under water bodies and waterways is composed of pervious material, such land represents a point of exchange between surface and ground water. The soils and sediments play an important role in the process of detaining and removing dissolved and particulate nutrients (such as nitrogen and phosphorus) from the surface water above. They also serve as traps for toxic substances (such as heavy metal compounds).

Land under water bodies and waterways, in conjunction with banks, serves to confine floodwater within a definite channel during the most frequent storms. An alteration of land under water bodies and waterways that causes water to frequently spread out over a larger area at a lower depth increases the amount of property which is routinely flooded. Additionally, it results in an elevation of water temperature and a decrease in habitat in the main channel, both of which are detrimental to fisheries, particularly during periods of warm weather and low flows.

The plant community composition and structure, hydrologic regime, topography, soil composition, and water quality of land under water bodies and waterways provide

important food, shelter, migratory and overwintering areas, and breeding areas for wildlife.

- Stream (Fairhaven Wetlands Bylaw, Chapter 192 of the Code of the Town of Fairhaven)

PROJECT SUMMARY

- Seeking boundary confirmations of Bordering Vegetated Wetland and Bank

COMMENTS

- Delineation was done October 28, 2017.
- There is currently no work is proposed within jurisdictional areas on these lots.
- The Bordering Vegetated Wetland on site is connected to a larger system of wetlands on Long Road.
- Natural Resource Services, Inc. submitted their peer review letter and noted the following:
 - Flags WFA16, 17, 18, and 20 were removed and reestablished further north largely as a result of soil indicators.
 - Flagging labeled Bank A1 - Bank A36 depicts the bank of a perennial stream which is currently noted as an intermittent stream on the submitted plan. For a perennial stream represented on the USGS topographic map to qualify as 'intermittent', the applicant would need to provide the appropriate documentation. Additionally, the stream was flowing at the time of the peer review.
 - The delineated watercourse should be labeled as a perennial stream and afforded a 200-foot riverfront area per 310 CMR 10.58 and a 100-foot buffer per the Fairhaven Wetlands Bylaw.
 - What appears to be spoils from a greenhouse operation occupy the BVW boundary between WFA7 - WFA10. Material includes fill, plastics, and bricks, among other debris. FCC may consider this to be an unauthorized alteration and could require the applicant to remove the material from the regulated resource area and buffer zone either through this filing or another process the issuing authority determines to be appropriate.
 - Concrete structures were noted interior of flags WFA2 - WFA6. These structures may be remnants of old fountains. Given their water-holding capacity, these features may also serve as vernal pools. An in-season assessment would be required to confirm whether or not these areas could meet NHESP criteria for vernal pool certification. NRS could not accurately discern a timeframe in which these fountain structures were installed in their review of historic aerial images, due in part to graininess of available photographs.
 - At least 2 dilapidated sheds were also noted within the area near the fountains.
- The applicant provided a response letter to the peer review dated October 1, 2019 stating that observations have been made of the streambed sufficient to determine that the stream can be classified as intermittent. The applicant also provided photo and video documentation.
- The peer reviewer reviewed the applicant's response and documentation and issued a letter on November 15, 2019 agreeing with the applicant's supposition that the stream is intermittent.
 - "I confirmed with the Department of Environmental Protection via a phone conversation on November 13, 2019 that dry conditions need to be show on any four days in a consecutive twelve-month period. I also confirmed that there were no drought advisories issued for this region during the time period that evidence was presented for which would have nullified the results."

- “After reviewing the video and photographic evidence, Prime Engineering, Inc. has shown that periods of no flow occurred on June 10, July 12 and 31, August 26, 27 and 28, September 5, 6, 11, 12, 19, 21 and 23. This information is sufficient to re-designate the perennial river as an intermittent stream for which no riverfront area is afforded.”
- The revisions made to the plans reflect the initial peer review comments as well as classify the stream as intermittent.
- The Commission will need to determine how the applicant should address “what appears to be spoils from a greenhouse operation occupy the BVW boundary between WFA7 - WFA10. Material includes fill, plastics, and bricks, among other debris.”
 - “FCC may consider this to be an unauthorized alteration and could require the applicant to remove the material from the regulated resource area and buffer zone either through this filing or another process the issuing authority determines to be appropriate.”
- *Question for Applicant:* Has the revised plan been sent to DEP?

RECOMMENDATION

- If the Commission is satisfied with the applicant’s responses regarding the debris piles in the wetland and if the revised plans have been sent to DEP, I recommend issuing a Modified Order of Resource Area Delineation of Bordering Vegetated Wetland and Bank of Intermittent Stream only for revised plans dated October 31, 2019.

Staff Report

Date: November 20, 2019

To: Conservation Commission

From: Whitney McClees, Conservation Agent

Subject: **8 Hathaway Street – Request for Determination of Applicability – No DEP#, Fairhaven CON 023-102**

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) 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.

- 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.

- Bank (310 CMR 10.54)
 - *Significance:* Banks are likely to be significant to public or private water supply, to groundwater supply, to flood control, to storm damage prevention, to the prevention of pollution, and to the protection of fisheries and wildlife habitat. When banks are composed of concrete, asphalt, or other artificial impervious material, said banks are likely to be significant to flood control and storm damage prevention.

Banks are areas where groundwater discharges to the surface and where, under some circumstances, surface water recharges the groundwater. Where banks are partially or totally vegetated, the vegetation serves to maintain the banks' stability, which in turn protects water quality by reducing erosion and siltation.

Banks may also provide shade that moderates water temperatures, as well as providing breeding habitat, escape cover, and food, all of which are significant to the protection of fisheries. The topography, plant community composition and structure, and soil structure of banks together provide important food, shelter, migratory and overwintering areas, and breeding areas for wildlife.

Banks act to confine floodwaters during the most frequent storms, preventing the spread of water to adjacent land. Because banks confine water during such storms to an established channel, they maintain water temperature and depths necessary for the protection of fisheries.

An alteration of a bank that permits water to frequently and consistently spread over a large and more shallow area increases the amount of property which is routinely flooded, as well as elevating water temperature and reducing fish habitat within the main channel, particularly during warm weather.

- Isolated Vegetated Wetland (Fairhaven Wetlands Bylaw, Chapter 192, Section 2A)

- *Significance:* Many Isolated Vegetated Wetlands (IVWs) are extremely important wildlife habitat, and typically provide all or most of the same habitat functions as Bordering Vegetated Wetlands.

Isolated vegetated wetlands are likely to be significant to public or private water supply, to groundwater supply, to prevention of pollution, and to wildlife habitat. Plants and soils of isolated vegetated wetlands remove or detain sediments, nutrients, and toxic substances that occur in run-off and flood waters.

- Coastal Dune (310 CMR 10.28)

- *Significance:* All coastal dunes are likely to be significant to storm damage prevention and flood control, and all coastal dunes on barrier beaches and the coastal dune closest to the coastal beach, in any area are significant to storm damage prevention and flood control. Coastal dunes are also often significant to the protection of wildlife habitat. Coastal dunes aid in storm damage prevention and flood control by supplying sand to coastal beaches. Coastal dunes protect inland coastal areas from storm damage and flooding by storm waves and storm elevated sea levels because such dunes are higher than the coastal beaches which they border. In order to protect this function, coastal dune volume must be maintained while allowing coastal dune shape to conform to natural wind and water flow patterns.

On retreating shorelines, the ability of the coastal dunes bordering the coastal beach to move landward at the rate of shoreline retreat allows these dunes to maintain their form and volume, which in turn promotes their function of protecting against storm damage or flooding.

Dunes are also important nesting habitats and, in some cases, feeding areas for a number of bird species.

When a coastal dune is significant to storm damage prevention, flood control, or the protection of wildlife habitat, the following characteristics are critical to the protection of those interests: the ability of the dune to erode in response to coastal beach conditions; dune volume; dune form, which must be allowed to be changed by wind and natural water flow; vegetative cover; the ability of the dune to move landward or laterally; the ability of the dune to continue serving as bird nesting habitat.

PROJECT SUMMARY

- The applicant proposes to build an 8' x 10' wooden shed behind the existing house on sonotubes.

COMMENTS

- Based on the plan for the construction of the house, there does not appear to be wetland in the area the applicant would like to construct the shed. MassGIS shows the rear of the property to be shrub swamp. I looked at the soils and there appears to be a lot of fill in the area for the proposed shed. There appear to be wetlands directly behind the property.
- The location of the shed will be placed in either existing lawn or existing garden bed/fill.

RECOMMENDATION

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

Staff Report

Date: November 20, 2019

To: Conservation Commission

From: Whitney McClees, Conservation Agent

Subject: **66 Bay Street – Request for Determination of Applicability – No DEP#, Fairhaven CON 023-103**

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) Zone 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.

PROJECT SUMMARY

- The applicant is proposing to install a 10' x 16' shed on a concrete slab.

COMMENTS

- There is an existing shed on the property. This will be in addition to that shed on the opposite site of the yard.
- Since they are converting an existing lawn area for an accessory structure, this would be an exempt activity if it were more than 50 feet from a wetland and not in the flood zone.
- The only resource area here is flood zone, so the interests of the Act that should be considered are flood control and storm damage prevention.
- It appears there is an existing fence along the rear of the property that is flush with the ground.

RECOMMENDATION

- If the Commission would like to approve the project, I recommend closing the public hearing and issuing a Negative 2 and Negative 6 Determination.

Staff Report

Date: November 20, 2019

To: Conservation Commission

From: Whitney McClees, Conservation Agent

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

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.
- I performed a second site visit on October 22, 2019 and noted the following:
 - 15 mature trees have been cut down, the stumps have not been removed
 - The trees appear to be black cherry but I'm not positive
 - I took a look at the soils around where some of the trees were cut and everything appears to be upland, though still flood zone.
 - The property owner indicated that he has hired someone to remove the trunks and branches and chip them.
 - I recommended that the wood chips not be spread on site and the property owner indicated that he would communicate that to his contractor.
- I sent a letter to the property owner on October 29 stating that he needs to appear at the next meeting to discuss the violation as the Commission is considering a fine of \$300/tree.
- I received a phone message from Mr. Fournier on November 6, 2019 that stated:
 - Hello Ms. McClees, this is Jack Fournier. I received your mail. I'm in Florida as you know and on this wetland violation at 44 Torrington Road. It would cost me a lot of money just to fly up for a meeting and to come back down. If you're thinking about fining me or doing whatever you do, just give me the number and I'll send you a check. I can't unring the bell after it's been rung and I guess I'm guilty as charged so just come up with the number that you need. I'll send you the money but I don't want to have to fly up to

Massachusetts, rent a car, go to Fairhaven, go to a meeting, come back and do the reverse. I know it's not your problem but if there's a way that we can get around that, I'd very much like to just go ahead and do what we can do to satisfy your needs.

- I received photos and a site visit report from Mr. Haworth dated November 17, 2019 stating the following:
 - At 11:49am on 11/17/19 at the request of Commissioner Lavalette, I came out to 44 Torrington Road. Upon arrival, I observed a Bobcat 843 in the resource area. This area had been previously discussed at a prior meeting. I also observed the previously discussed trees that had been cut. I issued a cease and desist notice. Once notice placed on the machine and one on a stake at the property line. There was an area of dirt that had been disturbed by the machine. See photos.
- I conducted a site visit on November 20, 2019 and observed that the machine had been removed from the site and the Cease and Desist sign had come off the stake. It didn't appear that there had been any further work done since the site visit documented by Mr. Haworth.

7 Waybridge Road

- In conducting a site visit to a nearby property, I observed that a tree had been cut down on the north side of the property adjacent to Waybridge Road, which is located in Land Subject to Coastal Storm Flowage Zone VE.

86-88 Middle Street

- I was informed that the property had been cemented and paved and performed a site visit on October 28, 2019. I observed that cement and pavement had been installed in the rear of the property, which is in Land Subject to Coastal Storm Flowage Zone AE.
- I sent a violation letter stating the following:
 - It has come to my attention that there may be a wetlands violation at your property at 86-88 Middle Street, Fairhaven, MA. I was informed that the entirety of the property has been cemented and paved in a flood zone. I performed a site visit on October 28, 2019 and observed that cement and pavement have been installed in the rear of the property.

In order to determine whether a violation has occurred, we request that you immediately cease and desist from any further activity and that you or your designated representative appear before the Conservation Commission at its Monday, November 25, 2019 meeting, 6:30pm, at Town Hall, 40 Center Street, Fairhaven, MA to discuss the matter.

As you may or may not know, any work or activity in a wetland resource area, within 100 feet of a resource area, 200 feet of a river, or within a flood zone is subject to review and approval by the Conservation Commission pursuant to its authority under the Massachusetts Wetlands Protection Act (M.G.L c. 131 §40) and its regulations (310 CMR 10.00) and the Fairhaven Wetlands Bylaw (Chapter 192). Your property at 86-88 Middle Street falls within Land Subject to Coastal Storm Flowage Zone AE, also known as the 100-year floodplain. As has been indicated to you in previous meetings and

communications with me, any work within this area without approval from the Commission constitutes a violation of the Act and the Bylaw.

Please be prepared to explain the work or activity that has occurred so that the Commission can prescribe the appropriate corrective actions for you to come into compliance with the Act and the Bylaw. Please be advised, the Conservation Commission reserves the right to assess fines for said violations or non-compliance with this letter pursuant to the Fairhaven Wetlands Bylaw.

- I emailed the business owner on June 11, 2019 after he received a variance from the Board of Appeals to pave 100% of the lot asking about the status of his Notice of Intent filing. I received no response, so I emailed again on August 5 to inquire as to the status of the Notice of Intent filing. I also received no response.

Mill Pond Water Withdrawal

- As was discussed during a prior meeting, I sent a letter of violation that stated:
 - It has come to my attention that a wetlands violation may have occurred by a commercial vehicle owned by Yard Boss Landscape Design, LLC at Mill Pond, Fairhaven, MA. I was informed that the vehicle in question was removing water from Mill Pond without a permit.

In order to determine whether a violation has occurred, we request that you immediately cease and desist from any further activity and that you or your designated representative appear before the Conservation Commission at its Monday, November 25, 2019 meeting, 6:30pm, at Town Hall, 40 Center Street, Fairhaven, MA to discuss the matter.

As you may or may not know, any activity that alters a wetland resource area, including any pond, is subject to review and approval by the Conservation Commission pursuant to its authority under Chapter 192 of the Code of the Town of Fairhaven, Wetlands. Section 192-8 states that the definition of alter “includes, without limitation, the following activities when undertaken to, upon, within, or effecting resource areas protected by this chapter: C. Drainage or other disturbance of water level or water table.” Any activity that impacts water level or water table of a wetland resource area without approval from the Commission constitutes a violation of Chapter 192 of the Code of the Town of Fairhaven.

Please be prepared to explain the activity that has occurred so that the Commission can prescribe the appropriate corrective actions for you to come into compliance with the Bylaw. Please be advised, the Conservation Commission reserves the right to assess fines for said violations or non-compliance with this letter pursuant to Section 192-11 of the Fairhaven Wetlands Bylaw.

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

- Contained in separate report

Bills

- Gary Lavalette: Reimbursement of \$132.50 for Conservation hats
- FNNews: \$275.00 for meetings on 9/16, 10/15, and 10/28
- Environmental Business Council: \$15.00 for Building Climate Resilience Conference Registration
- Natural Resource Services, Inc.: \$225.00 for review of additional materials for 240 Alden Road ANRAD

2020 Proposed Schedule

Meeting Date
January 13
January 27
February 10
February 24
March 9
March 23
April 6
April 20
May 4
May 18
June 8
June 22
July 6
July 27
August 10
August 24
September 14
September 28
October 19 (Only Oct Mtg)
November 9
November 23
December 7
December 21
January 4, 2021

Discussion regarding future reorganization

- According to the Boards and Committees Handbook, adopted by the Board of Selectmen on September 10, 2018:
 - Committees and boards shall annually elect a chairperson, vice-chairperson and a secretary or a clerk. Newly formed boards or committees should elect these officers at their first meeting.
 - Ongoing boards or committees should elect officers at the first meeting on or after their May/June term renewal, or at such time after Town Meeting is customary.

- It is the responsibility of the chairperson to notify the appointing authority, the Town Clerk, and the Web Administrator of any changes in membership and officers. The chairperson sets the agenda and presides at all meetings, decides questions of order, calls special meetings, and signs official documents that require the chairperson's signature. The chairperson has the same rights as other members to offer resolutions, make or second motions, discuss questions, and vote thereon.
- The vice chairperson acts for the chairperson whenever the latter is absent from meetings, and performs other necessary duties.
- The secretary is responsible for taking and transcribing the committee's minutes, scheduling the place, date, and time of meeting and posting the meetings with the Town Clerk and Web Administrator no later than 48 hours before a meeting (excluding Sundays and holidays). The secretary should also check for committee/board mail in the mailboxes at the Town Hall on a regular basis.

Staff Report

Date: November 25, 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

- As of a site visit today, the sod and gravel were still in place.
- According to two individuals from the EPA, the gravel was placed during the restoration of the marsh as a construction entrance. Mr. Miguel stated that he removed the gravel once the EPA left, cleaned it, and replaced it.
- An Amended Order of Conditions has been filed to include the sod and gravel, which is due to come before the Commission on December 23

North Street Marsh, Assessors Map 15, Lot 43

- I have not yet received payment for the \$300 fine. Given the conversation two commissioners had with the neighbor who appeared to be doing the work, would the Commission like to assess the \$300 fine to that individual instead?