

Staff Report

Date: August 27, 2021

To: Conservation Commission

From: Whitney McClees, Conservation Agent

Subject: **Huttleston Ave, 21-115A & 117C – Request for Amended Order of Conditions – DEP# 023-1308, Fairhaven CON 023-095**

DOCUMENTS REVIEWED

- Request for Amended Order of Conditions and associated documents
- 310 CMR 10.00
- Fairhaven Wetlands Bylaw (Chapter 192) and associated regulations
- Fairhaven Stormwater Bylaw (Chapter 194)

RESOURCE AREAS ON/NEAR SITE

- Bordering Vegetated Wetland
- Buffer Zone

PERFORMANCE STANDARDS

- **Bordering Vegetated Wetland:** 10.55(4)
 - (a) work in a Bordering Vegetated Wetland shall not destroy or otherwise impair any portion of the BVW
 - (b) The ConCom may permit the loss of up to 5000 square feet of BVW when said area is replaced IF:
 1. The area is equal;
 2. The ground water and surface elevation are approximately equal;
 3. The overall horizontal configuration and location are similar;
 4. There is an unrestricted hydraulic connection to the same water body or waterway;
 5. It is in the same general area of the water body;
 6. At least 75% of the surface of the replacement area shall be reestablished with indigenous wetland plant species within two growing seasons; and
 7. The replacement area is provided in a manner which is consistent with all other regs in 310 CMR 10.00.
 - (c) The ConCom may permit the loss of a portion of BVW when;
 1. Said portion has a surface area less than 500 square feet;
 2. Said portion extends in a distinct linear configuration ("finger-like") into adjacent uplands; and
 3. In the judgment of the issuing authority it is not reasonable to scale down, redesign or otherwise change the proposal.
 - (d) No project may be permitted which will have any adverse effect on specified habitat sites of rare species

- (e) No work shall destroy or otherwise impair any Area of Critical Environmental Concern
- **Buffer Zone General Provisions:** 10.53(1) “For work in the Buffer Zone subject to review under 310 CMR 10.02(2)(b)3., the Issuing Authority shall impose conditions to protect the interests of the Act identified for the adjacent Resource Area. ... where prior development is extensive, may consider measures such as the restoration of natural vegetation adjacent to a Resource Area to protect the interest of [the Act]. ... The purpose of preconstruction review of work in the Buffer Zone is to ensure that adjacent Resource Areas are not adversely affected during or after completion of the work.”

COMMENTS

- The following changes are being requested to be approved through the amendment process:
 - The addition of a large number of infiltrators to provide better recharge to the groundwater
 - A 12-inch pipe controlled by an orifice has been added to the detention basin outlet. It is to be connected to the existing dilapidated manhole that is in the wetlands. The nonfunctioning manhole, which is contributing to neighborhood flooding, is to be rebuilt and reinforced. It will be necessary to temporarily impact the wetlands to install a 30-foot length of pipe beneath the wetlands (approximately 4-foot depth). The hydric soil will be sequestered and replaced so there will be no permanent impact to the wetlands. The work can be done by an excavator positioned on the upland.
 - Clearing of all the vegetation in the infiltration basin/area
 - Increase in the size of the stormwater BMP
- The most recent peer review recommended revising the minimum spot grade at the top of the infiltration chambers within the pavement to 66.58 to meet the manufacturer’s required 10-inch minimum gravel cover plus pavement thickness over the system. The submitted plans show the spot grade at the top of the chambers to be 66.50.
- The plans the Commission approved did not have any direct resource area impacts. The revised plans now include work within the bordering vegetated wetland.
- Because there is work now occurring within a resource area, the applicant will need to submit a narrative describing how the proposed work conforms to the performance standards.
- *Questions for Applicant*
 - What is the total square footage of impact to the BVW?
 - According to the most recent peer review as well as the Mass. Stormwater Handbook, the infiltration basin along Huttleston Avenue requires a waiver from the Mass. Stormwater Standards to be located within 50 feet of a wetland. How do you not need a waiver from Mass. Stormwater Standards with the infiltration basin in its current location?
- The Commission should consider whether the inconsistencies among what was submitted, the assurance from the engineer that no waivers were needed, the most recent peer review, and the fact that the plans approved by the Planning Board note that a waiver is needed from Mass. Stormwater Standards warrants a final stormwater peer review to confirm the most recent plans do indeed conform to Mass Stormwater Standards.

RECOMMENDATION

- Without information regarding the impact to the BVW and the inconsistencies regarding stormwater, I cannot make a recommendation at this time.



July 15, 2021

Fairhaven Conservation Commission
40 Center Street
Fairhaven, MA 02747
Attn: Whitney McClees

**RE: LEWIS LANDING – FILE #023-1308
AMEND ORDER OF CONDITIONS**

Dear Commission Members:

On behalf Dana Lewis of 18 Tanner Lane, Fairhaven, MA 02719, we are hereby request that you amend the above referenced Order of Conditions. The submittal consists of:

- Two copies of this letter;
- Two copies of the checklist;
- Two copies of the plans;
- Two copies of the abutter notification form;
- Two copies of the certified abutter's list;
- A check for \$75 payable to the Town of Fairhaven for the legal ad and
- A check for \$200 payable to the Town of Fairhaven for the bylaw fee.

We have also sent the materials electronically to the Conservation Agent.

The revisions to the plans are as follows:

1. A large number of infiltrators have been added to provide better recharge to the groundwater.
2. A 12-inch pipe controlled by an orifice has been added to the detention basin outlet. It is to be connected to the existing delapidated manhole that is in the wetlands. The non-functioning manhole, which is contributing to neighborhood flooding, is to be re-built and reinforced. It will be necessary to temporarily impact the wetlands to install a 30-foot length of pipe beneath the wetlands (approximately 4-foot depth). The hydric soil will be sequestered and replaced so there will be no permanent impact to the wetlands. The work can be done by an excavator positioned on the upland.

We look forward to presenting this to you at your next hearing.

Sincerely,
PRIME ENGINEERING, INC.

Richard J. Rheume, P.E., LSP
Chief Engineer



August 4, 2021

Fairhaven Conservation Commission
40 Center Street
Fairhaven, MA 02719

RE: LEWIS LANDING

Dear Commission Members:

Enclosed are revised plans that have been changed to delete the request for a waiver on the cover sheet and to add a dimension from the infiltrators to the BVW. Also enclosed is an excerpt from Vol. 2 of the Stormwater Manual that shows that infiltrator structures are to be a minimum of 50 feet from water bodies. There are no setback standards for detention basins or the other BMPs.

We have also added details and notes on how the wetland drain line crossing is to take place.

We look forward to your favorable review.

PRIME ENGINEERING, INC.

A handwritten signature in cursive script that reads 'Richard J. Rheaume'.

Richard J. Rheaume, P.E., LSP
Chief Engineer

summarizes setback requirements for infiltration BMPs.

Table 2.3: Setbacks for Infiltration Structures

General Setback Requirements:

Soil Absorption Systems for Title 5 Systems: 50ft.

Private wells: 100 ft.

Public wells: Outside Zone I

Public reservoir, surface water sources for public water systems and their tributaries:

Outside Zone A

Other surface waters: 50 ft.

Property Line: 10 feet

Building foundations: >10 to 100 ft., depending on the specific type of infiltration BMP. See infiltration BMP for specific setback.

Specific BMPs have additional setback requirements. See Chapter 2.

Proximity to Foundations

Infiltration of stormwater can cause seepage into foundations when BMPs are located too close to buildings; MassDEP requires a 10 to 100 foot setback depending on specific type of infiltration BMP.

Public Acceptance

Aesthetics are important in gaining acceptance of BMPs. BMPs can either enhance or degrade the amenities of the natural environment and the adjacent community. Careful planning, landscaping and maintenance can make a BMP an asset to a site. Frequently, ownership and maintenance responsibilities for BMPs in new developments fall on adjacent property owners. If adjacent residents will be expected to pay for maintenance, education and acceptance of the BMP are necessary.

BMP Treatment Trains

BMPs in series incorporate several stormwater treatment mechanisms in sequence to enhance the treatment of runoff. Known as “stormwater treatment trains,” they consist of a combination of source control measures, natural features, and structural BMPs to maximize pollutant removal and subsurface recharge. Combining nonstructural and structural measures in series rather than using a single method of treatment improves the levels and reliability of pollutant removal. The effective life of a BMP can be extended by combining it with pretreatment BMPs, such as a vegetated filter strip or sediment forebay, to remove sediment prior to treatment in the downstream “units.” Sequencing BMPs can also reduce the potential for re-suspension of settled sediments by reducing flow energy levels or providing longer flow paths for runoff.

The most suitable components for a treatment train depend on the pollutants to be removed. Pollutants in stormwater fall into two groups: suspended solids and dissolved pollutants. Particle sizes greater than 0.45 micron are considered suspended solids. Pretreatment BMPs (e.g. sediment forebay, oil grit separator) are ordinarily designed to remove suspended solids that have larger particle sizes than the dissolved solids removed by treatment practices that rely on settling (e.g. extended dry detention basins and wet basins) or filtration (e.g. sand filters and filtering bioretention areas).

There are many combinations of BMPs that can be placed in a treatment train to maximize



Whitney McClees <wmcclees@fairhaven-ma.gov>

Lewis Landing Stormwater

Paul Foley <pfoley@fairhaven-ma.gov>

Fri, Aug 27, 2021 at 11:06 AM

To: Whitney McClees <wmcclees@fairhaven-ma.gov>

Whitney,

Attached please find the last response from Prime Engineering to the 5th GCG Peer Review dated January 28, 2021. They did not issue a response to the final (6th) GCG Peer Review of February 22, 2021. This response is dated the same date as the approved plans cited in the Special Permit Decision. The January 28 response notes that they have moved the subsurface infiltration chambers out of the 50' buffer to the BVW and states they still need a waiver from MSH. The approved plans also note a waiver from the MSH is required. In the Stormwater Report of June 7, 2021 they only mention (4.4) "Compliance with Fairhaven Stormwater Standards". He seems to have excluded state requirements in this report. But it is on the approved plans and in the last response to GCG after moving the subsurface infiltration chambers.

Palul

Paul H. Foley, AICP

Director of Planning & Economic Development

Fairhaven, Massachusetts

Town Hall, 40 Center Street

(508) 979-4082 EXT. 122

2 attachments

**LEWIS LANDING-RESPONSE TO COMMENTS LETTER-20210128.pdf**

194K

**LEWIS LANDING-PLANS-20210128 (1).pdf**

10233K



January 28, 2021

ATTN: Fairhaven Planning Board and Conservation Commission
Fairhaven Town Hall
40 Center Street
Fairhaven, MA 02719

RE: Lewis Landing - Response to Peer Review Comments
Proposed Multi-Unit Residential Development
Huttleston Avenue, Fairhaven, MA
(CGC Job # 1974)

Dear Planning Board and Conservation Commission Members,

Prime Engineering is in receipt of the comment letter dated 1/29/2021 from GCG Associates Inc. We have reviewed these comments and offer the following in response along with revised plan set and additional revised submission materials enclosed. The original comments are provided in *italics* with responses in **bold**.

General Plan and Development Comments

1. *This is a vacant parcel located at the south side of Huttleston Avenue (U.S. Route 6) across street from New Boston Road as identified as Assessor's Map 31 Lots 115A & 117C. The parcel consists of 2.463+/- acres.*

No response necessary.

2. *The applicant has filed a Notice of Intent for a Multi-Unit Residential Development consists of four 3-unit buildings (total 12 dwelling units) and associated pavement 16 spaces parking lot and utilities. The proposed work area is over 1 acre and requires filing an US EPA - NPDES permit and associated SWPPP. (NPDES NOI shall be filed 14 days prior to construction start.)*

The applicant and engineer are aware of the SWPPP requirement and will follow all NPDES requirements before the start of construction.

3. *The proposed work limit also exceeds the Land Disturbance Permit (Chapter 194) threshold and requires filing a permit with the Fairhaven Board of Public Works.*

All required permits will be filed with Fairhaven Board of Public Works prior to the start of construction.



4. *The proposed multi-family site development in RC Zoning District requires a Planning Board Special Permit approval per Chapter 198-29. Which requires site design in compliance with Chapter 198-31.1 Stormwater management standards. Hence, stormwater management design is being reviewed to meet 198-31.1 requirements.*

No response necessary.

5. *The project is located within Zone X, Area of Minimal Flood Hazard, (FIRM 25005C0413F, effective 7/7/2009), two series (A1- A-30 and B-1 to B-6) of wetland resource area were identified on the property and requires filing a Notice of Intent with the Fairhaven Conservation Commission and MassDEP.*

No response necessary.

6. *There is no NHESP estimated habitats of rare wildlife or rare species identified in the site vicinity per MassGIS.*

No response necessary.

Plan Set

Cover Sheet: Planning Board waivers requested for stormwater management regulations are as follows. The applicant has requested waiver for “198-31.1(C)(2)(g)[6]. Requiring basin and ponds to have 4:1 side slopes and sediment forebays to have 3:1 side slopes.” The proposed pocket wetland does not fit the specified water quality BMPs design listed under 198-31.1(C)(4) (a), (b), and (c). This constructed pocket wetland is based on the Massachusetts Stormwater Handbook (MSH) Constructed Stormwater Wetlands BMP requirements. 198-31.1(C)(3)(d) allows “Other water quality BMPs may be approved, provided the pollutant removal rate meets or exceeds the requirements of Section 1 above.” Based on the MSH pollutant removal efficiencies, the constructed pocket wetland BMP meets the requirements of 198-31.1(A)(1) standards except for the flooding requirements, (additional clarification or calculations are needed, see detail comments below). MSH does not require a minimum side slope of a constructed wetland, since the wetland maintenance requirement is once every 10 years, the side slope is not critical. However, MSH does require sediment forebay to have a 3H:1V side slopes. The proposed forebay volume was sized by Fairhaven Stormwater standards (0.25” times the impervious area), which exceeded the MassDEP sediment forebay sizing (0.1” times the impervious area) requirements. The applicant has proposed 2:1 side slopes with one side with 4H:1V slope for access. There is room in the area to provide the required 3H:1V slope, if the Board deems necessary. The wetland sediment forebay requires maintenance cleaning once per year, (in comparison, a standard sediment forebay requires cleaning 4 times per year.) Therefore, granting this waiver should not have any adverse impact to the design. The forebay side slope 3H:1V is required under MSH, granting the forebay side slope waiver does not relieve the MassDEP’s authority to superseded Order of Conditions.

These comments will be addressed in the detailed comments below.



Drawing Sheet 1- Existing Conditions

1. *Plan shows three drain pipes (15" (capped) and 18" inlets and 18" outlet) connected to an on-site dilapidated drainage manhole (DMH) within the wetland resource area. The 15" drainpipe appears to collect Huttleston Avenue surface runoff through a pair of catch basins located in front of development site and two 18" drain lines enter and discharge to the DMH without a benefit of an easement. GCG recommends obtaining an easement to preserve the right of the existing drains. An easement should be required as part of the approval conditions. Fairhaven DPW should be notified during drainage installation to determine the condition of the 15" capped pipe and uncap if desired with the easement right.*

The applicant is willing to grant an easement for this drainage infrastructure and coordinate with Fairhaven DPW as requested. A proposed 10' wide drainage easement is shown on sheet 2 site layout and landscaping for your review. We request that recording this easement be made a condition of approval.

2. *Additional soil testing should be performed at the proposed infiltration chamber system location to determine soil conditions, ESHGW, and depth of excavation and/or replacing unsuitable material.*

The two test holes provided show a ESHGW table at 60" below grounds surface with fill and muck present. We request, as a condition of approval, to do additional test holes while construction crew is mobilized onsite. The chamber system details will be fit with a note explaining the requirement of additional test pits. Further, a 2' minimum depth of septic sand meeting 310 CMR 15.255(3) will be required beneath all chamber systems. This 2' of septic sand can be increased based upon the test hole results if necessary. No credit was taken for this infiltration in modeling. Please refer to sheet 5 of 7 for the updated Cultec 330XLHD detail showing this information.

Drawing Sheet 2 – Site Layout and Landscaping Plan

1. *Trees and shrubs have been proposed along the constructed pocket wetland's and a 10' wide access path, which meets 198-31.1(C)(2)(g)[6] – "ten-foot wide bench" requirement. MSH requires a 15' wide maintenance access. The plants may require removal and replacement during the once in every 10-year wetland maintenance.*

There is adequate access to the constructed pocket wetland through the gate along the site entrance and the access between the dumpster area and wooden guardrail. In the event that the vegetation needs to be removed and replanted to perform maintenance tasks this will occur.



Drawing Sheet 3 – Grading and Utilities Plan

1. *MDEP – Standard Design Guideline for Shallow UIC Class V Injection Wells. The proposed roof drain chamber infiltration practices are considered UIC Class V Well by US EPA and required to comply with the MassDEP setback requirements. The proposed 6-unit chamber between building #2 and building #3 needs to be relocated northward outside the 50' BVW setback and 15' setback to downhill slope. Maintain the 10' building #3 foundation setback. The 18-units chamber system needs to be relocated to the east side of building #4 to meet 50' setback to “open, surface or subsurface drains which intercept seasonal high groundwater table,” (proposed pocket wetland), 10' setback to water supply line and 15' setback to downhill slope (proposed pocket wetland side slope).*

Proposed 6-unit chamber system between building 2 & 3 (Now UIS-B): This system has been moved north out of the 50' BVW setback and 15' from the downhill slope while continuing to maintain the 10' setback from building 3's foundation. Please refer to grading and utilities sheet.

The 18-units chamber system (Now UIS-C) has been relocated to allow for 50' setback to “open, surface or subsurface drains which intercept seasonal high groundwater table,” (proposed pocket wetland; 10' setback to water supply line; and 15' setback to downhill slope. Please refer to the Grading and Utilities Plan.

2. *MSH - Proposed infiltration basin is within the 50' BVW (surface water of the commonwealth) setback.*

We request a waiver from this requirement.



3. *MSH – 65% Rules. Require Minimum 65% of the total impervious area discharge to infiltration system. A minimum of 8,510 s.f. of pavement area (in addition to the roof areas) is required to discharge to infiltration basin. As the pocket wetland (receiving 16,717 s.f. of impervious area surface runoff) outflow discharges to two outlets, at least 50% of the outflow should be discharged to the infiltration basin to meet the 65% requirements to assure sufficient flow being discharged to the infiltration system.*

The constructed pocket basin has 2 outlet control structures (OCS).

- **OCS A – directs the first flush of the treated stormwater to the infiltration area (110) which has a primary function of meeting 65% rule along with the recharge requirements.**
- **OCS B - directs treated stormwater to the existing manhole and then offsite to the swale system on Brooke Street and eventually to Little Bay.**

The lowest discharge point in both structures is a 1” diameter orifice at elevation 61.60. This means that 50% of the stormwater outflow from the 2-year storm leaving the pocket wetland is directed to the infiltration area and 50% is directed to the existing manhole. Therefore the 65% rule is met.

4. *This project has been approved by the Conservation Commission. However, the proposed 30+/- feet of pocket wetland outlet pipe is in the BVW resource area and 25’ of pipe and portion the infiltration basin is located within the 25’ no disturb area. Conservation Commission approval is required.*

After adequately addressing the Planning Boards comments this project will be presented to the Conservation Commission for approval. The disturbance within the 25’ no disturb area along with the section of shallow marsh will be discussed.

5. *Verify top of pipe calculations, the 4” pipe appears to be closer to the street, which improved the separation between pipes.*

The 4” pipe will pass over both existing pipes (18” and 15”). The 4” HDPE pipe is 40.5 linear feet and passes over the existing pipes at elevation of 61.32. The top of the 18” pipe is 59.54. This leaves 1.78’ of separation.

6. *Re-sizing infiltration basin per pre- and post- rate and volume, see additional drainage report comments below.*

The pond has been appropriately sized so peak flow and volume are controlled for the required storm events. Please refer to response to drainage report comments below.



7. 198-31.1(C)(2)(1) - Fence enclosure for the stormwater basin may be required.

We request a waiver from this requirement because we are providing adequate vegetative barrier around the pocket wetland.

8. 198-31.1(C)(3) - Applicant should request a waiver for 198-31.1(C)(3), which also references to selection of (C)(4)(a) through (c) and inquire Board approval of the proposed pocket wetland under subsection (C)(3)(d). It is unclear this should require a waiver since it specified "other water quality BMPs may be approved" in its subsection (d). GCG recommends a waiver request to cover any disputes.

On behalf of the applicant, Prime Engineering requests a waiver for section 198-31.1(C)(3) which also references to selection of (C)(4)(a) through (c). Prime Engineering request Planning Board approval of the proposed pocket wetland under subsection (C)(3)(d). The pocket wetland is MADEP approved BMP.

9. Show drainage swale bottom width.

A dimension for the drainage swale bottom width has been included on Please refer to grading and utilities sheet.

10. Infiltration basin without tree clearing means the basin will not be maintained according to MDEP requirements. GCG recommends infiltration basin be cleared and finish with loam and seed. As required by MDEP, infiltration basin inspection for the health of the turf, and requires at least twice per year, mow the buffer area, side slopes and basin bottom.

The infiltration basin will be cleared through the 61' contour then 4'' loam and seed with New England Erosion Control/Restoration Mix for Detention Basins and Moist Sites by New England Wetland Plants Inc.

Drawing Sheet 4 – Erosion Control Plan

1. Erosion control should be provided within the no disturb buffer and BVW for the 12" pocket wetland outlet pipe installation with Conservation Commission approval.

The silt fence has been extended around the 12'' pipe and existing manhole. Please refer to the erosion control plan.

2. Additional erosion control may be required through NPDES and SWPPP prior to start of construction.

We understand a SWPPP must be prepared and additional erosion control could be required through NPDES.



Drawing Sheet 5 – Detail Sheet-1

1. *Pocket Wetland Outlet Control B Detail – Show 9” height (or show elevation) of the 24” wide outlet.*

The Outlet Control B detail has been updated per this comment.

2. *Orifice Plate Detail – show 24’W x 9”H structure wall opening above the orifice plate.*

The Orifice Plate Detail has been updated per this comment.

3. *Replace Outlet Control Structure A (proposed 9 outlets distribution box wrapped in filter fabric) with a standard drainage structure or concrete headwall with trash rack protection and set in the earth embankment.*

This structure has been updated to a 4’ diameter flat top manhole.

Drawing Sheet 6 – Detail sheet-2

1. *Schematic Cross Section of Storm Water Treatment System – revise the ‘3” orifice Inv = 61.00’ label to match the 1” orifice Inv = 61.60 (2 locations) design.*

The cross-section detail has been updated with the correct inverts.

Stormwater Report Comments

1. *Pre-development HydroCAD report 1.221 acres watershed appears missing an area of 0.275 acres. The post-development’s 1.500 has been verified to be correct.*

The hydroCAD appendix has been updated.

2. *Drainage report pages 5 and 6, Pre and Post runoff flow and volume comparison tables. Pre-development peak rate and volume columns do not match HydroCAD report. Revise table with item #1 correction.*

The table and hydroCAD appendix have been updated and now match.

3. *Clarify the roof drain chamber (model ponds 106, 107, and 108 wye volume, model used 2.5’ and 3’ diameter, the roof drain detail shown 6” diameter pipe.*

Roof leader collection pipes have been updated to 12” HDPE. The outlet of the wye will remain at 6” along with the downspouts.



4. 198-31.1(C)(2)(J)[4] - Infiltration area (Pond 110) should be modelled with pond surface area with CN 98.

The infiltration area now modeled with an impervious bottom represented by node 101B.

5. Roof drain chamber systems and infiltration basin should be sized with draw down time not to exceed 72 hours to accommodate multiple storm events. Based on the Hydrologic Soil Group 'C' soil exfiltration rate, (Rawls 1982 per MDEP).

Infiltration was not modeled in hydroCAD in order to be conservative for flow and volume calculations. All roof drain chamber systems will have 2' minimum of septic sand placed beneath the stone layer. That being said the following calculations prove that these systems if full would drain in <72 hours.

UIS A & B (9 Cultect 330XLHD chambers)

- Chamber Storage = 502.9 CF
- Field area = 394 SF
- Infiltration Rate for C soil = 0.27 in/hr = 0.0225 feet/hr
- $502.9\text{CF}/(394\text{SF} * 0.0225 \text{ ft/hr}) = 57 \text{ hours}$
- 57 hours < 72 hours therefore draw down time not to exceed 72 hours

UIS C (18 Cultec 330XLHD chambers)

- Chamber storage = 972.4 CF
- Field Area = 751 SF
- Infiltration Rate for C soil = 0.27 in/hr = 0.0225 feet/hr
- $972.4\text{CF}/(751\text{SF} * 0.0225 \text{ ft/hr}) = 58 \text{ hours}$
- 58 hours < 72 hours therefore draw down time not to exceed 72 hours

6. As mentioned in the report and shown on soil test logs, the site consists of a layer of muck at 5' to 7' below surface. Approximately at the depth beneath the proposed chambers. Additional soil test pit should be performed during construction and witnessed by the engineer to verify ESHGW separation. All unsuitable material should be removed and replace with gravel and sand.

The two test holes provided show a ESHGW table at 60'' below grounds surface with fill and muck present. We request, as a condition of approval, to do additional test holes while construction crew is mobilized onsite. The chamber system details will be fit with a note explaining the requirement of additional test pits. Further, a 2' minimum depth of septic sand meeting 310 CMR 15.255(3) will be required beneath all chamber systems. This 2' of septic sand can be increased based upon the test hole results if necessary. No credit was taken for this infiltration in modeling. Please refer to sheet 5 of 7 for the updated Cultec 330XLHD detail showing this information.



7. *Verify Constructed Pocket Wetland 4” and 12” outlet pipes length and adjust slope accordingly.*

The length of the pipes and inverts have been checked and the plans match hydroCAD for both outlet pipes.

Operation and Maintenance (O&M) Plan Comments

1. *Temporary Erosion Control should also follow the NPDES permit and SWPPP requirements.*

The applicant and engineer are aware of the SWPPP requirement and will follow all NPDES requirements before the start of construction.

2. *Long term O&M plan 4.0 should include:*
 - *Catch basin – inspect and clean grate and sump 4 times per year as required by MSH. This requirement seems excessive.*
 - *Wetland sediment forebay should be cleaned once a year.*
 - *Constructed Pocket Wetland should be inspected twice a year during both the growing and non-growing seasons for the first three years of construction, record observation per MSH Vol. 2, Ch. 2 Pg. 46. Cleaning out sediment in basin/wetland system once every 10 year.*
 - *Remove rain garden O&M, no longer applicable.*
 - *Inspect roof drain inlet (roof gutter system) at least twice a year, remove any debris that might clog the system.*
 - *Include mosquito controls, as necessary. (subsurface chambers meeting 72 hours draw down time and pocket wetland with properly maintained vegetation should not have mosquito breeding issues.)*
 - *Infiltration basin should be inspected twice per year per MSH Vol.2, Ch.2, Pg. 92, At least twice a year, mow the buffer area, side slopes, and basin bottom. Remove grass clippings and accumulated organic matter to prevent an impervious organic mat from forming.*

The Long-term O&M Plan section 4.0 has been updated to include the feedback in this comment. Please refer to Appendix D of the Narrative and Stormwater Report.

Please do not hesitate to contact my office if there are any further questions or comments on this response to comments letter or submission. Thank you for your help with this project.

Sincerely,

Steve Kohm PE
Prime Engineering, Inc.

Phone: (978) 657-9714
Fax: (978) 657-7915

February 22, 2021

Planning Board and Conservation Commission
Town Hall
40 Center Street
Fairhaven, MA 02719

RE: Lewis Landing, Fairhaven, MA.
Proposed Multi-Unit Residential Development
Huttleston Ave.

Dear Planning Board and Conservation Commission Members:

GCG Associates, Inc. has reviewed the following information for the Lewis Landing Multi-Unit Residential Development off Huttleston Avenue in Fairhaven, MA with respect to stormwater and Stormwater related requirements under 310 CMR 10.00 Wetlands Protection Act Regulations.

Plan References: "Lewis Landing, Fairhaven, MA. Proposed Multi-Unit Residential Development, Huttleston Ave., Fairhaven, MA prepared by Prime Engineering, Inc. dated September 9, 2019, last revised January 28, 2021.

Pre-Development and Post-Development Stormflow Maps, prepared by Prime Engineering, Inc. dated September 9, 2019.

Documents: Narrative and Stormwater Report for Notice of Intent and Special Permit prepared by Prime Engineering, Inc. dated September 26, 2019 last revised January 28, 2021.

Response to Comments Letter, prepared by Prime Engineering, Inc. dated January 28, 2021

Based upon our review of the above information, we offer the following general comments and comments with respect to compliance with Town Bylaws: Chapters 192 – Wetlands; 194 - Stormwater Management, Illicit Discharge, Soil Erosion, Sediment Control By-Law; 198-31.1 – Zoning - Stormwater Management and 310 CMR 10.00 Wetlands Protection. The numerical section of the regulations is referenced at the beginning of each comment unless it is a general comment. GCG latest comments in "**Bold**".

GENERAL PLAN AND DEVELOPMENT COMMENTS

The following are general comments with respect to the plans and development of the project.

1. This is a vacant parcel located at the south side of Huttleston Avenue (U.S. Route 6) across street from New Boston Road as identified as Assessor's Map 31 Lots 115A & 117C. The parcel consists of 2.463+/- acres. **No response required.**
2. The applicant has filed a Notice of Intent for a Multi-Unit Residential Development consists of four 3-unit buildings (total 12 dwelling units) and associated pavement 16 spaces parking lot and utilities. The proposed work area is over 1 acre and requires filing an US EPA - NPDES permit and associated SWPPP. (NPDES NOI shall be filed 14 days prior to construction start.) **Applicant is aware of the NPDES requirements, no response required.**
3. The proposed work limit also exceeds the Land Disturbance Permit (Chapter 194) threshold and requires filing a permit with the Fairhaven Board of Public Works. **Filing with BPW as exempted project per 194-4. A.3 instruction, no response required.**
4. The proposed multi-family site development in RC Zoning District requires a Planning Board Special Permit approval per Chapter 198-29. Which requires site design in compliance with Chapter 198-31.1 Stormwater management standards. Hence, stormwater management design is being reviewed to meet 198-31.1 requirements. **No response required.**
5. The project is located within Zone X, Area of Minimal Flood Hazard, (FIRM 25005C0413F, effective 7/7/2009), two series (A1- A-30 and B-1 to B-6) of wetland resource area were identified on the property and requires filing a Notice of Intent with the Fairhaven Conservation Commission and MassDEP. **No response required.**
6. There is no NHESP estimated habitats of rare wildlife or rare species identified in the site vicinity per MassGIS. **No response required.**

PLAN SET

Cover Sheet: Planning Board waivers requested for stormwater management regulations are as follows. The applicant has requested waiver for "198-31.1(C)(2)(g)[6]. Requiring basin and ponds to have 4:1 side slopes and sediment forebays to have 3:1 side slopes." The proposed pocket wetland does not fit the specified water quality BMPs design listed under 198-31.1(C)(4) (a), (b), and (c). This constructed pocket wetland is based on the Massachusetts Stormwater Handbook (MSH) Constructed Stormwater Wetlands BMP requirements. 198-31.1(C)(3)(d) allows "Other water quality BMPs may be approved, provided the pollutant removal rate meets or exceeds the requirements of Section 1 above." Based on the MSH pollutant removal efficiencies, the constructed pocket wetland BMP meets the requirements of 198-31.1(A)(1) standards except for the flooding requirements, (additional clarification or calculations are needed, see detail comments below). MSH does not require a minimum side slope of a constructed wetland, since the wetland maintenance requirement is once every 10 years, the side slope is not critical. However, MSH does require sediment forebay to have a 3H:1V side slopes. The proposed forebay volume was sized by Fairhaven Stormwater standards (0.25" times the impervious area), which exceeded the MassDEP sediment forebay sizing (0.1" times the impervious area) requirements. The applicant has proposed 2:1 side slopes with one side with 4H:1V slope for access. There is room in the area to provide the required 3H:1V slope, if the Board deems necessary. The wetland sediment forebay requires maintenance cleaning once per year, (in comparison, a standard sediment forebay requires cleaning 4 times per year.) Therefore, granting this waiver should not have any adverse impact to the design. The forebay side slope 3H:1V is required under MSH, granting the forebay side slope waiver does not relieve the MassDEP's authority to superseded Order of Conditions. **See detailed comments below.**

Drawing Sheet -1 – Existing Conditions Plan.

**Lewis Landing
Multi-Unit Residential Development
Huttleston Ave.
GCG Job#1974**

1. Plan shows three drainpipes (15" (capped) and 18" inlets and 18" outlet) connected to an on-site dilapidated drainage manhole (DMH) within the wetland resource area. The 15" drainpipe appears to collect Huttleston Avenue surface runoff through a pair of catch basins located in front of development site and two 18" drain lines enter and discharge to the DMH without a benefit of an easement. GCG recommends obtaining an easement to preserve the right of the existing drains. An easement should be required as part of the approval conditions. Fairhaven DPW should be notified during drainage installation to determine the condition of the 15" capped pipe and uncap if desired with the easement right. **GCG recommends the easement be widened to 20-feet to accommodate actual trench construction.**
2. Additional soil testing should be performed at the proposed infiltration chamber system location to determine soil conditions, ESHGW, and depth of excavation and/or replacing unsuitable material. **Applicant has requested additional test holes be performed prior to or during construction as part of the approval conditions. The request is reasonable. GCG recommends the project engineer/soil evaluator to perform the soil testing at the beginning of construction and verify the ESHGW and soil material.**

Drawing Sheet 2 – Site Layout and Landscaping Plan.

1. Trees and shrubs have been proposed along the constructed pocket wetland's and a 10' wide access path, which meets 198-31.1(C)(2)(g)[6] – "ten-foot wide bench" requirement. MSH requires a 15' wide maintenance access. The plants may require removal and replacement during the once in every 10-year wetland maintenance. **The applicant will be responsible for replacing and replanting vegetation as needs during maintenance.**

Drawing Sheet 3 – Grading and Utilities Plan

1. MDEP – Standard Design Guideline for Shallow UIC Class V Injection Wells. The proposed roof drain chamber infiltration practices are considered UIC Class V Well by US EPA and required to comply with the MassDEP setback requirements. The proposed 6-unit chamber between building #2 and building #3 needs to be relocated northward outside the 50' BVW setback and 15' setback to downhill slope. Maintain the 10' building #3 foundation setback. The 18-units chamber system needs to be relocated to the east side of building #4 to meet 50' setback to "open, surface or subsurface drains which intercept seasonal high groundwater table," (proposed pocket wetland), 10' setback to water supply line and 15' setback to downhill slope (proposed pocket wetland side slope). **GCG recommends revising the minimum spot grade at the top of chambers within the pavement to 66.58 to meet the manufacturer's required 10" minimum gravel cover plus pavement thickness over the system.**
2. MSH - Proposed infiltration basin is within the 50' BVW (surface water of the commonwealth) setback. **Applicant requests a waiver for the 50' setback requirements. This is a MSH requirements, Planning Board and/or Conservation Commission waiver does not guaranty MassDEP's action toward the waiver. Alternately, there is room to pull back the infiltration basin outside the 50' setback by relocating basin toward to Huttleston Avenue.**

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3. MSH – 65% Rules. Require Minimum 65% of the total impervious area discharge to infiltration system. A minimum of 8,510 s.f. of pavement area (in addition to the roof areas) is required to discharge to infiltration basin. As the pocket wetland (receiving 16,717 s.f. of impervious area surface runoff) outflow discharges to two outlets, at least 50% of the outflow should be discharged to the infiltration basin to meet the 65% requirements to assure sufficient flow being discharged to the infiltration system.
Resolved.
4. This project has been approved by the Conservation Commission. However, the proposed 30+/- feet of pocket wetland outlet pipe is in the BVW resource area and 25' of pipe and portion the infiltration basin is located within the 25' no disturb area. Conservation Commission approval is required. **Subject to Conservation Commission approval.**
5. Verify top of pipe calculations, the 4" pipe appears to be closer to the street, which improved the separation between pipes. **Resolved.**
6. Re-sizing infiltration basin per pre- and post- rate and volume, see additional drainage report comments below. **Resolved.**
7. 198-31.1(C)(2)(I) - Fence enclosure for the stormwater basin may be required. **A waiver has been requested. The regulation requires a post & rail fence with pressure treated or locust posts, with a backing of plastic coated wire fencing and shall further inhibit access by a planting of thick shrubs, when the basin is in close proximity to the residential units. A wooden guardrail, and dense shrubs along building 4 have been proposed to dissuade access to the constructed pocket wetland. Since there is no definition of "in close proximity to the residential units", Board decision is required. Granting this waiver should have no impact to the function of constructed pocket wetland.**
8. 198-31.1(C)(3) - Applicant should request a waiver for 198-31.1(C)(3), which also references to selection of (C)(4)(a) through (c) and inquire Board approval of the proposed pocket wetland under subsection (C)(3)(d). It is unclear this should require a waiver since it specified "other water quality BMPs may be approved" in its subsection (d). GCG recommends a waiver request to cover any disputes. **Approval of the constructed pocket wetland through subsection (C)(3)(d), (not necessary a waiver) has been requested. GCG concurs that the constructed pocket wetland is a MassDEP approved water quality BMP, which meets requirements of Section 1 of the Design Standards.**
9. Show drainage swale bottom width. **Resolved.**
10. Infiltration basin without tree clearing means the basin will not be maintained according to MDEP requirements. GCG recommends infiltration basin be cleared and finish with loam and seed. As required by MDEP, infiltration basin inspection for the health of the turf, and requires at least twice per year, mow the buffer area, side slopes and basin bottom. **Resolved.**

Drawing Sheet 4 – Erosion Control Plan

1. Erosion control should be provided within the no disturb buffer and BVW for the 12" pocket wetland outlet pipe installation with Conservation Commission approval. **Additional erosion control may be required and modified under NPDES and associated SWPPP requirements. Adjust the width (5 feet width proposed) of the erosion control along the 12-diameter drainpipe as necessary during construction.**

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2. Additional erosion control may be required through NPDES and SWPPP prior to start of construction. **Applicant is aware of the NPDES and SWPPP requirements.**

Drawing Sheet 5 – Detail Sheet-1

1. Pocket Wetland Outlet Control B Detail – Show 9” height (or show elevation) of the 24” wide outlet. **Resolved.**
2. Orifice Plate Detail – show 24’W x 9”H structure wall opening above the orifice plate. **Resolved.**
3. Replace Outlet Control Structure A (proposed 9 outlets distribution box wrapped in filter fabric) with a standard drainage structure or concrete headwall with trash rack protection and set in the earth embankment. **Resolved.**

Drawing Sheet 6 – Detail Sheet-2

1. Schematic Cross Section of Storm Water Treatment System – revise the ‘3” orifice Inv = 61.00’ label to match the 1” orifice Inv = 61.60 (2 locations) design. **Resolved.**

Drawing Sheet 7 – Architectural

1. No comment

STORMWATER REPORT COMMENTS

1. Pre-development HydroCAD report 1.221 acres watershed appears missing an area of 0.275 acres. The post-development’s 1.500 has been verified to be correct. **Resolved.**
2. Drainage report pages 5 and 6, Pre and Post runoff flow and volume comparison tables. Pre-development peak rate and volume columns do not match HydroCAD report. Revise table with item #1 correction. **Resolved.**
3. Clarify the roof drain chamber (model ponds 106, 107, and 108 wye volume, model used 2.5’ and 3’ diameter, the roof drain detail shown 6” diameter pipe. **Resolved.**
4. 198-31.1(C)(2)(J)[4] - Infiltration area (Pond 110) should be modelled with pond surface area with CN 98. **Resolved.**
5. Roof drain chamber systems and infiltration basin should be sized with draw down time not to exceed 72 hours to accommodate multiple storm events. Based on the Hydrologic Soil Group ‘C’ soil exfiltration rate, (Rawls 1982 per MDEP). **The 40% stone void volume should be included in the calculations. Increase bottom surface area as necessary to control the draw down time to within 72 hours.**
6. As mentioned in the report and shown on soil test logs, the site consists of a layer of muck at 5’ to 7’ below surface. Approximately at the depth beneath the proposed chambers. Additional soil test pit should be performed during construction and witnessed by the engineer to verify ESHGW separation. All unsuitable material should be removed and replace with gravel and sand. **Applicant has stated they will replace any unsuitable soil material as determined by the additional soil testing at start of construction.**
7. Verify Constructed Pocket Wetland 4” and 12” outlet pipes length and adjust slope accordingly. **Resolved.**

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OPERATIONAL AND MAINTENANCE (O&M) PLAN COMMENTS

1. Temporary Erosion Control should also follow the NPDES permit and SWPPP requirements. **Applicant aware of the NPDES and SWPPP requirements.**
2. Long term O&M plan 4.0 should include:
 - Catch basin – inspect and clean grate and sump 4 times per year as required by MSH. This requirement seems excessive.
 - Wetland sediment forebay should be cleaned once a year.
 - Constructed Pocket Wetland should be inspected twice a year during both the growing and non-growing seasons for the first three years of construction, record observation per MSH Vol. 2, Ch. 2 Pg. 46. Cleaning out sediment in basin/wetland system once every 10 year.
 - Remove rain garden O&M, no longer applicable.
 - Inspect roof drain inlet (roof gutter system) at least twice a year, remove any debris that might clog the system.
 - Include mosquito controls, as necessary. (subsurface chambers meeting 72 hours draw down time and pocket wetland with properly maintained vegetation should not have mosquito breeding issues.)
 - Infiltration basin should be inspected twice per year per MSH Vol.2, Ch.2, Pg. 92, At least twice a year, mow the buffer area, side slopes, and basin bottom. Remove grass clippings and accumulated organic matter to prevent an impervious organic mat from forming. **Resolved.**

Summary:

The applicant has requested a waiver for the infiltration basin to wetland setback. The rest of the proposed drainage design meets the intend of the treatments and mitigation requirements. There is potential of roof drain chamber systems draw down time exceeded the 72 hours limit. However, applicant has agreed to perform additional soil testing during construction and there are rooms to expand the systems' bottom surface area as needed.

If you have any questions regarding this matter, please contact our office.

Respectfully Submitted,
GCG Associates

Michael J. Carter

Michael J. Carter, P.E.
Project Manager

**Lewis Landing
Multi-Unit Residential Development
Huttleston Ave.
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Infiltration Basins



Description: Infiltration basins are stormwater runoff impoundments that are constructed over permeable soils. Pretreatment is critical for effective performance of infiltration basins. Runoff from the design storm is stored until it exfiltrates through the soil of the basin floor.

Ability to meet specific standards

Standard	Description
2 - Peak Flow	Can be designed to provide peak flow attenuation.
3 - Recharge	Provides groundwater recharge.
4 - TSS Removal	80% TSS removal, with adequate pretreatment
5 - Higher Pollutant Loading	May be used if 44% of TSS is removed with a pretreatment BMP prior to infiltration. For some land uses with higher potential pollutant loads, use an oil grit separator, sand filter or equivalent for pretreatment prior to discharge to the infiltration basin. Infiltration must be done in compliance with 314 CMR 5.00
6 - Discharges near or to Critical Areas	Highly recommended, especially for discharges near cold-water fisheries. Requires 44% removal of TSS prior to discharge to infiltration basin
7 - Redevelopment	Typically not an option due to land area constraints

Advantages/Benefits:

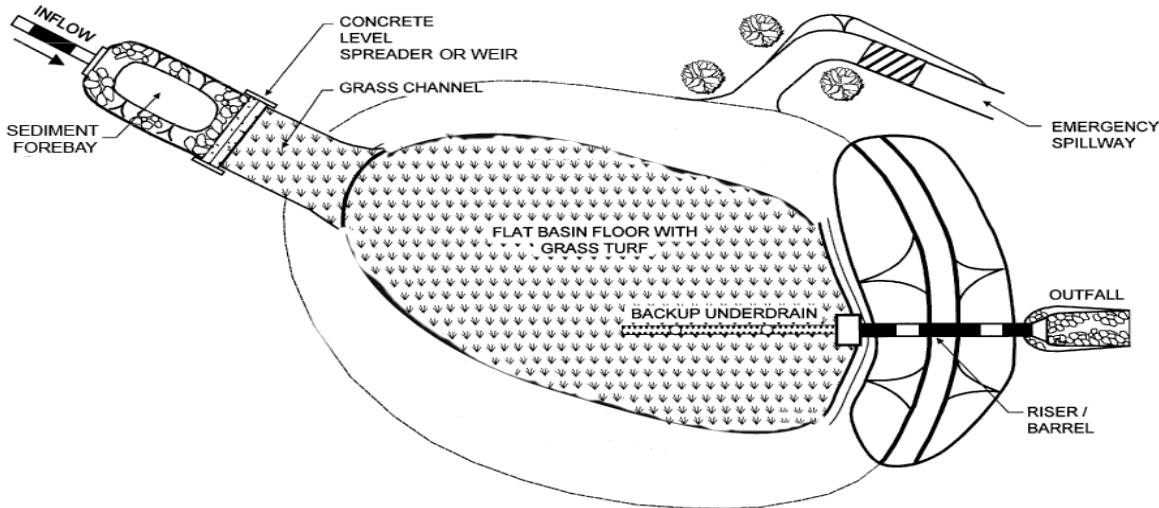
- Provides groundwater recharge.
- Reduces local flooding.
- Preserves the natural water balance of the site.
- Can be used for larger sites than infiltration trenches or structures.

Disadvantages/Limitations:

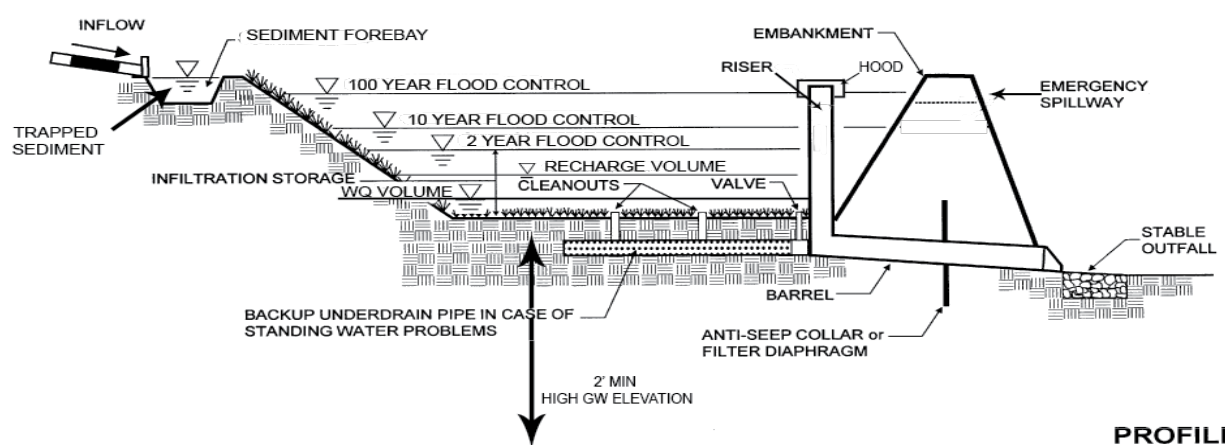
- High failure rates due to improper siting, inadequate pretreatment, poor design and lack of maintenance.
- Restricted to fairly small drainage areas.
- Not appropriate for treating significant loads of sediment and other pollutants.
- Requires frequent maintenance.
- Can serve as a “regional” stormwater treatment facility

Pollutant Removal Efficiencies

- | | |
|--|-----------------------|
| • Total Suspended Solids (TSS) | 80% with pretreatment |
| • Total Nitrogen | 50% to 60% |
| • Total Phosphorus | 60% to 70% |
| • Metals (copper, lead, zinc, cadmium) | 85% to 90% |
| • Pathogens (coliform, e coli) | 90% |



PLAN VIEW



PROFILE

adapted from the Vermont Stormwater Manual

Maintenance

Activity	Frequency
Preventative maintenance	Twice a year
Inspect to ensure proper functioning	After every major storm during first 3 months of operation and twice a year thereafter and when there are discharges through the high outlet orifice.
Mow the buffer area, side slopes, and basin bottom if grassed floor; rake if stone bottom; remove trash and debris; remove grass clippings and accumulated organic matter	Twice a year
Inspect and clean pretreatment devices	Every other month recommended and at least twice a year and after every major storm event.

Special Features: High failure rate without adequate pretreatment and regular maintenance.

LID Alternative: Reduce impervious surfaces. Bioretention areas

Infiltration Basins

The following are variations of the infiltration basin design.

Full Exfiltration Basin Systems

These basin systems are sized to provide storage and exfiltration of the required recharge volume and treatment of the required water quality volume. They also attenuate peak discharges. Designs typically include an emergency overflow channel to discharge runoff volumes in excess of the design storm.

Partial or Off-line Exfiltration Basin Systems

Partial basin systems exfiltrate a portion of the runoff (usually the first flush or the first half inch), with the remaining runoff being directed to other BMPs. Flow splitters or weirs divert flows containing the first flush into the infiltration basin. This design is useful at sites where exfiltration cannot be achieved by downstream detention BMPs because of site condition limitations.

Applicability

The suitability of infiltration basins at a given site is restricted by several factors, including soils, slope, depth to water table, depth to bedrock, the presence of an impermeable layer, contributing

watershed area, proximity to wells, surface waters, and foundations. Generally, infiltration basins are suitable at sites with gentle slopes, permeable soils, relatively deep bedrock and groundwater levels, and a contributing watershed area of approximately 2 to 15 acres. Table IB.1 presents the recommended site criteria for infiltration basins.

Pollution prevention and pretreatment are particularly important at sites where infiltration basins are located. A pollution prevention program that separates contaminated and uncontaminated runoff is essential. Uncontaminated runoff can be infiltrated directly, while contaminated runoff must be collected and pretreated using an appropriate combination of BMPs and then rerouted to the infiltration basin. This approach allows uncontaminated stormwater to be infiltrated during and immediately after the storm and permits the infiltration of contaminated stormwater after an appropriate detention time. The Pollution Prevention and Source Control Plan required by Stormwater Standard 4 must take these factors into account. For land uses with higher potential pollutant loads, provide a bypass to divert contaminated stormwater from the infiltration basin in storms larger than the design storm.

Table IB.1 - Site Criteria for Infiltration Basins

1. The contributing drainage area to any individual infiltration basin should be restricted to 15 acres or less.
2. The minimum depth to the seasonal high water table, bedrock, and/or impermeable layer should be 2 ft. from the bottom of the basin.
3. The minimum infiltration rate is 0.17 inches per hour. Infiltration basins must be sized in accordance with the procedures set forth in Volume 3.
4. One soil sample for every 5000 ft. of basin area is recommended, with a minimum of three samples for each infiltration basin. Samples should be taken at the actual location of the proposed infiltration basin so that any localized soil conditions are detected.
5. Infiltration basins should not be used at sites where soil have 30% or greater clay content, or 40% or greater silt clay content.
6. Infiltration basins should not be placed over fill materials.
7. The following setback requirements should apply to infiltration basin installations: <ul style="list-style-type: none">• Distance from any slope greater than 15% - Minimum of 50 ft.• Distance from any soil absorption system- Minimum of 50 ft.• Distance from any private well - Minimum of 100 ft., additional setback distance may be required depending on hydrogeological conditions.• Distance from any public groundwater drinking supply wells - Zone I radius, additional setback distance may be required depending on hydrogeological conditions.• Distance from any surface drinking water supply - Zone A• Distance from any surface water of the commonwealth (other than surface water supplies and their tributaries) - Minimum of 50 ft.• Distance from any building foundations including slab foundations without basements - Minimum of 10 ft. downslope and 100 ft. upslope.

Staff Report

Date: August 27, 2021

To: Conservation Commission

From: Whitney McClees, Conservation Agent

Subject: **11 Balsam Street – Notice of Intent – DEP# SE 023-1361, Fairhaven CON 023-240**

DOCUMENTS REVIEWED

- Notice of Intent and associated documents
- 310 CMR 10.00
- Fairhaven Wetlands Bylaw (Chapter 192) and associated regulations
- Fairhaven Stormwater Bylaw (Chapter 194)
- Violation letter dated December 14, 2020
- Revised plans dated August 25, 2021

RESOURCE AREAS ON/NEAR SITE

- Bordering Vegetated Wetland
- Buffer Zone
- Land Subject to Coastal Storm Flowage (LSCSF) Zone VE

PERFORMANCE STANDARDS

- **Bordering Vegetated Wetland:** 10.55(4)
 - (a) work in a Bordering Vegetated Wetland shall not destroy or otherwise impair any portion of the BVW
 - (b) The ConCom may permit the loss of up to 5000 square feet of BVW when said area is replaced IF:
 1. The area is equal;
 2. The ground water and surface elevation are approximately equal;
 3. The overall horizontal configuration and location are similar;
 4. There is an unrestricted hydraulic connection to the same water body or waterway;
 5. It is in the same general area of the water body;
 6. At least 75% of the surface of the replacement area shall be reestablished with indigenous wetland plant species within two growing seasons; and
 7. The replacement area is provided in a manner which is consistent with all other regs in 310 CMR 10.00.
 - (c) The ConCom may permit the loss of a portion of BVW when;
 1. Said portion has a surface area less than 500 square feet;
 2. Said portion extends in a distinct linear configuration ("finger-like") into adjacent uplands; and
 3. In the judgment of the issuing authority it is not reasonable to scale down, redesign or otherwise change the proposal.

- (d) No project may be permitted which will have any adverse effect on specified habitat sites of rare species
- (e) No work shall destroy or otherwise impair any Area of Critical Environmental Concern
- **Buffer Zone General Provisions:** 10.53(1) “For work in the Buffer Zone subject to review under 310 CMR 10.02(2)(b)3., the Issuing Authority shall impose conditions to protect the interests of the Act identified for the adjacent Resource Area. ... where prior development is extensive, may consider measures such as the restoration of natural vegetation adjacent to a Resource Area to protect the interest of [the Act]. ... The purpose of preconstruction review of work in the Buffer Zone is to ensure that adjacent Resource Areas are not adversely affected during or after completion of the work.”
- **Buffer Zone Wetlands Bylaw Regulations (Chapter 192 Regulations):**
 - 5.0 25 to 50 Foot Buffer Zone Resource Area
 - 5.1 Any applicant proposing a project within the 25-50 foot buffer zone resource area shall indicate that there are no structures including, but not limited to, concrete, stone, or other impervious foundations and/or slabs for construction purposes that would significantly increase runoff.
 - 5.2 Alteration of the 25-50 foot buffer zone resource area is limited to grading, tree clearing, stormwater management system components, lawns, gardens, and other low-impact uses as determined by the Commission or otherwise approved by the Commission by the variance procedures set forth in Section 8.0 of this regulation. Footings for building structures, such as a deck, as opposed to slabs or foundations, shall be used when technically feasible.
 - 6.0 50 to 100 Foot Buffer Zone Resource Area
 - 6.1 Alterations including structures are allowed in the 50-100 foot buffer zone resource area. The Commission may require additional mitigation offsets when the slope within the buffer zone is steeper than 10%. Additionally, mitigation offsets may be required by the Commission when the applicant proposes that more than 30% of the 50-100 foot buffer zone resource area is proposed to be impervious surface.
- **LSCSF General Provisions:** 10.24(1) “If the issuing authority determines that a resource area is significant to an interest identified in [the Act]...,the issuing authority shall impose such conditions as are necessary to contribute to the protection of such interests.”

PROJECT SUMMARY

- The applicant is proposing to demolish the existing house and construct a new flood zone-compliant single-family house.

COMMENTS

- The work on this property began last fall/winter without permits and the Commission issued a \$300 fine and required an after-the-fact filing within 90 days (March 7, 2021).
- The fine was paid in December 2020. This filing addresses the second part of the violation, to file an after-the-fact permit.
- The site plan shows the existing tree line in comparison to the tree line before any clearing was done.
- The plan shows that there was 10,300 square feet of clearing done, all within the velocity flood zone. Of that, 6,500 square feet was within the 100-foot buffer zone to BVW.

- The proposed work includes the demolition of the existing structure and the construction of a new flood zone-compliant house.
- Currently, the applicant proposes to let the 1,500 square foot area in the 0-25 foot buffer zone regrow and plant additional trees and let the 2,300 square foot area in the 25-50 foot buffer zone regrow and plant additional trees and shrubs.
- Work proposed within 0-25 foot buffer zone
 - Planting of 15 white oak, maple, and sassafras trees between existing stumps
 - Existing tree stumps to remain and be allowed to regrow
 - Portions of a 3-foot gravel path
- Work proposed within the 25-50 foot buffer zone
 - Planting of 10 white oak, cedar, maple, and sassafras trees and 800 square feet of wildflowers, milkweed, and berry-bearing shrubs (deer-resistant species and planted with companion pollinator when possible, including brandywine viburnum, coral hedge barberry, bayberry, and winterberry)
 - Existing tree stumps to remain and be allowed to regrow
 - Portions of a 3-foot gravel path
 - Shed to remain
- Work proposed within the 50-100 foot buffer zone
 - Demolition of the existing cottage
 - Grading associated with the new house
 - Rear deck attached to the house and rear portion of the new house
 - Clearing of existing stumps
 - Area to be loamed and seeded
- Work proposed outside the 100-foot buffer zone in velocity flood zone only
 - Construction of new single-family flood zone-compliant house
 - Remainder of grading
 - New driveway with associated drainage trench
 - Utility connections
 - Clearing of existing stumps
 - Area to be loamed and seeded
- During a site visit on August 10, members of the Commission expressed concern or had questions about the following items:
 - The low square footage of proposed planting in relation to what was cleared without a permit. A larger area of replanting in the 0-50 foot buffer zone with a variety of trees, shrubs, and groundcover was discussed.
 - The status of the driveway, whether it is intended to be paved or unpaved as the property is in the velocity flood zone
 - Whether the property owners intend to move or replace the shed
- The revised site plan submitted made the following changes:
 - “We have added plantings in the 25-50 ft buffer zone, with 1500 SF planted with trees and remaining 800 SF planted with wildflowers, milkweed and berry-bearing shrubs for winter bird food. Also a gravel path that allows owner to observe and remove phragmites that encroach into the buffer zone. The path encourages walking through the plantings and wildflower beds. The shrubs should be deer-resistant also, so your input re shrub species is invited. The garden shed remains in original location and plantings extend to original tree line. We have also slightly increased the house footprint and coverages, about 3% more lot coverage from the previous plan.”

- The plans also show an added gravel drainage trench around the driveway to assist with control of stormwater.

RECOMMENDATION

- I recommend closing the public hearing for SE 023-1361, CON 023-240, 11 Balsam Street, and issuing an Order of Conditions under the Wetlands Protection Act and Fairhaven Wetlands Bylaw with the following conditions:

Approve plan dated August 25, 2021

A. General Conditions

1. ACC-1
2. With respect to all conditions except_____, the Conservation Commission designates the Conservation Agent as its agent with full powers to act on its behalf in administering and enforcing this Order.
3. REC-1
4. ADD-1
5. ADD-2
6. ADD-4b
7. ADD-4c
8. ADD-5
9. LOW-2
10. SIL-5
11. SIL-9
12. SIL-10
13. WET-1
14. FZ-1
15. FZ-2

B. Prior to Construction

16. CAP-3
17. REC-3
18. DER-1
19. PCC-3
20. EMC-1
21. TRP-3
22. PCC-1

C. During Construction

23. REC-2
24. The existing house shall be razed prior to beginning construction of the new structure.
25. TRP-1
26. PS-1: Cultivars of any new vegetation to be installed are not permitted.
27. At no time shall any construction materials, soils, fills, sediments, dredging or any other substances be stockpiled or stored within 50 feet of the bordering vegetated wetland.
28. STO-3
29. STO-4
30. STO-5
31. MAC-3
32. MAC-7
33. MAC-8

- 34. MAC-9
- 35. DEB-1
- 36. DEB-5
- 37. BLD-3
- 38. SIL-3
- 39. SIL-4
- 40. SIL-8
- 41. WAS-2
- 42. WAT-3
- 43. EC-1
- 44. EC-2
- 45. WAS-3

D. After Construction/In Perpetuity

- 46. REV-1
- 47. Documentation of a 75% survival rate of the planted areas in the 0-50 foot buffer zone at the end of the third growing season after planting shall be submitted to the Commission. If 75% survival is not achieved, replacement plantings of the same species shall be made by the applicant.
- 48. FZ-3: A certificate shall be issued by the foundation design engineer that the breakaway walls are installed correctly and will function properly.
- 49. Upon completion of the work described herein, the applicant shall forthwith request in writing that a Certificate of Compliance be issued stating that the work has been completed in compliance with this Order. As part of this request, an as-built plan shall be submitted documenting substantial compliance with this Order and the associated Plan-of-Record.

Perpetual Conditions

The below conditions do not expire upon completion of the project.

- 50. FZ-4: Breakaway walls shall not be modified at any point so they no longer function as breakaway walls.
- 51. CHM-2 This condition shall survive the expiration of this Order, and shall be included as a continuing condition in perpetuity on the Certificate of Compliance.
- 52. DER-4

Staff Report

Date: August 25, 2021

To: Conservation Commission

From: Whitney McClees, Conservation Agent

Subject: **10 Nelson Ave – Notice of Intent – DEP# 023-1344, Fairhaven CON 023-207**

DOCUMENTS REVIEWED

- Notice of Intent and associated documents
- Enforcement Order issued June 15, 2020
- 310 CMR 10.00
- Fairhaven Wetlands Bylaw (Chapter 192)
- Comments from MassDEP dated March 4, 2021
- Comments from Division of Marine Fisheries dated March 3, 2021
- Revised site plan dated April 5, 2021
- Revised site plan dated April 16, 2021
- Response memo dated April 19, 2021
- Revised site plan dated May 17, 2021
- Supplemental information submitted June 10, 2021
- Revised site plan dated July 26, 2021
- Revised site plan dated August 20, 2021

RESOURCE AREAS ON/NEAR SITE

- Coastal Bank
- Coastal Beach
- Rocky Intertidal Shore
- Buffer Zone
- Land Subject to Coastal Storm Flowage

PERFORMANCE STANDARDS

- **Coastal Bank:** 10.30
(4) Any project on a coastal bank or within 100 feet landward of the top of a coastal bank...shall not have an adverse effect due to wave action on the movement of sediment from the coastal bank to coastal beaches or land subject to tidal action.
(6) Any project on...a coastal bank [that is determined to be significant to storm damage prevention or flood control because it is a vertical buffer to storm waters] or within 100 feet landward of the top of such coastal bank shall have no adverse effects on the stability of the coastal bank.
- **Coastal Beach:** 10.27
(3) Any project on a coastal beach...shall not have an adverse effect by increasing erosion, decreasing the volume or changing the form of any such coastal beach or an adjacent or downdrift coastal beach.

- (4) Any groin, jetty, solid pier, or other such solid fill structure which will interfere with littoral drive, in addition to complying with 310 CMR 10.27(3), shall be constructed as follows:
- (a) It shall be the minimum length and height demonstrated to be necessary to maintain beach form and volume. In evaluating necessity, physical oceanographic and/or coastal geologic information shall be considered.
 - (b) Immediately after construction any groin shall be filled to entrapment capacity in height and length with sediment of grain size compatible with that of the adjacent beach.
 - (c) Jetties trapping littoral drift materials shall contain a sand by-pass system to transfer sediments to the downdrift side of the inlet or shall be periodically redredged to provide beach nourishment to ensure that downdrift or adjacent beaches are not starved of sediments.
- (5) Beach nourishment with clean sediment of a grain size compatible with that on the existing beach may be permitted.

- **Rocky Intertidal Shore: 10.31**

(3) ...Significant to Storm Damage Prevention, Flood Control, or Protection of Wildlife Habitat, any proposed project shall be designed and constructed...so as to minimize adverse effects on the form and volume of exposed intertidal bedrock and boulders.

(4) ...Significant to the Protection of Marine Fisheries or Wildlife Habitat, any proposed project [that is water-dependent shall be] designed and constructed...so as to minimize adverse effects...on water circulation and water quality [and any proposed project that is not water-dependent shall have no adverse effects on water circulation and water quality.]

- **Buffer Zone General Provisions: 10.53(1)** "For work in the Buffer Zone subject to review under 310 CMR 10.02(2)(b)3., the Issuing Authority shall impose conditions to protect the interests of the Act identified for the adjacent Resource Area. ... where prior development is extensive, may consider measures such as the restoration of natural vegetation adjacent to a Resource Area to protect the interest of [the Act]. ... The purpose of preconstruction review of work in the Buffer Zone is to ensure that adjacent Resource Areas are not adversely affected during or after completion of the work."

- **LSCSF General Provisions: 10.24(1)** "If the issuing authority determines that a resource area is significant to an interest identified in [the Act]...,the issuing authority shall impose such conditions as are necessary to contribute to the protection of such interests."

PROJECT SUMMARY

- The applicant is seeking after-the-fact approval for reconstruction of the northern groin on the property and approval for reconstruction of the southern groin and adding a concrete cap on top of the concrete revetment. The plans also show stabilizing disturbed lawn area and the installation of a fence on top of the existing revetment.

COMMENTS

- This project was initiated prior to permits being requested and an Enforcement Order was issued because no permits were granted by the Commission and the property owner had large equipment on the Coastal Beach with no protections for the resource area.
- MassDEP noted that work is proposed in a Coastal Beach resource area and that the performance standards in 310 CMR 10.27 Coastal Beaches should be addressed.

- Filing with DEP for a 401 Water Quality permit may be necessary. The addition of the fence posts on the revetment may need Chapter 91 licensing as they are proposed on an already licensed structure.
- The applicant should submit information detailing how the project complies with each of the performance standards outlined in 310 CMR 10.27.
- The Division of Marine Fisheries provided a number of comments, which should be addressed before any decision is made on this submittal.
 - No narrative was submitted with the NOI. *Questions for Applicant:* How will the two groins be repaired/reconstructed? Will there be concrete forms in the water to contain the concrete? Will the work be conducted behind cofferdams in the dry? Will a barge be used to transport materials?
 - No side profile of the two groins was included. *Questions for Applicant:* Will the elevation of the groins be higher than the original groins? Is there any seaward encroachment of either groin?
 - Impacts to adjacent eelgrass beds is a concern for the project.
- During the site visit, the submission of a planting plan for the top of the seawall structure was discussed to help increase flood control and storm damage prevention.
- The southern groin is significantly deteriorated and work would constitute rebuilding the structure rather than repair. As such, it should be treated as new construction, and therefore comply with 310 CMR 10.27(4):
 - Any groin, jetty, solid pier, or any other such solid fill structure which will interfere with littoral drift...shall be constructed as follows:
 - It shall be the minimum length and height demonstrated to be necessary to maintain beach form and volume. In evaluating necessity, physical oceanographic and/or coastal geologic information shall be considered.
 - Immediately after construction any groin shall be filled to entrapment capacity in height and length with sediment of grain size compatible with that of the adjacent beach.
 - Jetties trapping littoral drift materials shall contain a sand by-pass system to transfer sediments to the downdrift side of the inlet or shall be periodically dredged to provide beach nourishment to ensure that downdrift or adjacent beaches are not starved of sediments.
- Hardened coastal engineering structures such as groins can impede downdrift sediment transfer, directly impacting the coastal beach from serving 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 (310 CMR 10.27(1)).
- The applicant must demonstrate how the proposed work does not have an adverse effect by increasing erosion, decreasing the volume or changing the form of any such coastal beach or an adjacent or downdrift coastal beach (310 CMR 10.27(3)).
- Reconstruction of the northern groin had already begun and was substantially completed by the time the Commission issued a cease and desist. Had the project come before the Commission before work was initiated, my comments would be the same as for the southern groin. If the northern groin was substantially deteriorated similar to the southern groin, compliance with the above would need to be demonstrated.
- The applicant also needs to submit detailed information on what was done without a permit so the Commission can determine the exact scope of work that is being requested to be approved

after-the-fact and whether or not it complies with the Wetlands Protection Act and Fairhaven Wetlands Bylaw. A narrative addressing what was done, what is proposed, and compliance with all applicable performance standards would be helpful.

- An abutter submitted a correction based on the discussion at a previous meeting: the two groins were systematically demolished with a sledge hammer over quite a few years, eliminating cement, putting the northern groin in a similar state of deterioration to the southern groin. Additionally, the northern groin appears to have been installed longer than what was previously there.
- The planting bed includes one non-native species (daylily) and does not include any shrubs, such as Northern Bayberry, Bearberry, or Beach Heather.
- At the May 10 meeting, the following motion was made and approved:
 - Deny after-the-fact construction of a concrete groin as new construction which serves no purpose and has caused damage to the beach.
- The supplemental information submitted June 10, 2021 included two photos and states the following:
 - “As we have discussed, it appears that the concern regarding the north groin is centered around the distinction between new construction and repair or maintenance. As you can see the photo taken a week before the Delano's initiated the work depicts a mostly intact groin with the one gap in the center where the steps have been built [photo dated May 16, 2020].

This appears to confirm that this is more a repair/maintenance than a new construction project. These photos are also consistent with the aerial photos I sent a couple of weeks ago.”

- The revised plans dated August 20, 2021 include the following changes to the north groin:
 - The removal of the north groin to a point upgradient of the Mean High Water mark and the addition of stones at a 1:1 slope to soften vertical face of groin.
- Removing 30 feet of groin should reduce the long-term impacts of a hardened structure on the coastal beach on both the up- and downdrift sides and eliminates the concern of the reconstruction of the groin meeting coastal beach performance standards.

RECOMMENDATION

- I recommend closing the public hearing for SE 023-1344, CON 023-207, 10 Nelson Avenue, and issuing an Order of Conditions under the Wetlands Protection Act and Fairhaven Wetlands Bylaw with the following conditions:

Approve plan dated August 20, 2021

A. General Conditions

1. ACC-1
2. With respect to all conditions except_____, the Conservation Commission designates the Conservation Agent as its agent with full powers to act on its behalf in administering and enforcing this Order.
3. REC-1
4. ADD-1
5. ADD-2

6. If any activity beyond the scope of this Order occurs prior to the receipt of a Negative Determination or valid Order of Conditions, it shall be removed and restored to pre-construction conditions.
 7. ADD-4b
 8. ADD-4c
 9. ADD-5
 10. The limit of work shall be the scope of work depicted on the Plan-of-Record. No work or activity beyond this scope shall be permitted.
 11. SIL-5
 12. SIL-9
 13. SIL-10
 14. WET-1
- B. Prior to Construction
15. CAP-3
 16. REC-3
 17. DER-1
 18. PCC-3
 19. EMC-1
 20. PCC-2
- C. During Construction
21. REC-2
 22. The use of heavy equipment on the beach or rocky intertidal shore is prohibited. Work to remove the section of groin installed without proper permits shall be done in a fashion so as to limit any long-term damage to resource areas.
 23. All work on the groins shall be done at low tide only and all work within the rocky intertidal shore shall be done, using the best practical measures, in a fashion that minimizes adverse effects on the form and volume of exposed intertidal bedrock and boulders.
 24. The stones to be added at a 1:1 slope to cover the vertical face of the sawcut northern groin shall not be cemented and shall be constructed with interstitial spaces for habitat.
 25. All work shall be done from the landward side of the existing seawall as much as possible.
 26. STO-1
 27. STO-3
 28. STO-4
 29. STO-5
 30. MAC-3
 31. MAC-7
 32. MAC-8
 33. MAC-9
 34. DEB-1
 35. DEB-5
 36. SIL-3
 37. SIL-4
 38. SIL-8
 39. WAS-2
 40. WAT-3
 41. EC-1

42. EC-2
- D. After Construction/In Perpetuity
43. REV-1
44. Within 60 days of the completion of the work described herein, the applicant shall prepare an As-Built Plan based on instrument survey of the work area and request that a Certificate of Compliance be issued stating that the work has been satisfactorily completed in compliance with this Order and the Plan-of-Record. The Certificate of Compliance request and accompanying as-built plan, signed and stamped by a Massachusetts Registered Professional Engineer, shall include, but is not limited to, the following information:
- i. Final footprints and profiles of the groins
 - ii. Confirmation that no damage to resource areas from equipment or activity has occurred
 - iii. Confirmation that no work beyond the approved scope of work has been undertaken

Perpetual Conditions

The below conditions do not expire upon completion of the project.

45. If any activity beyond the scope of this Order occurs prior to the receipt of a Negative Determination or valid Order of Conditions, it shall be removed and restored to pre-construction conditions. This condition shall survive the expiration of this Order, and shall be included as a continuing condition in perpetuity on the Certificate of Compliance.
46. CHM-2 This condition shall survive the expiration of this Order, and shall be included as a continuing condition in perpetuity on the Certificate of Compliance.
47. DER-4

Staff Report

Date: August 27, 2021

To: Conservation Commission

From: Whitney McClees, Conservation Agent

Subject: **7 Union Street – Request for Field Change – DEP# 023-1283,
Fairhaven CON 19-024**

DOCUMENTS REVIEWED

- Request for minor field change letter dated July 21, 2021 and associated Special Permit plan
- Follow-up letter dated August 20, 2021
- Order of Conditions dated March 18, 2019
- 310 CMR 10.00
- Fairhaven Wetlands Bylaw (Chapter 192) and associated regulations
- Fairhaven Stormwater Bylaw (Chapter 194)

RESOURCE AREAS ON/NEAR SITE

- Land Subject to Coastal Storm Flowage (LSCSF) Zone AE

PERFORMANCE STANDARDS

- **LSCSF General Provisions:** 10.24(1) “If the issuing authority determines that a resource area is significant to an interest identified in [the Act]...,the issuing authority shall impose such conditions as are necessary to contribute to the protection of such interests.”

PROJECT SUMMARY

- The Commission issued an Order of Conditions for the demolition of an existing building and the construction of a 2 story 50’ x 50’ building and a 120’ x 80’ temporary shed as well as the repaving of the existing parking lot.

COMMENTS

- There had previously been some discussion related to the shed and the temporary or portable nature. The applicant submitted a request for minor field change to clarify the plans.
- The Wetlands Protection Act and Fairhaven Wetlands Bylaw do not regulate how a structure is used, rather the footprint and construction of a structure.
- The applicant has submitted the special permit plans and accompanying letter to help clarify the temporary nature of the structure as a portable one.
- There have been no footprint changes or an expansion or reduction in scope of work.

- The discussion at the last meeting relating to inconsistencies in the dimensions of the building and the provision to follow procedures relating to the Commissions' review and approval before the building is moved have been addressed in the representative's August 20 letter.

RECOMMENDATION

- If the Commission feels the submitted clarification is sufficient, I recommend adding the special permit plan as a minor field change.
- If the Commission feels additional conditions are necessary to address the building use clarification and typographic error in the building dimensions, then the Commission could either add additional conditions subject to one of the current special conditions (ADD-1: The Commission reserves the right to impose additional condition on any or all portions of this project that could impact an area of statutory interest under the Act and/or the Fairhaven Wetlands Bylaw) or could address it through the Amended Order of Conditions process.

DROHAN TOCCHIO & MORGAN, P.C.

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ADAM J. BRODSKY
abrodsky@dtm-law.com

August 20, 2021

Via E-mail and Federal Express

Geoffrey A. Haworth, Chair
Town of Fairhaven Conservation Commission
Fairhaven Town Hall
40 Center Street
Fairhaven, Massachusetts 02719

**Re: Fairhaven Shipyard Companies, Inc. and Casey Boat Realty, LLC
7 Union Street, Fairhaven
OOB SE 23-1283, CON 19-024: Request for Minor Field Change**

Dear Chair Hayworth:

You will recall that this office represents Fairhaven Shipyard Companies, Inc. and Casey Boat Realty LLC (the "Applicants") in connection with this matter. I write following the public meeting on August 16, 2021.

With the assistance of Ms. McClees, we have gotten to the bottom of the plan discrepancy. The dimensions of the shed were properly labeled as 128' x 80' on the original Notice of Intent Site Plan prepared by Foth dated November 20, 2018. However, after elements of the original project were removed from the NOI, a revised plan was submitted dated February 27, 2019 which erroneously labeled the shed as 120' x 80'.

Importantly,

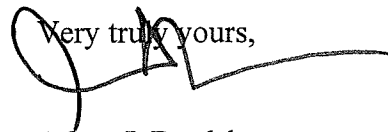
1. On all plan sets the shed is accurately drawn to scale as 128' x 80'.
2. The Special Permit Site Plan dated June 22, 2018 accurately draws to scale and labels the shed as 128' x 80'.
3. The Applicants measured the constructed shed in the field and it is 128' x 80'.

The error on the February 27, 2019 plan appears to be a typographic error and we request that the Conservation Commission please note the fact and rely upon the Special Permit Site Plan which we propose to add to the plan set.

Geoffrey A. Haworth
August 20, 2021
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Lastly, please be advised that the Applicants agree that in the event that they propose to relocate the shed, they will first consult with the Conservation Commission to determine what, if any, authorization will be necessary. As I stated to the Conservation Commission, the current regulations requires that any activity which would remove, fill, dredge or alter an Area Subject to Protection would require the filing of a Notice of Intent (with certain exceptions). *See, e.g.*, 310 CMR 10.02(2) and § 192-2 of the Fairhaven Wetlands Code.

Thank you.

Very truly yours,


Adam J. Brodsky
Drohan Tocchio & Morgan, P.C.

Enclosure

cc: Whitney McClees, Conservation Agent (*via e-mail*)
Kevin McLaughlin, President (*via e-mail*)
Susan Nilson, P.E. (*via e-mail*)

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ADAM J. BRODSKY
abrodsky@dtm-law.com

July 21, 2021

Via E-mail and Federal Express

Whitney McClees, Conservation Agent
Town of Fairhaven Conservation Commission
Fairhaven Town Hall
40 Center Street
Fairhaven, Massachusetts 02719

**Re: Fairhaven Shipyard Companies, Inc. and Casey Boat Realty, LLC
7 Union Street, Fairhaven
OOO SE 23-1283, CON 19-024: Request for Minor Field Change**

Dear Ms. McClees:

You will recall that this office represents Fairhaven Shipyard Companies, Inc. and Casey Boat Realty LLC (the "Applicants") in connection with this matter. Pursuant to our recent telephone conversation regarding the Conservation Commission's February 19, 2021 letter to Kevin McLaughlin, we write on behalf of Applicants to request a minor field change to the Order of Conditions, DEP File #23-1293, CON #19-024, issued March 18, 2019 ("OOO"). We seek to supplement the Plan of Record for the project with the additional plan entitled "Special Permit Application, Building Demolition and Construction, 7 Union Wharf & 24 Water Street, Fairhaven, MA," prepared by Foth/CLE Engineering, dated June 22, 2018 ("Special Permit Plan"). A copy of the Special Permit Plan is enclosed.

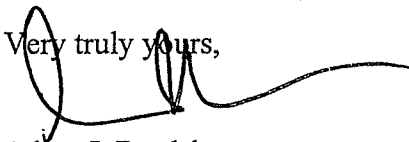
You will recall that the Plan of Record entitled "Notice of Intent Site Plan" prepared by Foth/ CLE Engineering, dated February 27, 2019, identifies the proposed (and now constructed) shed as "temporary shed". While this description is accurate, a clearer description should be "portable shed" as reflected in the Special Permit Plan. While neither the Massachusetts Wetlands Protection Act nor the Fairhaven Wetlands Bylaw regulate uses of structures, the Applicants are willing to request this minor field change to resolve the Conservation Commission's concerns in its February 19, 2021 letter regarding the description of the shed.

Whitney McClees, Conservation Agent

July 21, 2021

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Please confirm that the requested minor field change resolves the issue. Should you need additional information, please do not hesitate to contact us. Thank you for your consideration.

Very truly yours,


Adam J. Brodsky
Drohan Tocchio & Morgan, P.C.

Enclosure

cc: Kevin McLaughlin, President (*via e-mail*)
Susan Nilson, P.E. (*via e-mail*)