



## CONSERVATION COMMISSION MEETING MINUTES – September 21, 2020

**Present:** Laurie Freeman-Chair, Crystal Kelly, Jacqueline Zane, John Mooney, Thomas Roby and Bob Mosher-Commissioners, Loni Fournier-Conservation Officer and Heather Charles-Lis – Assistant Conservation Officer

**Absent:** Bob Hidell

The remote meeting was held via Zoom with Dial in #929-205-6099, Meeting ID # 869-2021-3791.

### **The meeting was called to order at 7:05 PM.**

Chair Freeman began the meeting with a statement that the Conservation Commission meeting was being held remotely via the Zoom app in accordance with the Governor's order Suspending Certain Provisions of the Open Meeting Law for purposes of social distancing. The information for joining the meeting by audio/video was posted with the Commission's agenda on the website along with web links for accessing any plans or other materials relevant to the items scheduled on the agenda. She advised that, in accordance with the Open Meeting Law, the meeting was being recorded by the town and if any participant wished to record the meeting, to notify her so that she may inform all other participants. No participants expressed a wish to record the meeting.

Chair Freeman described the volume of applications that staff and the Commission has received, and despite not being currently legally obligated to hold meetings, the Commission feels a community obligation, however, it will be making adjustments as needed to increase efficiency. The evening agenda is very full and the Commission will be prioritizing time on applications that are complete and ready for review in order to clear the agenda to the extent possible. She stated that they are aware of significant public interest in 93 Kimball Beach Road and have received many letters in regards to the proposal. She stated that the project is not fully developed, the applicants will only be making their initial presentation and the Commission will not be reviewing it tonight nor taking public questions or comments on the project at this meeting; the hearing will be continued and at that continued meeting the public will be invited to comment and ask questions.

### **Approval of Minutes**

Draft minutes from the 8/31/20 Meeting were not ready for approval.

### **Certificates of Compliance**

#### **14 Seal Cove Road** – DEP 034-1357, continued to 12/21/20

Applicant: Leonard Monfredo

Representative: Brendan Sullivan, Cavanaro Consulting, Inc.

#### **1 Foley Court** – DEP 034-1372

Applicant: James Randall

Representative: Colin McSweeney, McSweeney Associates, Inc.

#### **Meeting Documents & Exhibits: Staff Memo and As-built Plan 9/3/20**

*Excerpts from the staff memo: An Order of Conditions was issued in July 2020 for the installation of a sewer line and associated infrastructure at an existing single-family home. The home's existing disposal system was abandoned in place. The as-built plan adheres to the final approved plan.*

**Motion:** Chair Freeman moved to issue a Certificate of Compliance for 1 Foley Court, DEP 034-1372.

**Second:** Comm'r Mosher

**Roll Call:** Comm'r Kelly: aye, Comm'r Mooney: aye, Comm'r Roby: aye and Comm'r Zane

## **Request for Determination of Applicability**

### **42 Popes Lane**

Applicant: Michael and Jessie Sartor

Representative: Brad Holmes, Environmental Consulting and Restoration, LLC

Proposed: Construction of addition and driveway extension

*Meeting Documents & Exhibits: Staff Memo, Revised Plan of Land 9/17/20, Mitigation Area Sketch (Sheet 1) 9/17/20, and Mitigation Area Sketch (Sheet 2) 9/17/20*

*Excerpts from the staff memo: This discussion is continued from the 8/31/20 meeting. Staff relayed comments to the representative prior to the last meeting and received a response, which was discussed at the meeting. No additional information has been received. Remaining comments and additional feedback from staff, in italics, follow.*

- *Resource Areas: The 50 & 100-ft buffers to the Certified Vernal Pool should also be shown on the plans. The representative provided a schematic that shows the information versus a revised plan.*
- *Erosion & Sedimentation Controls: Please add E&SC and a detail to the plan. No E&SC was added to the plans, but the representative indicated that a siltsock would be installed.*
- *Stormwater Management: The representative indicated a drywell could be added if requested, and staff has included it as a condition. What type of driveway is being proposed? The representative indicated the driveway would be paved with no mitigation proposed. Staff included a draft condition requiring some mitigation since there would be 1,060 sf of new driveway in the outer buffer to a vernal pool, but allowing several options for mitigation.*
- *Buffer Zone Impacts & Mitigation: The bylaw has a 100-ft "no disturb" buffer around Vernal Pools. If the Commission were to approve the proposed work, they would likely seek mitigation. Based on numbers provided by the representative and the above recommendation, a mitigation planting area of 530 sf was included as a draft condition.*
- *Riverfront Area. Were other alternatives considered, such as shifting the driveway slightly to move it completely out of the RA? Staff would also like to add that it's not clear if the end of the driveway would be in an existing dirt driveway/path or in a wooded and naturally vegetated area. The representative reiterated that impacts would total 12 sf and could be considered negligible by the Commission.*

Chair Freeman briefly reviewed the staff memo and asked for confirmation that the applicant would install a drywell and mitigation planting of 530 sf as noted in the conditions. Representative Brad Holmes was present on the call and stated that a drywell would be installed for the addition and they were in agreement for mitigation plantings and had put together a planting plan and submitted it to the office that morning.

**Motion:** Chair Freeman moved to issue a Negative Determination of Applicability for the proposed work at 42 Popes Lane and adopt the findings of fact a thru c and conditions 1-13 of the staff report.

**Second:** Comm'r Mosher

**Roll Call:** Comm'r Kelly: aye, Comm'r Mooney: aye, and Comm'r Roby: aye

Chair Freeman read the Public Hearing Notice of Intent statement and reminded the participants that under emergency orders entered by Governor Baker, statutory timelines for the permitting process have been suspended or tolled and are extended 45 days after the state of the emergency. Nonetheless the Commission is attempting to follow the normal statutory and regulatory deadlines to the extent possible under the current conditions.

The appeal window for all applicants, abutters, and other qualified parties is still 10 days from issuance. Chair also noted DEP appeal period has been restored to 10 days following issuance of an NOI per Governor Baker's Order #42 entered on July 2. Chair Freeman reiterated that for the Notice of Intent hearings for 93 Kimball Beach Road and 14R & 16R Friend Street, the Commission would not be taking public comment at this meeting as the Commission would not be doing any substantive review, they will only be hearing initial presentations; the public comment period will be continued to another hearing where there will be full opportunity for public comment.

## **Notices of Intent**

**361 Main Street** – DEP 034-1379

Applicant: Wendy Kirk

Representative: Colin McSweeney, McSweeney Associates, Inc.

Proposed: Construction of addition and relocation of driveway

*Meeting Documents & Exhibits: Narrative, Original Site Plan 8/12/20, Original Architectural Plans 4/21/20, Revised Narrative [submitted 8/25/20], and Revised Site Plan 8/27/20*

*Excerpts from the staff memo: This hearing is continued from 8/31/20, primarily due to the lack of a DEP file number, which has since been issued. During the hearing, the applicants raised concerns about drafted condition #17 and requested examples of previous residential projects that included the same condition. Staff forwarded six recent examples to the applicant on 9/10/20 and as of 9/17/20 has not received a response.*

*If there are no additional concerns, on behalf of the applicant or the Commission, an Order of Conditions could be issued.*

Commissioner Zane informed the Chair that she would recuse herself from this hearing. Chair Freeman summarized the resource areas and project, noting that the applicants are further reducing impervious area within the buffer. The Commission had no further comments or questions.

Chair Freeman invited any comments from the public. With no comments from the public, Chair Freeman closed the hearing to public comment.

**Motion:** Chair Freeman moved to issue an Order of Conditions for the proposed work at 361 Main Street (DEP 034-1379), as shown on the submitted plans, and adopt the findings of fact a through c, and special conditions 1 through 19 of the staff report.

Findings:

- a. The project meets the submittal requirements for issuance of an Order of Conditions under the Wetlands Protection Act (M.G.L. c. 131, § 40) and the Town of Hingham Wetland Regulations.
- b. The work described is within an area subject to protection under the Wetlands Protection Act (M.G.L. c. 131, § 40) and the Town of Hingham Wetland Regulations, and will not alter or adversely affect the area subject to protection under the Act or the Regulations.
- c. For the purpose of this filing, the Commission makes no finding as to the exact boundaries of wetland resource areas.

Conditions:

1. The applicant shall notify the Hingham Conservation Commission in writing of the name, address, and telephone number(s) of the project supervisor or contractor who shall be responsible for ensuring compliance with this Order and shall notify the Commission, by telephone or writing, at least 48 hours prior to commencement of work on the site.
2. This document shall be included in all construction contracts and subcontracts dealing with the work and shall supersede all other contract requirements.
3. The project supervisor or contractor in charge of the work shall have a copy of this Order available on the site at all times.
4. Prior to the start of any excavation or construction, there shall be a pre-construction conference on the site between the project supervisor or contractor responsible for the work and an agent of the Commission to ensure that the requirements of this Order are understood.
5. Prior to the start of any excavation or construction, erosion and sediment controls shall be installed, as shown on the final approved plan, and inspected by an agent of the Commission; straw wattles and/or hay bales shall not be used as a form of erosion and sediment control.
6. Erosion and sediment controls shall remain in place until all disturbed or exposed areas have been stabilized with a final vegetative cover or the Commission has authorized their removal.
7. During all phases of construction, all disturbed or exposed areas shall be brought to a finished grade and either a) loamed and seeded for permanent stabilization, or b) stabilized in another way approved by the Commission.
8. Any debris, which falls into any resource area, shall be removed immediately by hand and properly disposed of at an off-site location.
9. All excavated material shall be properly disposed of at an off-site location.
10. Any on site dumpsters shall not be located within 100 feet of any resource area.
11. There shall be no stockpiling of soil or other materials within 100 feet of any resource area.

12. Issuance of these conditions does not in any way imply or certify that the site or downstream areas will not be subject to flooding, storm damage, or any other form of damage due to wetness.
13. Any dewatering activities on the project in which water will be released into any resource area or storm drain shall make use of a stilling pond or similar device to remove sediment before the water is released.
14. No vehicle or other machinery, refueling, lubrication or maintenance, including concrete washout, shall take place within 100 feet of any resource area.
15. Rooftop runoff from the entire house, including the attached garage, shall be infiltrated on site using either drywells or infiltration chambers.
16. Before executing any change from the plan of record, the applicant must have the Commission's written approval. Any errors found in the plans or information submitted by the applicant shall be considered as changes. Approval from other Town Agents or Inspectors does not relieve the applicant from obtaining approval from the Commission.
17. It is the sole responsibility of the owner of record to maintain drainage structures at all times. The property owner is also responsible for retaining records of the maintenance and cleaning for review by the Commission. This condition shall apply in **perpetuity** and shall not expire with the issuance of a Certificate of Compliance.
18. The applicant shall apply for a Certificate of Compliance as soon as work has been completed and prior to the expiration of this Order. If work cannot be completed prior to the expiration of this Order, the applicant shall contact the Commission in writing to apply for an extension at least thirty days prior to the expiration date.
19. The applicant shall submit an "as built" plan to the Commission upon completion of this project. The plan shall be signed by the professional engineer of record, who shall certify that the work has been done in accordance with the approved plans and this Order. This plan must be submitted prior to the issuance of a Certificate of Compliance by the Commission.

**Second:** Comm'r Mosher

**Roll Call:** Comm'r Kelly: aye, Comm'r Mooney: aye, and Comm'r Roby: aye

**20 Andrews Isle** – DEP 034-1375

Applicant: Lindsey McClenning

Proposed: Expansion of sunroom and deck, and addition of hot tub

Meeting Documents & Exhibits: Revised Plot Plan with Mitigation Area 9/18/20 and Proposed Mitigation Planting Plan [list, submitted 9/17/20]

Excerpts from the staff memo: *This hearing is continued from the 8/31/20 meeting to allow time for the applicant to respond to comments regarding both the project, mitigation plantings, and addressing an encroachment into Town-owned conservation land. Since then staff has discussed comments further with the applicant and revised plans have been submitted. Considering all the evidence, staff does not believe the site contains Riverfront Area. Staff and the applicant discussed the encroachment of existing lawn into the Town-owned conservation land and various options for demarcating the property line, including a fence or granite bounds. Ultimately staff recommended planting the mitigation plantings in a linear area along the property line, with woody shrubs spaced close enough to clearly demarcate the line, while also avoiding requiring the applicant to install plantings on Town-owned land. The applicant submitted a revised plan and planting list, and staff is satisfied with both.*

Chair Freeman reviewed the resource areas, the proposal and the comments in the staff memo. Commissioner Mosher agreed that the resource area is not riverfront, that there is only tidal flow there. The applicant, Lindsey McClenning, was present on the call and expressed her satisfaction with the plan.

Chair Freeman invited any comments from the public. With no comments from the public, Chair Freeman closed the hearing to public comment.

**Motion:** Chair Freeman moved to issue an Order of Conditions for the proposed work at 20 Andrews Isle (DEP 034-1380), as shown on the submitted plans, and adopt the findings of fact a through c, and special conditions 1 through 23 of the staff report.

Findings:

- a. The project meets the submittal requirements for issuance of an Order of Conditions under the Wetlands Protection Act (M.G.L. c. 131, § 40) and the Town of Hingham Wetland Regulations.
- b. The work described is within an area subject to protection under the Wetlands Protection Act (M.G.L. c. 131, § 40) and the Town of Hingham Wetland Regulations, and will not alter or adversely affect the area subject to protection under the Act or the Regulations.
- c. For the purpose of this filing, the Commission makes no finding as to the exact boundaries of wetland resource areas.

Conditions:

1. The applicant shall notify the Hingham Conservation Commission in writing of the name, address, and telephone number(s) of the project supervisor or contractor who shall be responsible for ensuring compliance with this Order and shall notify the Commission, by telephone or writing, at least 48 hours prior to commencement of work on the site.
2. This document shall be included in all construction contracts and subcontracts dealing with the work and shall supersede all other contract requirements.
3. The project supervisor or contractor in charge of the work shall have a copy of this Order available on the site at all times.
4. Prior to the start of any excavation or construction, there shall be a pre-construction conference on the site between the project supervisor or contractor responsible for the work and an agent of the Commission to ensure that the requirements of this Order are understood.
5. Prior to the start of any excavation or construction, erosion and sediment controls shall be installed, as shown on the final approved plan, and inspected by an agent of the Commission; straw wattles and/or hay bales shall not be used as a form of erosion or sediment control.
6. Erosion and sediment controls shall remain in place until all disturbed or exposed areas have been stabilized with a final vegetative cover or the Commission has authorized their removal.
7. During all phases of construction, all disturbed or exposed areas shall be brought to a finished grade and either a) loamed and seeded for permanent stabilization, or b) stabilized in another way approved by the Commission.
8. Any debris, which falls into any resource area, shall be removed immediately by hand and properly disposed of at an off-site location.
9. All lawn waste, brush, leaves, or other materials dumped in any resource area, including the buffer zone, in particular on the slope above the marsh to south of the house, shall be removed by hand and properly disposed of at an off-site location, and the practice discontinued, in accordance with Section 23.6 of the Hingham Wetland Regulations.
10. Any on site dumpsters shall not be located within 50 feet of any resource area.
11. There shall be no stockpiling of soil or other materials within 50 feet of any resource area.
12. Issuance of these conditions does not in any way imply or certify that the site or downstream areas will not be subject to flooding, storm damage, or any other form of damage due to wetness.
13. Any dewatering activities on the project in which water will be released into any resource area or storm drain shall make use of a stilling pond or similar device to remove sediment before the water is released.
14. No vehicle or other machinery, refueling, lubrication or maintenance, including concrete washout, shall take place within 100 feet of any resource area.
15. Downspouts from the covered porch addition shall direct runoff to crushed stone beneath the addition or the adjacent deck. The area shall be treated with a minimum of six (6) inches of ¾" -1½" crushed stone.
16. Mitigation and property line demarcation plantings shall be installed, in accordance with the final approved planting plan.
17. The existing gate and wire fence near wetland flags A-7 through A-11 shall be removed from the Town-owned conservation land and properly disposed of at an off-site location.
18. Before executing any change from the plan of record, the applicant must have the Commission's written approval. Any errors found in the plans or information submitted by the applicant shall be considered as changes. Approval from other Town Agents or Inspectors does not relieve the applicant from obtaining approval from the Commission.

19. The mitigation and property line planting area shall be maintained with native plantings or shall be allowed to naturally revegetate with native species following planting and remain as naturally vegetated. Mowing or cutting vegetation beyond the planting area and on any Town-owned conservation land, including in the Salt Marsh, shall cease and the area allowed to naturally revegetate. This condition shall apply in **perpetuity** and shall not expire with the issuance of a Certificate of Compliance.
20. Prior to discharging any hot tub water into the buffer zone, the free chlorine level shall be 0ppm, as verified by an EPA approved test kit or strip. The property owner is responsible for maintaining a record of the free chlorine test results for review by the Commission. This condition shall apply in **perpetuity** and shall not expire with the issuance of a Certificate of Compliance.
21. The applicant shall apply for a Certificate of Compliance as soon as work has been completed and prior to the expiration of this Order. If work cannot be completed prior to the expiration of this Order, the applicant shall contact the Commission in writing to apply for an extension at least thirty days prior to the expiration date.
22. The applicant shall submit an "as built" plan to the Commission upon completion of this project. The plan shall be signed by the professional engineer of record, who shall certify that the work has been done in accordance with the approved plans and this Order. This plan must be submitted prior to the issuance of a Certificate of Compliance by the Commission.
23. Prior to the issuance of a Certificate of Compliance, the mitigation and property line demarcation plantings shall survive at least two full growing seasons with a minimum of 75% survival rate for herbaceous species and 100% survival rate for shrubs. If these rates are not achieved, replacement plantings of the same species shall be made by the applicant.

**Second:** Comm'r Mosher

**Roll Call:** Comm'r Kelly: aye, Comm'r Mooney: aye, Comm'r Roby: aye and Comm'r Zane: aye

**100 Industrial Park Road** – DEP 034-1361, **continued to 9/21/20**

Applicant: Timothy Casey, JEB Group, LLC

Representative: Kevin Hixson, BL Companies

Proposed: Warehouse renovation and demolition, and site improvements

**19 & 27 Whiting Street**, - DEP 034-1368, continued from 8/31/20

Applicant: Merhej and Sons Realty, LLC

Representative: Donald Rose, CHA Consulting, Inc.

Proposed: Demolition of a single family home and construction of retail building with site improvements

*Meeting Documents & Exhibits: Staff memo and Response to Staff Comments 9/10/20, Response to Peer Review Comments 9/10/20, and Revised Plan Set 9/10/20*

*Excerpts from the staff memo: This hearing is continued from the 5/18/20 meeting, when there was an initial presentation by the representative and a brief discussion. Since then, there have been multiple discussions between the representatives, staff, and the peer review engineer, and comments were provided, ultimately resulting in a significant change in the stormwater management system and smaller changes to the overall site plan.*

*Staff recommends continuing this Notice of Intent hearing to give time for the representative time to respond to any additional comments and questions, and to allow time for additional review by the peer review engineer hired by the Planning Board.*

Chair Freeman noted that the stormwater plan was significantly modified and that as staff had no proposed conditions they would not be voting on the matter that evening. She suggested that the representative Don Rose from CHA focus on the stormwater plan and sewer installation. D. Rose agreed and explained that with the ACO and the Peer Reviewer, that they had expanded out the collection of stormwater, added a couple of catchbasins, put oil/water separators because it's a LUHPPL (Land Use of Higher Potential Pollutant Load), then to two underground systems for additional treatment and then recharge. He stated that it was agreed that there are good soils on a portion of the site but unfortunately the other side of the site has poor soils so there is limited recharge. They are meeting the requirements for the increase in impervious on the site. They are meeting the stormwater requirement of 80% TSS removal. It goes into the underground chambers, recharges as best it can and then slowly meters out, outside the 50 ft buffer. He described other options that they'd investigated that turned out to be unfeasible.

D. Rose explained that the existing septic system is cesspool, with no tank and no treatment, built in the sixties for the residential house and is within the 100 ft buffer. The proposed septic is proposed in the location of the existing septic system of the Hingham Gas Station lot which is the furthest distance it can be given the other setbacks required, given that they need to be set back from the stormwater system in Whiting Street and 175 ft from a tributary to a drinking water supply (Accord Brook).

Chair Freeman acknowledged that the stormwater is untreated now and they're planning an extensive stormwater treatment plan to handle most of it, but wondered if the small amount that they've not been able to treat with their plan, is there any chance to address that one portion going to Whiting Street. D. Rose stated of course they would try and further explained that the hydrology report shows that of the 13000 sf going in to the right of way, only 4000 sf are from the 19 Whiting Street site, the rest is coming from offsite, the adjacent driveway to Scarlet Oak Tavern and parking lot that is not collected and drains into the gas station lot itself.

Responding to a question from the Commission, Jeff Tocchio, of Drohan Tocchio & Morgan law firm, stated that the same owner owns the gas station and the residential home. Commissioner Mooney asked what safeguards are in place should there be a catastrophic event at Hingham Gas. D. Rose responded that the stormwater system has been modified to include catchbasins that are tributaries to oil/water separators that have been sized appropriately. He acknowledged that a tanker truck has a significant amount of gallonage but usually it's only a certain amount that's dropped by it, that would flow into the catch basin, get caught in the oil/water separator and after that there is a valve to prevent the release of gas any further than that, preventing it from entering the ground water. He added that this is the requirement for any gas station design per stormwater management standards.

Commissioner Freeman invited any comments from the public. There were no comments from the public.

**Motion:** Chair Freeman moved to continue consideration of 19 & 27 Whiting Street (DEP 034-1368) to October 5, 2020.

**Second:** Comm'r Mosher

**Roll Call:** Comm'r Kelly: aye, Comm'r Mooney: aye, Comm'r Roby: aye and Comm'r Zane: aye

#### **66 Burditt Avenue – DEP 034-1374, continued to 9/21/20**

Applicant: Jesse & Daria Johnson

Representative: Rebecca Verner, Gregory Lombardi Design, Inc.

Proposed: Reconstruction of swimming pool and site improvements

*Meeting Documents & Exhibits: Staff memo and Revised Narrative, Revised Existing Conditions Plan 8/8/20, Planting Plan 9/9/20, Grading Plan 9/9/20, Detail Sheet 9/9/20, and Supplemental Calculations 9/21/20*

*Excerpts from the staff memo: This filing was initially submitted in July 2020, however the hearing was continued several times at the applicant's request with no discussion. Staff relayed comments to the representative after reviewing the filing and making a site visit.*

Chair Freeman reviewed the resource areas and requested that the applicant focus on outstanding items as listed in the staff memo. Representative Rebecca Verner and Joseph Skorupa from Gregory Lombardi Design were present on the call along with Miles Connor from Parterre Ecological. R. Verner briefly described the renovation of the pool design and addition of a half-court basketball court with adjustment of walls and grading, all of which would occur outside the 50 ft buffer but does impact the 50-100 ft buffer; just under 3000 sf of additional hardscape is proposed in that area.

R. Verner stated that a Land Management Plan had been created by Parterre Ecological. She stated that they had also submitted that afternoon a document that further broke down the calculations for the hardscape improvements. She reviewed the calculations for the hardscaping; the overall increase in hardscaping would be 2949 sf. The cut and fill would require 340 cubic yards of fill to complete the design. Disposal of pool water will be handled on site, in site drainage to be determined. There will be some drywells associated with the hardscape for collection.

As the additional information had not been submitted until late in the day, the Commission had not enough time to review the information and preferred to continue the hearing in order to have the opportunity to review the documents and ask any questions at the next hearing.

Commissioner Freeman invited any comments from the public. There were no comments from the public.

**Motion:** Chair Freeman moved to continue consideration of 66 Burditt Avenue to October 5, 2020.

**Second:** Comm'r Mosher

**Roll Call:** Comm'r Kelly: aye, Comm'r Mooney: aye, Comm'r Roby: aye and Comm'r Zane: aye

**93 Kimball Beach Road** – DEP 034-1381

Applicant: Oak 93 Kimball Beach, LLC

Representative: Brad Holmes, Environmental Consulting & Restoration, LLC

Proposed: Demolition and reconstruction of single family home

*Meeting Documents & Exhibits: Staff memo, Narrative, Original Plan of Land 8/6/20, Revised Plan of Land 9/20/20, Mitigation Sketch Plan (Sheet 1) 9/19/20, and Mitigation Sketch Plan (Sheet 2) 9/19/20*

*Excerpts from the staff memo: The lot is currently developed with the existing house and driveway, surrounded by lawn, with mature invasive shrubs growing along the eastern and southern sides of the lot, consisting of Privet and Rosa rugose, which are proposed to be removed and replaced with native species. One large native hickory is near the southwest corner of the property and will not be removed. The existing lot is relatively flat with only slight changes in grade as the property slopes towards the sea wall and resource areas.*

*Staff provided initial comments to the representative, then met on site with the representative and applicant, and subsequently provided follow up comments. All relevant comments are combined here. Some comments were discussed on site and the representative has indicated they will be responding further and providing revised plans.*

- *The Commission will want to see a **detailed breakdown of the square footage of structures and surfaces from existing to proposed conditions**, in both the 50ft buffer zone and the 100ft buffer zone (outside 50ft).*
- *Floodplain Impacts & Mitigation Since all of the work is within a Zone AE, **any reconstruction of existing structures must allow for free passage of flood waters and the Commission may not allow an expansion.***
- *Regarding the floodplain impacts and the 50ft no disturb and the performance standards for both, although I haven't seen the foundation plan yet, I wanted to give you some feedback based on what you said at the site visit. I know you mentioned that there would be flood vents on at least a portion of the house, but I realized we didn't fully discuss my initial comments regarding the foundation and **whether there would be piers or how much wall-type foundation.***
- *What **surface is proposed under the new structure?***
- *I don't see any **filling or grading** proposed on the plan, but please let me know if this changes.*
- *There is an increase in impervious proposed on site. How will **rooftop runoff** be handled from the new structure?*
- *Do any **existing trees or shrubs** need to be removed?*
- *Finally, I suggest that you consider including the work you propose to do on the **seawall** in the current application if you know that you intend to do it within a similar timeframe.*
- *Staff also notes that as of 9/18/20, the Conservation Office received 10 separate letters and supporting material from abutters. These have been sent to the applicant, representative, and the Commission under a separate cover.*

Chair Freeman reviewed the resource areas and project. She explained that the Commission does not have sufficient information to have a full review of the project or field questions from the public and will open the hearing for the limited purpose of listening to an initial presentation from the applicant. The hearing will be continued to a future meeting at which the public will have an opportunity to ask questions or express concerns.

Brad Holmes from Environmental Consulting & Restoration, LLC and applicant, P.J. Antonik from Oak 93 Kimball Beach LLC were present on the call. B. Holmes reviewed the proposal; they would be removing the existing home and foundation which does not currently comply with FEMA, they propose to rebuild a FEMA compliant single family home within the same general footprint with a minor increase of approximately 600 sf and they received a DEP File # with no comments. They'd met with conservation staff the prior week and had submitted responses to staff comments the morning of the current meeting. They included additional detail regarding the FEMA compliance with the installation of flood vents in the foundation, drywell detail and a detailed coastal, salt tolerant, mitigation plan. He stated that the overall project is a significant enhancement to the site by removing a noncompliant structure, rebuilding a FEMA compliant home and adding a large amount of native plants on site.

Chair Freeman explained that there is a regulation in Hingham Wetland Regulations Section 24, #6, prohibiting expansion in the AE zone and that the Commission is concerned about that provision. Discussion followed with the



applicant and representative asking questions about the regulation, comparing their proposal to other projects in Crow Point and other Commissioners voicing their concerns regarding the regulation and this project. The Commission noted that it is not bound by precedence, and that each individual site has its own idiosyncrasies, and although it tries to be consistent as possible and accommodate owners' desires for their properties, the Commission's obligation is to the town and the regulations.

P.J. Antonik stated that the existing house is completely noncompliant, they've proposed a comprehensive mitigation plan and they have no desire to do anything negative. He stated that most of the proposed expansion of the home would be where there is currently a large patio. Brief discussion followed about the patio and its permeability and whether it would be considered part of the footprint.

The Commission concluded to continue the hearing in order to allow the applicant time to submit further information and for staff and the Commission to have time to review that information. Discussion followed regarding scheduling.

Chair Freeman reiterated to any abutters or interested parties on the line, that public comments will be accepted at the next hearing.

**Motion:** Chair Freeman moved to continue consideration of 93 Kimball Beach Road, DEP 034-1381, to October 19, 2020.

**Second:** Comm'r Mosher

**Roll Call:** Comm'r Kelly: aye, Comm'r Mooney: aye, Comm'r Roby: aye and Comm'r Zane: aye

**14R & 16R Friend Street** – DEP 034-1382

Applicant: Ferdinand Lucas

Representative: Jeffrey Hassett, Morse Engineering Co., Inc.

Proposed: Demolition and reconstruction of single family home

*Meeting Documents & Exhibits: Staff memo, Narrative, Original Site & Septic Design Plan 8/27/20, Revised Site & Septic Design Plan 9/15/20, Wetland Delineation Memo 8/11/20, and Proposed Mitigation Planting Plan 9/18/20*

*Excerpts from the staff memo: Staff visited the site on 9/15/20. Inland Bank and Bordering Vegetated Wetlands associated with 14R Friend Street were flagged by a wetland scientist in July 2020; no resource areas were flagged on 16R Friend Street. Staff agrees with the easternmost Bordering Vegetated Wetland delineation and recommends that only a portion of these flags (3-7), those closest to the limit of work, be confirmed as part of this filing.*

Chair Freeman noted that this is another proposal that the Commission does not have enough of the basic information, that the hearing will not be moved beyond an initial presentation by the applicant, the hearing will be continued and public comment will be opened at the next hearing. Chair Freeman briefly reviewed the resource areas and proposal. Representative Jeffrey Hassett, a civil engineer for Morse Engineering, was present on the call on behalf of the applicant Ferd Lucas. He explained that this was an application to raze and rebuild and noted that the Commission had approved a similar project back in 2006 but that the permits had expired. He described the existing state of the two lots, noted that the wetlands that were recently delineated and stated that the proposed house would be entirely outside of the 50 ft buffer. The new septic would be kept 100% out of the 100 ft buffer. The driveway would remain gravel and be smaller in size. Roof runoff will go to an underground drywell. No trees will be removed as part of the project because all work is in areas previously disturbed. He stated that they had submitted a revision that added a mitigation area to mitigate for the added structure (1500 sf) in the 100 ft buffer and they propose to add that in to an area that is existing lawn.

Discussion followed regarding the question of whether a perennial or intermittent stream is on the property. J. Hassett noted that Streamstats supports it as an intermittent stream and the application in 2006 treated it as an intermittent stream. The CO stated that she would continue to work with J. Hassett and his team to confirm that they are discussing the same potential stream. She added that, given the drought conditions, caution is needed when observing a stream as dry. The stream that she would like to investigate further is running up and down the left side of the property as one looks at the plan; the GIS map shows it as perennial, the topo indicates perennial, however running some of the data, those metrics point more to it being intermittent.

Chair Freeman reiterated to any abutters or interested parties on the line, that public comments will be accepted at the next hearing.

**Motion:** Chair Freeman moved to continue consideration of 14R & 16R Friend Street, DEP 034-1382, to October 5, 2020.

**Second:** Comm’r Mosher

**Roll Call:** Comm’r Kelly: aye, Comm’r Mooney: aye, Comm’r Roby: aye and Comm’r Zane: aye

**258 Rockland Street** – DEP 034-1383

Applicant: Shayne Ferrara

Representative: Stephen Wry, Land Planning, Inc.

Proposed: Construction of in-ground swimming pool and associated improvements

*Meeting Documents & Exhibits: Staff memo, Narrative, Original Site Development Plan 8/10/20, Original Landscape Plan 8/15/20, and Response to Comments 9/18/20*

*Excerpts from the staff memo: Staff visited the site on 9/10/20. Two Salt Marsh areas are present on the site and are connected hydrologically by a culvert under the property’s driveway. They were flagged by a wetland scientist in May 2020. Not all flags were present, but enough were available for staff to confirm the delineation in the vicinity of the work, which staff agrees with. The proposed work area appeared to be entirely maintained lawn or ledge. The lawn slopes gradually down to a narrow, naturally vegetated buffer above the Salt Marsh.*

- *The Commission will want to see a detailed breakdown of the square footage of proposed structures and surfaces in the 100ft buffer zone. Please include pool, patio, walls, etc.*
- *In accordance with the local wetlands buffer zone regulations, the Commission generally seeks mitigation for new structures/impervious surfaces in the buffer zone in the form of restoration of the buffer with native plantings.*
- *Will the proposed paver pool deck be constructed to be permeable? I'm assuming so, but if not, how would runoff be handled?*
- *How/where would pool water be discharged and would there be any backwash associated with the pool?*
- *Do any existing trees or shrubs need to be removed?*

Chair Freeman reviewed the resource areas, the proposal and reiterated questions from the staff memo for which they would like to have responses. Representative Steven Wry of Land Planning, Inc. was present on the call. He described the locus and existing conditions and noted that the property is well vegetated but the left side of the house has ledge and they are trying to avoid that area for the pool. The pool is designed to be outside the 50 ft buffer with a stamped concrete pad around it and the cabana, which will hold the pool filter and pump, will be outside the 100 ft buffer. The work done on site already was investigatory digging to find out if there would be enough depth for a pool. He added that there is an extensive landscape plan provided, outside of the 50 ft buffer and along the pool and property. They are amenable to planting mitigation closer to the wetland resource. He stated that there would be 3800 sf of alteration in the 50-100 ft buffer and of that, the pool and patio amount to 1725 sf. S. Wry stated that the planned landscape areas are roughly half the square footage of the impervious areas.

Responding to a question regarding the patio and permeability, S. Wry stated that it will be stamped concrete and that he’d asked the company if they’re able to do that with open joints; he added that there would be slotted drains within the pool patio and he suggested those could be outlet to the landscape area adjacent to the pool. S. Wry stated that the pool would have a cartridge filter and backwash would not be typically necessary, however if it was necessary to remove some water it would be outside of the 100 ft buffer.

Discussion followed regarding mitigation, native species, possible locations and square footage. Discussion concluded with the ACO’s suggestion to amend condition #17 to add “or runoff shall be infiltrated on site using spot or slot drains that direct runoff to landscaped areas outside the 50-foot buffer zone” and for condition #7 to add the square footage amount based on the total of the pool plus retaining walls as 865 sf and that it be planted adjacent to the buffer. S. Wry stated that he was amenable and agreed there was area to do that it.

Chair Freeman invited any comments from the public. With no comments from the public, Chair Freeman closed the hearing to public comment.

**Motion:** Chair Freeman moved to issue an Order of Conditions for the proposed work at 258 Rockland Street (DEP 034-1383), as shown on the submitted plans, and adopt the findings of fact a through c, and special conditions 1 through 24 of the staff report.

*(Conditions below reflect the changes discussed at the meeting)*

Findings:

- a. The project meets the submittal requirements for issuance of an Order of Conditions under the Wetlands Protection Act (M.G.L. c. 131, § 40) and the Town of Hingham Wetland Regulations.
- b. The work described is within an area subject to protection under the Wetlands Protection Act (M.G.L. c. 131, § 40) and the Town of Hingham Wetland Regulations, and will not alter or adversely affect the area subject to protection under the Act or the Regulations.
- c. For the purpose of this filing, the Commission confirms the delineation of wetland flags A1 to A11, but makes no finding as to the exact boundaries of other wetland resource areas.

Conditions:

1. The applicant shall notify the Hingham Conservation Commission in writing of the name, address, and telephone number(s) of the project supervisor or contractor who shall be responsible for ensuring compliance with this Order and shall notify the Commission, by telephone or writing, at least 48 hours prior to commencement of work on the site.
2. This document shall be included in all construction contracts and subcontracts dealing with the work and shall supersede all other contract requirements.
3. The project supervisor or contractor in charge of the work shall have a copy of this Order available on the site at all times.
4. Prior to the start of any excavation or construction, there shall be a pre-construction conference on the site between the project supervisor or contractor responsible for the work and an agent of the Commission to ensure that the requirements of this Order are understood.
5. Prior to the start of any excavation or construction, erosion and sediment controls shall be installed, as shown on the final approved plan, and inspected by an agent of the Commission; straw wattles and/or hay bales shall not be used as a form of erosion and sediment control.
6. Erosion and sediment controls shall remain in place until all disturbed or exposed areas have been stabilized with a final vegetative cover or the Commission has authorized their removal.
7. Prior to the start of any excavation or construction, a mitigation planting plan shall be submitted to the Commission for review and approval. The planting plan shall include a minimum of 865 square feet of plantings, including a mix of shrubs and herbaceous species. Locations closest to the resource areas shall be prioritized for planting. All mitigation plantings shall be native species; no cultivars, non-native species, or invasive species shall be allowed.
8. During all phases of construction, all disturbed or exposed areas shall be brought to a finished grade and either a) loamed and seeded for permanent stabilization, or b) stabilized in another way approved by the Commission.
9. Any debris, which falls into any resource area, shall be removed immediately by hand and properly disposed of at an off-site location.
10. All lawn waste, brush, leaves or other materials dumped in any resource area, including the buffer zone, in particular in the vicinity of wetland flags A1 to A11 and in the wooded area upgradient of flag A10, shall be removed by hand and properly disposed of at an off-site location, and the practice discontinued, in accordance with Section 23.6 of the Hingham Wetland Regulations.
11. All excavated material shall be properly disposed of at an off-site location.
12. Any on site dumpsters shall not be located within 100 feet of any resource area.
13. There shall be no stockpiling of soil or other materials within 50 feet of any resource area. All stockpiles that are not used for more than five days shall be covered and surrounded by erosion and sediment controls; straw wattles and/or hay bales shall not be used as a form of erosion and sediment control.
14. Issuance of these conditions does not in any way imply or certify that the site or downstream areas will not be subject to flooding, storm damage, or any other form of damage due to wetness.
15. Any dewatering activities on the project in which water will be released into any resource area or storm drain shall make use of a stilling pond or similar device to remove sediment before the water is released. Prior to construction, plans for the stilling pond or similar device shall be submitted to the Commission for review and approval.

16. No vehicle or other machinery, refueling, lubrication or maintenance, including concrete washout, shall take place within 100 feet of any resource area.
17. The approved patio shall be constructed with permeable joints and an appropriate permeable subbase, or runoff shall be infiltrated on site using spot or slot drains that direct runoff to landscaped areas outside the 50-foot buffer zone."
18. Before executing any change from the plan of record, the applicant must have the Commission's written approval. Any errors found in the plans or information submitted by the applicant shall be considered as changes. Approval from other Town Agents or Inspectors does not relieve the applicant from obtaining approval from the Commission.
19. There shall be no discharge of any pool water or backwash within 100 feet of any resource area. This condition shall apply in **perpetuity** and shall not expire with the issuance of a Certificate of Compliance.
20. The use of pesticides, herbicides, and fertilizers shall be prohibited on this property because of its proximity to the Weir River, which is a state-listed 303(d) impaired waterway, and the importance of the surrounding resource areas to water quality and sensitive coastal and marine habitats. This condition shall apply in **perpetuity** and shall not expire with the issuance of a Certificate of Compliance.
21. The applicant shall apply for a Certificate of Compliance as soon as work has been completed and prior to the expiration of this Order. If work cannot be completed prior to the expiration of this Order, the applicant shall contact the Commission in writing to apply for an extension at least thirty days prior to the expiration date.
22. The applicant shall submit an "as built" plan to the Commission upon completion of this project. The plan shall be signed by the professional engineer of record, who shall certify that the work has been done in accordance with the approved plans and this Order. This plan must be submitted prior to the issuance of a Certificate of Compliance by the Commission.
23. Prior to the issuance of a Certificate of Compliance, the mitigation area plantings shall survive at least two full growing seasons with a minimum of 75% survival rate. If a 75% survival rate is not achieved, replacement plantings of the same species shall be made by the applicant.
24. The mitigation planting area shall be maintained with native plantings or shall be allowed to naturally revegetate with native species following planting and remain as naturally vegetated. This condition shall apply in **perpetuity** and shall not expire with the issuance of a Certificate of Compliance.

**Second:** Comm'r Mosher

**Roll Call:** Comm'r Kelly: aye, Comm'r Mooney: aye, Comm'r Roby: aye, and Comm'r Zane: aye

**883 Main Street** – DEP 034-XXXX

Applicant: Smayra Million

Representative: Brad Holmes, Environmental Consulting & Restoration, LLC

Proposed: Construction of addition and patio, and associated landscaping

*Meeting Documents & Exhibits: Staff memo, Narrative, Original Proposed Addition Plan 9/2/20, Revised Proposed Addition Plan 9/17/20, and Buffer Zone Mitigation Planting Palette [submitted 9/19/20]*

*Excerpts from the staff memo: Staff visited the site with the representative and contractor on 9/15/20. The Bordering Vegetated Wetland was flagged by a wetland scientist in March 2019 and confirmed by a different wetland scientist in September 2020. Staff agrees with the delineation and recommends that only flags 7-14 be confirmed as part of this filing, as the remaining flags are located on the abutting properties.*

*Details regarding the patio materials and rooftop runoff management, from the addition, were not provided in the submitted narrative. However during the site visit, the representative and contractor agreed to construct a permeable patio and use a combination of existing downspouts and drywells, as well as a drip edge stone trench, to infiltrate the rooftop runoff from the addition. Staff included draft conditions, below, to capture this information.*

Chair Freeman reviewed the resource areas and the project and noted that the staff memo indicated that no additional information was needed. She also noted that the 1000 sf of native mitigation plantings in the 50 ft buffer, in an area currently maintained as lawn, exceeds the required mitigation and applauded that effort. Representative Brad Holmes from Environmental Consulting and Restoration and P.J. Antonik were present on the call and briefly described the project. The Commission and staff expressed their satisfaction with the project however with a MA DEP # not yet issued, the Commission would need to continue the project.

Commissioner Freeman invited any comments from the public. There were no comments from the public.

**Motion:** Chair Freeman moved to continue the hearing for 883 Main Street to October 5, 2020.

**Second:** Comm'r Mosher

**Roll Call:** Comm'r Kelly: aye, Comm'r Mooney: aye, Comm'r Roby: aye and Comm'r Zane: aye

**Other Business:**

a. **Discussion of letter from R. Kirven regarding hunting at McKenna Marsh**

Chair Freeman reviewed the concerns in R. Kirven's letter. The CO described the repeated removal of the barrier to the field as being an ongoing enforcement issue but noted it was unclear who was removing the barrier. She appreciated R. Kirven for raising his concerns and is hopeful that the recently revised regulations will help address them. The Commission felt that the issue of too much congregating in the parking area or gates removed would be a police matter.

The CO added that for any concerns regarding stands close to walking trails, the unique ID attached to a stand is visible and people can take a photo of the id and/or get GPS coordinates, report to staff and then staff can reach out to the hunter to correct the situation. The Commission did not agree with the suggestion to limit the number of permitted hunters choosing to hunt at McKenna Marsh, nor to limit hunting there to a certain day. The CO explained that she would like the opportunity to try to resolve the issues raised before going to a level of shutting down the property to hunting.

Chair Freeman adjourned the meeting at 9:06 pm.

Submitted, \_\_\_\_\_  
Sylvia Schuler, Administrative Secretary

Approved on October 5, 2020

*This meeting was recorded. To obtain a copy of the recording please contact the Conservation office.*