



**TOWN OF MERRIMAC**  
**CONSERVATION COMMISSION**  
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**Conservation Commission Meeting Minutes**

**Tuesday, September 27, 2022**

**Merrimac Public Library – Library Meeting Room**

**Members Present:** Jon Pearson, Chair; Jerome Mathieu, Vice Chair; William Andrulitis; Greg MacLean; Greg Hochmuth (arrived at 7:07 PM); Arthur Yarranton; Wystan Umland; Charlie Covahey, First Alternate Member; and Michelle Greene Conservation Agent

**The meeting was called to order at approximately 7:00 PM.**

**Public Hearing: Notice of Intent (under Wetlands Protection Act only) (continued): 0 West Main Street, Map 49-1 Lot 7 (across from Kenoza Vending), The Flats @ Merrimac Square, Applicant: Ray Cormier – AA @ Merrimac Square LLC, Re: Construction of a main access road, secondary access road, grading and infrastructure including underground utilities, parking areas, apartment building, and installation of stormwater management features, DEP# 045-0315**

Bill Manuell of Wetlands & Land Management Inc. appeared before the Commission as the applicant's wetland consultant. He advised that Horsley Witten have provided peer reviews on the project to the Commission for review of this NOI and to the ZBA for their review of the comprehensive permit application. Based on these peer reviews he advised that the following changes have been made – the roadway has been narrowed to 24', the narrowest which the town will allow; that the retaining wall design has been changed from gravity blocked retaining walls and that the new walls proposed have a smaller footprint contributing to only 547 sq. ft. of temporary wetlands impacts; that the total wetlands impacts have been reduced from 4,925 sq. ft. to 3,845 sq. ft. which includes temporary impacts; and the reduction of wetlands impacts also reduced the amount of wetland replication required to only 5,100 sq. ft., the plans previously proposed 2 replication areas but now propose only one area reducing the buffer zone impacts of the project. Mr. Manuell advised that the plans now include specifications for restoring graded slopes within the buffer zone with a mix of warm season grasses, wildflowers, and shrubs to mimic field habitat. This will result in restoration of ~15,000 sq. ft. of buffer zone. Finally, Mr. Manuell stated he believes the project achieves compliance with MA DEP stormwater standards and that the project has been revised to satisfy Horsley Witten's peer review comments on the proposed stormwater systems. Mr. Manuell stated that overall, wetlands impacts have been reduced and stormwater has been managed.

Janet Bernardo of Horsley Witten appeared before the Commission and advised she has provided the peer review of the stormwater management systems and that her colleague Amy Ball has provided peer review of wetlands impacts. Ms. Bernardo advised the project consists of 180

rental unit apartments in 2 large buildings plus a roadway and amenities. She indicated the applicant is proposing 4 subsurface stormwater chamber systems for treatment of roof and parking lot runoff before discharging the stormwater to the 2 wetlands on site and 2 proposed basins, one near Currier Avenue and one near interstate 495. Ms. Bernardo indicated the first concern she had on the project was the amount of water being discharged to the wetlands, specifically the wetland with the vernal pool. The plans previously showed that the volume of water discharged to this wetland could raise its height by 1.5' which would likely have adverse impacts on the vernal pool. She continued that plans have since been revised to increase the sizes of the infiltration systems and as a result, the discharge to the wetland with the vernal pool would only raise its height 6" in most storms which, in the applicant's opinion, won't negatively impact the vernal pool. Ms. Bernardo added that the stormwater handbook indicates that projects can't increase the peak flow to wetlands or streams, but does not include requirements for volume discharged. Ms. Bernard advised that the handbook's requirements on water quality are being met.

Ms. Bernardo indicated that the Operation & Maintenance Plan (O&M plan) has not yet been completed by the applicant and recommended that the Commission and the ZBA consider the applicant's request to condition this. Ms. Bernardo also indicated that a Stormwater Pollution Prevention Plan (SWPPP), a federal requirement of the EPA, is still needed from the applicant.

Regarding retaining walls, Ms. Bernardo's peer review recommended that the applicant pull them back from the wetlands which they have where they can however, she noted that in some locations the walls are still within 25' of wetlands. Ms. Bernardo indicated that due to the size of the development, she agrees with the applicant that the walls have been pulled back to the maximum extent possible.

Ms. Ball then appeared before the Commission and advised that there are 2 big wetland concerns for the project, the first is the 2 wetlands crossings, one off of West Main Street and another off of Currier Avenue. On previous plans, she indicated that there were discrepancies in the volume of wetlands filling that would occur from these crossings and there were concerns that the total amount was very close to the 5,000 sq. ft. filling threshold. The plans have been revised and there are no longer concerns that the filling will reach or exceed this threshold. The second big concern is the intermittent stream crossing near Currier Avenue. The applicant proposes an open bottom box culvert which meets the stream crossing. Ms. Ball indicated that she had requested an alternatives analysis comparing these two crossings, which is not required, and believes what's proposed complies with the Wetlands Protection Act.

Ms. Ball shared other concerns which includes a lot of grading on the site and extensive use of retaining walls within 25' of wetlands and noted that the applicant has proposed restoration of the slopes within the buffer zone and has pulled back the retaining walls to the extent possible. Ms. Ball advised that she is working on a response to the applicant's most recent letter.

Mr. Pearson indicated he has big concerns regarding the location of the pool, tot lot, and clubhouse in close proximity to wetlands. He acknowledged that the applicant pulled these amenities back from the wetlands but that the project, which is intended to provide housing, could serve its purpose with these amenities removed. He questioned the impacts that the

amenities will have due to their close proximity to wetlands. Ms. Bernardo agreed that the closer the amenities are to the wetlands the more opportunities exist for impacts to the resource areas. Ms. Greene questioned if there are gutters or infiltration systems proposed for the clubhouse and if they could be shown on the plans. George Chadwick, of Bedford Designs and the engineer for the applicant advised that they do not have final plans for the clubhouse yet. Their intent is to put roof runoff into the ground, pipe it to the drain under the street, and treat it within their stormwater management system.

Mr. Pearson shared that his other big concern relates to not considering Mountain View Avenue for one of the access roads. Mr. Pearson agrees that if looked at on its own, the square footage of wetlands required to be filled to access the site may be higher than the square footage of filling from the proposed access roads from West Main Street and Currier Avenue but that the owner of the lots on Mountain View Avenue has a right to develop this in the future to access those lots. If the Flats project proceeds as proposed and in the future Mountain View Avenue is developed then the total wetland impacts will be even higher than what is currently proposed.

Mr. Hochmuth questioned what will be happening with the existing clay pipe that connects the two wetlands. The plans seem to indicate that a manhole will be installed and that the pipe will be replaced. Mr. Chadwick advised that the clay pipe will be left in place.

Mr. Pearson questioned if the new location of the wildlife passage tunnel, away from the vernal pool and closer to West Main Street, would still provide a benefit to wildlife. Ms. Ball clarified that the tunnel was moved to be outside of the 100-year storm event to avoid water conveyance between the wetlands through the tunnel but that she is not sure if it will be effective in the new location. Mr. Chadwick said he thinks the passage will be used but he is not an expert. He believes that the vernal pool critters will find their way once they hatch. The intent is that amphibians will use the tunnel. Ms. Bernardo asked if modeling was done for the tunnel in the previous location and Mr. Chadwick indicated it was not done. Ms. Greene indicated she believes the new location of the tunnel will cut off access between the two wetlands and render it useless. Mr. Manuell disagreed indicating that the new location is still within marsh and will still be used for passage.

Mr. Pearson asked for clarification on the types of retaining walls proposed to be used. Mr. Chadwick advised gravity walls will be used for most of the project and T Walls are proposed near the West Main Street entrance to reduce the impacts in this area. Mr. Pearson commented that the plan detail only shows a picture of the retaining walls with a note that it will be designed by others, he is unsure how the Commission is expected to accurately review the proposed retaining walls and their potential impacts without a design. Mr. Pearson asked if there will be perforated pipes built into the walls to release water pressure behind the walls and Ms. Greene asked if so, are there concerns that silt will be discharged from them into the wetlands during construction. Mr. Chadwick advised pipes will be used but they will convey groundwater without silt.

Ms. Greene questioned how the 20' deep pump station in front of the clubhouse will be dewatered during construction. Mr. Chadwick advised the pumped water will be directed away

from wetlands and pumped into a silt sack or similar but that he does not have all the specifics yet.

Ms. Greene questioned the proposed nature trail as some plan sheets show a 6' wide trail while others show 8' wide. She also asked if it will be ADA compliant as this will change the amount of work and impacts required to build the trail. Mr. Chadwick responded it will not be ADA compliant and will be a narrow trail. Trees will be selectively cut and the trail will meander to avoid stumps. It will also not be 8' wide.

Mr. Hochmuth asked how snow will be brought to the snow storage area near Currier Avenue. Mr. Chadwick responded front end loaders will be used to move the snow and that this location is the last place to store snow before hauling it off site. Mr. Chadwick also added that the trail is 3' wide but proposed to be wider near this area to allow moving the snow in.

Ms. Greene questioned if temporary sediment basins are proposed. Mr. Chadwick indicated these are addressed in the SWPPP and will be within the limit of work.

Ms. Greene asked if the erosion control matting is proposed on 2:1 slopes or 3:1 slopes and Mr. Chadwick advised it is proposed on 2:1 and greater slopes and the plans will be revised to reflect this.

Due to potential wetland impacts, Ms. Greene asked if "passive recreation" could be removed from the wetlands on the plans. Mr. Chadwick advised he would remove.

David Cressman of 30 Nancy Ann Lane shared his concerns about the project and requested that the Commission seek an alternative analysis looking at access from Mountain View Avenue and removing access from West Main Street. He added that the property owner is trying to sell the lots off of it and if this happens and access to the Flats as proposed and Mountain View Avenue is developed there will be more impacts to the wetlands. Mr. Cressman also questioned how sturdy the clay pipe is and if it breaks, what would the impact be if the two wetlands can drain to each other. Mr. Chadwick advised the clay pipe is only broken in the vernal pool but is intact under the road. Mr. Cressman asked what is being used for ice control and advised that the Commission should tell the applicant what to use. Mr. Cressman asked if the amount of fill being removed is equal to the amount being brought in, if so, will the fill be the same as the material that is removed, and if not, will it impact the soil's ability to hold water. Mr. Chadwick advised that fill will be brought in. He added that the fill is granular and that the proposed infiltration systems are designed with this in mind, he is confident the stormwater system will work.

Chris Gaudet, Chair of the Merrimac Commission on Disabilities, commented that the project originally proposed a trail accessible by everyone and to not design it to ADA standards is disappointing. He indicated that as the project is new construction, the trail must be ADA compliant unless the applicant seeks and is issued a waiver. Mr. Gaudet advised the plan shows a gravel trail but to be ADA compliant it must be a boardwalk or made of asphalt, concrete, or stone dust. Mr. Gaudet also questioned if the playground will be ADA compliant indicating he had not seen a plan for this. He added that the playground should be a solid surface with a rubber

top and that this needs to be considered for stormwater. Ms. Bernardo advised the playground is proposed to be a permeable, hard rubber and asked if this will be compliant. Mr. Gaudet indicated they can use poured in place rubber but not permeable, the best surface is solid with a rubber top. Ray Cormier, the applicant, questioned if the new playground in town is ADA compliant. Bob Sinibaldi, the Building Inspector, advised it was not initially but was changed to be compliant. Mr. Gaudet added that all toys also need to be ADA compliant. Ms. Greene asked for the plans to be revised to show what material is proposed for the nature trail. Mr. Chadwick advised that the trail was originally proposed as gravel but due to impacts to the buffer zone, it was changed to a nature path, if the trail needs to be ADA compliant, they will remove it from the project. Mr. Gaudet stated he didn't think this was right, if more room is needed to create the ADA trail the applicant could scale back the project.

Mr. Cormier requested to continue the public hearing.

*Mr. Mathieu motioned to continue the public hearing to the next meeting on October 25. Mr. MacLean seconded the motion and the motion passed unanimously.*

**Public Hearing: Request for Determination of Applicability: 7 Locust Grove Rd,  
Applicant: Gail Hall, Re: Installation of an above ground pool**

Gail Hall and Robert Prokop of Wetland Consulting Services appeared before the Commission. Mr. Prokop explained the site is 2 acres with a large wetland. The pool is proposed to be located near an existing deck. The pool location was moved out from the 25' no disturb buffer but there is no room to pull it out of the 50' no build buffer. Erosion control is proposed along the 25' no disturb line. Mr. Prokop indicated that the pool company had addressed Ms. Greene's concerns regarding construction and noted that a lot of trees were cut from the site last year but have been replaced with a lot of tublings. There are no plans to discharge pool water into wetlands and if water must be removed in large amounts it will be pumped to a tanker, in small amounts a sump pump will be used to pump the water to a sprinkler on the front lawn. The project proposes minimal grading and a stockpile location is shown on the plans.

Mr. Hochmuth asked how the area will be excavated. Ms. Hall advised the contractor will dig 4' – 12", level the area, then bring in masonry sand to set the pool on. Masonry sand is proposed as it doesn't spread. Regarding the spoils, Ms. Hall advised the roots in the area will be dug out and removed from the site. The removed soil will be placed in the stockpile location. After, the area will be seeded with wetland seed mix and she plans to plant red maples. Ms. Hall added that the pool has hard side which will not rust, does not need to be drained, and will be shocked every spring.

Mr. Umland asked what material is used for the side of the pool and if there are concerns with it cracking during a hard freeze. Ms. Hall advised the sides are plastic, not metal, and the pool is guaranteed to not crack or puncture for 30 years.

Mr. Hochmuth questioned what type of filter is proposed. Ms. Hall advised it will be a no backwash filter and that the pool is saltwater.

Mr. Pearson asked what is proposed as mitigation for the waiver to work within the 50' no build buffer. Ms. Hall responded she will plant as many plants as needed for replication and can also reseed the area with conservation seed mix. Mr. Prokop advised he can prepare a planting plan within a week and the Commission can condition it.

Mr. Mathieu asked if the Commission had required markers along the 25' line when they reviewed the tree cutting violation. They were not and he asked that those be installed along the 25' line and shown on Mr. Prokop's planting plan.

*Mr. Hochmuth motioned to close the public hearing. Mr. Andrulitis seconded and the motion passed unanimously.*

*Mr. Hochmuth motioned to issue the waiver for work within the 50' no disturb buffer and issue a Negative 3 Determination conditioned that the Commission receives a planting plan that also shows conservation markers along the 25' line; that the filter be a non-backwash filter; and conditioned with the Commission's typical chlorinated water management conditions. Mr. Umland seconded the motion and the motion passed unanimously.*

**Request for Certificate of Compliance: Bear Hill Road Culvert, ITAO 125 Bear Hill Road, DEP# 045-0295**

Mr. Sinibaldi appeared before the Commission. He explained that the Commission noted erosion at the upstream headwalls during their site visit. Based on this, he spoke to the contractor for the culvert and they will be installing 6" minus stone to fill the void and prevent additional erosion. Mr. Sinibaldi also responded to the Commission's concerns that the silt sock had been cut and its mulch contents spread at the site when it was removed. Mr. Sinibaldi advised the DPW will remove the mulch ASAP and will do so carefully to not disturb the wetlands. Although these two items need to be done, he is requesting the certificate now due to \$150,000 being held back by FEMA. Without the certificate FEMA will not release this money and the town will have to move money from free cash to cover the cost. Ms. Greene advised if the Commission was comfortable, they could issue the certificate tonight and she could withhold release of the certificate until she inspects the site and finds the work has been completed satisfactorily.

*Mr. Hochmuth motioned to issue the Certificate of Compliance. Mr. Mathieu seconded the motion and the motion passed unanimously.*

**Other Business: Approval of warrant, first payment to Horsley Witten for Flats peer review**

*Mr. Mathieu motioned to approve the warrant for payment. Mr. Umland seconded the motion and the motion passed unanimously.*

**Other Business:** None

**Old Business:** None

**Informal Discussion:** Ms. Greene provided updates on the Wallace Boatyard site, Lake Attitash Boat Ramp, and 21 Church Street.

**Community Input:** None

**Approval of Minutes: July 26, 2022:** Deferred

**Approval of Minutes: August 23, 2022:** Deferred

**Correspondence:** None

**DEP Comments:** None

**Next Meeting: October 25, 2022**

**Adjourn**

*Mr. Andrulitis motioned to adjourn the meeting and Mr. Pearson seconded the motion. The motion passed unanimously and the meeting was adjourned at 8:57 PM.*