

Middleborough Conservation Commission
March 2, 2023

Unless specified everyone was present in the Select Board Meeting Room at the Middleborough Town Hall: Diane Stewart, Chair; Nancy Ockers, 1st Co-Vice Chair; Melissa Guimont, 2nd Co-Vice Chair, Adam Guaraldi, via Zoom (7:02PM), and Edward Medeiros. Also present was Phyllis Barbato, Senior Clerk, and Catherine Pipher, Clerk.

Meeting started at 6:52 PM.

Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and Governor Baker's March 15, 2020 Order imposing strict limitations on the number of people that may gather in one place, this meeting of the Middleborough Conservation Commission was conducted via remote participation to the greatest extent possible.

Senior Clerk

Town and State Guidance Updates

Stewart said there is a monthly report of the Open Meeting Law from the state.

Accounting

A motion was made by Edward Medeiros, to reimburse Patricia Cassady in the amount of \$24.15 for the Picone Farm meeting, 2nd by Nancy Ockers. Unanimously voted.

A motion was made by Edward Medeiros, to reimburse Leann Bradley in the amount of \$48.83 for the Picone Farm meeting, 2nd by Nancy Ockers. Unanimously voted.

Minutes

Barbato said she would like to hold off on voting on the February 16, 2023, minutes, until she and Cassady can review them.

Request for Group Use

Barbato said that Ken Bagdon would like to replace the table top that was crushed by a tree at Pratt Farm. Bagdon lives in Vermont and is coming in this weekend and is hoping to take care of it this weekend.

A motion was made by Edward Medeiros, to approve the Request for Group Use from Adam Bagdon to replace the Eagle project table top near the ice pond, 2nd by Melissa Guimont. Unanimously voted.

Office Forms and Procedures

Jacqueline Jones had submitted her resignation letter.

A motion was made by Nancy Ockers, to accept Jacqueline Jones' resignation letter, 2nd by Edward Medeiros. Unanimously voted.

There is a memo from Barbato to the Town Manager stating that they have 2 potential Commissioners. Stewart asked if John Neely has been appointed yet. Barbato stated that she received a call from Emily Surette asking for the appointing dates. She said she is unsure if he has been appointed yet. She said she will call them tomorrow to find out if he has been appointed.

Stewart said there is a Council on Aging Newsletter.

There was a letter sent out to 0 Cedar Street stating that the Commission will deny the permit if there is no new information.

There were South Coast Rail Updates.

There are Wildlands Trust March Programs. There are many walks and hikes that they are doing locally.

There was a newsletter from the A. D. Makepeace Company stating that there are numerous local events being put on and the farm stand is opening.

Conservation Lands:

Pratt Farm

Barbato said she spoke with the stewards that are left in that group and they want to put together a clean-up. They said they were going to get back to Barbato with dates and then it can be posted on the website. Stewart asked if they were going to do it in the spring, and Barbato said they would like to do it as soon as possible.

Ockers said she met with the Town Accountant about the Pratt Farm pavilion money. Ockers said she had emailed Colleen Lieb and copied Jay McGrail and they suggested that she contact him. Ockers said she sent him the whole historical packet that Barbato gave her and he felt it would be a Conservation Commission vote to reallocate the money. He did suggest that it should be on the agenda before the Commission had that vote, but he had no problem with it. Stewart asked Barbato to speak with the other member Robert Luckraft, from the original group that lives on the Cape. Barbato said she can reach out to him and he has told her in the past that he has no issues with it. Ockers asked if it might be more helpful to have something more specific to use it for as opposed to just freeing up the money. Ockers said maybe they could say it can go specifically towards the parking lot expansion or picnic tables in the front etc. Ockers asked Barbato if she thought it would be better to ask for something more defined, and Barbato said she does not think so, it could be for whatever they decide on down the road, because it is for Pratt Farm. Barbato asked if they would like it on the next agenda for the vote and the Commission said they could do it after Barbato speaks with Luckraft. Stewart asked Ockers to get something in writing that this is allowed to put with the agenda.

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**Notice of Intent for 16 Vernon Street, (M 37, L 3069), David Lamoureux, (Outback Eng.)
DEP#SE220-1588**

Stewart read the legal ad into the record. Adam Guaraldi joined the meeting.

Present was Kyle Devenish, Outback Engineering. Devenish said they have 21 units, most of which are mostly duplexes but 1 is a condo. He said the site is currently 1 lot but will be divided into 4 separate lots. Each will be serviced by on-site septic and a private well. He said lots 1 & 2 towards the south will have their own paved parking area with entrance. Lots 3 & 4 will have a shared entrance which will go through the 25' no touch and heads back towards the Taunton River and back towards the 2 that are labeled 14, 15, 16, and 17. The duplexes will be within the 200' riparian zone. He said they filed with ZBA and is being sent out for engineer review to Amory Engineers. He said they have performed test pits on site for the septic's. Due to ground water everything is up in the air from existing grade. A lot of the duplexes are going to be walk-outs due to it being up in the air and being in close proximity to the wetlands. A lot of the stormwater is going to be captured in open infiltration basins which has flow directed to it using open swales and sediment forebays. He said there is an underground chamber system underneath the parking area split between lots 3 & 4 which also has an overflow to the infiltration basin. He said they have modeled drainage to the wetlands adjacent to the Taunton River and to Vernon Street and there is no increase in volume or flow. All drainage is designed with stormwater management in consideration. Devenish said the wetland line was approved from the Commission last year and an ORAD was issued. He said this will be going through ZBA and the Select Board. He said the disturbance is a small portion of the riverfront totaling 0.7% of the total site area within the 200', therefore an alternative analysis has not been done for that. Stewart said the back of these are all right up to the 25' and Devenish said yes it is a tight site but they are proposing silt fence everywhere. Devenish said the access drive back to lots 3 & 4 is the only thing in the 25' no touch. Ockers said she did not see the proposed tree line on the plans, Devenish said the silt fence is the limit of work. Ockers said she did not see a plan for snow storage or removal. Devenish said the open areas around the paved parking areas could be utilized. He said they wanted to keep it away from in between lots 1 & 2 because that is the sediment forebay and swale. He said snow storage and removal is not on the plans yet. Ockers said the decks on units 10, 11, and 12, go straight to the 25'. Devenish said they are extremely close and can work on that. Ockers stated that units 8 & 9 do not have the decks and asked why. Devenish said it is because they were so close. Ockers also noticed that there was no fencing, guard rails, etc. along the access road to help prevent people from parking on sides. Devenish said they do have more parking than what is required but he is sure they can add fencing to prevent people from parking off the driveway. Medeiros said they have been trying to keep applicants from putting snow within 50' of the wetlands. Medeiros said he would like to see the snow storage on the plans. Medeiros said anything within 50' of the resource area should have conservation signs. Medeiros said that they are asking applicants to put post rail fences up behind some of the units. Devenish said he does not see that being a problem. Medeiros asked if they have been before the Highway Dept. about the 3 road openings and Devenish said he does not believe so. Guimont said she would like to see fencing along the access drive and more conservation signs. Guaraldi asked if these units are going to be owned by an HOA organization.

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Devenish said from his understanding it is going to be a condo style association. He said he can get back to him on a more definite answer. Guaraldi said the reason why he is asking is because the HOA may have some requirements or limitations on what people can do within the wetlands. Stewart asked how many bedrooms will be in each unit. Devenish said there are 21 units proposed, each having 2 bedrooms.

Stewart asked if anyone from the public would like to be heard.

Sean Devilly, 22 Vernon Street, abuts property to the north. He said he is very concerned and has a lot of questions with this project. He said he had seen people out there surveying and assumed it was going to be single-family dwellings, but when he got the plans from Pipher he was taken aback by the project. He feels it is excessive to have 21 units in that space. He said when they decided to move from the city to Middleborough they were told that the land was protected. He said he truly values his privacy. He said they picked the lot they live in because he thought protected meant protected and no touch meant no touch. He said if this project is approved it will change the entire dynamic of the neighborhood. He said they had tried to add a pool to their property and they were cautioned that it might cause problems, so he was shocked when they proposed this. He said he sees deer, foxes, owls, coyotes, etc., and when you walk the trail there is a small intermittent stream that you can see turtles and deer congregating at. He feels something at this scale will decimate this. Stewart said they have jurisdiction over the 100' BVW buffer, and the 200' riverfront. She said everything they are proposing is sandwiched in between all of that. Certain projects are allowed between the 25' and 100' buffer. Devilly said Greg Maroney built his house and the property wouldn't perc. Devilly said Maroney told him that he sold the property because he didn't think anything would ever be able to be built out there. Devilly said Maroney told him 3-4 years ago that if he was to build out there he would need to significantly raise the grade. He said to him when you raise the grade you're just displacing water. Stewart said the office can send him a copy of the drainage report. Medeiros said they are proposing to fill in about 1,355sq.ft. of wetlands. Medeiros said the WPA allows them disturb up to 5,000sq.ft. Medeiros said he remembers the perc tests being much better out back than out front. Medeiros said zoning in this area is general use, which means if you're going to build a single-family residence you need 175' of frontage and 60,000sq.ft. and if you're going to do multi-family dwellings you will need 200' of frontage and 30,000sq.ft. per unit. Medeiros told Devilly that there will be about 150' of trees between this project and Devilly's house. Medeiros asked if the units have been staked out and Devenish said no. Medeiros said he would like to see the property staked out. The Commission asked if they got a letter from Natural Heritage and they were told not yet.

Michael Chapman, 24 Vernon Street, said he pretty much has the same concerns as Devilly. He said he is concerned with the wildlife and moved to his house because of the woods. He asked if the 150' of woods in between the house and project, was from the back deck to the basin. Devenish said yes approximately. Chapman is also concerned with more traffic on the road and trash.

Ockers asked where the dumpster/barrels will go. Devenish said he is not sure but will find out. He also said he wanted to make sure it was noted that they are not filling in wetlands, they are filling in the 25' no touch. Guimont thanked the neighbors for coming in and speaking out.

Dave Thompson, 6 & 8 Vernon Street, abutter south of this project. Thompson said he has no buffer from lots 1 & 2. He said they are about 25' from his property. He said his property is in agriculture, Ch.61A. Thompson stated that there are vernal pools on the property and is wondering why they aren't shown on the plans. Stewart said there might not be any certified vernal pools on the property. Thompson said the property line runs through the vernal pool and about 90% of it is on his property. Thompson asked how many wells will be on the property and Stewart said 4. Thompson said there are already 2 wells on the property. Stewart asked Devenish if they were going to use the existing wells or if they were going to be capped. Devenish said he is not aware of this. Stewart asked for him to look into it and get back to her. Thompson said there is a turtle habitat across the street. Thompson asked if the duplexes are going to have cellars, Stewart said she thinks they are going to have a walk out basement in the back. Thompson said that means that they will need to bring in a lot of fill. Stewart asked Devenish if he knows how much fill they are going to be bringing in. Devenish said he is not sure. Thompson asked what will the elevation be of the foundation and Devenish said the top of foundation will be 36' and it is at 28' now, so it will be 8' high of fill. Thompson said they will then have a lot of run-off coming onto their property. Thompson said he gets water from the river on his property and the water table is very high. Thompson asked how many septic's there will be. Devenish said each unit will have a septic tank and each lot will have a septic system.

Devenish said there are potential vernal pools but they are not certified and they are shown on the plans. Devenish said they are abiding by the stormwater policy. He will look into runoff from the property. He said there was mention of the Taunton River flooding and he said this site has a bank and is about 15+/- feet from the river. He said he would be surprised to see this property flood from the river. He said he can get more specifics on the wells being putting in to make sure that they will not affect others. Stewart said she would like to get the abutters comments over to Amory before they do their review. Stewart said she would like to continue for a site visit.

A motion was made by Edward Medeiros, to continue the hearing to April 20, 2023, 2nd by Melissa Guimont. Roll call vote: Adam Guaraldi Aye, Melissa Guimont Aye, Edward Medeiros Aye, Nancy Ockers Aye, and Diane Stewart Aye. Unanimously voted.

Ockers told Devenish to let them know when the property is staked out so they can do their site visit. The Commission said they would like each building and basins staked out. Medeiros said he would like to see the limit of work staked out on the north side. Guaraldi said he would like to see the elevations staked out as well, so they can see how high the grading will go. Stewart asked if Thompson has spoken to the state about certifying his vernal pools and he said yes. Stewart asked Barbato to see if she could find information on whether it has been certified or not.

Continuation of Abbreviated Notice of Resource Area Delineation for 98 Plain Street, (M 14, Lots 123 & 167, & M 6, Lots 5875, 4968, 5076 & 5086), Patricia Di Santis (Outback Engineering Inc.) DEP#220-1583

A motion was made by Edward Medeiros, to accept revised plans dated February 27, 2023, into the record, 2nd by Melissa Guimont. Roll call vote: Adam Guaraldi Aye, Melissa Guimont Aye, Edward Medeiros Aye, Nancy Ockers Aye, and Diane Stewart Aye. Unanimously voted.

A motion was made by Nancy Ockers, to accept the letter from Lucas Environmental dated March 1, 2023, into the record, 2nd by Edward Medeiros. Roll call vote: Adam Guaraldi Aye, Melissa Guimont Aye, Edward Medeiros Aye, Nancy Ockers Aye, and Diane Stewart Aye. Unanimously voted.

Stewart read the letter from Lucas Environmental into the record.

Stewart asked if anyone from the public would like to be heard, hearing none.

A motion was made by Edward Medeiros, to issue an Order of Resource Area Delineation to 98 Plain Street, 2nd by Nancy Ockers. Roll call vote: Adam Guaraldi Aye, Melissa Guimont Aye, Edward Medeiros Aye, Nancy Ockers Aye, and Diane Stewart Aye. Unanimously voted.

Continuation of Abbreviated Notice of Resource Area Delineation for 665 Wareham Street, (M 110, Lots 2588, 2564, 2671, 1886, 2713 & 2038), Patricia Di Santis (Outback Engineering Inc.) DEP#220-1587

The Commission received 3 peer review quotes for the wetland line.

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|------------------------|---|
| 1. Lucas Environmental | \$2,700.00 |
| 2. Ecosystem Solutions | \$2,310.00 – no in person meetings
\$2,750.00 – in person meetings |
| 3. ECR | \$3,900.00 – not too exceed |

A motion was made by Edward Medeiros, to hire Ecosystem Solutions in the amount of \$2,310.00, 2nd by Melissa Guimont. Roll call vote: Adam Guaraldi Aye, Melissa Guimont Aye, Edward Medeiros Aye, Nancy Ockers Aye, and Diane Stewart Aye. Unanimously voted.

A motion was made by Edward Medeiros, to continue the hearing to April 6, 2023, 2nd by Nancy Ockers. Roll call vote: Adam Guaraldi Aye, Melissa Guimont Aye, Edward Medeiros Aye, Nancy Ockers Aye, and Diane Stewart Aye. Unanimously voted.

Continuation for Extension for Order of Resource Area Delineation for Stone Street, Map 46, Lots 2757 & 2612, Jeffrey Tardanco, Waterville Development Corp. DEP#SE220-1425

Barbato said his taxes were paid for and he will be working with a wetland scientist.

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A motion was made by Edward Medeiros, to extend the Order of Resource Area Delineation for 120 calendar days, 2nd by Melissa Guimont. Roll call vote: Adam Guaraldi Aye, Melissa Guimont Aye, Edward Medeiros Aye, Nancy Ockers Aye, and Diane Stewart Aye. Unanimously voted.

Continuation of Notice of Intent for Harding Street, (M 47, L 462), Liana Haddad, Raycon Construction, (Silva Engineering Associates, P.C.) DEP#SE220-1562

Nitsch Engineering sent an amended contract for an extra \$300.00, to witness the test pit.

A motion was made by Edward Medeiros, to accept the revised contract in the amount of \$4,800.00, 2nd by Nancy Ockers. Roll call vote: Adam Guaraldi Aye, Melissa Guimont Aye, Edward Medeiros Aye, Nancy Ockers Aye, and Diane Stewart Aye. Unanimously voted.

Barbato said she received the check and Steven Ventresca will be going out on March 10th to witness the test pit.

A motion was made by Edward Medeiros, to continue the hearing to March 16, 2023, 2nd by Nancy Ockers. Roll call vote: Adam Guaraldi Aye, Melissa Guimont Aye, Edward Medeiros Aye, Nancy Ockers Aye, and Diane Stewart Aye. Unanimously voted.

Continuation of Request for Determination of Applicability for 47 Bedford Street (M 39 L 5058), Ahmad Ashrafi, RR 38 Realty Group, LLC, (Allen & Major Associates, Inc.)

Present was Phil Cordeiro, Allen & Major Associates. Cordeiro said they have off property wetlands, and the question is whether they are jurisdictional or non-jurisdictional with the stormwater basin. Medeiros and Ockers went on the site visit. Medeiros said the basin is non-jurisdictional because it is something that was put in for drainage. Medeiros said he asked Cordeiro if they have located the outfall pipe from the drainage basins and he didn't believe that they had. Medeiros said he is not sure if it is within 100' of the property but it looks like it could be. The drainage pipe has made a swale and is wetland. Medeiros said to not make a determination about the outfall pipe and the water coming out of it and associated drainage with it. Guimont asked when were the wetlands flagged and Cordeiro said October 11, 2022. Guaraldi asked if the basin is continuously having water flow, and Medeiros said not continuously. Stewart said the basin is not jurisdictional but any water out flow is jurisdictional.

Stewart asked if anyone from the public would like to be heard, hearing none.

A motion was made by Edward Medeiros, to issue a Negative #3 Determination, as to the adjoining property basin that was put in for drainage but not from the point of the outfall and down gradient from the outfall, 2nd by Nancy Ockers. Roll call vote: Adam Guaraldi Aye, Melissa Guimont Aye, Edward Medeiros Aye, Nancy Ockers Aye, and Diane Stewart Aye. Unanimously voted.

Continuation of Request for Determination of Applicability for 25 Walnut Street (M 86 L 2393), L& B Realty Trust, (Zenith Consulting Engineers)

Present was Nyles Zager, Zenith Consulting. Medeiros and Ockers said they went on a site visit. There were natural boulders as a buffer, the wetland line was accurate, and the house was staked.

Stewart asked if anyone from the public would like to be heard, hearing none.

A motion was made by Edward Medeiros, to issue a Negative #3 Determination, 2nd by Nancy Ockers. Roll call vote: Adam Guaraldi Aye, Melissa Guimont Aye, Edward Medeiros Aye, Nancy Ockers Aye, and Diane Stewart Aye. Unanimously voted.

Continuation of Notice of Intent for 194 South Main Street, (M 58, Lot 5778), Edward Medeiros, (Zenith Consulting Engineers), DEP#SE220-1585

Edward Medeiros recused himself.

Present was Edward Medeiros, owner, said at the last meeting the Commission did not want him to cut the trees to the 27' so he revised the plans to show the proposed tree line at the 50'.

A motion was made by Melissa Guimont, to accept revised plans dated February 17, 2023, 2nd by Nancy Ockers. Roll call vote: Adam Guaraldi Aye, Melissa Guimont Aye, Nancy Ockers Aye, and Diane Stewart Aye. Unanimously voted.

A motion was made by Nancy Ockers, to close the hearing and issue a Standard Order of Conditions, 2nd by Adam Guaraldi. Roll call vote: Adam Guaraldi Aye, Melissa Guimont Aye, Nancy Ockers Aye, and Diane Stewart Aye. One Nay, the remainder in favor.

Continuation of Notice of Intent for 198 South Main Street, (M 64, Lot 117), Edward Medeiros, (Zenith Consulting Engineers), DEP#SE220-1586

A motion was made by Nancy Ockers, to accept revised plans dated February 17, 2023, 2nd by Melissa Guimont. Roll call vote: Adam Guaraldi Aye, Melissa Guimont Aye, Nancy Ockers Aye, and Diane Stewart Aye. Unanimously voted.

Present was Edward Medeiros, owner. Medeiros stated that he was not proposing to cut past the 50' buffer.

A motion was made by Nancy Ockers, to close the hearing, 2nd by Melissa Guimont. Roll call vote: Adam Guaraldi Aye, Melissa Guimont Aye, Nancy Ockers Aye, and Diane Stewart Aye. Unanimously voted.

A motion was made by Nancy Ockers, issue a Standard Order of Conditions, 2nd by Melissa Guimont. Roll call vote: Adam Guaraldi Aye, Melissa Guimont Aye, Nancy Ockers Aye, and Diane Stewart Aye. One Nay, the remainder in favor.

Continuation of Notice of Intent for Cowan Drive, (M 110, Lots 255, 1055, & 1017), Equity Industrial Partners, (VHB), DEP#SE220-1581

Edward Medeiros returned to the meeting.

A letter was received from Jeff Black to continue the hearing. The peer reviewer went out but has a few areas of concern that need to be discussed.

A motion was made by Edward Medeiros, to continue the hearing to March 16, 2023, 2nd by Nancy Ockers. Roll call vote: Adam Guaraldi Aye, Melissa Guimont Aye, Edward Medeiros Aye, Nancy Ockers Aye, and Diane Stewart Aye. Unanimously voted.

Continuation of Notice of Intent for 177 East Grove Street, (M-L 71-2415, 72-152, 72-1099, 72-2616, 72-2726, 72-2738, & 72-6017), Douglas Troyer, HIP VI Enterprises LLC, (Goddard Consulting, LLC), DEP#SE220-1572

There was a withdrawal letter received.

A motion was made by Edward Medeiros, to accept the withdrawal without prejudice, 2nd by Nancy Ockers. Roll call vote: Adam Guaraldi Aye, Melissa Guimont Aye, Edward Medeiros Aye, Nancy Ockers Aye, and Diane Stewart Aye. Unanimously voted.

To write the Order of Conditions for the Notice of Intent for Lakeside Road, (M 77, L 3546, & 3662), Michael Arruda, City of Taunton Water Division (Tighe & Bond, Inc.), DEP#SE220-1579

A motion was made by Edward Medeiros, to issue a Standard Order of Conditions with 2 Special Conditions, 1. No chipping of trees into the wetlands, 2. per Massachusetts Division of Fisheries & Wildlife letter dated February 6, 2023, NHESP Tracking No.:22-41439, 2nd by Melissa Guimont. Roll call vote: Adam Guaraldi Aye, Melissa Guimont Aye, Edward Medeiros Aye, Nancy Ockers Aye, and Diane Stewart Aye. Unanimously voted.

Request for Certificate of Compliance for Christina Way, DEP#SE220-1337

Medeiros and Ockers went on the site visit to this property. They stated that everything looked great and they recommend issuing the Certificate of Compliance. Medeiros said there is grass growing towards the inside of the drain pipe and would like to see it cut back.

Conservation Commissioner Reports

Guimont said she will bring her bird reports and pictures for the next meeting.

Mail/Correspondence

There were South Coast Rail Updates from February 21, 2023.

There was a Memo from Cassady to Mr. Martinez Ruano & Mr. Salguero, owners, dated February 21, 2023, regarding activity going on at 164 Everett Street.

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There was a Memo from Cassady to Mr. & Mrs. Marble dated February 15, 2023, regarding activity near the wetlands on the land off Cedar Street.

There was a Memo from Cassady dated February 22, 2023, regarding 375 Wareham Street.

There was an e-mail from Joy Duperault, DCR, dated February 21, 2023, regarding how to reduce flood risk. Stewart said she would like it to be posted on the Commission's website.

A motion was made by Edward Medeiros, to adjourn at 8:54PM, 2nd by Nancy Ockers. Roll call vote: Adam Guaraldi Aye, Melissa Guimont Aye, Edward Medeiros Aye, Nancy Ockers Aye, and Diane Stewart. Unanimously voted.

Respectfully Submitted By:

Catherine Pipher
Clerk

DATE APPROVED: March 16, 2023