



Stephanie Radner, Chair
Nathan Gauthier, Vice Chair
Eliot Foulds, Clerk
Leigh Hafrey, Associate
Nick Garlick, Associate
Bob Holmes, Associate
Erik DeAvila, Associate
Tim Puopolo, Alternate
Elissa Brown, Agent
Patrick Hogan, Assistant Agent

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TOWN OF DEDHAM CONSERVATION COMMISSION

Minutes of November 4, 2021

In response to the COVID-19 pandemic and given the current prohibitions on gatherings imposed by Governor Baker's March 23, 2020 "Order Assuring Continued Operation of Essential Services in the Commonwealth, Closing Workplaces, and Prohibiting Gatherings of More than 10 People," this public hearing was virtually, as allowed by Governor Baker's March 12, 2020 "Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §20.

The following Commissioners were present:

Stephanie Radner, Chair
Nathan Gauthier, Vice Chair (Not present from approximately 7:30-8:00)
Eliot Foulds, Clerk
Leigh Hafrey
Nick Garlick
Erik DeAvila
Bob Holmes
Tim Puopolo, Alternate

The following staff were also present:

Elissa Brown, Agent
Patrick Hogan, Assistant Agent

The following Commissioners were absent:

The following Applicants and/or Representatives were present:

Martin Grealish, Applicant – 179 Riverside Drive
Scott Morrison, Applicant – 179 Riverside Drive
Cris Crecelius, Applicant – 95 Eastern Avenue
Brandon Carr, Representative – 95 Eastern Avenue
Brian Madden, Representative – 95 Eastern Avenue
Nancy Kaaz, Applicant – 62 Abbott Road
Chris McDonnell, Representative – 62 Abbott Road
Brian Timm, Representative – 62 Abbott Road
Patrick Higgins, Applicant – 62 Old River Place
Bill Buckley, Applicant – 62 Old River Place
David Faist, Representative – 62 Old River Place
Robert Lussier, Representative – 62 Old River Place
Curt Young, Representative – 124 Quabish Road
Nichole Dunphy, Representative – 480 Sprague Street
Mark Quigley, Applicant – 217 Schoolmaster Lane

Commissioner Radner called the meeting to order at 7:00 pm in accordance with the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, the Dedham Wetlands Bylaw, and the Dedham Stormwater Management Bylaw.

1. Continued Applications (Applications Previously Opened to be Discussed Tonight)

1.1 179 Riverside Drive-- DEP #141-0585; MSMP 2021-02 – New SFD on undeveloped lot

Applicant: Martin Grealish, Phoenix Holdings Representative: Jim Burke, DeCelle-Burke-Sala

Request: Issue OOC/MSMP

Commissioner Radner asked Agent Brown to give an update on recent developments with this project.

Agent Brown stated that there are procedural issues with the consideration of this application. She stated the Wetlands Protection Act requires that a majority of Commissioners be present to vote on the issue and all voting commissioners must have heard all of the hearing presentations, with the exception that a commissioner may miss one hearing if they listen to a recording of the missed hearing. Agent Brown originally thought there were 4 qualified commissioners who could vote on this application, but one of those commissioners had not been sworn in at the time of the initial hearing, which removed their eligibility to vote. This leaves the commission with only 3 commissioners who can vote regarding this application under the Wetlands Protection Act. She stated she had spoken with Town Counsel and the DEP Circuit Rider several times regarding this issue and they believe the remaining options are either for the applicant to withdraw and resubmit the application anew or for the Commission to issue a procedural denial. She added that the Town Wetlands Bylaw regulations do allow commissioners to miss hearings and still vote. She stated the Town Stormwater Bylaw is silent on quorum issues, so it is assumed commissioners can miss hearings and still vote on a particular stormwater permit request. She stated the commission is therefore able to approve or deny the project in relation to the Town Wetlands Bylaw and the Town Stormwater Bylaw. She stated she related this situation to Mr. Grealish earlier in the week and asked that he determine his preference for the two options regarding the Wetlands Protection Act.

Mr. Grealish requested the Commission issue a procedural denial and requested details on logistics and timeline for the procedure.

Agent Brown stated she has not received information on the process from Town Counsel or the DEP Circuit Rider yet.

Mr. Morrison suggested, based on his experience, the hearing be closed and a decision not issued. Agent Brown stated this could be troublesome because inaction after the closing of a public hearing could be tantamount to an approval.

Commissioner Radner asked for clarification that a procedural denial would be based on procedure for the hearing and not the substance of the application. Agent Brown confirmed.

Mr. Morrison asked for clarification that the local bylaw and stormwater processes could proceed because they do not have the same quorum requirements. Commissioner Radner confirmed, but cautioned that, even if the Commission approved or denied the project under the Town Bylaws, a new application under the Wetlands Protection Act might act as a new application for these Town Bylaws. Mr. Morrison stated he believed the applicant could just file a new application solely under the Wetlands Protection Act and allow any decisions under the Town Bylaws to stand.

Commissioner Radner added that the terms of several commissioners expire in the near future and, if there is turnover of commissioners, it could lead to further quorum issues. Mr. Grealish asked for an approximate timeline of the expiration of terms and installation of new commissioners. Agent Brown stated that was very hard to estimate. Commissioner Radner gave an overview of the process and said the time from vacancy posting to commissioner appointment could be highly variable and could take a few months. Mr. Grealish asked if the process had been started for any of the expiring terms and, if so, how many. Agent Brown stated the process had begun for 2 commissioner positions and an alternate position.

Mr. Morrison suggested the Commission proceed with the Town Wetlands Bylaw and Stormwater Bylaw review and reiterated his understanding that the Commission could simply close the hearing and not issue a decision regarding the Wetlands Protection Act.

Mr. Grealish requested the issue be tabled until later in the meeting so he could confer with Mr. Morrison.

Mr. Morrison asked if the Commission could provide a straw poll on approval under the Town Wetlands Bylaw before they conferred.

Commissioner Radner asked if there had been any changes to the plan in the most recent submission, stating that she believed the most recent submission was simply the full proposal packet for the design that was most recently discussed. Mr. Morrison stated the only additional change was a slight reduction in the retaining wall size to shrink the project area.

Commissioner Radner opened the floor to the public for questions and comments, noting that emails from two neighbors (the LaRose's and the Carter's) had been received and circulated to the Commissioners prior to the meeting.

Damon Carter of 163 Riverside Drive stated he was concerned with the Commission using the opinion of Mr. Grealish's attorney (indicating Mr. Morrison) in determining how the hearing and voting might proceed. Commissioner Radner stated that the Commission was not relying on Mr. Morrison's assessment of the law, also explaining that he is not an attorney. She stated that Mr. Morrison was relating his experience with the permitting and application process as an environmental scientist during tonight's proceedings, but the Commission was not using his direction for the proceedings.

Mr. Carter added that there had been changes to the plan, but a link to the plans was not available for the public to view the revised versions. Agent Brown stated the Commission typically doesn't make documents freely available to the public, but all records are available upon request. Commissioner Radner stated that the most recent submission was the full packet of supporting detailed information for the most recent design and reiterated that it was available from the Conservation Department upon request. Mr. Carter stated he would request the documents.

Sharon LaRose of 159 Riverside Drive asked if she could review who was in attendance on the Zoom call. Agent Brown changed Ms. LaRose's virtual attendee permissions so she could see the list of attendees. Ms. LaRose stated she still was not able to see the list, but appreciated the attempt.

Commissioner Radner asked if the line demarcating the sediment and erosion control was approximately the same location as the black sediment control sock presently on site. Mr. Grealish stated that sock was placed when the test pits were dug and it was not intended to be in the exact same location as the proposed controls.

Commissioner Radner stated the Commission needed to consider whether it would be willing to grant a waiver to allow construction in the Undisturbed Buffer Area for this project, which requires that the applicant will experience an undue hardship by strict application of the rules and that the project will provide the same level of protection to the resource area as if it hadn't been done. She stated she had not been able to find a clear legal definition of "undue hardship," but had revisited the site and noted more evidence of living creatures (salamanders, etc.) in the lower 2/3 of the property than in the upper portion of the property. She also noted that she felt there was still vague language in the invasive species plan. She also noted evidence of previous foliar herbicide application. Noting the location, Mr. Grealish stated he had not applied any herbicides. Commissioner Radner stated her comment was not an accusation, but to indicate that simple foliar application of herbicides often does not work to control invasive species, which supports her preference for removal via manual methods. Mr. Morrison clarified that the invasive species plan may include foliar spray as an option for management, but also indicates it cannot be done without specific approval at some later point by the Conservation Commission. He verified that foliar application of herbicide is not proposed as an invasive species control for this project.

Commissioner Radner led a roll call straw poll for granting a waiver to allow construction in the Undisturbed Buffer Area for this project. The commissioners stated their position as follows:

*"Yes" indicates willingness to grant the waiver, "No" indicates preference to deny the waiver

Commissioner Radner – On the fence, but leaning towards "Yes"

Commissioner Hafrey – "No"

Commissioner Garlick – "No"

Commissioner DeAvila – "No"

Commissioner Holmes – "No"

Commissioner Foulds – "No"

Commissioner Gauthier – Not present for straw poll

Mr. Grealish requested the Commission issue a procedural denial for this project.

Agent Brown suggested the Commission leave the hearing open while she gathers information on how to issue a procedural denial, if the Commission agreed this was the proper action.

Commissioner Radner motioned to authorize Agent Brown to issue a procedural denial under the Wetlands Protection Act based on quorum issues, not substantive issues. Commissioner Hafrey seconded. Commissioner Radner led a roll call vote. All attending commissioners voted "aye." The motion carried 6-0.

Commissioner Radner asked if Mr. Grealish would like a straw poll for the Major Stormwater Permit Application. Mr. Grealish declined.

After discussion with Mr. Morrison, Mr. Grealish requested that the Commission hold a vote on Major Stormwater Management Permit 2021-02.

Commissioner Radner motioned to close the public hearing for Major Stormwater Management Permit 2021-02. Commissioner Hafrey seconded. Commissioner Radner led a roll call vote. All attending commissioners voted "aye." The motion carried 6-0.

Commissioner Radner motioned to approve Major Stormwater Management Permit 2021-02, to be drafted by Agent Brown with special conditions to be reviewed at a future meeting. Commissioner Garlick seconded. Commissioner Radner led a roll call vote. All attending commissioners voted "aye." The motion carried 6-0.

Agent Brown asked for clarification that the applicant wished to have the hearing on the Town Wetlands Bylaw remain open. Mr. Grealish Confirmed.

Commissioner Radner motioned to continue the hearing on this project's relation to Town Wetlands Bylaw, and specifically the waiver request, to the next meeting on 11/18/21. Commissioner Garlick seconded. Commissioner Radner led a roll call vote. All attending commissioners voted "aye." The motion carried 6-0.

1.2 95 Eastern Avenue -- DEP #141-0571; MSMP 2020-10 -- New Hotel

Applicant: Cris Crecelius, Dedham TIC Partners/Pisces3 Qualified Opportunity Fund

Representative: Brandon Carr, DiPrete Engineering Request: Issue OOC/ MSMP

Commissioner Radner asked if this application may experience a quorum issue similar to the previous item. Agent Brown stated she had not checked that yet.

Brandon Carr gave an overview of the project. He stated the initial application was submitted approximately a year and a half ago. The design had been considered by the Commission, submitted to a peer reviewer, and revised based on the comments of both. At the last hearing, a draft Order of Conditions was reviewed and the Commission requested the applicant proceed through the Planning Board's review of the project. Since that point, the project team has been working with the Planning Board on the design. He stated the only change to the plan was to the design of the actual building.

Mr. Carr shared the site plan to illustrate the change. He stated a 6-story, 120-room hotel was originally proposed. In working with the Planning Board, they have agreed to change the design to a 5-story hotel with the same room count, which requires the footprint of the hotel to grow by about 1,700 ft², but some parking spaces have also been removed. He stated this results in a net increase of about 100 ft² of impervious surface. This design will be presented to the Planning Board next week and Mr. Carr believes it is likely to be approved, but they requested he present it to the Conservation Commission prior to that hearing to ensure no other issues existed. He stated that all stormwater controls remained the same as in the previous design.

Mr. Carr stated they had originally requested a waiver for phosphorus removal, as the current design is providing 51% removal instead of the required 60%. He stated alternatives have been considered, but infiltration and bio-treatment are the main ways to remove phosphorus and the site is limited by soils, high groundwater, and the set elevation of an outfall pipe.

Mr. Carr stated they have also requested a waiver for the requirement to locate a stormwater basin at least 10' from the property line. The basin as designed is only 6' from the property line, but both the peer reviewer and Town Engineering Department expressed no issues with the granting of that waiver.

Commissioner Foulds asked Agent Brown for clarification on applicable rules to this project since it is immediately adjacent to a stream, using the example of the previous agenda item. Agent Brown stated it is a similar situation as it is within riverfront, but this project is redevelopment instead of new

development. She stated the applicant is therefore only required to meet the standards to the maximum extent practicable. They are also prevented from moving development closer to the resource area.

Commissioner Radner asked if it was possible to turn the landscaped area into a rain garden to help with phosphorus removal. Mr. Carr stated the long basin was classified as a detention basin, but is planted heavily with native species and he expects removal efficiency to be higher than an average detention basin. He stated they considered pocket rain gardens and a proprietary product called Focal Point, but they all required excavation to a point lower than the outfall.

Commissioner Radner opened the floor to the other commissioners for questions and comments. She received no responses.

Commissioner Radner opened the floor to the public for questions and comments on this project. She received no responses.

Commissioner Foulds asked for clarification on the definition of a "qualified opportunity fund." Cris Crecelius stated it was irrelevant in this case, but it was related to the "opportunity zone program." He stated this project is not located within an opportunity zone.

Agent Brown stated if final plans are provided before 11/9, the Commission could vote on closing the hearing and issuing the permit at the 11/18 meeting, provided no more changes are made as a result of discussions with the Planning Board.

Commissioner Radner expressed interest in reviewing the plan more closely to ensure native species were being planted. Mr. Carr displayed the planting plan. After a cursory review, Commissioner Radner stated the chosen plants appeared appropriate, but she would review more closely and make any concerns known.

Mr. Carr asked if the Commission had any major issues with the design. Commissioner Radner stated the Commission was in favor of the design previously and she felt the most recent change was not significant. Commissioner Radner asked if other commissioners had comments regarding the design. Commissioner Garlick expressed support of the current design. Commissioner DeAvila asked if there was anything at the outfall that slowed the flow of water to the stream. Mr. Carr stated there was a well-defined channel between the outfall and the stream. Commissioner DeAvila asked if there were any controls at the outfall to slow down the water so more would infiltrate on site. Mr. Carr stated that the project as proposed would comply with the requirement of retaining a 2" storm on site and the controls associated with meeting that requirement should help to slow down and infiltrate the stormwater.

Commissioner DeAvila asked if there was a planned area for snow storage on the lot. Mr. Carr confirmed and identified the snow storage area on the plans. He also stated a narrative discussion on snow management and storage was available for the project.

Mr. Carr added that the Planning Board had requested the applicant mill and overlay the extent of the access road and the applicant agreed. Commissioner DeAvila asked if that included upgrading stormwater infrastructure along the road. Mr. Carr stated there were no inlets along the road and the majority of the stormwater sheet-flowed through the vegetation to Wigwam Brook. He stated that while the access road is on the applicant's property, it is partially controlled by the abutter who owns the BJ's lot. Commissioner

DeAvila suggested he'd like to see a rip-rap buffer installed between the road and the grassed area to prevent erosion and capture trash before runoff sheet-flows to Wigwam Brook. Mr. Carr stated he could add that if the Commission would like, but he also stated the increased sweeping and trash collection performed by the new managers should improve that issue as well. Agent Brown asked if there are existing areas of rip-rap along the road. Mr. Carr confirmed that there are currently 4 drainage outfalls with rip-rap along with some rip-rap at the curve to the southwest of the proposed project site.

Mr. Crecelius confirmed that the road is not a public street, but is a private right-of-way with a granted easement, so they are limited in changes they can make to the road. Commissioner Gauthier asked if the suggested rip-rap would affect the road in any way. Mr. Carr stated the rip-rap placed on the shoulder of the road would be within the easement, but he believed they could work with the neighboring property to allow the rip-rap to be installed. Mr. Crecelius agreed.

Commissioner Radner asked if a low curb could be added to that side of the road. Mr. Carr stated a small, possibly asphalt berm currently exists, but adding rip-rap could help to stabilize the edge. Commissioner Radner added that a Cape Cod-style berm (which the current berm may be) is preferable to allow for the passage of wildlife (particularly turtles) to and from the wetland and stream. Mr. Carr confirmed this low berm could be maintained.

Mr. Carr stated the rip-rap could be added and the revised plans submitted in time to be discussed at the next meeting.

Commissioner Radner asked if rip-rap was proposed to be added to the end of the outfall pipe. Mr. Carr said it could be if the Commission requested. Commissioner Radner asked for Agent Brown's opinion. Agent Brown asked if Mr. Carr felt it was needed based on their analysis of the outflow velocity. He stated he would review the analysis, but doesn't think it was necessary based on flow velocity. Commissioner Radner stated it was not necessary.

Commissioner Radner asked that the applicant submit final plans for the next meeting. She stated the applicant could report to the Planning Board that the Commission looks favorably on the project as proposed.

Commissioner Radner motioned to continue this item to the meeting on 11/18/21. Commissioner Hafrey seconded. Commissioner Radner led a roll call vote. All attending commissioners voted "aye." The motion carried 7-0.

1.3 62 Abbott Road – MSMP 2021-15 – New Patio and Pool

Applicant: Nancy Kaaz Representative: Chris McDonnell, RJ O'Connell Request: Issue MSMP

Chris McDonnell stated the originally proposed designs have been revised in response to the peer review.

Brian Timm asked if there was a quorum issue with this application similar to the first application heard at this meeting. Agent Brown stated this application is solely for a Major Stormwater Management Permit, which does not have the same quorum requirements as the Wetlands Protection Act.

Mr. McDonnell displayed the plans and stated the detention basin has been regraded and resized. A fence has also been added to the basin. A sump has been added to the trench drain line and the position of the straw wattles around the detention basin have been adjusted.

Mr. Timm added that the peer reviewer had commented on the revised plans earlier that day with four bullet point items. The first item suggested the Commission decide if they'd like the erosion control barriers staked through the straw wattles or behind them. He stated the applicant was amenable to however the Commission preferred. The second item questioned if there was enough storage volume on site to meet the requirement of containing a 2" storm. Mr. Timm stated the design does meet that requirement, but there was a discrepancy in the calculation of impervious area between the peer reviewer and the project team. The third item proposed a question about freeboard in the basin. Mr. Timm stated the current design allows for 1' of freeboard and the peer reviewer suggested allowing only 6" of freeboard, which would provide an additional 6" of storage volume. He stated the applicant is amenable to that change if desired by the Commission. The last item concerned a waiver request to allow a test pit to be dug at the time of construction, rather than prior to construction. He stated they submitted this as a waiver request approximately 2 weeks ago. Based on this, he believes they have addressed the peer reviewer's comments. Agent Brown agreed that all comments had been adequately addressed.

Commissioner Radner stated the plans seemed adequate to her and she had no questions. She opened the floor to the other commissioners for questions and comments.

Commissioner DeAvila asked for clarification that a retaining wall will be installed over the existing underground infiltration chambers. Mr. Timm confirmed, but stated if the chambers (whose location is approximate) are encountered, they will be shifted away from the wall and patio while maintaining the same size and configuration.

Commissioner Radner opened the floor to the public for questions and comments on this issue. She received no responses.

Commissioner Radner motioned to approve the waiver request for the requirement to perform test pits for depth-to-groundwater prior to construction. Commissioner DeAvila seconded. Commissioner Radner led a roll call vote. All attending commissioners voted "aye." The motion carried 7-0.

Commissioner Radner motioned to approve MSMP 2021-15 with standard conditions. Commissioner DeAvila seconded. Commissioner Radner led a roll call vote. All attending commissioners voted "aye." The motion carried 7-0.

Commissioner Radner motioned to continue the hearing for this item to 11/18/21 for the Commission to approve special conditions. Commissioner DeAvila seconded. Commissioner Radner led a roll call vote. All attending commissioners voted "aye." The motion carried 7-0.

2. New Applications

2.1 62 Old River Place – DEP #141-TBD; mSMP 2021-05 – Drain Line Replacement

Applicant: Patrick Higgins, Norfolk County Engineering Representative: David Faist, CMG
Environmental Inc. Request: Issue OOC/mSMP

Commissioner Gauthier recused himself for this item as he is a direct abutter to the project.

Robert Lussier gave an overview of the project, which concerns an existing 12" drainage line behind 62 Old River Place. He stated the existing pipe is not adequately conveying the stormwater flows. As it backs up, the flow often over-tops the nearby manhole and causes flooding in the area. They are proposing to replace the line with a 15" pipe. They will also shorten and raise the outfall pipe to alleviate issues with the current pipe being sub-grade. Mr. Lussier also noted that the channel receiving the flow has become restricted with leaves and debris, so as part of this project they are proposing to clear the channel with hand tools. Under the proposal, the manhole will be replaced with a doghouse manhole with a water-tight frame and grate. They are proposing a double-row of 18" compost socks along the limit of construction. He stated a few trees will have to be removed, but they are proposing to plant enough trees and shrubs to meet the replacement requirements.

David Faist added that a camera through the line has revealed part of the pipe is under water. They will be adjusting the invert to remedy this situation.

Commissioner DeAvila asked why trees had to be removed. Mr. Faist stated many trees have grown in the easement and would likely cause damage to the new drain line if left in place. Further, the digging would likely damage them anyway. Commisisoner DeAvila asked for confirmation that trees and shrubs would be replanted. Mr. Faist confirmed.

Commissioner Radner asked for clarification on the size of trees being replanted. Mr. Lussier stated the plans call for tree height of 5'-6' without specification for diameter. Agent Brown added that many of the trees to be removed are Norway Maples.

Commissioner Radner asked for confirmation that the project team will work with the abutters since the plantings will be located outside the easement area. Mr. Faist confirmed.

Patrick Higgins of the Norfolk County Engineering Department stated that he has spoken with 3-4 of the neighbors and the owners of 76 Old River Place stated they do not want replication plantings on their property. He stated most of the depicted plantings are at 62 Old River Place, but they intend to move some of the plantings to the other properties as they get the necessary releases to work outside the easement from the other property owners. Mr. Higgins also noted a discrepancy between the number of plantings shown in the plan table and on other documents, confirming that they intended to meet the appropriate replacement ratio. Mr. Lussier noted the mistake in the plan table and stated it would be corrected.

Commissioner Gauthier stated that a large 10' strip of land will become disturbed and daylight due to the tree removal. He noted a proposed wetland and upland seed mix to be replanted and stated he would want the project team to ensure it takes hold to prevent the area from becoming overrun with invasive species. Agent Brown suggested a compost layer rather than a seed mix, which might be more typical of the understory in this case. Mr. Faist stated they were amenable to that suggestion.

Commissioner DeAvila asked if a requirement could be added for the applicant to monitor the area for invasive species for 2 years following the project. Agent Brown stated such a special condition could be included.

Commissioner Radner added that the reported species in the area are not necessarily prohibited invasives, but noted that they will fill-in the area if they're given the chance. She recommended the project team consider native grasses and sedges to prevent their spread.

Agent Brown added that this project included a Minor Stormwater Management Permit application, but it is not adding impervious so its focus will be to ensure appropriate erosion and sediment controls are implemented.

Mr. Higgins noted that a site walk revealed two fallen trees in the area. He stated he would review the management of the fallen trees with the appropriate property owners and offer the timber to them before hauling it offsite for disposal.

In relation to this work, Mr. Higgins stated the silt sacks had been removed from the catch basins in the parking lot that are connected to this drain line. They confirmed they will be able to install oil-separating elbows in these catch basins to improve the quality of the runoff. They will include catch basin cleaning and silt sack replacement on the regular maintenance schedule going forward.

Agent Brown asked the applicant to review the construction procedures for this project. Mr. Higgins stated that, depending on the site conditions and winter weather, they intended to remove the trees in the winter when the ground is firmer. Erosion and sediment controls would be installed and temporary stabilization could occur if necessary while the other parts of the project were organized and completed.

Commissioner Radner opened the floor to the public for questions and comments. She received no responses.

Mr. Higgins added that he had shared the initial design plans with several of the abutters and is collecting feedback. He noted a proposed trash grate on the outlet that will leave the drain line open, but prevent the entry of animals and children. Commissioner Radner asked if this was on the plan that was shared with the abutters. Mr. Higgins confirmed.

Commissioner Gauthier noted a few abutters that he has spoken with that haven't been notified of the work yet. Mr. Higgins agreed to follow up with the listed abutters and share all information.

Commissioner Radner asked about recording any permitting documents with appropriate deeds because of the easement. Mr. Higgins stated the original easement was made when the entire area was one parcel. He stated that when the area was subdivided, the right of access granted by the easement remained, but he is still working directly with the abutters regarding the work that will be done. Commissioner Radner understood and added that she was trying to discern which deeds this permit would need to be recorded with. She noted that the owners of all parcels on which work was to be performed should be included on the application. Mr. Higgins stated the wording of the easement grants full access for maintenance and repair, so when they applied they only referenced the deed that grants the easement. He added that he is gathering temporary rights-of-entry and licensing agreements from the abutters, however, in order to work with them more respectfully. Commissioner Radner stated this explanation sufficiently answered her question.

Commissioner Radner stated a DEP number needed to be assigned before any further decisions could be made. In the meantime, she noted the applicant will continue to work with the neighbors to further determine planting locations.

Agent Brown added that the plans have been submitted to the Town Engineering Office, but they had no comments.

Commissioner Radner asked the applicant if they'd rather have this item continued to the hearing on 11/18 or 12/2. The project team discussed and believed they could complete any necessary updates in time to submit revisions for the 11/18 meeting. If a DEP number has not been issued for the project by that point, they will request a continuance.

Commissioner Radner motioned to continue this item to the next hearing on 11/18/21. Commissioner Hafrey seconded. Commissioner Radner led a roll call vote. All attending commissioners voted "aye." The motion carried 6-0, with Commissioner Gauthier recusing himself.

3. Request for COC –

3.1 124 Quabbish Road (DEP# 141-0545)

Curt Young of Lucas Environmental gave an overview of the project. He identified the replication area that was an expansion of an undersized previous replication area. He stated a community of phragmites is located on the outside edge of the replication area, but the ponded water has helped to keep it from spreading. He stated the area is well vegetated and stabilized. The replication area is separated from the work area of the site by jersey barriers. Mr. Young added that two growing seasons have passed since planting and he is requesting a Certificate of Compliance be issued for the project. He noted that a Notice of Intent will soon be filed to develop this site into a mixed-use development and he is hoping to have this Order of Conditions closed before submitting that Notice of Intent.

Agent Brown displayed photos of the site from the most recent monitoring report.

Commissioner Radner opened the floor to the other commissioners for questions and comments. She received no responses.

Commissioner Radner opened the floor to the public for questions and comments. She received no responses.

Commissioner Radner motioned to issue a Certificate of Compliance for DEP# 141-0545. Commissioner Hafrey seconded. Commissioner Radner led a roll call vote. All attending commissioners voted "aye." The motion carried 7-0.

3.2 480 Sprague Street (DEP# 141-0564, MSMP 2020-05)

Nichole Dunphy of Highpoint Engineering stated a partial certificate of compliance had already been issued for this project. Since then, the plantings had been delivered and installed.

Commissioner Radner asked if the conditions included a requirement for plantings to survive 2 years. Agent Brown stated neither the Order of Conditions nor the Major Stormwater Management Permit included such a requirement.

Commissioner Radner opened the floor to the other commissioners for questions and comments. She received no responses.

Commissioner Radner opened the floor to the public for questions and comments. She received no responses.

Commissioner Radner motioned to issue a Certificate of Compliance for DEP# 141-0564 and MSMP 2020-05. Commissioner DeAvila seconded. Commissioner Radner led a roll call vote. All attending commissioners voted “aye.” The motion carried 7-0.

3.3 217 Schoolmaster Lane (MSMP 2015-14)

Mark Quigley, previously of 217 Schoolmaster Lane, stated that he discovered the open Major Stormwater Management Permit in the process of selling his home. He stated he met with Agent Brown on site who believed everything looked sufficient. He is requesting a Certificate of Compliance to complete the sale of the home.

Commissioner Radner asked Agent Brown for her observations during the site visit. Agent Brown stated the original plan called for 4 inspection ports, but only 2 were installed. She stated she doesn't expect much need for cleanout, however, because the infiltration system is only accepting runoff from the roof. She noted the Y-connectors on the drain lines are facing up instead of being angled, but the roof overhang mostly protects them from collecting rainfall. She stated an as-built had also been provided.

Commissioner Radner opened the floor to the other commissioners for questions and comments.

Commissioner DeAvila asked if this was the property that had a driveway removed under a previous application. Agent Brown stated that application concerned a different property.

Commissioner Radner opened the floor to the public for questions and comments. She received no responses.

Commissioner Radner motioned to issue a Certificate of Compliance for MSMP 2015-14. Commissioner Garlick seconded. Commissioner Radner led a roll call vote. All attending commissioners voted “aye.” The motion carried 7-0.

4. Minutes – 10/7/21; 10/21/21

This item was not discussed.

5. Agent's Report

Agent Brown reported that Sprague Pond has been designated as a Great Pond by MassDEP. She stated the City of Boston and DCR are working to protect an undeveloped parcel to use for access to the pond. The City has a state grant and funds from the Community Preservation Act to do so, but the developer who owns the property has filed an Environmental Notification Form to build a 3-unit condominium on the property. She stated the City of Boston called her earlier today asking if the Town of Dedham would be willing to hold a conservation restriction on a property should they be able to acquire it. She stated she is looking into this possibility.

Agent Brown also gave an update on a previous proposal for a single-family house at 38 Icehouse Lane/13 Powers Street. She stated the Commission denied the permit and it was appealed to the DEP who issued a Superseding Order of Conditions. The applicant then appealed the decision under the Local Wetlands Bylaw to Superior Court, who invalidated the Commission's denial because the denial notice was placed in the mailbox on the 21st day after the hearing closed, but it was not postmarked until the following day, which is a violation of the requirement. She stated the applicant has now appealed to an adjudicatory judge at DEP. She stated a decision will be made on this project over the next few months.

Agent Brown reported that a single-family house at 27 Martin Bates Road is across the street from a wetland and has installed a low retaining wall, applied fill to the site, and made driveway alterations. She stated she sent them a Notice of Violation asking them to attend the next hearing to explain the project. She believes the owners will

need to file an after-the-fact Request for Determination of Applicability and possibly a Stormwater Management Permit depending on the amount of disturbance.

Commissioner Foulds gave an overview of the Tree Bylaw Subcommittee's efforts thus far. He stated he and Commissioner DeAvila met to discuss thoughts on a potential bylaw. They considered the guidance document from the state and tree bylaws in other Massachusetts municipalities. They believe a bylaw will take a significant amount of time and believe they should consult the public once the Commission drafts potential terms of the bylaw. He and Commissioner DeAvila gave an overview of the items they discussed and their preliminary thoughts on each. Commissioner Foulds noted that the guidance document suggests that a tree bylaw reflect the values of the Town and this is exemplified in the difference between various towns' bylaws. In order to achieve this, he believes the public needs to be involved at some point. Commissioner DeAvila stated he had spoken with Joe Flanagan (Town DPW Director and Tree Warden). Mr. Flanagan had not been able to join this evening, but Commissioner DeAvila stated his input on the bylaw would be very valuable. Commissioner DeAvila also suggested inviting a Certified Arborist to a subcommittee meeting to share information on healthy forestry. Commissioner Foulds stated that he and Commissioner DeAvila had realized that the definition of a "significant tree" seems to be a key part of any bylaw. They had discussed the possibility of the size of a "significant tree" within 25' of the public right-of-way being smaller, possibly 8", than that of a tree outside of this zone. Agent Brown suggested that the Tree Bylaw Subcommittee meet again and start to assemble a proposal or draft methods for soliciting public input. Commissioner Foulds agreed.

Commissioner DeAvila motioned to adjourn. Commissioner Foulds seconded. All attending commissioners voted "aye." The motion carried 7-0.

The meeting was adjourned at 10:03 pm.