

NORWELL CONSERVATION COMMISSION

345 Main Street / Norwell, MA 01955  
2017 NOV -9 PM 3:24

October 3, 2017 @ 7:00 PM - Room 112

Final Minutes

**Present:** Chair Marynel Wahl, Dave Osborne, Ron Mott, Bob Woodill, Justin Ivas, Stacy Minihane, Agent N. Hemingway, and Recording Clerk C. Sullivan. Bob McMackin was absent. Ms. Minihane left at 8:38 PM and Mr. Ivas left at 9:38 PM.

**CALL TO ORDER**

The meeting was called to order at 7:04 PM by Chair Marynel Wahl. The meeting was recorded.

**AGENDA ACCEPTANCE**

The Commissioners agreed to move the Enforcement Hearing for 89 Kings Landing to the start of the 8 PM hearing session. *Motion by Ms. Minihane to approve the agenda as amended. Seconded by Mr. Mott and unanimously voted.*

**COMMISSION BUSINESS**

**Old**

**Project Grid**

Commissioners briefly discussed whether to keep unfunded or on-hold projects on the review grid. Mr. Woodill felt they could be removed and then brought back if needed; Ms. Hemingway requested to keep the Wompatuck Parking and Connection project on the grid for now as a portion of the larger project was currently being worked on by Pathways.

Mr. Woodill advised that the Jacobs entryway was recently paved; Highway Commissioner Glenn Ferguson advised that his department would cover the cost.

**Norwell Highways NoI**

Ms. Hemingway is still working on the NoI for the drainage work in the wetlands. Glenn is having the part-time seasonal highway workers remove stone from areas where wetlands were filled, and replace them with vegetation. She and Mr. Ferguson have had good communication on this and other issues.

**CPC Application**

The Commission reviewed a draft CPC grant application, requesting the deposit of 20% of CPC yearly revenues to the Conservation Fund to fund land-acquisition down-payments.

Ms. Hemingway noted that this was a placeholder application to be put in before the deadline; it could be amended as specific opportunities develop. She stated the idea behind the request is to have funds quickly available to make a down-payment on any land that may become available, and that the ability to act quickly would help keep the town competitive with other bidders.

Mr. Osborne felt it may be difficult for him to advocate for the Commission's request without more specifics, and noted that any land acquisition would ultimately require a town vote due to its likely cost. If the objective were to have funds on hand for down-payments, he suggested that the Commission request this in a letter to CPC.

Ms. Wahl noted that the Commission had requested funds by letter last year and was told they needed to file an application. She suggested that an application be submitted requesting these funds without any reference to specific properties. Mr. Osborne reiterated the need for a specific project so he could argue the Commission's case. Mr. Woodill suggested referencing the acquisition of land specifically to

interconnect park trails or Commission properties. Mr. Mott asked about attending a CPC meeting to ask for guidance, but Ms. Hemingway noted that the application deadline is before the Commission's next meeting.

After a general discussion of land-acquisition options, the Commission decided to submit an application that does not reference specific properties and also send CPC a letter requesting the funding. Ms. Wahl noted that they could provide more information later if requested, and didn't want the request to be rejected for lack of an application.

*Motion by Mr. Ivas to send a letter to CPC requesting a 20% distribution of CPC proceeds to the Conservation Fund. Seconded by Mr. Woodill and unanimously voted.*

*Motion by Mr. Ivas to send a letter to CPC requesting the annual 10% transfer of CPC proceeds to the Conservation Fund. Seconded by Mr. Woodill and unanimously voted.*

*Motion by Mr. Ivas to submit a general acquisition of land application to CPC. Seconded by Mr. Woodill and approved by a 4-2 vote, with Mr. Mott and Mr. Osborne opposed.*

#### **Public Hearing - Bylaw Changes**

Mr. Woodill read the notice of public meeting.

With regards to the query from General Code and the Bylaw Review Committee about the fine amounts in Section 61-12, Ms. Hemingway stated that Town Counsel Bob Galvin had advised her that the maximum fine a municipal commission could impose was \$300, and therefore the amounts should remain as stated. With regards to the query about language in the same section, the Commission decided to change the phrases "shall be punished" to "may be punished" and "fine set by" to "fine issued by."

*Motion by Ms. Minihane to make no change to the fee amounts referenced in Section 61-12 of the General Bylaws. Seconded by Mr. Ivas and unanimously voted.*

*Motion by Ms. Minihane to amend the language in Section 61-12 of the General Bylaws as discussed. Seconded by Mr. Woodill and unanimously voted.*

#### **10/17 or 10/24 meeting**

After a discussion as to Commissioner availability on October 17 and 24, it was decided to keep the next Commission meeting on the 17th. Ms. Hemingway will be out until October 16, so there will not be time to review cases or conduct site visits prior to the next meeting.

#### **New**

Ms. Hemingway circulated Mullin affidavits for Commissioners to complete as needed. This allows Commissioners to miss one meeting of a public hearing and still vote on the matter if they review all evidence and related materials.

## SUB-COMMITTEE UPDATES (OLD & NEW BUSINESS)

Pathways	R. Woodill	Ms. Wahl advised that the Pathways Commission had sent out a Request for Quotes, but that the language specified the "design of a paved parking lot" and so the bids will have to be re-done due to the opposition to a paved lot. Mr. Mott noted that the Town Meeting motion specified a paved lot but Mr. Ivas stated that he had asked, and they had agreed, to take that provision out. Ms. Minihane noted that Pathways could address the matter by issuing an addendum to the RFQ.
Farming	R. Mott	Mr. Mott asked that the Commission send a letter requesting that all plastic immediately be removed from the fields, as he had heard rumors they were planning on plowing it into the ground. Ms. Hemingway will send the letter and will also request that Barstow Field be tilled and planted with a cover crop, and that all brush be burned by October 24.

### **CPC Co-applicant for Wompatuck Parking Lot**

Mr. Woodill advised that the Pathways Commission would like the Conservation Commission to be a co-applicant to their CPC grant application for the construction of a parking lot and access road to Wompatuck State Park on the Bennett property.

Mr. Ivas stated it would be difficult to say yes before actually seeing the design. Ms. Wahl pointed out that the application is being submitted as a placeholder, and Mr. Woodill added that the specific details should be available by December. He also noted that the Commission frequently discusses this project in meetings, and this was the Commission's chance to be involved.

*Motion by Mr. Mott that the Commission be a co-applicant on the Pathways Commission's CPC application for the proposed construction of a parking lot and access road to Wompatuck State Park on the Bennett property. Seconded by Mr. Woodill and unanimously voted.*

## MISCELLANEOUS

### 1. Bills

- a. Chris Sullivan - \$150 - transcription of minutes of 9/19/17
- b. Norwell Hardware - \$9.78 - Bar and chain oil
- c. WB Mason - \$11.85 - office supplies
- d. WB Mason - \$467 - Chair for Nicole
- e. Mark Aigen - \$54 - Trail work
- f. Ed Cox - \$507.00 - Trail work
- g. Steve McViney - \$283.50 - Trail work
- h. Paul Legere - \$54.00 - Trail work
- i. Nancy Hemingway - \$TBD - Travel reimbursement

### 2. Minutes: 9/19/17

#### **Bills**

Commissioners read the list of bills to be paid. Ms. Hemingway struck the travel reimbursement from the list and noted for the record that \$920 in funds for a memorial bench had been donated and just required authorization to now be expended.

*Motion by Mr. Osborne to pay the listed bills. Seconded by Mr. Woodill and unanimously voted.*

**Minutes** Tabled.

2017 NOV -9 PM 3:24  
MISCELLANEOUS

**EXECUTIVE SESSION** Discussion of issues and/or land offers/land of interest, disclosure of which will impact negotiating position of the Commission and/or Town.

**8:00PM: PUBLIC HEARINGS LEGAL DOCUMENTS/VOTES**

**\*\*\*Legal Documents/Votes \*\*\*Minor Amendments, Reviews, CoC's**

**\*\*\*Requests for Determination \*\*\*Notices of Intent \*\*\*Enforcements/ Violations**

**38 Pleasant Street / SE52-959 & NCC# 27(10) / Construction of Single-Family Home**

**Request for CoC (cont.)** Applicant: K & E Construction / Rep: Kevin Grady, Grady Consulting

Ms. Hemingway advised that the buffer area in the turnaround had been mulched and the conservation bounds installed as requested. She noted that the driveway was not unusually wide, that placement of the conservation bounds along the driveway will be part of the ongoing conditions, and recommended issuance of the CoC. *-Motion by Mr. Woodill to issue the CoC. Seconded by Mr. Mott and unanimously voted.*

**427 Main Street / SE52-xxxx & NCC# 35(17) / Construction of Common Driveway to Access SFH**

**NoI / OoC (cont.)** Applicant: Conor & Colleen Cooper / Representative: Austin Chartier, McKenzie Eng.

Applicant Conor Cooper present.

Ms. Hemingway advised that a DEP number had been issued and an engineering certificate had been received. DEP requested that the applicant be required to show compliance with 310CMR10.55 4(b) and the MA Inland Replication Guidelines; the replication report submitted by project engineer Brad Holmes addresses these standards. She also noted that the impacted resource area was very small and would be replicated at a 2:1 ratio. ~~Please refer to the Agents Notes for a detailed summary of the 10.55-4(b) requirements and the compliance noted in the replication report.~~

Commissioners discussed the addition of a gas line in the driveway construction zone; Mr. Ivas noted that it made sense to do that concurrent with the other work. Mr. Cooper added that this was the only modification to the plan.

Ms. Hemingway recommended approval of the NoI with a long-form OoC, striking anything related to stormwater basins as there aren't any proposed.

*Motion to approve the NoI for 427 Main with a long-form OoC as discussed and conditioned. Seconded by Mr. Osborne and unanimously voted.*

**Block 7, Lot 9 Standpipe Rd / NCC# 36(17) / Request for Determination of Jurisdiction of area/work** RDA Applicant: Stephen Pitrowski / Representative: Oxbow Associates, Inc.

Mr. Woodill read the notice of public meeting. Applicant Stephen Pitrowski present.

Ms. Hemingway advised that the lot had been permitted for a single-family home in 2004 that was not built. She walked the site with Mr. Pitrowski, and did not believe the three blocks under consideration were under Commission jurisdiction except for lower easternmost portion of the lot. She reviewed the areas of concern along the eastern and southern edges of block C.

Ms. Minihane recommended that the work zone in the area be pulled back 20 feet from the southernmost edges of the property along the area identified as Block C. Ms. Hemingway had no issues with the project provided it were approved with this condition. Any work zone would be at minimum 120 feet from the nearest BVW.

*Motion by Mr. Mott to approve the RDA, pos 2b, neg 1, neg 4, neg 6, with the condition that the work zone (identified as Block C) be pulled back 20 feet from the southern edges of the property. Seconded by Mr. Ivas and unanimously voted.*

**49 Green Street / NCC# 38(17) / vegetation removal to allow perc tests in 50-100 ft buffer for new SFH construction** RDA Applicant: Sean Donovan

Mr. Woodill read the notice of public meeting. Applicant Sean Donovan present, along with two area residents.

Ms. Hemingway noted that the site had been flagged, and the number of percs requested had been reduced. She reminded the Commission that under the WPA, the perc tests are exempt from filing. It is the disturbance to the surrounding resource and buffer that may require permitting. As these percs cross a stream, this hearing was concerned with the disturbance to vegetation as a result of accessing the site and conducting the tests at the Local Bylaw protected 50-foot resource buffer.

Mr. Mott asked how much vegetation would be cleared in the process of doing the percs. Mr. Donovan stated the proposed test locations were fairly accessible, with some ground cover but no trees. The proponents and Commission discussed equipment to be used. A rubber tracked vehicle will be used.

Ms. Hemingway asked Mr. Donovan why he wanted to perc in the 50 to 100 foot buffer when a septic system for new construction can't be built there. Mr. Donovan replied that they wanted to explore the possibility of asking for a variance that would keep the structure completely out of the 100 foot buffer.

Resident David DiGhetto thought the previous peer review for the property had determined what could or couldn't be built on the property. Mr. Ivas advised that that review was just a delineation of the resource areas. Mr. Donovan advised they had not yet determined how many homes they were seeking to build. Mr. Mott reiterated that this hearing could only address the disturbance to vegetation, as well as whether to allow testing equipment into the test areas.

Mr. Osborne noted there were multiple issues associating with developing the site and felt the developers had already been given enough chances to explore options. Ms. Hemingway reiterated that perc testing could be done by right; the burden was on Mr. Donovan to show no impact to a resource areas in the process. She noted that the Commission would need to find that there would be significant damage to vegetation and/or a resource area to deny the request for work in the outer 50 foot buffer. She noted that while no trees may be proposed to be cut, there could be extensive impacts to root zones for trees in the protected buffer. She felt having a Commissioner on site when the percs were done would be more effective than making a site visit before the percs. Mr. Donovan will contact Mr. Mott and Mr. Osborne to set up the tests, so they can be present.

*Motion by Mr. Mott to allow the perc testing at 49 Green Street with the condition that a Commissioner be present for observation during the work(issue a determination positive 2A, 5, negative 3). Seconded by Mr. Osborne and unanimously voted.*

**31 Leigh Rd / DEP# SE52-xxxx & NCC# 37(17) / Landscape work in resource area & 50-foot buffer (After-the-Fact) NOI/ OoC Applicant: James Cai and Min Hou**

Mr. Woodill read the notice of public meeting. Applicant James Cai present. Mr. Ivas recused himself and left before the discussion started.

Ms. Hemingway advised that the subject property had been before the Commission in 2016 for a similar violation (extensive vegetation removal in the buffer and resource edge) right before it was placed on the market in 2016. The new property owners had cut some trees and scrub brush in the 50 foot buffer to Jacobs Pond. She added that the property was within a flood zone and there were a lot of invasive species on the site. She recommended replanting of the trees cut, allowing the scrub layer to regrow and the placement of conservation bounds to prevent further unpermitted encroachments into the BVW edge and 50 foot buffer.

Mr. Osborne advised Mr. Cai that he should talk to the Commission first when he wanted to do any cutting near the pond. Ms. Hemingway further advised that no title 5 inspection had been done as required for land transfers. She noted that this would need to also be reviewed by the Commission. Mr Cai will have to go to the Board of Health to obtain a Title 5 Certificate, and that a continuation would be needed to submit the information relating to the Title 5 upgrade and to wait for issuance of a DEP number.

*Motion by Mr. Woodill to continue the matter to November 7 at 8 PM. Seconded by Mr. Mott and approved by majority vote, Mr. Ivas having recused.*

**Norwell Conservation Comm. – Regulatory Review & Amendment Hearing (cont.)**

Ongoing.

*Motion by Mr. Osborne to continue the matter to November 7 at 8 PM. Seconded by Mr. Mott and unanimously voted.*

**ENFORCEMENT HEARING - 89 King's Landing / Enforcement Hearing / alteration of coastal tidal river resource areas including salt marsh**

Mr. Woodill read the notice of public meeting. Attorney Adam J. Brodsky and Bob and Francis Molla present. Heard at 8:00 PM

Attorney Brodsky advised that the Commission had issued an OoC in 2005 for the razing and reconstruction of a dwelling on the property. He stated that condition 38 of the OoC allowed for maintenance of the gravel drive in perpetuity, and that a CoC was issued in 2007.

Attorney Brodsky continued that he went out with Paul Mirabito and observed an old stone retaining wall along either side of the driveway, with the salt marsh line set back some distance from the edge of the driveway. He claimed that all riprap is actually landward of the existing stone wall except for one section, where some fell into a mosquito control ditch, and the salt marsh was some distance away and there had been no filling of the marsh.

Attorney Brodsky acknowledged that the Mollas had brought in additional gravel to maintain the driveway, and the driveway has gotten higher and wider in some spots, but this was the result of trying to maintain it over time, as water hits the driveway during high tides. He stated there was no additional gravel getting out into the salt marsh or where the large rocks are, and felt that the issue at hand is what constitutes reasonable maintenance and whether the Mollas has exceeded that requirement; he stated that their intent was to simply maintain the driveway.

Ms. Hemingway felt the main issues to be the addition of boulders and riprap around the edge of the salt marsh, and that the original OoC required a salt marsh restoration that was not done. She stated that currently the restoration area is filled with stone, that approximately 160-180 feet of salt marsh had been armored with stone, and 100 sq ft of salt marsh had been lost.

Attorney Brodsky contended that the obligation to maintain the restoration area expired when the CoC was issued. Ms. Hemingway replied that any subsequent changes to the area would have required a NoI. Attorney Brodsky stated that the only change to the property was the addition of riprap landward of the stone wall.

Mr. Mott stated that he was very familiar with the area, and there were never rocks at the edge of the salt marsh prior to the Mollas' purchase. Attorney Brodsky acknowledged that riprap and gravel had been brought in for the driveway, but there had been no changes to the rocks on the edge. Ms. Hemingway pulled up a series of aerial images of the property and felt they clearly showed the amount of stone in the edge of the salt marsh increasing.

Attorney Brodsky contended that the limit of the salt marsh was exactly where it was when the original NoI was approved in 2005. He acknowledged that the restorative plantings didn't work but argued the Mollas were relieved of this obligation once the CoC was issued.

Ms. Minihane asked whether there were salt marsh plantings in the restoration area when the CoC was issued, and Ms. Hemingway affirmed that there were. Mr. Molla stated that these plantings failed to grow over time, so he brought in crushed stone to prevent the soil from going into the basin. He also noted that plants were currently coming up through these stones. Attorney Brodsky contended that this area was not a resource area and that the Mollas were only required, under the OoC, to attempt the plantings for two growing seasons. Ms. Minihane pointed out that this was a resource area under the bylaw, and any materials brought in subsequently would have required a new NoI filing with the Commission.

Attorney Brodsky advised that the plantings in the area had been approved by the North River Commission, and felt there may have been confusion as to which planting plan would be controlling. He stated that the crushed stone had only been added after the CoC had issued and the marsh plantings had failed, and was willing to file an after-the-fact NoI if the Commission deemed it appropriate.

Ms. Hemingway stated that salt marsh was a highly protected resource, and recommend issuance of an enforcement order requiring a restoration plan and engineering study to determine the historic function of the area. She suggested that Coastal Zone Management experts be brought in to help with these issues, and noted that the issuance of an order was not necessarily punitive but helps establish and document the issues.

Attorney Brodsky requested additional time to review Commission and North River Commission records. He stated they were willing to work with the Commission but that he would file suit if an enforcement order were issued. After further discussion, he indicated that a continuation to November 7 would be sufficient time for his review.

*Motion by Ms. Minihane to continue the matter to November 7 at 8 PM and not pursue an enforcement order at this time. Seconded by Mr. Mott and unanimously voted.*

Ms. Hemingway and Commissioners briefly discussed the need for consistency and holding to precedent and specific thresholds in the issuance of enforcement orders.

#### PUBLIC MEETINGS

None

#### ADMINISTRATIVE REQUESTS

None

NOV 9 PM 3:24

**VIOLATION DISCUSSIONS**

**433 Washington Street** – Ms. Hemingway informed the Commission that ECR and the applicant have requested a continuation to the next meeting due to the late expected hour for this review. The scope of work appears consistent with observable limits of use and mowing taken from aerials. The issue is new grading in the 100 foot buffer to BVW with a small area within identified 50 foot buffer.

**61 Accord Park Drive** - Ms. Hemingway informed the Commission that the landowner has agreed to have the wetland delineated and any materials in the buffer moved from the buffer.

**AGENTS REPORT**

- Ms. Hemingway advised that an unknown hiker had been reported to have been severely stung by Yellowjackets at the Stetson property. The incident was reported to the Fire Dept and Tree and Grounds.
- Mr. Woodill advised that Trees and Grounds Commissioner Glenn Ferguson had repaired boardwalk sections damaged by falling trees. Ms. Hemingway noted that the funds budgeted for boardwalk maintenance were in the Tree and Grounds budget now.
- Restoration of the stormwater raingardens is underway at 111 Pond St.
- Invasive treatment for the Ecological Restoration project at the Mill Pond is underway per the issued OoC.

**SCIENCE AND REGULATION IN THE NEWS  
EDUCATION AND TRAINING OPPORTUNITIES**

Please refer to the complete Agents Notes available in the Conservation Office. Any notes included in the minutes are partial.

<i>Next Meeting</i>		<i>October 17, 2017</i>
<i>NEW filing applications due date/deadline</i>		<i>October 3, 2017 @ noon</i>
<i>Legal Notice publication date-Patriot Ledger</i>		<i>October 9, 2017</i>
<i>Revised Information submittal deadline</i>		<i>October 10, 2017 @ noon</i>
<i>Peer Review Supplemental Info Deadline, CoC Requests, Minor Modification &amp; LP Requests</i>		<i>October 12, 2017 @ noon</i>
<i>Public Information Written Comments</i>		<i>No deadline</i>

**ADJOURNMENT**

*There being no further business, a motion was made by Mr. Osborne to adjourn at 9:51 PM. Seconded by Mr. Mott and unanimously voted.*

I hereby certify that the above minutes were presented and approved by a majority vote by the Norwell Conservation Commission on November 7, 2017.

  
Marynel Wahl, Chairperson



NORWELL CONSERVATION COMMISSION

345 Main Street / Norwell, MA

October 3, 2017 @ 7:00 PM - Room 112

Agents Notes

2017 NOV -9 PM 3:54

7:00PM: CALL TO ORDER & AGENDA ACCEPTANCE

**COMMISSION BUSINESS**

**Old (cont.):**

- Project Grid Review
- Town Road Drainage - NoI - Status/Update for street drainage work in wetlands
- CPC application request - Copies of the draft will be in your packets. It is a simple application - requesting funding. A copy will be emailed with these notes so we can amend and fine tune the language you prefer during the meeting.

**PUBLIC HEARING: Bylaw Review Committee Request for Clarification - bylaw changes proposed**

*Section 61-12 provides for enforcement of the Wetlands Protection Bylaw and regulations. This section provides for noncriminal disposition and fines of \$100 for the first offense, \$200 for the second offense and \$300 for the third offense and each subsequent offense. Are these amounts still satisfactory?*

**Decision:**

Revise as follows:

Make no change: - We are not sure at this time what if any maximum caps/limits a Municipal Board/Commission can vote to impose. We have asked Peter and Bob Galvin for feedback. The Commission is holding a public hearing on October 3<sup>rd</sup> to discuss whether to amend this section. Any changes to the bylaw will require a public hearing by the Commission in addition to the Town Meeting vote. We will make sure that is covered now, so any changes made and approved at TM are legal.

- According to Atty Galvin the cap on any fines imposed is \$300 (per offence) As most Regulatory authorities have a sliding scale up to the maximum fine, I would recommend that this section remain the same.

This section also includes the following: "Any person who violates any provision of this bylaw, regulations or permits issued thereunder, shall be punished by a fine set by the Conservation Commission." This provision is puzzling in light of the specific fines which are included in this section.

**Decision:**

Revise as follows:

Make no change: - This is also a substantive decision which will be discussed on October 3<sup>rd</sup>. (see above). The intent is solid in that the Commission votes to decide which activities are violations, the number of violations and hence the total fine imposed for a site/project. The language can likely be clarified.

**New:** We may not have a quorum for Oct 17, three cancellations already. I recommend the Commission consider amending the schedule so Oct 24<sup>th</sup> becomes the next meeting.

Copies of the affidavit stating you have reviewed the record for up to one meeting missed is in your packets for future/needed use. It should be noted that under the WPA review, the NCC is not quasi-judicial as a de novo appeal through DEP resets the review. Mullin has typically not been required for WPA only reviews. MACC advocates following Mullin regardless.

The NCC actions under the NWB is considered a quasi-judicial process. The Town adopted the Mullin Rule in 2007, which requires no more than one absence per hearing in order to act or vote on a matter. Pat will make sure to include this in the upcoming Open Meeting Law session in November.

**SUB-COMMITTEE UPDATES (OLD & NEW BUSINESS)**

Open Space and Recreation	S. Minihane	
Land Protection	All	
Pathways	R. Woodill	
Trails/Signage	R. Woodill	
CPC	D. Osborne	
Farming	R. Mott	
Grants	B. McMackin	
Zoning Bylaw	D. Osborne	

**MISCELLANEOUS**

1. Bills

- a. ~~Chris Sullivan - \$150 - transcription of minutes of 9/19/17~~
- b. Norwell Hardware - \$10.98 - Bar and chain oil and misc hardware
- c. WB Mason - \$11.85 - office supplies
- d. WB Mason - \$467 - Chair for Nicole
- e. Mark Aigen - \$54 - Trail work
- f. Ed Cox - \$507.00 - Trail work
- g. Steve McViney - \$283.50 - Trail work
- h. Paul Legere - \$54.00 - Trail work
- i. Nancy Hemingway - \$TBD - Travel reimbursement

2. Minutes: 9/19/17 -

**EXECUTIVE SESSION** Discussion of issues and/or land offers/land of interest, disclosure of which will impact negotiating position of the Commission and/or Town.

**8:00PM: PUBLIC HEARINGS LEGAL DOCUMENTS/VOTES**

- \*\*\*Legal Documents/Votes \*\*\*Minor Amendments, Reviews, CoC's
- \*\*\*Requests for Determination \*\*\*Notices of Intent \*\*\*Enforcements/ Violations

**38 Pleasant Street / SE52-959 & NCC# 27(10) / Construction of Single-Family Home**  
**Request for CoC (cont.)** Applicant: K & E Construction / Rep: Kevin Grady, Grady Consulting

- Per request of the Commission at the last meeting, conservation bounds have been installed. The disks are a bit off center. I have asked to have them more securely fastened before any pre-start of work on the garage can be scheduled. I do not consider this a major concern as the disks become part of the requirement in perpetuity for the site.

- The area in the 50 foot buffer in the turnaround has been mulched and a bound placed at that line as well.
- I recommend issuance of the CoC as built.

**427 Main Street / SE52-1126 & NCC# 35(17) / Construction of Common Driveway to Access SFH NoI / OoC (cont.)** Applicant: Conor & Colleen Cooper / Representative: Austin Chartier, McKenzie Eng.

- Continued from 9/19/17 – The outstanding item was DEP number and comments as well as certification regarding the culvert sizing ( a memo from Brad certifying the culvert is sized to have sufficient water capacity has been submitted).
- DEP posted a number and review this morning. The DEP number is 52-1126. The comments ask the Commission to require information to show compliance with 310CMR10.55 4(b) and the MA Inland Replication Guidelines.
- Rather than going through the performance standards referred during the meeting, I have pasted them into the notes below
- 10.55 4(b) -(4) General Performance Standards.
  - (b) Notwithstanding the provisions of 310 CMR 10.55(4)(a), the issuing authority may issue an Order of Conditions permitting work which results in the loss of up to 5000 square feet of Bordering Vegetated Wetland when said area is replaced in accordance with the following general conditions and any additional, specific conditions the issuing authority deems necessary to ensure that the replacement area will function in a manner similar to the area that will be lost:
    1. the surface of the replacement area to be created ("the replacement area") shall be equal to that of the area that will be lost ("the lost area");
    2. the ground water and surface elevation of the replacement area shall be approximately equal to that of the lost area;
    3. The overall horizontal configuration and location of the replacement area with respect to the bank shall be similar to that of the lost area;
    4. the replacement area shall have an unrestricted hydraulic connection to the same water body or waterway associated with the lost area;
    5. the replacement area shall be located within the same general area of the water body or reach of the waterway as the lost area;
    6. at least 75% of the surface of the replacement area shall be reestablished with indigenous wetland plant species within two growing seasons, and prior to said vegetative reestablishment any exposed soil in the replacement area shall be temporarily stabilized to prevent erosion in accordance with standard U.S. Soil Conservation Service methods; and
    7. the replacement area shall be provided in a manner which is consistent with all other General Performance Standards for each resource area in Part III of 310 CMR 10.00. In the exercise of this discretion, the issuing authority shall consider the magnitude of the alteration and the significance of the project site to the interests identified in M.G.L. c. 131, § 40, the extent to which adverse impacts can be avoided, the extent to which adverse impacts are minimized, and the extent to which mitigation measures, including replication or restoration, are provided to contribute to the protection of the interests identified in M.G.L. c. 131, § 40.
- The replication report submitted by ECR – Brad Holmes addresses each of these standards. The replacement area is 2:1, GW and surface elevations are similar and within the wetland system being impacted, the hydraulic connection will be present and will be field verified by peer review or monitor, The plan calls for replacement within 1 year for 75% vege and confirmation by 2<sup>nd</sup> year, and there is no place less impacting than the existing drive and existing cart path.

2017 NOV -9 PM 3:54  
 2017 NOV -9 PM 3:54

- Inland replication guidelines require reuse of the existing wetland soils, however as these are relatively impacted driveway edges, in this case bring in fresh soils makes sense.
- The only additional information I could recommend would be to have ECR run through the Inland guidelines and address each component. Considering the significantly small area being impacted 260 sq ft, and the success of very similar proposals, I think that would be excessive for the limited scope of this specific project.
- The applicant is also adding a gas line within the reviewed driveway construction zone. This makes sense to add this now while the driveways are under construction rather than later. No concerns with this change.
- Commission discretion.

**Block 7, Lot 9 Standpipe Rd / NCC# 36(17) / Request for Determination of Jurisdiction of area/work** RDA Applicant: Stephen Pitrowski / Representative: Oxbow Associates, Inc.

- This is a RDA being filed for determination of jurisdiction for three work areas, A, B, C along Standpipe Road, just north of the power lines, south of the Water Tower and west of 39 Judges Hill.
- Resource is BVW associated with the larger wetland on Nature Conservancy property (part of Cuffee Hill).
- A Notice was filed in 2004 52-712 and an Order issued for construction of a home and related including a septic in the location of the current proposed septic. Ironically, the property was never developed, yet a CoC issued for the project being constructed in complete compliance was issued in 2008.
- The delineation shows the BVW to have shifted about 10 feet up gradient from the 2003/2004 peer reviewed delineation (by Thomas Houston of Edwards and Keleey. At that time all work was outside the 100 foot buffer.
- I walked the entire site with Stephen Pitrowski and verified the 2004 finding that the areas in question do not contain wetlands and are more than 100 feet from the closest possible jurisdiction areas. These include a small isolated wetland area NW of Block A, a small area of possible Land Subject to Inundation, directly west of Block B and the already identified BVW South of Block A.
- One area in question near flags 1-6 is being reconfigured prior to the meeting. The easternmost edge of Block C is being pulled in 100 feet as we did not have time to walk the 100 foot line beyond the staked limits of requested determination. Should the applicant wish to clear or work any land beyond the identified stakes, he would need to file a new NOI.
- We walked up and down each area to verify this. The site is largely sloping down from the Top of Judges Hill. There were no signs of defined channeling or other within the blocked areas or the associated 100 foot buffer.
- I do not believe the three specific blocks being requested for consideration under this determination are within jurisdictional buffers, with the exception of the lower eastern most portion of the lot. The requested work zone in this area is being revised and pulled back.
- Final recommendations tomorrow depending on whether the site plan revisions per the site walk.

**49 Green Street / NCC# 38(17) / vegetation removal to allow perc tests in 50-100 ft buffer for new SFH construction** RDA Applicant: Sean Donovan

- This came before the Commission as an administrative request last meeting. Due to the extensive likely vegetation removal in the buffer zone, the applicant was asked to file an RDA.
- The site has been flagged as noted in the project filing sent to you last Friday.
  - Pink labeled flags are in place from the ANRAD.

- Yellow flags are 50' from a pink flag orthogonal to the wetlands line as a best effort.
- Green flags are 100' from the pink flag orthogonal to the wetlands line as a best effort.
- Orange flags tag the work areas -

**31 Leigh Rd / DEP# SE52-xxxx & NCC# 37(17) / Landscape work in resource area & 50-foot buffer (After-the-Fact) NOI/ OoC Applicant: James Cai and Min Hou**

- This is an after the fact filing for vegetation, tree and shrub clearing in the 50 foot buffer to BVW associated with Jacobs Pond and within the FEMA flood hazard zone. Several small trees were cut.
- Resource areas are Jacobs Pond, bank, BVW, FEMA flood hazard,
- No DEP number has been issued yet.
- The site was covered with bramble and other invasives. As I understand it the small trees cut were
- While permitting needed to occur prior to work, I do not think there will be permanent disturbance to the ground and shrub layers.
- A similar violation occurred in July of 2015 when the previous owners were selling the home. They clear cut the brush layer to the pond (photos available). The root mass was not disturbed and the growth came right back.
- I recommend requiring replanting of the small trees that were cut and placement of at least 3-4 Conservation Bounds to identify the limits of disturbance. Perhaps on the fence that has clearly been there for some time and indicates the limits of use area.

**Norwell Conservation Comm. – Regulatory Review & Amendment Hearing (cont.)**

On going -

**ENFORCEMENT HEARING - 89 King's Landing / Enforcement Hearing / alteration of coastal tidal river resource areas including salt marsh**

- Attorney Brodsky has been hired by the applicant to represent him.
- Ron Mott has submitted photos of the stone riprap installed – taken during low tide from the North River.
- Approximated linear feet of coastal bank/edge of salt marsh (using aerial photographs) that was impacted by fill and stone is between 160-180 feet. Approximated sq ft of salt marsh/coastal tidal river resource filled with stone in the front yard (not including the sq ft associated with the stone fill on the edge is roughly 900-1,100 sq ft.
- Beyond the requirement to file a NOI for work in resource areas and buffer zones, the following appear to apply.
- An ENF is required for altered Wetlands, Waterways and Tidelands subject to permitting requirements that:
  - alter any coastal bank, or
  - alter 1000 sq ft or more of salt marsh, or
  - involve expansion of existing fill in a velocity zone..
- The first two criteria alone or combined trigger the need to file an ENF with DEP based on my understanding of the requirements. The entire property is in a FEMA flood hazard zone, I do not know if this is also a velocity zone.
- Salt marsh is a highly protected resource – A project SHALL NOT – (not may not, not minimize, shall not) destroy any portion of the salt marsh and shall not have an adverse effect on the productivity of the salt marsh..... 310 CMR 10.23 (3).

- I recommend issuing an Enforcement Order separately under the WPA and the NWB requiring an engineering evaluation and restoration plan that removes all armoring and provides all feasible alternatives to restore the filled salt marsh utilizing natural fiber blankets with salt tolerant coastal appropriate plantings per the CoC'd site plan and the approved OoC plan (including the salt marsh restoration required at that time).
- Coastal Zone Management also provides expert field assistance for coastal matters. As the North River is a tidal river, I recommend that in addition to the EO's so the process is documented and started, that we request a site visit w/ Rebecca Haney CZM coastal expert. (salt marsh performance standards and review guidance is in your packets.
- Commission discretion.

### PUBLIC MEETINGS

### ADMINISTRATIVE REQUESTS

#### VIOLATION DISCUSSIONS

433 Washington Street – ECR and the applicant have requested a continuation to the next meeting due to the late expected hour for this review. The scope of work appears consistent with observable limits of use and mowing taken from aerials. The issue is new grading in the 100 foot buffer to BVW with a small area within identified 50 foot buffer. I have not confirmed the delineation at this time. Aerial photos available for the meeting.

#### 23 Farrar Farm Road

61 Accord Park Drive - The landowner has agreed to have the wetland delineated and any materials in the buffer moved from the buffer. Ongoing enforcement with the FD and Building is also occurring. I will keep you posted as information comes in.

#### 13 Winter Street

### AGENTS REPORT

- The Planning Board will be discussing Norwell Estates internal stormwater and erosion issues relating to the PB Permit. I plan to attend to listen and will report back.
- Swarms of yellow jackets have been reported off the Cliff Prentiss Bridge and Stetson along trails. Glenn's team has responded each time. Not the same level of concern as with Jacobs Island but due to the recent incidents in the S. Shore we are being cautious.
- I will be on vacation starting this Friday returning the 16<sup>th</sup>. Meredith, Nicole and Ken will cover the office and reach out to Commissioners as needed.
- Restoration of the rain gardens at 111 Pond is about to start. John Chessia will be monitoring per the OoC.
- The invasive treatment for the Mill Pond contract per the OoC conditions is out. It is consistent with the past 2 years. Please let me know if you want a copy.
- 

### SCIENCE AND REGULATION IN THE NEWS

### EDUCATION AND TRAINING OPPORTUNITIES

- MACC academy fall conference in Sturbridge, October 28<sup>th</sup> – program includes fundamentals courses, and sessions on Peer Reviews and Rivers and Floodplains. Lunch speaker focuses on preparing for climate change. Please let Meredith or I know asap if you wish to attend so we can process the forms.

- MAPC is hosting several programs that may be of interest relating to Climate Change. Please let me know if you want additional info.

**And other such matters that may be pending before the Commission**

The Commission reserves the right to discuss matters other than scheduled public hearings in an order other than as posted. The Board further reserves the right to discuss matters which could not reasonably be anticipated at the time of the posting of this meeting notice.

Please be advised that Conservation meetings are audio recorded for the purpose of creating meeting minutes.

**Should this meeting be canceled due to unforeseen circumstances, the entire agenda will be heard at the next Commission meeting.**

<i>Next Meeting</i>		<i>October 17, 2017</i>
<i>NEW filing applications due date/deadline</i>		<i>October 3, 2017 @ noon</i>
<i>Legal Notice publication date-Patriot Ledger</i>		<i>October 9, 2017</i>
<i>Revised Information submittal deadline</i>		<i>October 10, 2017 @ noon</i>
<i>Peer Review Supplemental Info Deadline, CoC Requests, Minor Modification &amp; LP Requests</i>		<i>October 12, 2017 @ noon</i>
<i>Public Information Written Comments</i>		<i>No deadline</i>

<b>Project Name</b>	<b>Project Manager</b>	<b>Remaining Budget</b>	<b>Last update</b>	<b>Current Update - See also project status grid in your packets</b>
Jacobs Pond Gift	None	0		
Boardwalk/Entry	Marynel	\$14,600.46		Jacobs entry was recently paved.
Donovan Parking – #6778-	Ron	\$21,179.09		
Kiosks/Signage	Bob W	\$12,515.31		
CPC CRs		\$50,000.00		
Masthead Use Proposal	David O Bob W.	0		Do you still want to keep unfunded on-hold projects on the review grid?
Wompatuck Parking and Connection	Marynel Bob M.	0		

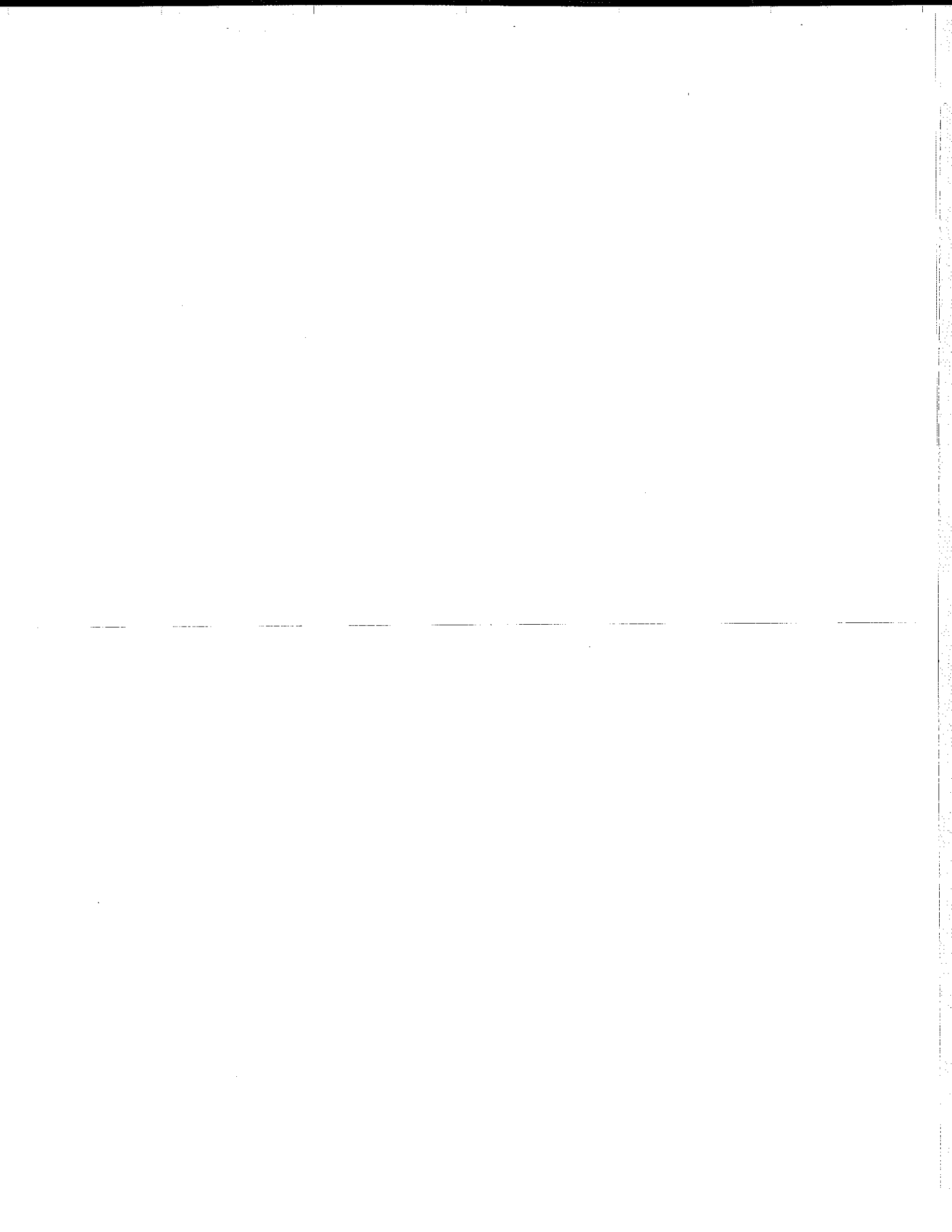
2017 NOV -9 PM 3:54

427 Main Street / Conor & Colleen Cooper  
 SE52-1126 & NCC# 35(17)  
 Notice of Intent / Common Driveway to Access SFH  
 Documents/Plans Listing

2017 NOV -9 PM 9:54

DOCUMENTS / PLANS	Author	Date Signed	Date Received by Office	Notes
<b><u>Documents (Hard Copy &amp; Electronic):</u></b>				
(2) Notice of Intent Applications incl. Project Narrative & Wetland Delineation Report	Austin Chartier, McKenzie Eng.	9/4/17	9/5/17	
Misc. Locus, GIS maps, etc.	Various	N/A	9/5/17	
Legal Ad for Patriot Ledger publication	(Internal)	Emailed 9/7/17	Published in Ledger 9/11/17	
Wetland Replication Narrative	Brad Holmes, ECR	9/11/17		
DEP / SERO Notification of WPA File Number	DEP / SERO	Sent 10/2/17	10/2/17	
Public Hearing Sign-In Sheet	(Internal)	10/3/17	N/A	
Letter re: Common Driveway Site Plan	Brad McKenzie, McKenzie Eng.	10/3/17	10/3/17	
Order of Conditions (State & Bylaw)	N. Hemingway & NCC	10/3/17	Issued 10/5/17	
<b><u>Emails:</u></b>				
Misc. Email Correspondence	Various			
<b><u>Plans:</u></b>				
"Common Driveway Site Plan / 427 Main Street / Norwell, MA	Brad McKenzie, McKenzie Eng.	Rev. 9/28/17	9/29/17	
<b><u>Checks Rec'd:</u></b>				
\$500.00 (Ck. #7204)	Conor Cooper	9/1/17	9/5/17	
\$262.50 (Ck. #7203)	Conor Cooper	9/1/17	9/5/17	

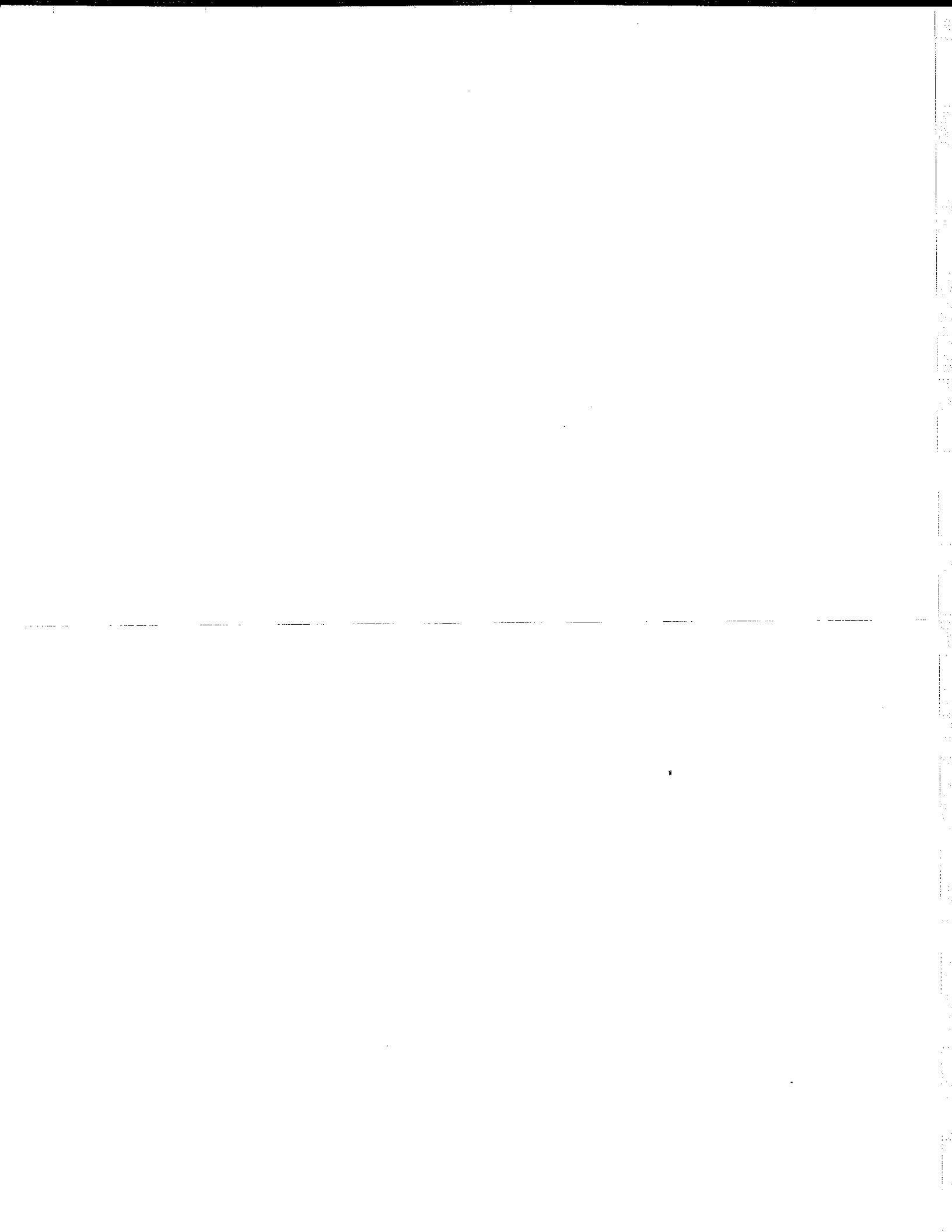




Standpipe Road (Bl. 7, Lot 9) / Stephen Pitrowski  
 NCC# 36(17)  
 Request for Determination / Determination of Jurisdiction  
 Documents/Plans Listing

2017 NOV -9 PM 3:54

<b>DOCUMENTS / PLANS</b>	<b>Author</b>	<b>Date Signed</b>	<b>Date Received by Office</b>	<b>Notes</b>
<b><u>Documents (Hard Copy &amp; Electronic):</u></b>				
Request for Determination Application (1 copy)	Stephen Pitrowski	9/18/17	9/19/17	
Public Hearing Sign-In Sheet	(Internal)	10/3/17 Meeting	N/A	
Legal Ad for Patriot Ledger publication	Internal	Emailed 9/21/17	Published in Ledger on 9/25/17	
Wetland Delineation Update Materials / Standpipe Road / Norwell, MA	Brian O. Butler, Oxbow Assoc.	10/3/17	10/3/17	
Determination of Applicability (Permit)	N. Hemingway, Agent & NCC	10/3/17	Issued to Applicant 10/5/17	
<b><u>Emails:</u></b>				
Misc. Email Correspondence	Various			
<b><u>Plans:</u></b>				
"Proposed Development Envelope & Wetland Locations / Standpipe Road / Norwell, MA (2 sets: 8.5 x 14" size plan & Lg. Plan Size)	Oxbow Associates	Rev. 10/2/17	10/3/17	
<b><u>Checks Rec'd:</u></b>				
\$500.00 (Ck. #1402)	STP Real Estate Services	9/19/17	9/19/17	



49 Green Street / EMET Holdings, LLC

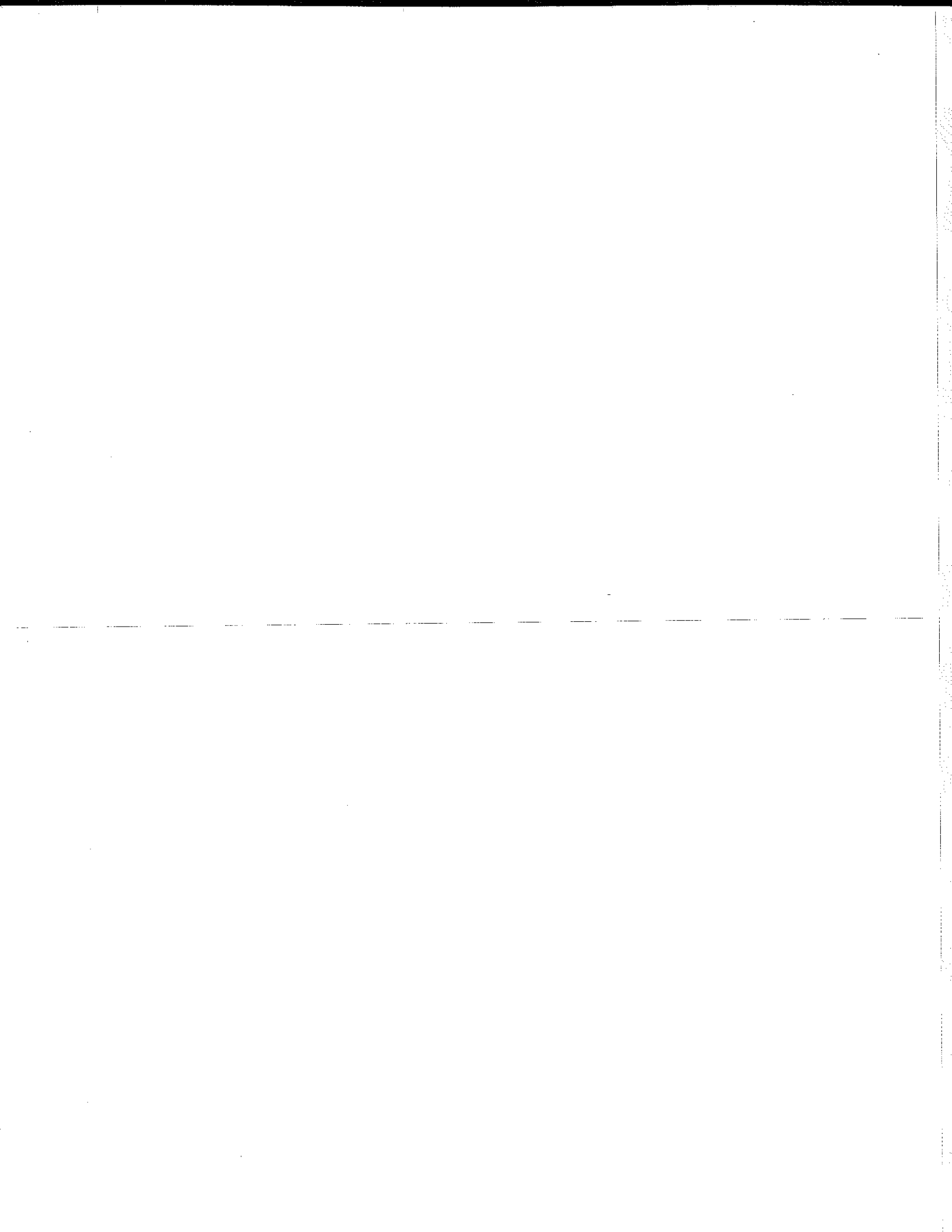
NCC# 38(17)

Request for Determination / Vegetation Alteration for Perc. Testing (for SEH's)

Documents/Plans Listing

SEP 26 2017 9:54 AM

DOCUMENTS / PLANS	Author	Date Signed	Date Received by Office	Notes
<b>Documents (Hard Copy &amp; Electronic):</b>				
Request for Determination Application (2 copies) incl. "Test Site Descriptions" page.	(Not Signed) EMET Holdings	N/A	9/26/17	
Public Hearing Sign-In Sheet	(Internal)	10/3/17 Meeting	N/A	
Legal Ad for Patriot Ledger publication	Internal	Emailed 9/21/17	Published in Ledger on 9/25/17	
Determination of Applicability (Permit)	N. Hemingway, Agent & NCC	10/3/17	Issued to Applicant 10/5/17	
<b>Emails:</b>				
Misc. Email Correspondence	Various			
<b>Plans:</b>				
"Abbreviated Notice of Resource Area Delineation / ANRAD Plan / Green Street / Norwell, MA	Darren Grady, Grady Consulting	5/9/17	(From In-house prior filing)	
<b>Checks Rec'd:</b>				
\$100.00 (Ck. #133)	EMET Holdings, LLC	9/26/17	9/26/17	



31 Leigh Road / James Cai & Min Hou  
 SE52-1127 & NCC# 37(17)  
 (After-the-Fact) Notice of Intent / Landscape & Yard Work  
 Documents/Plans Listing

2017 NOV -9 PM 3:54

<b>DOCUMENTS / PLANS</b>	<b>Author</b>	<b>Date Signed</b>	<b>Date Received by Office</b>	<b>Notes</b>
<b><u>Documents (Hard Copy &amp; Electronic):</u></b>				
Notice of Intent Application (3 copies)	James Cai	9/18/17	9/21/17	
Abutter Notification rec'd from Applicant (as owner of Jacobs Landing)	Applicant(s)	9/20/17	9/25/17	
Legal Ad for Patriot Ledger publication	Internal	Emailed 9/21/17	Published in Ledger on 9/25/17	
"Notice of Reported Violation & Possible Work in/near Wetland Resource Area" (copy of notice sent to J. Cai & M. Hou)	N. Hemingway	8/21/17	N/A	
<b><u>Emails:</u></b>				
Misc. Email Correspondence	Various			
GIS Print-outs, Field Cards, Listing Info. Sheets, Nat'l Grid Tree Pruning & Removal Worksheet	Misc.	Created Sept. 2017	N/A	
<b><u>Plans:</u></b>				
"Plan of Existing Conditions / 31 Leigh Road / Norwell, MA / prepared for Min Hou"	Michael A. Coleman, PLS	9/12/17	9/21/17	
<b><u>Checks Rec'd:</u></b>				
\$342.50 (Ck. #132)	Min Hou Xiaoji Cai	9/22/17	9/22/17	

