

CITY OF MARLBOROUGH MEETING POSTING

Meeting Name: Conservation Commission

Date: February 3, 2022

Time: 7:00 PM

Location: 140 Main St. – Marlborough City Hall – 3rd Floor (Memorial Hall)

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

2022 JAN 28 P 3:02

ALL MEETINGS WILL BE IN PERSON AT CITY HALL MASKS ARE REQUIRED.

Agenda Items to be addressed:

Acceptance of Minutes: January 20, 2022

Public hearings:

7:00 PM

Request for Determination of Applicability

35 Red Spring Rd. – Mr. & Mrs. Hause

Propose to construct an addition to the existing house near Ft. Meadow Reservoir.

7:10

Amend Notice of Intent – 212-1215 (continued from Jan. 20, 2022)

107 Simarano Dr. - Andrew Montelli, Post Road Realty LLC

To construct a woods trail with seating and a boardwalk around the pond. (Review draft Order of Conditions)

Review Draft Order of Conditions:

- 111 Cullinane Dr. – Yi Zhou

Violation Notices:

- 896 Boston Post Rd. – Renovo's Landscaping (continued from Jan. 20, 2022)

Discussion/Project Updates:

- **Annual Review of Policies (continued from Jan. 20, 2022)**
 - Wetland Setback Policy – Draft
 - Tree Removal Policy – Draft
- **Desert Natural Area – Project Update**

Correspondence/Other Business

Next Conservation Commission meetings: Feb. 17, 2022 & March 3, 2022

Adjournment

THE LISTING OF TOPICS THAT THE CHAIR REASONABLY ANTICIPATES WILL BE DISCUSSED AT THE MEETING IS NOT INTENDED AS A GUARANTEE OF THE TOPICS THAT WILL HAVE BEEN DISCUSSED. NOT ALL TOPICS LISTED MAY IN FACT BE DISCUSSED, AND OTHER TOPICS NOT LISTED MAY ALSO BE BROUGHT UP FOR DISCUSSION TO THE EXTENT PERMITTED BY LAW.

CONSERVATION COMMISSION

Minutes

DRAFT

January 20, 2022 (Thursday)

Marlborough City Hall – 3rd Floor, Memorial Hall

7:00 PM

Present: Edward Clancy-Chairman, Allan White, Dennis Demers, David Williams, Karin Paquin and William Dunbar. Priscilla Ryder - Conservation Officer was also present.

Absent: John Skarin,

Approval of Minutes: The minutes of January 6, 2022, were reviewed and on a motion by Mr. White second by Mr. Clancy, to approve. The Commission voted unanimously 6-0 to approve.

Public Hearings:

Abbreviated Notice of Intent
111 Cullinane Dr. – Yi Zhou

Mr. Zhou and his wife were present at the meeting. He explained that he wanted to add a small retaining wall 2' high, 62' long and 8" wide. It would be a modular wall with a footing 1' below the surface. He would like to install it when the water is down, either this winter/spring (if weather allows) or next fall when the water is lowered again. Wall will be dug by hand with all excess materials being removed from the site. Ms. Ryder noted that City Engineer Tom DiPersio had confirmed from the as-built plan where the 262' elevation, which represents the 100-year floodplain, is located. 262' corresponds to the 82' elevation shown on the as built plan for this property. She noted that the new wall would need to be located outside the 262' elevation so it is outside of the floodplain. She also confirmed that according to the City Engineer the property line corresponds to the high-water mark, not as shown on the as-built plan.

Mr. Dunbar asked whether this new wall sets a precedence for the 20' no disturb buffer zone and how to justify this. Other walls around the lake are replacement walls not new walls so he wanted to understand. On Paquin Dr. beach and at the Bolton St. Tavern, limited clearing was allowed. Ms. Ryder noted that where there is vegetation and habitat value with bank

Discussion:

Annual Review of Policies

- Tree policy - The Commission discussed the existing tree policy. They discussed whether the existing tree canopy should be considered when allowing trees to be removed. Where does the number of “4” trees to be removed come from? Ms. Ryder noted that she had copied what other communities had done. Mr. Demers noted that 4 trees was the limit we discussed after which a permit is necessary. It is a random number, the Commission decided to leave it at 4 trees. Tree canopy should be considered when a tree is removed. If there are no trees in the area to take its place, should the Commission require replanting? Could be on a case-by-case basis. Could add a condition about tree replanting on a case-by-case basis, ornamental or native tree? Two trees to replace one. Ms. Ryder will draft these changes for review at the next meeting.
- Wetland Setback Policy – The Commission reviewed the policy; the question was raised as to whether the Commission would like to consider a local wetlands ordinance which would be stricter than the state law. After some discussion the Commission opted to look at updating the setback policy. Other communities have 25, 30 or 50’ setbacks. After some lengthy discussion, it was determined to look at the science and compare what other communities of similar size and population have for wetland setback policies. There was discussion about enforcement and a wider no build wetland buffer zones. Ms. Ryder was asked to review other policies and provide an analysis to the Commission for review.

Salt Results at Landfill Snow Dump

- Mr. Scott, Assistant Commissioner of Operations had submitted an e-mail providing results of their salt testing operation. He also had answered a few questions that had been raised.
 - 1. Test results: The results of the tests indicate that there is no detectable salt in the runoff from the landfill snow dump. The brineometer was used to determine the salt content of the runoff from the snow pile.
 - 2. He explained that he can send out samples to be tested to determine salt content.

coming along so well. Ms. Ryder noted that one more year of monitoring will be done before this is completed.

- Grant Award - Desert Natural Area Climate Resiliency Grant – Letter dated 1/11/2022. Mr. Clancy thanked Ms. Ryder and Ms. Paquin for the work on the grant application. Ms. Ryder and Ms. Paquin explained the three items to be done with the funds, which include: 1. Fire break maintenance, 2. Old log pile removal, and 3. Selective harvest and thinning of 23 acres of land in preparation for future prescribed burn which is needed to restore the rare-pitch-pine-scrub oak forest. They will update the Commission regularly as this unfolds.
- Letter from National Grid RE: upcoming sideline vegetation management activities. This was reviewed and placed on file.
- Spotted Lanternfly - Mr. Clancy noted that he saw the report that this fly has been discovered in Shrewsbury now. So, lots of education and vigilance in looking out for this fly will be critical since it can devastate apple orchards and grape vines as well as many other trees. This is a high alert bug to look out for and educate far and wide. “ If you see it, kill it.” Posters were shown and will be distributed.

Next Conservation Commission meetings: February 3 and Feb. 17, 2022

Adjournment - There being no further discussion, the meeting was adjourned with a motion by Mr. White, second by Mr. Demers to adjourn the meeting, the Commission voted 6-0 to approve.

Respectfully submitted,

Priscilla Ryder
Conservation/Sustainability Officer

Exho



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

City/Town

WPA Form 1- Request for Determination of Applicability

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

A. General Information

Important:
When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



1. Applicant:

Robert and Michelle Hause
Name

RJHJR@AOL.COM
E-Mail Address

35 Red Spring Road
Mailing Address

Norborough
City/Town

MA
State

01752
Zip Code

508-826-5598
Phone Number

Fax Number (if applicable)

2. Representative (if any):

Firm

Contact Name

E-Mail Address

Mailing Address

City/Town

State

Zip Code

Phone Number

Fax Number (if applicable)

B. Determinations

1. I request the _____ make the following determination(s). Check any that apply:
Conservation Commission

- a. whether the **area** depicted on plan(s) and/or map(s) referenced below is an area subject to jurisdiction of the Wetlands Protection Act.
- b. whether the **boundaries** of resource area(s) depicted on plan(s) and/or map(s) referenced below are accurately delineated.
- c. whether the **work** depicted on plan(s) referenced below is subject to the Wetlands Protection Act.
- d. whether the area and/or work depicted on plan(s) referenced below is subject to the jurisdiction of any **municipal wetlands ordinance or bylaw** of:

Name of Municipality

- e. whether the following **scope of alternatives** is adequate for work in the Riverfront Area as depicted on referenced plan(s).



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 1- Request for Determination of Applicability

City/Town _____

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

C. Project Description

1. a. Project Location (use maps and plans to identify the location of the area subject to this request):

35 Red Spring Road
Street Address

Marlborough, MA 01752
City/Town

Assessors Map/Plat Number _____

Parcel/Lot Number _____

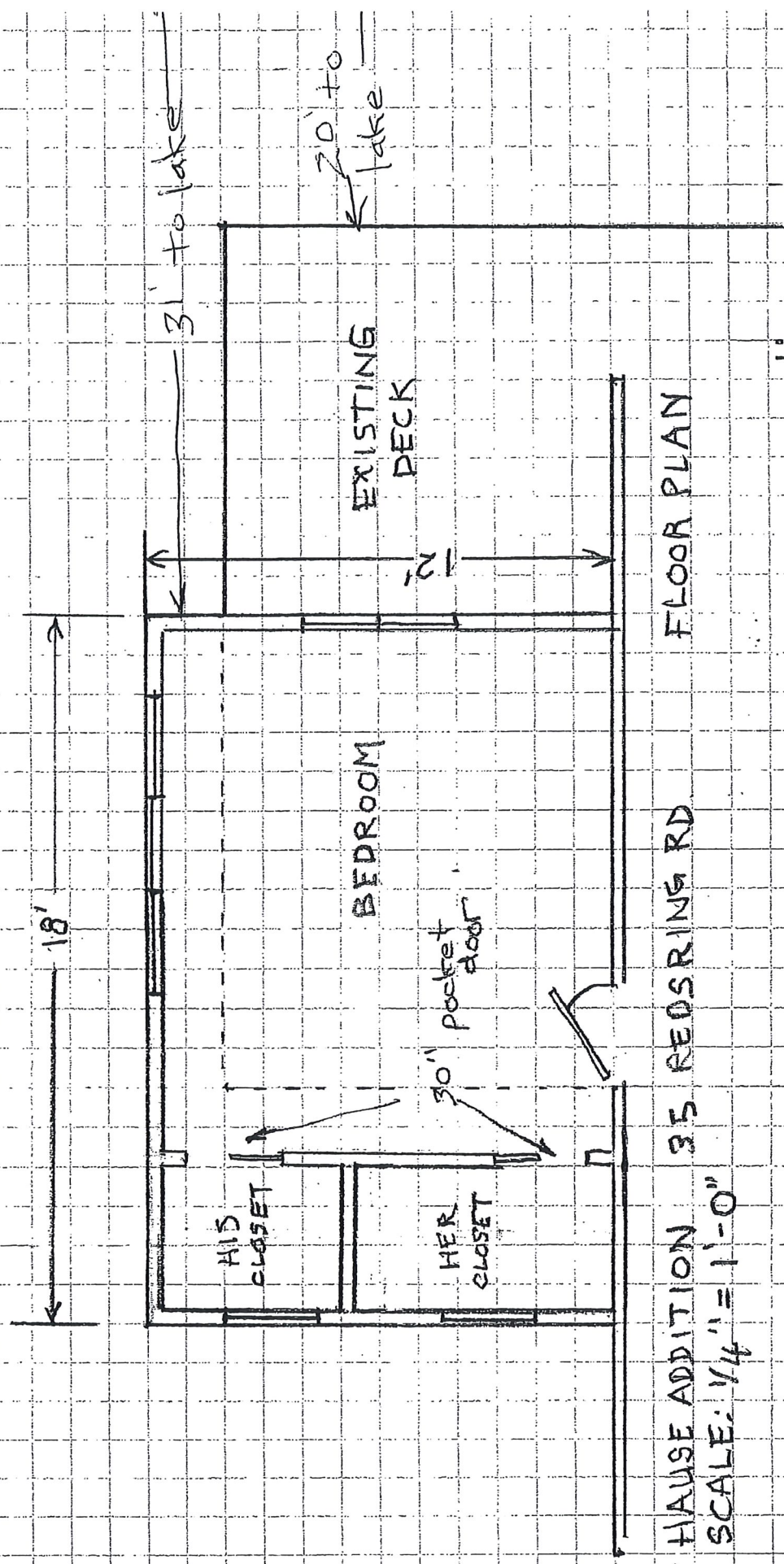
- b. Area Description (use additional paper, if necessary):

- c. Plan and/or Map Reference(s):

Title	Date
_____	_____
_____	_____
_____	_____

2. a. Work Description (use additional paper and/or provide plan(s) of work, if necessary):

adding a 12' x 18' addition to existing
house

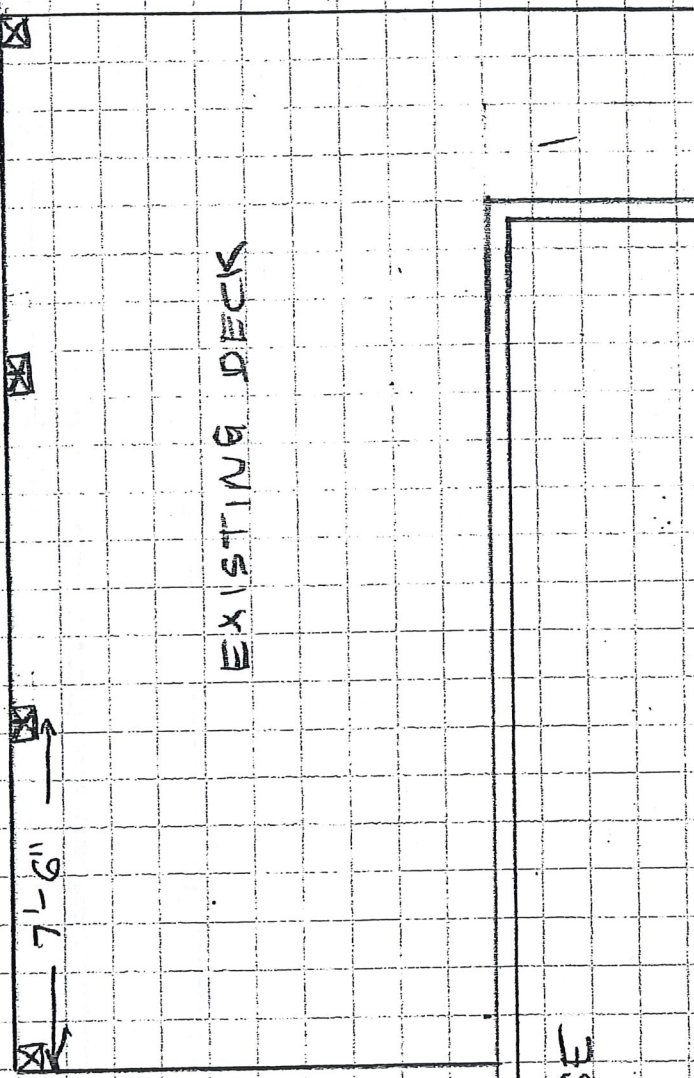


FLOOR PLAN

HOUSE ADDITION 35 REDSRING RD

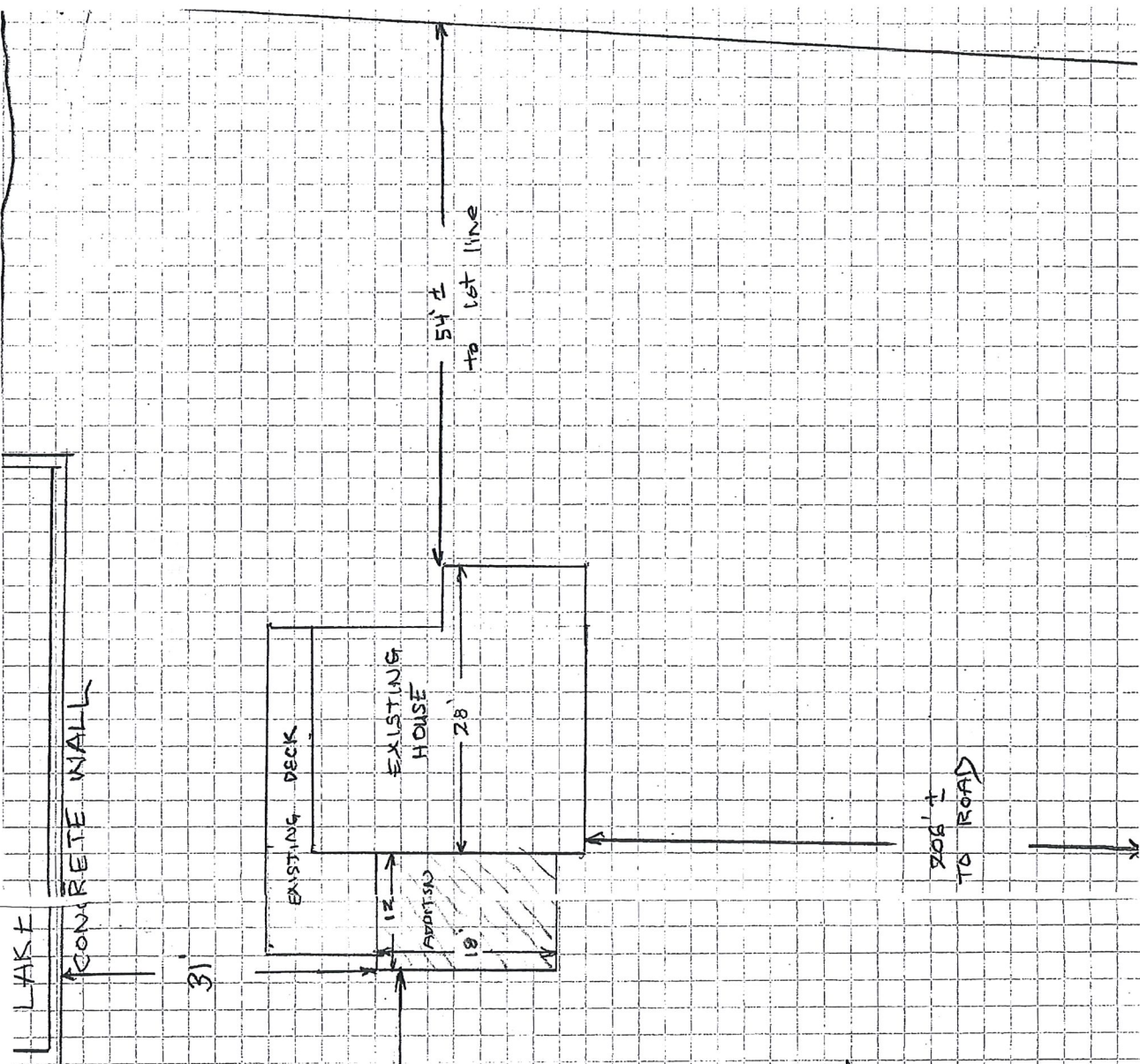
SCALE: 1/4" = 1'-0"

6X6 PT POSTS ON TECHNO POSTS 5' DEEP



HOUSE ADDITION
35 RED SPRING RD
SCALE: 1/4" = 1'-0"

EXISTING HOUSE



RT HOUSE
 35 RED SPRING RD
 SCALE: 3/32" = 1'-0"

LOT SIZE APPROX 45,500 SF

**AMENDED
Findings of Fact**

The original Order of Conditions with special conditions 21-65* are still in full effect. These additional amended conditions listed below #66-75 allow for the construction of a natural walking path around the pond and stream area with 3 seating areas, one additional boardwalk to cross a stream and signage and trash bins. The construction of the trail will include the removal of non-native invasive plant species which when removed and maintained will have the benefit of improving the health of the remaining trees and shrubs and improve habitat value. An ongoing maintenance plan for this path is included in the plans.

[*for easy reference I've included these at the end]

SPECIAL Amended CONDITIONS

Wetland delineation

66. The additional delineation as shown on the approved plan further defines the wetlands originally approved by including more definition of the northern boundary of the two ponds. This wetland boundary as outlined in the amended NOI was approved as to location.

Footbridge/boardwalk

67. As required in conditions 56-58 the helical pier boardwalk design will be further reviewed by the Conservation Commission at a regularly scheduled meeting. All piers shall be located outside the wetland and stream channel.

Trail/seating areas

68. As described in the amended NOI the trail will be constructed by hand and will have a natural tread topped with wood mulch. The trail shall meander around trees that are 4" in diameter or greater. Where feasible native trees shall remain, and invasive plants removed.

69. The location of the trail shall be marked in the field and inspected by the Conservation Officer and Commission members prior to beginning any work. Adjustments to location to protect trees or to remove invasives shall be made at this point and the final location approved in the field by the Conservation Officer. Trees and shrubs to be saved/transplanted shall be identified.

70. Once trail is constructed the Conservation Officer and Commission members shall walk the site with the consultants to determine where the additional trees are needed to create shade, improve habitat and provide aesthetic improvements to the trail,

✓
7x4

Special Conditions

DEP 212-1215
107 Simarano Dr.
Housing development

71. Invasive plant removal shall follow the "Invasive Species Management Plan" dated revised January 25, 2022. Areas that are bear will receive seed mix as outlined in this document to stabilize the soil.

72. During the preconstruction meeting the disposal method for the invasive plants to be removed shall be discussed. Disposal methods and location shall be such that the invasive plants will not survive or continue to spread.

73. Seating locations and final design shall be discussed during the preconstruction meeting. Where feasible natural materials will be used. [Does the Commission care what is used for seating etc.? If not, then we can leave this last sentence out]

74. Prior to the issuance of the last occupancy permit, and prior to the issuance of a Certificate of Compliance, the Commission shall do a trail inspection.

75. Prior to the issuance of a Certificate of Compliance an ongoing trail maintenance plan which includes regular maintenance activities, invasive plant management shall be provide to the Commission for review and approval. Once approved this will allow for the ongoing maintenance activities to be ongoing condition of this Order. This will allow for this ongoing work near the wetlands. This one/two-page maintenance plan shall be recorded with the Certificate of Compliance.

Anything else?

End Conditions

The original special conditions are below for easy reference.

21. Prior to the beginning of work, the applicant shall:

- a) Obtain approval of the City of Engineer for the design of all drainage structures and facilities.
- b) Properly install all siltation controls according to the plans approved by the Conservation Commission.
- c) Provide the Conservation Officer with the name and telephone number in writing, of the person who will be immediately responsible for supervision of all work on the project site and compliance with this Order of Conditions. The Conservation Officer shall be notified in the event that the site supervisor or contractor is changed.
- d) Clearly mark the limits of work in the field and instruct all workers not to work beyond the limits.
- e) Notify Conservation Officer of the date upon which work will commence.
- f) Hold a meeting on the project site with the Conservation Officer, the project site supervisor identified in Condition No. 21-c above, and other relevant parties identified by the applicant or the Conservation Commission to review the project and this Order of Conditions. Siltation controls shall be inspected at this time.
- g) Failure to comply with Condition Nos. 21a-f, as well as Nos. 8 & 9, shall constitute sufficient grounds for the Conservation Commission to order all work to cease until compliance is achieved.

22. The Conservation Officer shall serve as the Commission's agent in all matters pertaining to the interpretation and enforcement of this Order of Conditions. Accepted engineering and construction standards shall be followed in the conduct of all work.

23. Issuance of this Order of Conditions does not in any way imply or certify that the site or downstream areas will not be subject to flooding, storm damage, or any other form of damage due to wetness.

Special Conditions

DEP 212-1215
107 Simarano Dr.
Housing development

24. All work shall conform to the Notice of Intent, all plans, and all other documents, records, correspondence and representations of the applicant as presented to and approved by Conservation Commission.
25. The applicant shall notify the Commission before performing the modified work. If the Commission deems the modification significant, the applicant shall submit an amended Notice of Intent with any necessary documentation and obtain an amended Order of Conditions. The Commission shall reopen the public hearing in accordance with the provisions of 310 CMR 10.05 (5). The Commission may impose additional or modified conditions to protect the interests of the Wetlands Protection Act.
26. No excavated material shall be disposed of in violation of any local, state, or federal laws. All stumps must be removed from the site; no burying of stumps on site is permitted.
27. Prior to the issuance of a Certificate of Compliance, the applicant shall submit to the Conservation Commission for review and approval an as-built plan and a letter of compliance stamped by a registered professional engineer. Said plan and letter shall show that all conditions of this Order have been complied with in a satisfactory manner.
28. The Conservation Commission shall be notified in writing at the time of any transfer in the title to the property or any change in contractor/developers prior to issuance of the Certificate of Compliance. The name, address, and telephone number of the new owner shall be included in the notification as well as certification that the new owner has been provided with a copy of this Order of Conditions.
29. Prior to the issuance of a Certificate of Compliance the site shall be stabilized with vegetation or other measures approved by the Conservation Commission.
30. Prior to the issuance of a Certificate of Compliance and after the site has been stabilized, all erosion controls shall be removed from the site.
31. As the project involves the disturbance of more than one acre of land area, the applicant is also obligated to submit a Notice of Intent to the EPA for the NPDES Construction Permit per EPA's requirements found at the following web site <https://www.epa.gov/npdes/stormwater-discharges-construction-activities>

SITE-SPECIFIC CONDITIONS

Erosion Control/Construction sequencing

Prior to construction:

32. This project requires the filing of a 401 Water Quality Certification from DEP. Prior to construction please provide a copy of this permit to the Commission as confirmation that this condition has been met.
33. Prior to any construction work, the Site Contractor and the Erosion Control Expert (see condition # 34 below) shall come to a regularly scheduled Conservation Commission meeting to discuss the construction sequencing and phasing plan and the means and methods to be used to accomplish the approved plan and the conditions as listed below. The site soils are very difficult to work with and have a high silt content making construction very challenging. The site contractor and erosion control expert shall, at a minimum discuss the following:
 - a. Construction sequencing
 - b. Erosion control methods and use of temporary sedimentation basins
 - c. The use of additional erosion control devices, settling tanks, pumps, soil stabilization methods,
 - d. The stormwater controls to be used during the cut and fill operation needs to be clearly spelled out.
 - e. The use of temporary swales and management of detention basins during construction to ensure that condition # 41 below is achieved.
 - f. Dewatering system to be used must be discussed.
 - g. Installation methods for the two foot bridges.
34. The developer is required to hire an "Erosion Control Expert" to oversee the site work on the site. This individual(s) shall have a proven record of controlling sites of equal size and equal material type. The Conservation Officer and the City Engineer shall evaluate whether the individual(s) to be hired has adequate experience before they are hired to work on this project. This erosion control expert shall be hired prior to construction and shall be an integral part of the preconstruction meeting noted in condition #21. f. above and the meeting with the commission noted in condition #33.
35. The erosion control line shall be staked in the field prior to any clearing, this line will be walked by the Conservation Officer to see if any large trees along the perimeter of the project can be saved. If needed the erosion control barrier location shall be shifted to accommodate such a change.

Erosion Control/Construction sequencing

36. Stone construction entrance pads and/or a truck washing station shall be in place at the exits onto the main roadways to prevent the tracking of mud and silt into the public roadway. Dust shall also be controlled on this site at all times. If dirt is tracked onto the roadway it shall be cleaned up immediately. A street sweeper shall be readily available.

37. The Erosion Control Expert shall be consulted when there is any discussion about or deviation to the overall plan and the erosion control plan to ensure that there is always proper coordination with the site development and the erosion control and stormwater management.
38. Said erosion control expert shall be responsible for regular inspections of the erosion controls on at least a weekly basis and prior to and immediately after (within 12 hours) each storm event of 0.5 inches or more. Necessary repairs and maintenance of the erosion control devices shall be made expeditiously. These inspections shall be described in the reports required in the condition below.
39. Said erosion control expert will report (by e-mail) to the Commission and City Engineer weekly, during construction, summarizing the work that has been completed, compliance of the project with the Order of Conditions and the status of the erosion controls. It will also include his/her recommendations on actions needed and report compliance with recommendations. Failure on the part of the developer to implement the recommendations made by the Erosion Control Expert will be a violation of the terms and conditions of the permits issued for the project. These weekly reports from the consultants shall begin as soon as the work begins on the site. As construction progresses the reporting may be reduced at the discretion of the City Engineer and Conservation Officer.
40. The applicant, property owner, and site contractor shall be responsible for notifying the Conservation Commission in an expeditious manner if any visible siltation of wetlands occurs. Immediate measures shall be taken to control the siltation source and to restore any impacted areas.
41. Because the site drains to the Sudbury Reservoir, a backup water supply to the MWRA, the Commission requires that the turbidity levels in the receiving stream measured at the downstream side of the discharge within the stream be taken during each site inspection required under condition #38 above and at the request of the Conservation Commission. The turbidity levels shall be obtained in accordance with guidelines contained in "DEVELOPMENT DOCUMENT FOR FINAL EFFLUENT GUIDELINES AND STANDARDS FOR THE CONSTRUCTION AND DEVELOPMENT CATEGORY- November 2009" prepared by the US EPA. The Daily maximum Turbidity shall not exceed 280 NTU's as calculated in accordance with said 2009 EPA guidelines.
42. Large piles of soil and other materials shall not be stockpiled closer than 50 feet to any wetland resource area without the approval of the Conservation Officer. All large stockpiles must be maintained in a stabilized condition with erosion control in place and approved by the Conservation Officer. Earth material stockpiles shall not be allowed immediately adjacent to perimeter siltation barriers or drain inlets.

Long term stockpiles over 30 days will be shaped, stabilized and circled with erosion controls. The Erosion Control Expert shall be consulted to ensure that the stockpile locations are not interfering with drainage or erosion control during construction. The Commission understands that the site will shift and change during construction, but the erosion control expert must be on board with all such changes before they are made to ensure proper coordination.

43. The dewatering system to be used shall be approved by the Conservation Officer and once approved, properly installed. All silty water must be filtered through a dewatering/sedimentation trap system, until such time as the water runs clean. At no point shall silty water be discharged into wetlands or streams or off-site drainage systems without first being filtered.
44. No additional drainage shall be directed to the Certified Vernal pool and care will be taken to ensure only clean water is directed to this area to protect the vitality of the vernal pool.

Construction Phasing:

45. The phasing plan shown in the approved plans titled Index and Sequencing Plan, Sheet 3 shall be followed, the Contractor shall come before the Commission per condition #31 to discuss the means and method to be used to implement this phasing plan. Any deviation or change in the plan sequence must have first been approved by the onsite Erosion Control Expert and then must receive the approval of the City Engineer and Conservation Officer before being implemented.
46. This is a large project and the Commission wants to ensure that it can be controlled during construction. As such only one phase can be developed at a time. Site 1 shall be substantially completed and stabilized before any work can occur on Site 2. Before starting on Phase 2 the contractor shall have a second preconstruction meeting with the Conservation Commission as noted in #32 above before proceeding with construction.

Substantially completed shall mean:

"All roadways shall be paved, per approved paving plan for site 1, with a binder course, and all other areas outside of the planned building pads (inclusive of a 10' perimeter of each pad), which are rough graded, must have erosion control measures in place (ex. tackifier, hay, mulch or some other device) to assure that storm water draining out of the detention basins is clean and clear of sediment. A site meeting with the City Engineer and Conservation Officer is required. This is to confirm that Phase 1 is stable and is held prior to any work commencing on Phase 2."

Detention Basins/Infiltration Systems

47. Prior to construction of the detention basins, confirmatory test pits shall be conducted in the presence of the Conservation Officer and City Engineer prior to construction, so that groundwater elevations and/or the extent of ledge can be confirmed and adjustments to basin dimensions can be designed if necessary.
48. Prior to the construction of the infiltration systems, the Conservation Officer shall be notified and shall inspect the excavated area for the infiltration system. The site engineer shall confirm that the soils are per design. Once installed, only clean stormwater runoff shall be directed to this system. Prior to backfilling the system, the Conservation Officer shall inspect the system with the site engineer to ensure that it is clean and not able to receive any silty run off which would clog the system once in place.
49. The infiltrator system shall contain at least one inspection port per row as shown on sheet D-5 of the plans.
50. The permanent and temporary detention basins shall be fitted with riser pipes as needed to help ensure adequate on site settling of the silty runoff. Additional basins or other erosion control/filtering devices may be necessary as conditions warrant to ensure that only clean water leaves the site.
51. During construction the bottom of the infiltration basins shall be protected with filter fabric or other similar means, which will be removed when all the work is done and site is stable, or in the alternative, shall be scraped out after the site is stable to ensure that the bottom of the basin still has the capacity to infiltrate as designed.
52. Snow dumping is not to occur near the wetlands. Snow dumping shall occur in designated locations as shown on sheets the plan titled "Snow Storage Exhibit Plan, prepared by Hancock Associates, dated 12/2/19" Excess snow shall be removed from the site.
53. All catch basins shall be equipped with gas/oil hoods and 4-foot sumps.
54. The detention basin outlets which are within the 20' buffer zone shall be field located prior to construction and their location adjusted accordingly to protect the trees in the area. Where feasible these shall be moved to protect the trees.
55. Access road into the Site 1 basin shall also be field located to prevent the removal of any large trees and have the least impact to the area. This shall be

done at the same time as the staked erosion control line is checked as noted above.

Foot Bridge crossings:

56. Prior to any commencement of work as it relates to the footbridges, final plans stamped by a structural engineer and specifications supporting such plans for the footbridge crossing(s) will be submitted to the City of Marlborough's Engineer for review and approval. Once approved by the City Engineer, the Proponent will provide said plans to the Conservation Commission to be reviewed at a regularly scheduled meeting. The Commission shall provide any additional conditions as necessary to protect the wetland functions and values of these two stream areas.
57. The exact location of this trail and footbridge footings shall be marked in the field by survey markers and verified by the conservation officer prior to installation. The removal of one or two trees may be necessary, but only trees that are 4" or less in diameter may be removed, unless they are already dead or dying. The intent is to construct the bridge with minimal impact to the wetland vegetation, where feasible the walkway may meander around large trees- and plan for future tree growth.
58. The helical piers for the walking bridge installed by hand with a motorized auger to minimize disturbance of the wetland. Note there are many boulders in this area so care will be needed during this installation to prevent excessive disturbance to the wetland.

Wetland buffer edge restoration and landscape plan

59. As discussed at the hearing, some of the areas next to the 20' buffer zone where walls are being installed may require the removal of large trees that will be impacted by the construction of the wall. In these areas additional trees, native to the area, shall be planted in order to restore the buffer and the canopy of this area. See note Δ3 on sheet SPL 1.0, 2.0 and 3.0 on plans relative to additional tree plantings where necessary.
60. The applicant is encouraged to perform invasive plant species management outside of the limit of work at their discretion to help protect the existing and newly planted landscaping from being outcompeted by these invasive plants. To do this work outside the limit of work the applicant has provided an invasive species management plan (ISMP) dated January 8, 2020, from Scott Goddard of Goddard Consulting to the Conservation Commission for approval prior to the invasive plant management work. This plan shall be discussed during the preconstruction meeting with the Commission for phase 2 and any additions or changes discussed at that time, based on site conditions. Prior to requesting the Certificate of Compliance, the invasive plant management plan that approved shall

Marlborough Conservation Commission Tree Removal Policy--- DRAFT amendments

As required by state law, all work including earth moving and vegetation removal within the 100' buffer zone to a wetland requires review by the Conservation Commission. However, there are circumstances where waiting for a hearing before the commission could cause a delay, which could cause a hazard or harm. In these situations, the Commission has authorized its Conservation Officer to allow for the removal of hazardous, dead or dying trees which may, if it fell cause damage to a home, shed, car or driveway or cause other harm and where prompt removal is recommended.

The following protocol must be followed by the Conservation Officer in determining if a tree within the 100' buffer zone is a hazard and can be removed, without filing a Request for Determination with the Conservation Commission:

1. The hazard tree must be wholly outside the wetland area, and only in the buffer zone.
2. The hazard tree must be leaning in such a way as to threaten a home, fence, driveway or other accessory structure to a home or building.
3. If the tree is dead or clearly dying it may be removed.
4. The Commission encourages the homeowner to leave a 10' -15' snag (removing the tree branches and leaving a 10'-15' tall trunk of the tree) if it will not cause damage if it falls. Snags are excellent habitat areas for bugs and birds and natural critters and are important to biodiversity. Where feasible, snags are highly encouraged.
5. Trees that are in the buffer zone may be removed without a permit if there are less than 4 trees to be removed regardless of the health of the tree. If more than 4 trees need to be removed a permit from the Commission must be obtained.
6. Trees which have grown too close to the house or deck which overhang the house and whose branches could cause damage if they fell maybe removed.
7. Hazard trees whose root and trunk are IN the wetland proper will need a wetland permit. However, if the threat is imminent, the Conservation Officer may issue an emergency certificate (EC) for tree removal. The EC would then be reviewed at the next Conservation Commission meeting for ratification.
8. Tree trimming or branch removal does NOT require a permit or review, this is considered routine maintenance and can be conducted as a matter of course.
9. Removal of a tree or two that has grown and is crowding out an ornamental tree or other larger tree and whose removal will enhance the health of the remaining tree **can be removed.**
10. **Where trees are removed if there are no young trees that will grow to fill the space, and where the entire canopy is removed, the Conservation Officer shall require the tree to be replaced with two saplings or one tree that is 1 1/2' in diameter to restore the function of the tree being removed. If more than one tree is being removed a 1:1 tree replacement may be required to restore the canopy. Tree species and size shall be approved by the Conservation Officer. Native trees are preferred, but ornamental trees may also be approved.**

If the Conservation Officer determines that the tree meets one of the criteria above, he/she shall confirm the following:

1. No machinery shall enter the wetland area to remove the tree (s).
2. In cases where machinery cannot reach the tree from an upland area, the tree will need to be removed by hand-held machinery. Branches and wood can be left in the buffer zone or wetland or removed from site.

January 25, 2022

Marlborough Conservation Commission
140 Main Street
Marlborough, MA 01752

Rec 1-27-2022

Re: Plan Revisions & Response to DEP Comments
Amended Notice of Intent
DEP File # 212-1215
107 Simarano Drive, Marlborough MA (Green District)

Dear Marlborough Conservation Commission:

Goddard Consulting, LLC (Goddard) is pleased to submit this letter on behalf of the Applicant, Andrew Montelli of Post Road Realty LLC, for the proposed trail system at 107 Simarano Drive. This letter will provide the Marlborough Conservation Commission (the Commission) with a revised site plan and revised Invasive Species Management Plan (ISMP) to address the comments made by the Commission at the previous public hearing on January 6, 2022. This letter will also provide responses to the technical comments issued by the Massachusetts Department of Environmental Protection (DEP) on January 7, 2022.

The following attachments have been included with this submittal:

- *Invasive Species Management Plan (ISMP)*, Goddard Consulting LLC, 12/6/2021 (Revised 1/25/2022)
- *Nature Trail Layout Plan, 107 Simarano Drive, Marlborough, MA*, Eric Rains Landscape Architecture, 11/5/2021 (Revised 1/25/2022)

Invasive Species Management Plan Revisions

The following revisions were made to the Invasive Species Management Plan (ISMP) to address the comments made by the Commission at the previous public hearing on January 6, 2022.

- The initially proposed use of a brush hog to clear invasive plants has now been removed from the proposal. Only hand tools will be used to cut, dig and remove invasive plants from the work area. Invasive plants will be hauled out of the woods with wheelbarrows and buckets. No wood-chipper shall be used within the 100-foot Buffer Zone. All vegetative material shall be removed from the site and disposed of in a manner consistent with state and local regulations.
- The use of herbicide treatment on invasive plants is proposed within the 20-foot Buffer Zone per the Commission's suggestion at the previous hearing. This would be done to avoid excessive soil disturbance when attempting to remove large root masses of invasive shrubs and vines. Herbicide would be used on plants with a stem larger than 2-inches in diameter.

7X2

- On the proposed seed mix table, additional language was added to clarify that “at least” 15 lbs of upland seed mix and “at least” 1 lb of wetland seed mix will be needed to reseed disturbed areas.
- As stated in the original ISMP, there will be two years of monitoring to ensure that at least 75% coverage of disturbed areas are obtained after a two-year period. Additional seeding may be required to accomplish this over the two-year span.

Site Plan Revisions

The following revisions were made to the site plan to address the comments made by the Commission at the previous public hearing on January 6, 2022.

- Seating areas SA-1, SA-3, SA-5, and SA-7 were eliminated from the proposal to minimize impact to the Buffer Zone.
- Seating Area SA-6 was reduced in size and shifted further from the 20-foot Buffer Zone.
- A previously approved planting area was added to the plan to better visualize the proposed conditions nearby seating area SA-6.
- Trail sections along NT-2 have been removed from the 20-foot Buffer Zone to the greatest extent possible.
- Wooden three-rail split-rail fences have been added to the plan over the culvert crossing area as well as nearby Trailhead - 2 (TR-2) for the safety of pedestrians and to deter unsafe access to and from the trail.
- Trash receptacles and dog-waste disposal locations have been added to the plan. These will be incorporated into the general outdoor maintenance of the development.
- Erosion controls (compost mulch socks) have been shown on the site plan. They are proposed around the seating areas due to the nature and scope of work involved. The other stretches of trail creation are not anticipated to create erosion, therefore no erosion control was proposed in those locations.

Additional Supplemental Info

At the previous public hearing on January 6, 2022, the Commission requested that a wildlife habitat evaluation be done in areas where the 20-foot Buffer Zone will be impacted. Goddard's wildlife biologist, Ryan Roseen visited the site on January 21, 2022, to evaluate the wildlife habitat within the entire footprint of the trail and invasive species management area to gain insight on the impacts the trail may have on wildlife habitat. The evaluation concluded that there is no significant wildlife habitat features that will be impacted by the proposed trail and ISMP. No nesting sites, shelter or significant foraging areas will be impacted. Outside of the proposed work area, it was noted that there are snags with large cavities that could provide wildlife habitat. These particular snags will not be impacted by the project as they are well outside of the proposed work area.

The Commission also requested pictures of the 20-foot Buffer Zone in areas that were proposed to be impacted. Goddard offers the following pictures in different sections of the trail system:



Photo 1. A view of trail section NT-4 within the 20-foot Buffer Zone.



Photo 2. A view of trail section NT-3 within the 20-foot Buffer Zone.



Photo 3. A view of trail section NT-2 within the 20-foot Buffer Zone.



Photo 4. A view of trail section NT-5 within the 20-foot Buffer Zone.

DEP Comment Responses

Technical comments were issued by the DEP on January 7, 2022. Goddard offers the following responses to DEP's technical comments:

Technical Comments:

1. An explanation of how the project complies with DEP Wetlands Program Policy 85-4, including justification for how the project will have unchanged or lesser impacts on the interests protected by the Act.

Response:

The project has and will continue to comply with DEP Wetlands Program Policy 85-4. This policy addresses the need to amend a Final Order of Conditions. To justify an approval of an Amended Notice of Intent versus filing a new Notice of Intent (NOI), the Applicant must portray that the project's purpose remains the same, the scope of work has not changed substantially, and that the interests specified in the Wetlands Protection Act (WPA) are protected.

The Applicant opines that no change to the project's purpose is changing. The project remains a residential development, the newly proposed trail is simply an amenity for the incoming residents.

The scope of work has not changed *substantially* because portions of the trail system were already approved in the site plans for the OOC (DEP File #212-1215) and management of invasive species was previously approved in the OOC (DEP File #212-1215) under special condition # 60. Therefore, the proposed expansion of the trail system and invasive species management has not significantly increased the scope of work related to the overall project.

As far as wetland impacts are concerned, only negligible wetland impacts will be incurred by the helical piles for the proposed boardwalks. Further demonstrating the project's compliance with the WPA, the additional stream crossing will be designed to meet regulatory performance standards (specifically stream crossing standards). Buffer Zone impacts will be offset with the mitigation measures proposed, i.e., invasive species management. Additionally, no impervious surfaces are proposed in the additional work.

The Applicant therefore concludes that the project's purpose remains the same, the scope of work has not changed substantially, and the interests specified in the WPA are protected.

2. Verification that the new crossing meets or exceeds the Massachusetts Stream Crossing Standards.

Response:

To ensure the new crossing meets or exceeds Stream Crossing Standards, special condition #56 of the OOC (DEP File #212-1215) requires the City of Marlborough's Engineer and Conservation Commission to approve final plans for the footbridges prior to commencement of work related to the footbridges.

3. A comparison of changes to the BVW border – if this area of the property is covered by the ORAD issued in 2019 changes to this border may not be possible at this time.

Response:

The changes to the BVW boundary are explained in the Wetland Border Report included with the Amended Notice of Intent submittal and are shown on the proposed site plans. An internal upland area within the approved BVW boundary was further delineated for this aspect of the project because the area was previously not pertinent to the site's development and therefore was not delineated to its full extent during the ANRAD permitting process.

4. Confirmation of whether the project requires an updated 401 Water Quality Certification or MEPA Notice of Project Change.

Response:

The site is not currently subject to a 401 Water Quality Certification (WQC) because the approved site plans for the OOC (DEP File #212-1215) did not propose filling wetlands within an area mapped as Outstanding Resource Waters (ORW).

A MEPA Notice of Project Change is not warranted because the change is incidental, none of the development program is changing other than this effort to incorporate a woods trail as an amenity.

If you have any questions or comments, please do not hesitate to contact our office.

Sincerely,
Goddard Consulting, LLC



Mitch Maslanka
Wetland Scientist

CC: Andrew Montelli, Post Road Realty LLC, 11 Unquowa Rd, Fairfield CT, 06824
John J. Shipe, P.E., Shipe Consulting, 336 Baker Avenue, Suite 1-11, Concord, MA 01742

December 6, 2021
Revised: January 25, 2022

Marlborough Conservation Commission
Marlborough City Hall
140 Main St.
Marlborough, MA 01752

Re: Invasive Species Management Plan (ISMP)
DEP File # 212-1215
107 Simarano Drive, Marlborough MA (Green District)

Dear Marlborough Conservation, Commission:

Goddard Consulting, LLC is pleased to submit this Invasive Species Management Plan (ISMP) for the parcel known as 107 Simarano Dr. Marlborough, MA. This ISMP is being submitted for consideration in the Amended Notice of Intent (NOI) which has been filed for the property.

Documents included within this plan are as follows:

- Seed Mix Spec. Sheet: *New England Roadside Matrix Upland Seed Mix*, New England Wetland Plants
- Seed Mix Spec. Sheet: *New England Roadside Matrix Wet Meadow Seed Mix*, New England Wetland Plants
- Site Plan: *Nature Trail Layout Plan, Green District, 107 Simarano Drive, Marlborough, MA*, Eric Rains Landscape Architecture LLC, 10/29/2021 (Revised 1/25/2022)

Existing Conditions

107 Simarano Drive is a ±43-acre site which is currently being developed according to the currently approved site plans (*Green District, 107 Simarano Drive*, Hancock Associates, 8/20/2020) and Order of Conditions - DEP File #212-1215.

Two Bordering Vegetated Wetlands (BVW) were delineated on-site. The large central BVW was delineated with series A1-51, AA1-30, B1-150, T1-T19, and U1-U17. This wetland contains interior resources such as two ponds, a mapped vernal pool and intermittent stream channel Banks. This wetland is vegetated with red maple, buckthorn, sweet pepperbush, arrowwood, high bush blueberry, poison ivy, alder, willow, skunk cabbage and wetland ferns. The adjacent upland is dominant in maple, oak, white pine, rose, honeysuckle, buckthorn, sumac, oriental bittersweet, and upland herbs. A smaller wetland located in the southwestern section of the site was flagged with series C1-55. This wetland is dominant in red maple, alder, cattail, dogwood, buckthorn, skunk cabbage, wetland ferns and poison ivy. The upland is dominant in white pine, oak, maple, buckthorn, rose, honeysuckle, and brier.

Several areas throughout the site have been identified as displaying a predominance of invasive species including oriental bittersweet, honeysuckle, glossy buckthorn, and multiflora rose (Photos 1-3).



Photo 1. Oriental bittersweet vine, honeysuckle, multiflora rose, and glossy buckthorn are pervasive within the ISMP Area. Note that many of the trees in and adjacent to the ISMP Area have been heavy impacted by bittersweet vines (Winter 2021).



Photo 2. Large trees are sparse within sections of the ISMP Area, especially nearby area of wetland flag B29. The dominance of low-lying shrubs results in an open canopy within the area (Winter 2021).



Photo 3. Note the extensive impacts to mature trees caused by oriental bittersweet vines within the ISMP Area (Winter 2021).

Invasive Species Management Proposal

The goal of this ISMP is the restoration of a primarily native plant community within the target area and the reduction of invasive species across the site. Pending approval by the Marlborough Conservation Commission the following target area will be treated and the proposed methods of treatment will be implemented.

Target Area

Invasive species removal has been proposed as mitigation for a proposed trail system within jurisdictional areas on site. The Applicant proposes that that invasive species be managed within five (5) linear feet of each edge of the proposed trail and associated seating areas. For details on the location and extent of the ISMP Area, please reference the Site Plan created by Eric Rains Landscape Architecture, LLC, titled *Nature Trail Layout Plan, Green District, 107 Simarano Drive, Marlborough, MA*, dated 10/29/2021 (Revised 1/24/2022).

As previously stated, invasive species may be found throughout the site but generally do not represent dominant species within vegetative communities. While considerably smaller than the target ISMP Area, these sporadic groupings of invasive species represent a point source for re-establishment of invasive species across the site. Accordingly, the applicant seeks the ability to address these areas as deemed necessary. All additional removal shall be supervised by a qualified wetland scientist and methods utilized shall consist only of low impact methods such as hand pulling/cutting or cut stump herbicide treatment (in upland Buffer Zones, including the 20-foot Buffer Zone to minimize soil disturbance nearby the BVW).

Vegetation Management Methods

Physical Cutting and Pulling by Hand

Physical cutting and pulling by hand will take place in the following areas:

- Wetland areas within the footprint of the proposed trail
- Wetland areas within 5-feet of the edge of the proposed trail
- Upland areas within the trail footprint
- Upland areas within 5-feet of the edge of the proposed trail

Physical cutting and pulling by hand will involve laborers physically cutting and removing the roots of invasive species with shovels and other hand tools. All vegetative material shall be removed from the site and disposed of in a manner consistent with state and local regulations.

Cut Stump Treatment

Cut stump treatment will take place on invasive plants with greater than 2-inch diameter stems in the following areas:

- Upland areas within the footprint of the proposed trail (where large diameter invasive plants pose a threat of resprouting)
- Upland areas within 5-feet of the edge of the proposed trail

Cut stump treatments consist of physical cutting of target species followed by an herbicide treatment applied with a nozzle or painted onto the surface of the stump. This method allows for accurate use of the product, and has minimal impact on the environment versus broad spectrum sprays. The recommended herbicide is glyphosate, which rapidly biodegrades when it reaches soil, and acts to inhibit photosynthesis.

Due to the proximity of the ISMP Area to the adjacent wetland resource areas, glyphosate formulations for use in aquatic applications are recommended. These formulations use surfactants which are less detrimental to aquatic organisms, thereby reducing the likelihood of negative impacts to established aquatic communities within the pond. The specific formulation which is recommended for this application goes by the industry name Rodeo.

All herbicide application shall be performed by an applicator licensed in the state of Massachusetts possessing a sound working knowledge of native/invasive plant identification.

No wood-chipper shall be used within the 100-foot Buffer Zone. All cut vegetative debris will be removed from the site and discarded of in a method consistent with state and local regulations.

Transplanting Native Species, Replanting, and Seeding

It shall be noted that the proposed trail will meander around mature native vegetation where feasible. No trees or saplings shall be removed. If circumstances arise that the trail must continue through an area of small native shrubs, the shrubs will be transplanted to the side of the trail or seeding areas. In areas where extensive invasive species removal occurs, the area will be reseeded

with a native seed mix and, if necessary, planted with native shrubs and trees so that there is at least a minimal 15-foot radius of spacing between native shrub and tree specimens. Shrub and tree species for planting will include native species like the ones that currently exist within the Buffer Zone or BVW., i.e., red maple, red oak, white pine, highbush blueberry, winterberry, or any other native species pre-approved by the Commission.

Supplemental seeding will be required to aid in the establishment of a primarily native plant community within the ISMP Area. The species within the proposed seed mixes can be referenced via the attached spec sheets. The seed mixes include herbaceous plants and woody plants to ensure a diverse establishment of native species. The seed mix should provide at least 75% coverage of the disturbed areas after two years of monitoring are completed.

Seed Mix Table

Quantity	Seed Mix Name	Species Included
At least 15 lbs	New England Roadside Matrix Upland Seed Mix*	See Spec. Sheet
At least 1 lb	New England Roadside Matrix Wet Meadow Seed Mix *	See Spec. Sheet

*Comparable seed mix may be supplemented upon the approval of the overseeing wetland scientist.

General Procedures

Supervision: All work within the ISMP Area shall be supervised by a qualified wetland scientist. The supervisor shall submit monitoring reports to the Conservation Commission as described below. Reports shall contain details of all work performed and photographs of completed conditions.

Step 1: Stake Limits of Work, Confirm Wetland Flags are in place, & Install Erosion Control Barriers (ECB)

Stake out limits of work for the ISMP Area and confirm wetland flags are in place on site. Erosion control barriers (ECB) shall then be installed at the locations shown on the approved site plan (*Nature Trail Layout Plan, 107 Simarano Drive, Marlborough, MA*, Eric Rains Landscape Architecture, 11/5/2021 [Revised 1/25/2022]). ECB measures will remain in place and be maintained until the site is completely stabilized and then may be removed after approval of the Conservation Commission. The wetland scientist shall have the authority to require additional erosion control measures if deemed necessary.

Step 2: Remove Invasive Species

Invasive species shall be removed from the ISMP Area in accordance with the methods and restrictions proposed in this document.

Step 3: Seeding

Seed mix comparable to that specified in this document, shall be scattered evenly throughout the ISMP Area (within 5-feet of the edge of the proposed trail and other locations where soils are disturbed from invasive species removal). Following seeding, a light application of weed free

straw mulch shall be applied to the restoration area to encourage seed germination and reduce water loss.

Step 4: Erosion Controls Removal

Once the ISMP Area and trail system is stable, a request shall be submitted to the Conservation Commission to remove the erosion controls. Upon approval of stabilization, erosion controls shall be removed promptly, and any significant disturbance shall be seeded with a seed mix as specified above.

Step 5: ISMP Monitoring

a. Seasonal monitoring reports shall be prepared for the ISMP Area by a qualified wetland scientist for a period of two additional years after the initial invasive species removal effort. This monitoring program will consist of early summer and early fall inspections, and will include photographs and details about the vitality of the ISMP Area. Monitoring reports shall describe, using narratives, plans, and color photographs, the physical characteristics of the ISMP Area with respect to presence of invasive species, soil stability, survival of native vegetation and plant mortality, aerial extent and distribution, species diversity and vertical stratification (i.e. herb, shrub and tree layers). Any invasive species will be documented if present, monitored and removed in a manner consistent with the methodology proposed in this document.

b. At least 75% of the surface area of the ISMP Area shall be re-established with indigenous plant species within two growing seasons. If the ISMP Area does not meet the 75% re-vegetation requirement by the end of the second growing season after installation, the Applicant shall submit a remediation plan to the Commission for approval that will achieve ISMP goals under the supervision of a wetland scientist. This plan must include an analysis of why the areas have not successfully re-vegetated and how the Applicant intends to resolve the problem.

Step 6: Continued Management

Due to the high likelihood of invasive recurrence on the site, the applicant seeks the ability to conduct as-necessary removal of invasive species in perpetuity. Additional vegetative management efforts shall implement only low impact removal methods such as hand cutting/pulling and cut stump herbicide application (in upland areas only). All work beyond the scope of this ISMP shall be conducted in coordination with a qualified wetland scientist. If deemed necessary, all herbicide application shall be performed by an applicator licensed in the state of Massachusetts possessing a sound working knowledge of native/invasive plant identification.

Conclusion

This ISMP is for the removal of invasive plants within the ISMP Area, with a goal of establishing a primarily native plant community and improving wildlife habitat adjacent to the proposed trail system. To achieve these goals, this plan has proposed an approach consisting of physical and chemical management methods. It is our professional opinion that the distinction in removal methods between the areas specified previously in this report will allow for the efficient

removal of invasives from within the ISMP Area, while affording maximum protection to wetland resource areas and reducing the amount of herbicide which will need to be used.

In addition to invasive removal within the ISMP Area, the applicant also seeks the ability to perform, under the supervision of a qualified wetland scientist, the targeted removal of invasive species identified outside of the ISMP Area in perpetuity. Based on the high likelihood of invasive recurrence, particularly after site disturbance, it is our professional opinion that granting the applicant this ability will afford the greatest chance of the ISMPs success. We therefore respectfully request that the Commission approve this ISMP in conjunction with the Amended NOI.

If there are any questions concerning this ISMP, please do not hesitate to contact us.

Sincerely,
Goddard Consulting, LLC

A handwritten signature in black ink that reads "Mitch Maslanka". The signature is written in a cursive, flowing style.

Mitch Maslanka
Wetland Scientist

21. Prior to the beginning of work, the applicant shall:
 - a. Properly install all siltation controls according to the plans approved by the Conservation Commission.
 - b. Provide the Conservation Officer with the name and telephone number in writing, of the person who will be immediately responsible for supervision of all work on the project site and compliance with this Order of Conditions. The Conservation Officer shall be notified in the event that the site supervisor or contractor is changed.
 - c. Clearly mark the limits of work in the field and instruct all workers not to work beyond the limits.
 - d. Notify Conservation Officer of the date upon which work will commence.
 - e. Hold a meeting on the project site with the Conservation Officer, the project site supervisor identified in Condition No. 21-B above, and other relevant parties identified by the applicant or the Conservation Commission to review the project and this Order of Conditions. Siltation controls shall be inspected at this time.
 - f. Failure to comply with Condition Nos. 21-a-e, as well as Nos. 8 & 9, shall constitute sufficient grounds for the Conservation Commission to order all work to cease until compliance is achieved.
22. The Conservation Officer shall serve as the Commission's agent in all matters pertaining to the interpretation and enforcement of this Order of Conditions. Accepted engineering and construction standards shall be followed in the conduct of all work.
23. Issuance of this Order of Conditions does not in any way imply or certify that the site or downstream areas will not be subject to flooding, storm damage, or any other form of damage due to wetness.
24. All work shall conform to the Notice of Intent, all plans, and all other documents, records, correspondence and representations of the applicant as presented to and approved by Conservation Commission.
25. The applicant shall notify the Commission before performing the modified work. If the Commission deems the modification significant, the applicant shall submit an amended Notice of Intent with any necessary documentation and obtain an amended Order of Conditions. The Commission shall reopen the public hearing in accordance with the provisions of 310 CMR 10.05 (5). The Commission may impose additional or modified conditions to protect the interests of the Wetlands Protection Act.
26. No excavated material shall be disposed of in violation of any local, state, or federal laws. All stumps must be removed from the site; no burying of stumps on site is permitted.
27. Prior to the issuance of a Certificate of Compliance, the applicant shall submit to the Conservation Commission for review and approval an as-built plan and a



letter of compliance stamped by a registered professional engineer. Said plan and letter shall show that all conditions of this Order have been complied with in a satisfactory manner. **[should this be included?]**

28. The Conservation Commission shall be notified in writing at the time of any transfer in the title to the property or any change in contractor/developers prior to issuance of the Certificate of Compliance. The name, address, and telephone number of the new owner shall be included in the notification as well as certification that the new owner has been provided with a copy of this Order of Conditions.
29. Prior to the issuance of a Certificate of Compliance the site shall be stabilized with vegetation or other measures approved by the Conservation Commission.
30. Prior to the issuance of a Certificate of Compliance and after the site has been stabilized, all erosion controls shall be removed from the site. Haybales may be dispersed on site.

Site-specific conditions:

31. The applicant is granted permission to construct a retaining wall just above the shoreline of Ft. Meadow Reservoir and outside the 262' elevation – which is the 100-year flood elevation for the lake- as shown on the approved plan.
32. Work must be done when the lake water level is down during the yearly winter drawdown and when the ground is not frozen, either winter 2021-2022 or winter 2022-2023
33. Prior to starting any work, the location of the wall shall be staked in the field and inspected by the Conservation Officer, verification of the elevations shall be provided. Finished wall height shall also be confirmed during this site inspection and end of wall location identified.
34. All work will be done by hand as large machinery cannot easily access the wall location.
35. All excess materials will be removed from site.
36. Prior to the issuance of a Certificate of Compliance, all disturbed areas shall be stabilized with vegetation or other measures approved by the Conservation Commission.
37. Prior to requesting the Certificate of Compliance please notify the Conservation Officer for a site inspection.

Anything else?

END CONDITIONS

Marlborough Conservation Commission Tree Removal Policy--- DRAFT amendments

As required by state law, all work including earth moving and vegetation removal within the 100' buffer zone to a wetland requires review by the Conservation Commission. However, there are circumstances where waiting for a hearing before the commission could cause a delay, which could cause a hazard or harm. In these situations, the Commission has authorized its Conservation Officer to allow for the removal of hazardous, dead or dying trees which may, if it fell cause damage to a home, shed, car or driveway or cause other harm and where prompt removal is recommended.

The following protocol must be followed by the Conservation Officer in determining if a tree within the 100' buffer zone is a hazard and can be removed, without filing a Request for Determination with the Conservation Commission:

1. The hazard tree must be wholly outside the wetland area, and only in the buffer zone.
2. The hazard tree must be leaning in such a way as to threaten a home, fence, driveway or other accessory structure to a home or building.
3. If the tree is dead or clearly dying it may be removed.
4. The Commission encourages the homeowner to leave a 10' -15' snag (removing the tree branches and leaving a 10'-15' tall trunk of the tree) if it will not cause damage if it falls. Snags are excellent habitat areas for bugs and birds and natural critters and are important to biodiversity. Where feasible, snags are highly encouraged.
5. Trees that are in the buffer zone may be removed without a permit if there are less than 4 trees to be removed regardless of the health of the tree. If more than 4 trees need to be removed a permit from the Commission must be obtained.
6. Trees which have grown too close to the house or deck which overhang the house and whose branches could cause damage if they fell maybe removed.
7. Hazard trees whose root and trunk are IN the wetland proper will need a wetland permit. However, if the threat is imminent, the Conservation Officer may issue an emergency certificate (EC) for tree removal. The EC would then be reviewed at the next Conservation Commission meeting for ratification.
8. Tree trimming or branch removal does NOT require a permit or review, this is considered routine maintenance and can be conducted as a matter of course.
9. Removal of a tree or two that has grown and is crowding out an ornamental tree or other larger tree and whose removal will enhance the health of the remaining tree **can be removed.**
- 10. Where trees are removed if there are no young trees that will grow to fill the space, and where the entire canopy is removed, the Conservation Officer shall require the tree to be replaced with two saplings or one tree that is 1 1/2' in diameter to restore the function of the tree being removed. If more than one tree is being removed a 1:1 tree replacement may be required to restore the canopy. Tree species and size shall be approved by the Conservation Officer. Native trees are preferred, but ornamental trees may also be approved.**

If the Conservation Officer determines that the tree meets one of the criteria above, he/she shall confirm the following:

1. No machinery shall enter the wetland area to remove the tree (s).
2. In cases where machinery cannot reach the tree from an upland area, the tree will need to be removed by hand-held machinery. Branches and wood can be left in the buffer zone or wetland or removed from site.

Approved by Commission on May 19, 2016 amended on _____

FRAMINGHAM

Summary: The city ordinance expands the buffer zone to 125' and a 30' no alteration zone. Excerpts are below:

BUFFER ZONES AROUND WETLANDS

Buffer zones are measured from the edge of a resource area, outwards. The distance measured outwards depends on the type of buffer zone or no alteration zone. These zones are as follows:

- A 125-foot Buffer Zone, for regulatory review, is established by the Framingham Wetlands Protection Bylaw.
- A 100-foot Buffer Zone, for regulatory review, is established by the State's Wetlands Protection Act.
- A 30-foot No Alteration Zone is established by the Framingham Wetlands Protection Bylaw.
- A 125-foot No Alteration Zone around both Certified and Potential Vernal Pools, is established by the Framingham Wetlands Protection Bylaw.

Independent of Buffer Zones, a 200-foot Riverfront Area applies to rivers and perennial streams (streams that run throughout the year). Please note that the 200-foot Riverfront Area is a resource area and not a buffer under both the State Act and Framingham Bylaw.

Copy of the regulations can be found here.

<https://www.framinghamma.gov/DocumentView.asp?DID=417>

CITY OF HOLYOKE

Summary: The city of Holyoke provides a no build zone within 50' also define activities.

Excerpt below:

In addition to these state regulations, the Conservation Commission also enforces the provisions of the **Holyoke Wetlands Ordinance (HWO)**, adopted in 2001. This provides additional regulations that include protections for isolated wetlands and vernal pools, and establishes a **No-Build Zone within 50 feet of any wetland resource.**

Most work activities are restricted within wetlands and their buffer zones, and require a project review and permit from the Conservation Commission. Examples of these activities include:

Dumping: leaves, brush, or other organic material

Cutting: trees or shrubs

Building: new structures, additions to existing structures

Grading: including any excavation, or filling with soil or other materials

Polluting: point-source chemicals, including attenuation of nonpoint-source pollution.

A few minor projects and certain maintenance projects may be exempt from permitting, but will still require a negative determination from the Conservation Commission. Contact us for additional guidance prior to performing any work to ensure that all activities are in compliance.

For more information about wetlands protection and state regulations, please reference the following resources:

[Holyoke Wetlands Protection Ordinance \(Revised 2/7/2013\)](#)

MILFORD

Summary: Milford has a local bylaw but no regulations and no specific setback policy.
[ARTICLE _____ : To see if the Town will vote to amend its General By-Laws by adding a new Article 33 thereto regarding Wetland \(milfordma.gov\)](#)

BRAINTREE

Summary: Braintree Has a local bylaw that protect the buffer zone, but no specific no disturb zone is defined. They have an interesting section on trees excerpts below:

[Wetland-Bylaw-Rules-and-Regulations \(braintreema.gov\)](#)

In this bylaw there is also this preamble about tree protection which I thought was interesting, here is the excerpt of that section:

A. TREE PROTECTION

1. Preamble Trees play a significant role in preserving the wetland values protected by the Bylaw. Cutting and destruction of shade, ornamental and evergreen trees increases surface drainage problems, increases municipal costs to control drainage, contributes to problems with soil erosion, decreases water quality, decreases wildlife habitat, including

potentially rare species habitat, reduces shading of wetlands and streams with associated negative impacts to water quality and aquatic wildlife, decreases the ability of wetlands to mitigate climate change, negatively impacts property values, increases the likelihood that wetlands will be altered, and may cause barren and unsightly conditions. The removal of trees adversely affects the health, safety, environment and general welfare of the residents of the Town of Braintree.

2. Regulations These regulations are intended to deter the removal of trees from Resource Areas by requiring avoidance and minimization of tree removals, as well as requiring mitigation plantings for any permitted removals. The Conservation Commission allows no loss of trees four inches (4") in diameter at breast height (dbh) or greater for any activity within the Commission's jurisdiction without replacement as follows. Tree Removed Replacement Required Within 50-100 foot buffer zone One to one replacement Within 0-50 foot buffer zone Two to one replacement Within a resource area Three to one replacement Notes:

1. Replacement trees shall be 1.5"-2" minimum caliper [diameter or diameter at breast height (dbh)].
2. Species native to Massachusetts and appropriate for the site shall be used.
3. Cultivars shall not be permitted unless specifically authorized by the Commission.
4. Shrub species may be used at the discretion of the Commission. If permitted, the shrub replacement ratio shall be higher than the respective tree replacement ratio.

Should the applicant not have sufficient area on site to replant all the trees/shrubs required by this policy, the applicant shall make a monetary contribution of \$250 for each tree/shrub that is not replaced, to the Commission's Tree Planting Fund. The Tree Planting Fund is maintained by the Commission for planting and maintenance of trees on Town property. As part of any application subject to the Commission's jurisdiction, the applicant shall clearly indicate the location and number of trees four inches (4") in diameter at breast height (dbh) or greater to be removed. Both the location and number of trees shall be verified by the Staff of the Department of Planning and Conservation as part of its project review on behalf of the Commission.

Documentation of a 75% survival rate at the end of two growing seasons shall be submitted to the Commission. If 75% survival is not achieved, replacement plantings of the same species shall be made by the applicant. Dead or diseased trees which present a hazard to the public safety shall be exempt from this policy. The Commission may require documentation from a Massachusetts Certified Arborist (MCA), arborist certified by the International Society of Arboriculture (ISA), or other qualified arborist certifying that the tree(s) is an immediate safety hazard. At the discretion of the Conservation Commission, owner-occupied, single-family homes may be allowed to replace trees at a lower ratio based on lot constraints.

FITCHBURG

Fitchburg has its local wetland regulations which establish specific setbacks for specific uses and areas copied below based on location 20' to 50' no disturb and 25'-75' no build. Excerpts below:

[fitch regs Rev2012 \(fitchburg.ma.us\)](http://fitchburg.ma.us)

3.2 WETLAND SETBACKS FOR NEW ACTIVITIES

In order to protect and preserve the public interests and values of the wetlands and waterways of the

City of Fitchburg, activities in Wetland and Buffer Zone Resource Areas should be avoided to the

full extent practicable. The following are the minimum distances (setbacks) of activity from the

edge of Wetlands or Vernal Pools. No activity shall be allowed within these setbacks except as

provided below, or as provided in Section 1.5 of these rules and regulations. These setbacks are the

minimum and may be extended further if deemed necessary for the protection of the interests of the

Ordinance by the Commission.

CATEGORY

RESIDENTIAL// NONRESIDENTIAL

WETLAND DEPENDENT STRUCTURES (1)	0'// 0'
"NO DISTURBANCE" ZONE (2)	20' //50'
"NO BUILD" ZONE (3)	25'// 75'
CHEMICAL FREE AREA (4)	50' //50'
UNDERGROUND FUELS & HAZMAT AREA (5)	100' //100'
VERNAL POOL AREA (6)	100' //100'
SEPTIC COMPONENTS AREA (7)	50'// 50'
UNPAVED WALKING/BIKING TRAILS (8)	10' //10'

FRANKLIN

Franklin has 25' /no touch; 25-50' no build- only lawns and drainage etc. and 50-100' build but can add more mitigation depending on the project. Here are the excerpts.

[PROPOSED RULES & REGULATIONS - TOWN OF FRANKLIN CONSERVATION COMMISSION \(franklinma.gov\)](http://franklinma.gov)

4.2. 0 TO 25 FOOT BUFFER ZONE RESOURCE AREA 8 Franklin Conservation Commission

Regulations October 3, 2019 4.2.1. An applicant shall demonstrate that no

work/disturbance including grading activities is proposed within the 0-25 foot buffer

4

zone resource area. Any applicant proposing a project within the 0-25 foot buffer zone resource area will have an irrefutable presumption of significant adverse impact to the functions and characteristics of the resource area, unless otherwise determined by the Commission under the minor buffer zone activity criteria set forth in Section 2 of these regulations, or as approved by the Commission by the variance procedures set forth in Section 5 of these regulations.

4.3. 25 TO 50 FOOT BUFFER ZONE RESOURCE AREA 4.3.1. Any applicant proposing a project within the 25-50 foot buffer zone resource area shall indicate that there are no structures including but not limited to, concrete, stone, or other impervious foundations and/or slabs for construction purposes that for all intents and purposes would significantly increase runoff. Alteration in the 25-50 foot buffer zone resource area is limited to grading, tree clearing. Stormwater management system components, lawns, gardens, and other low impact uses as determined by the Commission or as otherwise approved by the Commission by the variance procedures set forth in Section XVII of these regulations. Footings for building structures, such as a deck, as opposed to slabs or foundations, shall be used when technically feasible. The Commission may condition the applicant to use Best Management Practices (BMP's) for stormwater management consistent with the most recent version of the Town of Franklin Best Development Practice Guidebook. Stormwater management systems or individual components including drainage piping, and construction of detention/retention ponds shall be allowed by the Commission based on an alternative analysis and review of design and space limitations as indicated in the final approved plans. 4.3.2. Areas Disturbed Prior to June 29, 2006: When there is a pre-existing disturbance (disturbed as part of a previously recorded Certificate of Compliance or disturbed prior to the enactment of the Wetlands Protection Act and the Franklin Wetlands Protection Bylaw), and the work proposed is entirely within this previously disturbed area, an applicant may propose impervious surfaces or other uses such as pools, buildings, porches, and sheds within the 25-50foot buffer zone resource area. The Commission shall evaluate the proposed uses based on the demonstration by the applicant that the functions and characteristics of the resource area will not be adversely impacted.

4.4. 50 TO 100 FOOT BUFFER ZONE RESOURCE AREA 4.4.1. Alterations including structures are allowed in the 50-100 foot buffer zone resource area. The Commission may require additional mitigation offsets when the slope within the buffer zone is steeper than 10%. Additionally, mitigation offsets may be required by the Commission when the applicant proposes that 9 Franklin Conservation Commission Regulations October 3, 2019 more than 30% of the 50-100 foot buffer zone resource area is proposed to be impervious surface. 4.4.2. Mitigation offsets may include but are not limited to plantings, conversion of impervious to pervious surfaces, and other practices consistent with the most recent version of the Town of Franklin Best Development Practice Guidebook.