

Hopedale Conservation Commission
Meeting Minutes
February 15, 2022

Call to Order: 6 pm by Becca Solomon
Meeting held virtually via Zoom.

Attendees on Zoom:

Becca Solomon, Dave Guglielmi, Marcia Matthews.

Andrea Kendall, LLC, Langdon Environmental; William (Bill) Buckley, Owner, Developer; Doug Hartnett, Principal, Highpoint Engineering; Joseph Antonellis, Attorney; Tim Watson; Heather Lewis; Michelle Bird; Lucas Machado; Colleen Stone; Peter Kennedy; Randy Ryanaudo.

Notice of Intent

75 Plain Street, former Rosenfeld property. Applicant needs Order of Conditions for redevelopment of Rosenfeld Concrete site into a warehouse facility.

Public Hearing

Becca Solomon, Chair: The first item on our agenda is a public hearing for a Notice of Intent for 75 Plain Street. Additionally, we will discuss at the end of this meeting related correspondence of mail we have received. I would ask public comment to wait until that time, as most of the public comment will probably be addressed or will be related to that correspondence in the mail. With that, Doug Hartnett I pass this over to you.

Doug Hartnett: Thank you, Chairman. Joining me on the project team tonight is Bill Buckley, the applicant, Joe Antonellis, our attorney and legal counsel for the project. And Andrea Kendall from Langdon Environmental who is our wetland scientist. It's been a couple of months since we've last met with the Commission on December 21. And we've been busy during that time period. We've had a couple of meetings with the different town boards that also have concurrent project review in addition to the Conservation Commission. I have a small presentation that I think will make it easier for the commission to follow along on the updates.

Since our last hearing, we've had a continuance of our Zoning Board of Appeals special permit for increasing impervious about 15% on the property, and we're seeking a special permit from the Zoning Board of Appeals for that action and that has been continued to tomorrow night (2/16) and we will be having another presentation tomorrow evening with the Zoning Board. We've also had meetings with the Planning Board. We had a meeting in January, and our fourth hearing on February 2.

Doug Hartnett (cont'd): We're getting close to finalizing some of the technical review aspects of the project. First of all, a site plan engineering peer review with Gray's Engineering. Since the 21st of December, we have submitted a second set of revised plans in response to their initial engineering review comments. We received their second round of comments and everything has been acknowledged by Gray's as being completed with the exception of three small drafting revisions that need to be addressed on the plan set. When we wrap those up, we would be completed with that aspect of the work so we anticipate incorporating those minor plan edits in addition to any other edits that might be warranted through our continued reviews with the boards, Conservation, Planning, and Zoning Board of Appeals.

We've also had discussions with the manager of the Water and Sewer Department, Tim Watson. He submitted a letter to the Planning Board regarding his recommendations for the project and his opinions regarding the project's merits as they relate to protection of public water supply. Mr. Watson's jurisdiction lies with the operation of the Mill Street well site that's abutting the property and that's the basis for the maps. Mr. Watson has issued a letter to the Planning Board and let's lay it out. Regarding Mr. Watson's review of the project, he has submitted a letter on behalf of the Water and Sewer Department regarding the project. His concurrence with the Gray's Engineering review that the project's design and the stormwater management designs are in compliance with the Mass. DEP Stormwater Management Handbook and other aspects of the EPA permit requirements for water discharges. The project does meet the goals and the mitigation requirements for that.

Additionally, he acknowledges the fact that this design helps protect public water supply for the Mill Street wellfield, and the fact that our operation and maintenance plan includes a provision for no application of calcium or sodium-based de-icing agents. This is typical in Zone 2 areas where we don't want to apply salt-based products for snow removal or snow melting in order to not compromise the underlying groundwater. Regarding the fact that this was raised by Commissioner Guglielmi in the prior meeting about spill containment, the plans have been amended to provide a couple of spill containment sheds at the north and south truck courts. An operational maintenance plan has been expanded to include equipment for spill containment measures, things like blotter, rags, and booms and methodology to dispose of that. These are the spill containment locations that we're proposing on the plan, the north court area that you see location here as we tried to centralize that so it will an eye contact to be able to see where that is. And we have the same on the south side of the building.

Becca: Again, we will be discussing correspondence and mail received related to 75 Plain Street after the presentation. We would ask any public comment to wait until then, as most of your comments will be addressed by that presentation or related to that correspondence.

Doug Hartnett: Can we go for one final item on that? The Water and Sewer review acknowledge the fact that this project also will remediate existing site conditions that relate to underground fuel storage tanks, any other areas that are identified as being contaminated with reportable quantities that need to be mitigated under the construction aspect of this project, and all that work will be done in accordance with Mass. DEP guidelines on stormwater removal, environmental areas that could impact resource areas, and the public water supply.

We just thought we'd take a couple of minutes to talk about where we were and how we got to where we are in a couple of months, perhaps to some other members of the audience that have not seen this aspect of the project. And then I'm going to ask Andrea Kendall to say a few words about the Wetlands Protection aspects of the project as it relates to our cleanup so that the commissioners and the audience are updated as to what the benefits of the project are. The site had initially been developed in the early '30's by American Concrete Corporation. These are two aerials from online archive sources that show the project site and the progression of the site disturbance that occurred from 1938 through 1968: the mining of gravel, construction of manmade ponds, drafting water for concrete products to use for construction in the region. As you get to 1961 you can see the significant expansion of the construction and mining area. We'll see the construction of a second pond in this area here. This was a manmade pond, but has since been determined to be jurisdictional by Andrea and her team. We found water to wash with and as a supply to make concrete products for the area construction industry. You can see how the development extended almost to the Mill River.

As you get to 1967, this is the extent of the disturbance on 109 acres of the 144-acre site. You can see how much mining has gone on adjacent to the Mill River. Fast forward from 1967 to 2001. The site where it had been disturbed ceased to be working those areas and partially vegetated, but a lot of it is just barren vegetation that's established itself and really a non-topsoil condition established within the gravel areas. In the northeast corner of the site was the drafting pond that they don't want to use anymore. The current operation is in the middle of the site, and you can see the Mill River. You see from this plan that the site is still significantly degraded; 42 acres are barren and 67 partially vegetated. If you were to go out there, you can see a significant amount of debris, dilapidated equipment, and a lot of old precast products that didn't meet the production standards.

This plan helps give you a sense as to where the existing site is and also shows in green, the delineated wetland areas that Andrea will discuss briefly, and the limit of the development as it currently exists. On the right side is our development plan superimposed on the image to the left you can see our proposed plan is placed within the footprint of the previously disturbed site and does not significantly, if at all, alter any areas that have not been previously altered through the original operation.

Doug Hartnett (Cont'd): This is the development plan and the Commission has seen this before: a single point of access, two primary driveways encircling the building to provide access for trucks, as well as for vehicles to gain access to a parking field that allows the development. To the right of the building as it relates to the Commission's jurisdiction is a small area of wetland that you see in the South Court. And that area is replicated at a one-and-a-half to one ratio. It's our opinion that the replication site will have more benefit. We have gone through a fairly robust review by the engineer and we've addressed all their comments.

The product itself results in a significant improvement to the site, an improvement of views, improvement of the land surface and improvement which is the stormwater management of the existing site that implements state-of-the-art best practices to improve water quality, improve and promote recharge, and ultimately improve the discharges to the level resource areas throughout the property. With that, I'm going to ask Andrea to say a few points about her role and what she was able to discern from those studies on the property.

Andrea Kendall: Thanks. LEC, including myself and other staff, have conducted multiple site evaluations early on in project development to identify all the jurisdictional wetland resource areas subject to the Wetlands Protection Act, as well as those that are subject to the US Army Corps of Engineers. We did this work in accordance with all the rules and regulations and evaluated the plant community, the soils, and the hydrology to pinpoint and locate the boundaries of these resource areas. Based on that we delineated the boundary of the Bordering Vegetated Wetlands. There are ponds out there, which have banks and land on the water. There are isolated lands subject to flooding. There's one isolated feature out there that is not connected to anything else but it's subject to state jurisdiction because of its size and capacity to hold standing water. Then there's the Mill River and it's associated to a two-hundred-foot riverfront area.

Most of these wetlands were either created or expanded on as a result of the site operations. That long linear pond in the southeast that from what we could tell based on the historic aerials, is a created feature, but we are acknowledging that this is going to be subject to the Wetlands Protection Act. So it's jurisdictional and the small amount of impacts to that resource area will be replicated and replaced as Doug indicated. As part of our review, we also observed within the wetlands within the riverfront area within the buffer zone and throughout the site, relics of debris and construction items, buildings, sand and gravel areas, three pump houses associated with the three ponds on site or water features. And these were utilized as part of that site operations and will no longer be needed. We've identified numerous areas where there could be improvement to augment all the stormwater improvements that will be made.

Andrea Kendall (cont'd): Based on that, over 68,000 square feet of buffer zone will be converted from the existing pavement, building, and degraded sand and gravel areas to two new naturalized areas, so there's a net benefit with regard to that. There are also debris piles within BVW that have been identified for removal, so there will be a net benefit for that. And then we'll also be removing the pump houses and pipe features that extend into these water features. And so there those will also be removed and there'll be a net benefit for that.

As part of our evaluations, we also wanted to evaluate any significant wildlife habitat features, in this case, any of the wetlands that might function as vernal pools we've identified those and added those to the plan. It's important to note that we're not impacting those and those are considered as part of the site constraints.

The proposed wetland replication area was identified specifically because it contains invasive olive on exposed soils. It will be cleared and seeded with native plants, shrub and tree species. We think we're increasing the value of the existing habit.

For people that might not have a complete understanding of what the site looks like, there's existing concrete paved areas. There's no comprehensive stormwater plan at the site today, which fully manages these areas. All of these features will be removed and either naturalized or incorporated into the project footprint and stormwater runoff will be managed as developed by by Highpoint.

This is a couple of images of the pump house, piping, and catwalk areas that will be removed from the pond and water features. This is an example of some of the debris piles that are scattered throughout the site, in the buffer zone and wetland areas that will be removed. There are areas in particular adjacent to the front entrance, where there is existing pavement, concrete, and degraded areas, buildings that will be removed, and that will specifically be restored to naturalized condition and topsoil seeded with native plants, and then with native trees as well. So more of a pollinator-friendly species also. We think there's going to be an added benefit to the site as compared to existing conditions as it relates to the potential reuse of natural areas for wildlife habitat.

Under existing conditions, especially in the rear of the site, I've seen runoff erode the existing gravel areas that have washed out down into the low depressions, some of which occurs as impacted wetlands out at the site. With the proposed development, all of that will be rectified and managed to eliminate those kinds of current impacts that that the site experiences.

And as I touched on earlier, there'll be a comprehensive stormwater management plan implemented that will mitigate runoff far above what is in accordance with current state

regulations, far beyond what currently occurs at the site today, which Doug can describe further, but there really isn't any stormwater management at the site.

Doug Hartnett: Well, thank you, Andrea. It's a brief summary of the benefits of this project. In closing, we wanted to open it up to the Commissioners for discussion, but that covers where we are, as I expect continued discussion with the planning board after this hearing, and well as the Zoning Board of Appeals tomorrow night. We hope that this presentation this evening gives you a clearer understanding of the direction of the project. Thank you.

Becca: Thank you. There are a couple things I want to point out for Commissioners. I'd like to discuss correspondence received from Water and Sewer, a letter from Tim Watson.

Becca: Meadow restoration is not jurisdictional. Vegetative growth was observed to be invasive olive. While you guys are doing this on your own at some input from us, there's no requirement for you to do that. You guys are doing that on your own. Other items are the petition, pollution, and traffic. A couple of correspondence items I'd like to go over for the public. I do see your hands. You will have a public comment period. Please wait till we finish going over the correspondence, because it might answer some of your questions. So that we can give the Commission a chance to ask their questions and concerns.

First, I want to share this screen. This Commission previously expressed concerns about getting the Water and Sewer review of this. They have responded to a peer review from the Stormwater report in this letter which the Commission also received, that they seem to be confident that you guys will be protecting the public water supply. I saw Tim Watson on here and if he wants to say anything in regards to him, you're welcome to unmute.

Tim Watson: Hi, Becca, thank you very much. Again, this is just my opinion. This was also provided to the Water and Sewer Commission. The board has not discussed this letter that I had drafted but this is my valuation of the peer review and the stormwater management plan and discussions with other departments and so on.

Becca: Appreciate the clarification. No further comments on that correspondence. I specifically want to go over some of the questions in regards to what the Conservation Commission has jurisdiction over, which is some of the comments on pollution. And if we can just go over some of that for the benefit of the Commissioners and as well I would appreciate that.

Doug Hartnett: The main report was the water quality which was addressed.

Becca: You guys covered that, but if you want to make any more comments on how you're mitigating that, or what impacts you specifically intend to see, the public appreciate if you can re-summarize the salient points of how this project will address the residents' concerns.

Doug Hartnett: So, again, we look at the use of the site as it currently exists as a concrete fabrication operation. And the proposed uses of a more traditional commercial development that is subject to the current regulations promulgated by Mass. DEP, the Stormwater Management Handbook, and to also to design guidelines outlined by the EPA. What the project does that it doesn't do today, is it collects all the stormwater from impervious surfaces and the design is in a manner that it requires you to treat the runoff because the site isn't within a zone to have a public water supply. That Zone 2 designation automatically designates the site as a critical area, requiring a one-inch runoff volume pretreatment prior to either surface discharge, or recharge to the underlying groundwater. So as part of the design, building roofs are considered to be clean because you don't have vehicles driving over them. The design takes those buildings and recharges them through subsurface filtration chambers. There's a direct recharge of the roofs into the ground.

The surface areas of the truck courts and the parking lots on access driveways are collected through a series of water quality swales. We refer to them as that provided water quality pretreatment and either provide recharge which is this this the bulk of the of the science that we're implementing here with some minor discharge that goes to the manmade ponds and the jurisdictional or overflow from the large pond to the west. You have acreage now, about 100 acres of both barren and impervious today, that there's no stormwater improvement at all. We're going to restore a lot of that, and hard surfaces are going to be treated and to a larger extent recharge direct to the aquifer pretreated, which benefits the public water supply and the Sewer Department for the mitigation protections. Are there concerns about that? All projects are required to have a critical short-term and long-term plan.

The short-term plan is a construction maintenance plan. There are inspection requirements through a stormwater pollution prevention plan that is prepared by our office that identifies methodology and strategies for containing runoff that might occur from a typical construction site while the building of the site's being prepared. Then we fast forward, the site is built and operating is called a long-term operation and maintenance plan that provides guidance and schedule for inspecting, maintaining, and cleaning all the stormwater management practices on the site. They're set on a regular schedule which is the obligation of the owner and tenant to meet. And the EPA permanent requirements also backstop that to some degree.

Usually an Order of Conditions will specifically state that an operation and maintenance plan is part of the requirements that the applicant and the future operator are obligated to comply with. And so that's how we guarantee that there's not going to be any failures because of the frequency of the inspections. You would anticipate that inspection will identify a concern area and implement a mitigation or rectification strategy to address that. I think that covers the water quality and protections of the groundwater.

Becca: If you don't have any more comments on that, I would like to pass this to Marcia if she has any comments or concerns.

Marcia: None.

Becca: Dave?

Dave: Thank you, Becca. Just a very brief follow up if I may. A couple of months ago, last time we talked, I brought up the concern about if there's ever an accident or a leakage from the tankers, if the saddle tanks ruptured and there was a spill of say 50 to 75 gallons, which is certainly conceivable. It sounds like there was a contingency plan of how that spill would be contained. If some of those saddle tanks are ruptured, what exactly happens? What is the procedure? What is the contingency plan and how is that fuel going to be mitigated?

Doug Hartnett: I'm going to just point out the operation and maintenance plan. The standard operation and maintenance plan is developed site specific to all projects that are designed in accordance with the DEP Stormwater Management Handbook. And as we get down to the back end of the O and M plan, we have a spill prevention plan, and this was added in the middle of January in response to the Commissioners' concerns. It identifies where you can anticipate the discharges to occur, whether it's from landscape maintenance and operations which might be gasoline, lawnmowers, or fertilizers. As the Commissioner suggested, in parking and loading operations, there could be released hydraulic oil, fluid, antifreeze, diesel, from parking, driveways, and unloading areas. The owner and the responsible party are responsible for coordinating the necessary containment of these spills if they occur. What we've done is we've designated a storage area outside the building that will be a visual icon that the tenant will identify through their operation plan. That building will include items such as safety goggles, chemically resistant gloves and boots, water and chemical fire extinguishers, shovels, and absorbent materials. Proprietary compact spill containment berms, containers suitable for storage of specific materials, first aid kits, will provide remediation for any environmental damage. There are protocols in place.

Dave: What would a contractor or trucker do if they find that there's a spill?

Doug Hartnett: The truckers will be provided INFO from the tenant that will operate the facility and post on the outside the requirements for spill containment, emergency numbers to contact. In this case, it would be the building manager, emergency management, the Mass. DEP 24-hour spill reporting number, the police department and the fire department. There's a plan for emergency response from the public safety to come to the site and evaluate if the spills are less than five gallons of material. Mitigation would consist of the source control which means

Doug Hartnett (cont'd) identify the source, stop the leakage, clean up and absorb materials unless an imminent hazard necessitates multi-professional hazardous material clean up.

If the spill is greater than five gallons, the incident is required to report to the Mass. DEP Hazardous Waste Incidents Response group regarding the materials spilled with quantities, location, the time of the spill, and develop a mitigation plan if it's required to do so. I will note that the water quality areas are designed to store up to one inch of runoff. If there was a spill of 30, 50, or 75 gallons, it's a substantial spill but not like you will see an oil spill on TV. It would likely be localized to one particular stormwater management area. In this case it would likely be contained within a forebay. Then that area would be cleaned. And if there's concerns from the Commissioner, we can embellish on that and provide additional visual cues on the site so that the contractors are well aware of the location of response kits in the shed

Dave: I know there were some catch basins designed in the in the area. I'm not too concerned about the small amount leaking from a lawn mower. I was concerned about 50 to 75 gallons leaking from those saddle tanks. A truck pulls in at two in the morning in February, gets in an accident, that 50 gallons is now on the ground. It goes right into the stormwater management system because it's the one of the forebays and there is stopped, and it'll be cleaned up from that point.

Doug Hartnett: That's correct. We will have sheds in the areas of the truck courts to obtain immediate access to absorbent materials and cleanup materials by the individual that was responsible for the release, or the building manager. If the fire department or the police department were called, then the appropriate measures can be taken to contain that spill.

Dave: But they wouldn't be there all the time.

Doug Hartnett: Correct. I suggested that on the final shed, there'd be a visual cue that would clearly identify that location. When a contractor who will be a trucker comes into the site, they see that and they're aware that it's there. That's the visual cue so in the event an unforeseen accident occurs, they'll know that that facility is there to use.

Dave: Okay, I'd like to move on Becca, if I may, to my next question. And part of it has been addressed already at the initial positive meeting. And that regards the open water features, and I'm going to refer to them as ponds. Is there any way Mr. Hartnett, to get a visual of the pond schematic? I'm going to be describing them as areas which you described in the stormwater plan. Have you noticed some kind of application for the wetland resource area analysis? Area One is to the north?

Doug Hartnett: Area One is to the north.

Dave: Okay. I want to make sure I understand what the pond features of all about. Area One contains aquatic vegetation and Bordering Vegetated Wetlands. It's also been determined it's been expanded from existing pond that is jurisdictional, correct?

Doug Hartnett: Yes, that's correct.

Dave: Okay. Area Three would be the southern linear, elongated open water feature that contains two vernal pools, and a prevalence of aquatic vegetation. Even though you're unsure of the origins of that, that is still considered jurisdictional.

Andrea Kendall: It doesn't show up on the historic aerals. It looks like it was constructed in a forested area and what's not clear to me is whether it was constructed entirely within an upland or in part within a wetland expansion, so we're taking the conservative approach that it's jurisdictional.

Dave: Okay, understood. And Area Two located in the central part of the parcel that appears to be excavated. This doesn't appear to be any type of Bordering Vegetated Wetlands and it lacked any associated aquatic vegetation, therefore, it would be determined to be non-jurisdictional, correct?

Andrea: Correct. It was used in operations.

Dave: And referring to the smaller book, which is entitled The Notice of Intent application and one resource area analysis. Towards the back it gives an aerial depiction of the pond. And it has Areas One, Two and Three, Three A, Three B, but there's also a photo of Area Four.

Andrea Kendall: Yes, I think that corresponds to where a wetland system BVW previously existed. That area was disturbed, but it's within the western portion of site. And even though it was excavated, and it discharges into a stream, we are calling it a BVW and jurisdictional. Okay, so it's still there. It's a forested wetland system currently. In 1961 open water existed, but it could have been further modified.

Dave: Okay, I understand. The picture I'm looking at is circa 1961. You're saying at this point in 2022 it no longer exists? Correct? It's characterized as a BVW now versus an open water pond but it wouldn't be categorized a pond today. Understood. Before we leave the pond, if I may, I want us to recall our site visit almost a year ago, was it?

Becca: It was last spring, March or April.

Dave: And we were all on the site visit. One of the ponds was used to wash the trucks. There were drains in the washing bays and the debris and whatever's in the trucks would flow back into the pond. So being a cement company, anything within those trucks, any product involved

in cement production, if they cleaned a chassis, any oil and gas would also fall back into the pond. When you clean that area, I was wondering about doing some type of testing in that pond to determine you know what type of material was deposited in the ponds in the decades the cement corporation was operating. Would that be a possibility to consider?

Doug Hartnett: Rosenfeld told us they used recycled water and it didn't flow back into the pond. They had pitches in the containment area. I'll reverify and forward the answer to Becca. When the demo begins, that area will be evaluated.

Dave: Yeah, but they would actually drain in that area. And that had no way to drain down toward the pond. Am I incorrect on that?

Doug Hartnett: No, you're not. We have a photo of that if it helps. It's this area here on the right-hand side. They purposely had these slight pitches in these staging areas to wash the equipment so that they can recapture that water recycling. That was my understanding of talking with the operator Rosenfeld, but let me reverify that and I'll forward the correspondence to Becca. But to your point when the demolition begins, that area will be inspected as well as the rest of the site in accordance with the DEP requirements for evaluating any potential discharges to the property and mitigating those as part of the development plan.

Dave: My next question concerns the replication area, and I'm going to be referring to the wetlands resource management analysis. I'm looking on page 22 of the Notice of Intent application

Doug Hartnett: What's your question?

Dave: The proposal is for 3,430 square feet to be altered and the area to be replicated is going to be give or take 5,200 square feet with roughly a ratio of 1.5 to one of the area being replicated to the area being altered. But if you look at the other document of the stormwater management analysis it says construction of give or take 3,600 feet.

Doug Hartnett: As we advance to the end of the design, it was recommended by Andrea that we should achieve a one and a half to one ratio rather than a one-to-one ratio. So the larger area is the area that was proposed on the plans. It's just that the drainage report didn't pick that up. The true statement is the larger figure of 5200 give or take with the 1.5 to one ratio. Also there's going to be another 450 square feet, that's going to be temporarily altered, but that'll also be replicated. It'll be restored in its location to replicate the temporary alteration. That gets temporarily altered to be able to build a retaining wall. They need to be able to stage on the downgradient side of the wall in order to construct it, so we created what we consider to be a five-foot construction zone that could be subject to impact, but it will ultimately be re-established in the field.

Dave: Understood, that clarifies that issue. There's one more question and then we have a comment. I will refer you to the larger book, the stormwater management analysis, and the checklist, the stormwater report. You checked off country drainage versus drubbing gutter conveyance and pipe. Why did you believe as an engineer, that country drainage is a superior alternative based upon this particular project?

Doug Hartnett: The country drainage we were referring to had to do with the site driveway, not necessarily the truck courts. If you go to the design plan, this will give you some order of magnitude of what we're talking about here. This area in the site driveway is we have we've designed in swales, so there's no closed drainage within the neck of the site driveway.

We've implemented roadside swales that come into the larger stormwater area that you see in the footprint here. So that's what it means by country drainage is more of an open drainage swale system.

Dave: So it's basically vegetated swales.

Doug Hartnett: Yeah, exactly. And DEP promotes that when possible, because it's a more passive best-management practice that they like to see implemented, especially given the suburban environment like this. We felt it was appropriate and we had the acreage to do it.

Dave: This comment may go beyond the scope of the application of the Notice of Intent, so I would like the indulgence of the Commission just to address the issue. We're hearing a lot of information about building emissions, and the efforts nationwide to reduce carbon emissions. The state law was passed last March to reduce emissions by 50% of the 1990 levels by the year 2030. When you first hear 2030, you think it's a long time away, but in fact that's less than eight years away, and these emissions are required to be eliminated by 2050. In other words, becoming completely carbon neutral. A lot of towns particularly the town of Brookline, have instituted a complete ban on connections with natural gas. There is reference to the 2000 Green Community Act which allows for incentives to communities to require energy efficient development. I would just ask this question right out that in the design of your building, particularly a building of this size, is this component been taken into consideration? And will you be able to comply with the standards as they come about in the coming years?

Doug Hartnett: First of all, those are targets, the 2030 to 2050. Everybody's going to try to do their part in order to be able to achieve those targets, but they are targets so they're not mandates, the way the regulations are written. But that said, the buildings are designed in accordance with current energy code, and the Mass. building code. It's updated frequently to start to implement the energy conservation measures that are usually implemented in new construction. So to your point about will the building achieve that a net zero carbon footprint?

The building is designed in accordance with the code as it relates today. The building is not designed to think about what might happen 10 years from now.

Dave: Exactly my point. Yeah, exactly my point. I know that we have to deal with what's currently in the books. And it's just a general comment. I really think we as a town and we as a state, we need to think about not what was relevant 10 years ago or even now, we need to think about what's coming 10, 20, 30 years down the line. They're currently working on a dramatic revision of the building codes. There's discussion about making it statewide and also making it retroactive. I'm just concerned about if this building is up and running within a reasonable amount of time, and these new codes become retroactive. That's going to become very expensive to you, when it isn't a time to be thinking about this now? Before any type of construction has to be done.

Becca: I'm going to reiterate the disclaimer at the beginning. What he said here is out of our jurisdiction, so it is up to you if you want to answer that or not.

Doug Harnett: Well, I don't mind. First of all, I appreciate his comments. You know we're in the business. We see this all the time. It's a push and an initiative that's being undertaken by many municipalities. I can tell you that this building is designed to be primarily an electric-driven building. Electricity can be tapped from renewable resources such as solar and wind power generation stations. That's why there's always a desire to push building design to use electricity because it's more of an ability to tap into renewable resource. This building is not supposed to tap into natural gas.

It is proposed to have a propane tank to provide additional heating where it's required within the building, but it's not tapping into natural gas. So perhaps that coupled with the energy savings associated with building envelopes and building roof design, the energy rating of a building is only as good as the rating of the skin of the building. So the rating of the skin of the building the R factor [insulating value] of the skin of the building is all related to building code.

Marcia: So, looking at the letter from Water and Sewer manager Tim Watson, and looking at the compliance that you've exhibited, I don't see how the Conservation Commission can really deny giving you some Orders of Conditions. It seems like we have reached the limit of our jurisdiction. In my opinion, I would move to consider Order of Conditions.

Becca: I will table that motion, Marcia, so we can allow public comments first, because it is a public hearing, so we do have public comment before we can go to that step. Any more comments? Colleen had her hand raised earlier, and I think you said something in the chat. But you might want to pull that presentation back up.

Colleen Stone: I was just curious back on the map where you can see the wetlands delineation and around specifically down at the Mill River back to that. Our property is down on the bottom left. And we have a stream that runs from somewhere in the middle of the Rosenfeld's site right down into the Mill River. And I was just curious how far in it goes into the site to potentially lead down into the river.

Andrea Kendall: They are three stream systems that feed down into the river from the project site, pretty much in the northern section, the midsection, and then in the southern section.

Lucas Machado pointed out a stream.

Andrea Kendall: Yes, we did delineate that and it is depicted on the plans. Is there any question in particular about it?

Becca: That is the wetland area we have delineated.

Andrea Kendall: That is part of the 13-series wetlands adjacent to the site. Numbered 1 through 13 flagged as wetlands.

Colleen Stone: The entire Mill River was frozen solid about a week ago and to the point where we could walk right across it but that stream was still running down. And we had never seen that before. So I was just kind of curious where it was actually flowing continuously. The actual river was frozen solid.

Doug Hartnett: If they're stream channels, they're intermittent. We've done an evaluation of what's perennial versus intermittent out here and at the end of the stream bank associated with it, it was so far inboard of the bordering vegetated wetland [BVW] which is really the resource area that's closest to the potential of development, that was delineated and shown on the plans for the purposes of jurisdiction. We were never getting close enough to those intermittent areas to define them, probably an excavated channel at some point long ago that created that stream. The Bordering Vegetated Wetland that we're showing is the development side. It's the most restrictive resource area delineation as it relates to evaluating the development with respect to the Commission's jurisdiction.

Becca: Rivers have a 200-foot buffer. Intermittent streams don't have a buffer, but wetlands have 100 feet. Perennial streams are considered streams that have water flow. Intermittent streams flow for three months of the year or more, but not continually. Those do not have a riverfront area. They do have 100-foot buffer zone from the Bordering Vegetated Wetlands adjacent to them, but the intermittent stream itself does not have the same 200-foot riverfront area that a perennial stream has. The applicants are referring to this as an intermittent stream. We're not too concerned from the regulations that we are allowed to permit.

Becca (cont'd): The next hand that I saw come on was Lucas Machado. Yes if you can identify yourself and your address please.

Lucas Machado: Thank you to the applicant for sharing his plans tonight and the Commission for this time. I think the applicant has done a nice job of putting together his strategy, but it seems like it's all pertaining to the development of the project and not as much about the daily operations of the mega-distribution warehouse afterwards, which I believe is going to have a devastating impact on the surrounding wetlands, environment, and neighborhoods. The alarming amount of tractor trailer traffic that it brings to the area, potentially leaking and spilling fuel and other contaminants is extremely concerning. So thank you, Doug, for bringing up that which we also know has recently happened in the area. I'm also concerned about litter pollution and wildlife being killed on the road. We all see it, animals dead on the street. And while it's easy to ignore, it's critical that we look into how operations of this mega-distribution facility will impact the wildlife in surrounding resource areas. It's been decades since there was any major development in this site. I imagine the wildlife are not expecting the massive disruption from this construction. And when they try to escape, it will be an extremely noisy, dangerous environment for them. They're going to be met with severe traffic on the roads from the tractor-trailers. We also know from comparable facilities that were put up in the local area that it's likely impossible to stop a concerning amount of trash and litter on the surrounding roadsides.

(visual) This is a comparable area where a facility recently went up and you see this trash pollution. This can be found on page 11 of the public opposition document that's on the Hopedale town website. This pollution also includes things like plastic bottles filled with urine so I am concerned about how that will have its effect on the surrounding area, which we know is residential neighborhoods. The Mill River, and whether or not it's fully under the jurisdiction, is something I'm concerned about. The photo-finish 3d rendering that they've had up for a while is high quality and idealistic, but I'm concerned that it's not representing how this would end up. I did my best to read through the hundreds of pages in the stormwater management report, both the written document and the visual plan, but it is difficult to dissect without an expert from my perspective. It makes me question a little bit the interest here and I do think it should be easier to understand. I appreciate you listening.

Becca: Let me respond to that. The first thing I'm going to respond to, Lucas, is your concern over wildlife. While that is admirable and I do agree with it, to some extent, protecting wildlife is not the jurisdiction for this Commission, so there's nothing we can enforce. While the Wetlands Protection Act has as one of its purposes protection of wildlife, defined in the act as an endangered species under the Endangered Species Act.

Becca (cont'd): There is no estimated priority habitat for Natural Heritage on this property, so there's no jurisdiction to enforce any wildlife concerns like that. Typical wildlife like squirrels and foxes is general wildlife and it is not jurisdictional for this Commission. That aside, the next comment in regards to your comment on the stormwater. What was presented to us by the applicants is the standard stormwater report that we do get as Conservation Commission. Each of our commissioners has seen these throughout our time on the Commission. Learned to understand the language. It has been peer-reviewed by the planning board. That review has been shared with the Conservation Commission so that we do have a team of professional engineers putting this into layman's terms. And unfortunately, it's not necessarily the most accessible for the general public. We welcome questions to help understand it, but safer and simpler language just can't be done.

Doug Hartnett: The only issue that the only outstanding item has to do with litter and refuse and what happens with that on the public way. The tenant will be responsible for maintaining the site in a clean and orderly manner, and that will be built into the tenant documents by the applicant. And it's up to the applicant and the tenant to do good housekeeping on the property. It's usually baked into the tenant agreement as it relates to the public ways.

I guess that's an enforcement action to public safety and the Highway Department. Perhaps there's some signage that could be posted, No Littering signs. But that's really all you do. I've walked that site frontage a number of times and I don't disagree with Mr. Machado, that you do see trash on the side of the road. You do get people who are inconsiderate and so hopefully through signage and enforcement that can be addressed.

Becca: Roadside trash that's not within a buffer zone or what resource area is not something we can permit or regulate in any way, but down the line even 20 years from now, if the Commission ever is made aware that significant debris or trash has entered into a resource area, we always reserve the right to track down and investigate who's responsible for that trash and work with the property to have it cleaned up. And while it's not ideal if the property owner doesn't cooperate, enforcement orders are an option for the Conservation Commission when needed. Just in terms of process to help educate the public. There are options available for us to make sure that is maintained and even mandate restorations and cleanups.

Mr. Buckley, do you have comments on that?

Bill Buckley: Yes, Madam Chair, I think it's for the ownership group to speak up here and recognize that that would be an unacceptable condition to us as ownership in this. We are local and remain involved in the management of our properties. I'm familiar with the fact that the site had some issues with trucks queuing early on in the establishment of that project.

Bill Buckley (cont'd): That's something that we took into consideration in the design of our site and you might notice again, it's outside the Commission's jurisdiction, but there is ample queuing and parking space.

Becca: I'm going to move on to the next question. The hand that I saw raised next was Michelle.

Michelle Bird: I just want to say it's hugely disappointing during every meeting as residents without expert staffs. We don't have an Andrea Kendall. We don't have the any of the big staff that they have. We've requested presentation information prior to the meeting so that we could formulate some questions and understand what we're talking about. And again, we have not been given that opportunity. I also would like to say that I don't think that we should be making any decisions without knowing who the tenant is. I understand that's how they do business. They don't tell you who the tenant is. But we are not able to make an informed decision without knowing if this tenant has a history of negligence. We know nothing about them. And yet we're being asked to make a decision and I think that's wrong.

Doug Hartnett: It not our intention to put the current owners of the property in a bad light. That's not the reason why we presented what we did. We presented it as a basis of comparison of what's going on onsite, what its current condition is versus the development plan. It was not meant to disparage the current property.

Becca: With that the applicants have no further comments on the matter. I'm going to move on to the next raised hand.

Randy Ryanaudo: I understand that this committee isn't the forum to talk about the impacts of all the traffic and the negative impact to property values. But since this committee is overseeing environmental impacts, I was wondering if there have been any studies made about the impact of the diesel fumes that will be produced by all the trucks and the noise pollution that will impact the environment.

Doug: I can say that currently commerce is allowed on public lands. We know that's a right that is baked into federal regulations.

Becca: As it relates to concern on fumes, air quality concerns are outside our jurisdiction. You would have to reach out to the Air Quality Division of DEP in order to get an answer on that.

Randy Ryanaudo: So no one in Hopedale is looking into that.

Becca: I'm not entirely sure. There's always the possibility and I see Mr. Buckley has his hand on hand up so you might be able to answer this better.

Bill Buckley: If air quality issues were triggered, the Board of Health could have some jurisdiction on behalf of DEP there. There is no air quality threshold that's been met here, especially given the fact that diesel trucks are regulated for emission standards by EPA, and then DEP does have the no idling regulations that every tenant is going to have to follow. There is the five-minute idling law, which we as owners and tenants are going to need to enforce to remain in compliance with those regulations. Randy mentioned noise, we did provide a noise study with our application. And we are still anticipating a peer review of that study from the town's own sound expert. We anticipate a little back and forth on that to be sure that we're not in violation of a noise ordinance.

Randy Ryanaudo: Thanks for that response, although I'm really concerned by the fact that with so much traffic in a residential area, that state and federal guidelines really are geared towards trailer trucks on highways, they don't have residents butting right up against them. Nobody in Hopedale stepping in and figuring out how this is going to impact the residents.

Becca: I will again reiterate that unfortunately, that is not jurisdiction for the Commission. And as this seems to be a recurring theme of questioning who regulates what in concerns over what regulations should be applied, that if people want to see stricter wetlands law, stricter stormwater laws, stricter traffic laws, you can make local bylaws. Talk to your town administrator, your Select Board, and the related committees in the correct forums in order to have those concerns addressed.

Nilton Machado: It's up to each town to develop your own plan and enforce it. The other thing is in respect to the invasive plants that are going to be removed. What is the plan for after the plants are removed? What is the continual plan to make sure they don't come back? Because from experience, invasive plants don't just go away when you remove them. Will you remove a certain amount of soil to make sure we get rid of all the roots?

Doug Hartnett:

They take up a lot of the dirt and invasive species and they'll be disposed of in a manner that they don't end up reseeding within the areas that they're currently propagating. What we try to do is establish a ground cover so that the native vegetation chunks off the invasive. It's done in a manner so that there's enough density of the native plants and the native ground cover to be able to crowd them out. That's how we would address the invasives, by getting a good topsoil mix and a healthy restoration plan should continue to fight off the advancement of any invasives.

Becca: Part of the plan is monitoring to make sure the plantings and seedlings survive to the expected mortality successfully.

Nilton Machado: What is the noise level? I believe in some previous meetings was talking about Green Screen Law, given the way the property is located and how close it comes to the neighborhood? And because even when Rosenfeld was renting the site out, you find numerous complaints filed with the Zoning and Planning Board in respect to noise, because we could hear it clear as day when it was three o'clock in the afternoon or three o'clock in the morning. The beeping sound, the noise. If we're going to do some green screening, what size plants are we talking about?

Becca: Noise pollution concern isn't really our jurisdiction. What may be jurisdictional is in regard to a green screen planting if that happens, call it buffer zones along the edges, then the platforms themselves will be jurisdictional, but anything to specifically address noise pollution, and your concerns with that will unfortunately not be this commission.

Nilton Machado: But the reason I bring it up is the green screen was something that was on the table and I'm assuming since it's going to be most likely of protected areas, Conservation will be a part of that decision.

Bill Buckley: Madam Chair, I'd be more than happy to just clarify. Noise discussion has been predominantly at the Planning Board and is going to be at the March 2d Planning Board meeting. Our noise study is currently under peer review by the board. We did mention at a couple of hearings that there are landscape buffers, primarily along the frontage of the site. At our entrance we're building landscape berms that we think are going to provide some buffering from noise. It's interesting to hear from Mr. Machado that historically they could hear sound over there because we do want to make sure that's not the case. If there's any enhancements that we can make, we want to do that so we look forward to the further engagement.

Nilton Machado: With respect to spillover whether it is diesel fuel or brake line breakage, anything that exceeds five-gallon amounts. It is something that needs to be handled not only immediately, but also needs to be recorded. Our first line of defense is going to be a third-party driver. That will be difficult to monitor with somebody who actually works for the facility or he is who is associated with wherever business is managing the site. A truck-driver may be a nice person, but is he going to be as aggressive to contain a spill or to report that in a timely fashion to the management off the facility?

Doug Hartnett: It's an operational issue as it relates to attendance, operations and management of the facility, primarily the posting of the appropriate signage to notify truckers when they enter the site that they have an obligation to report spills to the building management or to this building supervisor that's on shift. That signage should be implemented and clearly visible from the outside, not from the inside but from the outside and I think you know, speaking for Mr. Buckley, that is an easily implemented provision as another way of

creating due notice to these individuals that come on a site that might not otherwise be familiar, that they have an obligation to report any kind of spill that they might be responsible for.

Nilton Machado: What if the facility had a gate guard on like a gate system on the long driveway? You think that would improve the probability of somebody being able to be more proactive and reporting something?

Doug Hartnett: The design of the project does implement guard gates prior to entering the trucking terminals, so there is restricted access under the current design. You can't get into the site without an authorization from the gate point.

Heather Lewis: Thank you, chairwoman. I think what I'm hearing is that there's a lot of or the ongoing monitoring and enforcement is really reactionary and left all pretty much to the discretion of the unknown tenant. I'm wondering who specifically is going to be responsible for monitoring and enforcement, making sure that the snow and the ice treatment truck drivers that are there at three in the morning get the memo and they aren't using salt and sodium. The oil and diesel spills are prevented before they occur, that the ongoing stormwater management is monitored not just at the onset during construction, but thereafter, and the litter, we are all putting our faith in an unknown tenant for monitoring and enforcing all of that. That's kind of a lofty goal but I'm curious about who is responsible for about I will let the applicants respond to that.

Bill Buckley: Madam Chair, the property owner is responsible for the implementation and monitoring of all of the conditions that are agreed to, whether it be in the Planning Board approval, the Conservation Commission, or conditions of a special permit with Zoning, whether or not the owner but some of those tenants. The ultimate responsibility remains with the owner and developer of the process. Any construction conditions will be passed on to not only to the contractors but ultimate responsibility in oil spills or contamination in the property, the ultimate responsibility is with them, and there is good incentive for the owner of the property to follow those rules and implement those rules to confirm there will be feet on the ground monitoring this information and these guidelines proactively as opposed to just waiting for the tenant to report something in a reactionary mode.

Madam Chair, each case is different. Whether there's on-site management would depend on what the lease structure is or the tenant relationship but there would be legal requirements placed on the ownership group that in some cases get passed through to the tenant. But yes, that's where the ultimate responsibility lies.

Colleen Stone: I believe it was Mr. Buckley talking about landscaping berms that could help with noise and I know that's not the jurisdiction of this Commission. I have read a lot about them. As it relates to along Plain Street and prospective residents, but we can hear Rosenfeld, currently, and it is consistently. I don't know if you gentlemen have actually visited Ben's Way on the road and the residences that about the property. Can those berms be expected to protect this property?

Bill Buckley: We have looked at noise mitigation strategies to all this site. We are anticipating a robust noise discussion at the Planning Board. We think there are some measures that we can take that are precautionary in nature that will enhance our noise mitigation, whether that be with landscaping berms or a fence. We're looking at a couple of different options there that we want to work in conjunction with the town's noise consultant to agree on a proper mitigation strategy. I have personally driven down to Ben's Way and Richard Road, stopped and parked my truck there, so I'm very familiar with the area. I think you've heard me say this in Planning Board meetings, it really doesn't help us to be creating noise issues for the neighborhoods. There's a number of complaints to the building commissioner, the zoning commissioner or to the town administrator. And that makes for a difficult relationship with the tenancy, a difficult relationship as the owner of the property. There are noise thresholds that we legally can't exceed. And it's our intention to honor the noise study and satisfy your concerns.

Colleen Stone: Yeah, I definitely look forward to a further discussion about the noise.

Becca: We're here to do to help development occur while also protecting these resource areas, so if a berm was to go in that area, we would have to look at how it's going to affect the stormwater how it would affect the flow in the wetlands itself. And the actual vegetative plantings have to be looked at, what's being planted, ensuring that native species would be part of the process. You could also put berms in that are not within the buffer zone or wetland area. But there are other ways to reduce noise that don't involve the berm. The noise itself is not our jurisdiction. It would have to be reviewed by the Commission. And as we don't have plans right now. I would refrain from going into detail on such a proposal. Because this Commission, we have set precedent over the past couple of years that we tend to wait for Zoning and Planning to finish with your project and give us written confirmation that their concerns have been addressed before we issue an Order of Conditions and close the hearing. This is primarily because once this Commission closes the hearing, we can't accept any more comments before writing the Order of Conditions. Unless if something were to come up with a new concern that hadn't been addressed in public meeting, we can't review that after the public hearing has been closed. It's an Order of Conditions and there's a substantial plan change within a jurisdictional area that would require the applicant to come back at their expense to the Commission, reopen the hearing, letter notifications, new legal ads and have an amended order because it would be

a significant site plan change. To avoid such a process, we do wait to make sure that the plans are final before we issue an order. We wouldn't be issuing an order until we're certain that the plans are finalized.

Colleen Stone: That's helpful. Thank you. Again, there's a lot that has been discussed outside of the jurisdiction. This may be the case but there were some comments around diesel fumes and emissions and air quality and I don't know if there's going to be some regulation, but would the Commission or maybe one of the other boards be able to make a request to have air quality sensors put into this development so that the residents can feel better about the fact that they're not breathing in a certain level of diesel fumes?

Becca: That's up to the DEP. I believe Planning and Board of Health would have input. DEP is the regulating body. They have an Air Quality Division and a Water Division. This project is not going to surpass state regulations. The DEP has already issued their file number. They issue a file number before Conservation is allowed to close the public hearing.

Doug Hartnett: It's on the ENOI website.

Andrea Kendall: It's #187-0256. And it's important to note that DEP actually did not issue any comments which conveys that they had no concerns about the project development. So in their minds we are complying with all the regulatory provisions of the Wetlands Protection Act.

Nilton Machado: Last comment Mr. Hartnett in respect to invasives that keep coming back every year. You can scrape one or two feet of top soil. What if it's something that is airborne, comes with the wildlife, birds, or whatever the case may be. What happens three, five years down the road? What is the plan and what is the continuous maintenance aspect of to make sure the site doesn't get overrun with it again?

Doug Hartnett: Not all areas of the site are to be maintained like turf grass and that was by design. We have natural ground cover and wildflower areas, identified in some of the restoration locations to promote pollination, and to have a more natural looking landscape, a more natural environment. The presumption is that those areas would continue to thrive given the natural condition of the materials that are planted. We do not have a species management plan that looks out five years. That wasn't a requirement under the Notice of Intent application. It's not usually a requirement, unless the Commission feels a species management is necessary. We've met the requirements for landscaping, turf grass, and ground cover restoration in accordance with good management practices.

Becca: There will be a monitoring period on that restoration area to ensure success. Special conditions for this project may be something that the Commission would address and work with the applicant to determine what that monitoring and management will be.

Nilton Machado: Are you referring to something beyond the initial 20 to 24 months that's required by law? Is that what you're suggesting? Two seasons establish whether the condition was satisfied. If planting happens in late Fall, you're going to wait two Falls to come back and inspect all the plant materials and at that point you determine whether or not the condition was satisfied.

Becca: The condition was that after the monitoring period is over, if there is mortality the OOC would be extended in the restoration area that we would ask to be repaired and those issues addressed.

Andrea Kendall: Thank you. Chair. I do want to clarify that the monitoring is specific. The two-year monitoring under the Wetlands Protection Act is specific to the wetland replication area to document at least 75% percent coverage of native vegetation and that's where we would implement any kind of removal of invasive species. And then it's up to the Commission whether they want to extend that duration in their Order of Conditions. But under the Wetlands Protection Act, it's just a two-year period.

Becca: I think the question was how do you actually get rid of invasives? There are methods of hand removal that are safe to the wetlands as well as other methods that allow them to be removed more permanently. When we discussing conditions we will address those questions.

Heather Lewis: Thank you Chairwoman, understanding that you are not the air quality is not under Conservation's purview, if the town of Hopedale wanted to do their diligence, and proactively reached out, which board that fall under?

Becca: I would say possibly for the Board of Health since they do have some involvement with air quality concerns. The DEP has regional representatives for each of those divisions. And you might have better success reaching out to them directly to get an answer to that question.

Peter Kennedy: I want to thank everybody for being here tonight. I know this seems like a long meeting but this is a big project that a lot of people are concerned about. This site was a concrete plant for all those years but it's reached its life and they cannot mine that aggregate or sand anymore, so that's probably why they're trying to look to sell it. This site hasn't been disturbed around the wetlands in many years. My biggest concern is when I hear berms, I think about the old days when retention ponds were a big thing. I don't know if they're planned here, but retention ponds are a habitat for mosquitoes. I hear talking about berms. What type of plants and trees are going to be planted there, because these plants and trees are going to absorb water. How is that going to recharge the groundwater? We have a lot of wildlife around here. I know my backyard. I can't grow anything because I have deer and rabbits that eat all this type of vegetation.

Peter Kennedy (cont'd): My biggest concern is how is a 616,000 square foot building that retains all that water on the roofs and then gets discharged through gutter systems, are these being put into retention ponds, swales, and what type of vegetation is going to hold that swale before it gets discharged into the groundwater? Or is it just going to run off into the stream? That's great about berms, the sound does not go left to right east to west, it goes straight up into the air and then it travels but we're not here to talk about sound today. I'm here talking about water, and how are we going to recharge these wells that are in this area and protect the Mill River? Thank you

Becca: Tim Watson, in response to these questions, I invite you to speak now.

Tim Watson: I would direct Mr. Kennedy to look on the town website, whether it be under the Zoning Board or under the Planning Board. And look at all the documentation filed. Look at the stormwater management plan that should answer all his questions. I'm just saying that since 2000, the new MS-4 regulations which the town has adopted, those issues have been addressed. You should read the stormwater management plan and it will educate you and tell you about the recharge. I've looked at that area for the last 34 years and it has had activity over the last five years. In fact, within the last three years, there was almost a year of operations there where a cement truck comes in, it's not completely empty. They go out in the backyard and they dump that cement. That happened for years and years. He spent a year crushing it and making a large parking lot. There is no groundwater recharge. There are little streams and rivers coming through into the Mill River right next to our groundwater for our wellfield. What they're going to do is remove that product. They're going to install massive tanks with infiltration with oil separators and it's going to recharge the water. Now, I'm not saying I'm a proponent of the development or not, I'm just saying that it's a benefit to the groundwater protection. A project of this size, they have good intentions.

Peter Kennedy: Is this our best effort for this piece of property?

Tim Watson: That's beyond my purview. I'm just talking about the groundwater recharge. If there is an issue it ultimately becomes the town's problem. If it hits that Mill River, I agree with you. So it's in the best interest of the town, and the town does have the authority to ensure that they comply with that maintenance plan.

Peter Kennedy: Is this a quasi-Superfund site and if it is, doesn't the existing property owner have some responsibility before they turn it over and sell the property and then we leave it to an applicant to come and buy that property, get approved, and they have vacated.

Joe Antonellis: It's not a Superfund site. It does have an open issue with the Department of Environmental Protection. They're going to have to mitigate it once they start doing any type of construction. If they find anything else, they'll be obligated to mitigate and make the appropriate corrective actions under specific guidelines that are overseen by what I call LSPs licensed site professionals and the Department of Environmental Protections Remediation Division. Additionally, Madam Chair, I would like to point out that what gets lost sometimes in the conversation with all of the residents who have commented on the quality of our presentation, I just want to point out for the record, that the applicant has hired an independent consulting firm Gray's Engineering to provide complete peer review for each and every part of the application that's been submitted. Each piece of information, whether it's the stormwater management, the traffic report, the sound study that we've done, all of those studies are being reviewed independently, by outside professionals who have the same kinds of resources that Doug and Andrea have in their firms. There is a quid pro quo in that regard. Our information is being scrutinized by others. The bill for that is paid for by the applicant under a statute that allows that. None of your local boards are acting, as one hand clapping. They have somebody else assisting them in the review and analysis of the project.

Becca: So with that, I'm going pass this first back to Dave if you have any questions or comments. The hearing cannot be closed at this point. We are still evaluating and gathering information. We also need to hear from our colleagues in both Planning and Zoning Board of Appeals. I would not recommend at this meeting the public hearing closed.

Dave: I would concur with that. I think there was a lot discussed tonight and we still need to sift through all of that get a better understanding on our parts and probably on the applicant's and the public's part as well. We also need to discuss special conditions before we can close the hearing. So that we can discuss what we want on or off those conditions.

Dave: I make a motion of this public hearing to continue with the approval of the applicant until our next regular monthly meeting which occurs on Tuesday, March the 15th.

Motion passed unanimously.

Becca asked the applicant to follow up since quite some time has passed. Forward documents to Dropbox or the online copies of the plans to the public who are looking for them as well since they seem to be having issues finding the physical copies at town hall. Applicant agreed.

Becca: Next, business we are going into our general business portion of the meeting. We will be looking at meeting minutes from the January meeting.

Minutes of January 14, resend.

Dave moves Minutes of January 18 be accepted. Approved as written.

Recreation Ad Hoc Committee Dave attended 3 years ago. "I would propose we rotate membership among Commission members. When you realize what's involved with fields, it's connected with Conservation." Motion passed unanimously, this Commission will have a rotating member.

Standard Special Conditions: Ashland included the right to hire outside consultants.

The OOC has been recorded at the Registry of Deeds. Applicant must provide written document to the Commission as per the Wetlands Protection Act.

Dave: "Making sure that an order is recorded at the Registry. ensures that it does not get lost. It is also a requirement under the state Wetlands Protection Act. And whose responsibility is it that they're less stipulations that the applicant's responsibility or our responsibility? So I believe the condition is written that the applicant has to provide the written documentation to the Commission. I don't think there's any fee associated with the Registry itself and the hearing process. If there's a specific fee that would be in the local bylaw, which we don't have.

Becca: Okay, so we need to draft up some bylaws to reinforce these conditions, not necessarily for all of the conditions. If we modify the language to any written documentation that the Order of Conditions has been recorded, has met the requirements of the Wetlands Protection Act, that alone is something that we can condition and have a standard set of conditions without needing a wetlands bylaw.

Get the January 14 meeting minutes together and have that on our agenda for our next meeting.

Motion passes unanimously. This commission will have a rotating representative for the recreation ad hoc committee.

Becca: Again, Question One is What are being put on the town's open space and recreation resources?

Question two, are there any future development projects on the horizon that could have impacts either positive or negative to the open space and recreation resources on town?

Question three, are there adequate recreational opportunities in town?

Question Four. Are there adequate opportunities for all demographics?

Question Five Are the town's open space and recreational resources not advertised and utilized.

Question Six are the town's historical and cultural resources well-protected and if not, which resources should be protected?

Question Seven are the town's historical and cultural resources well-known and advertised?

Question Eight are the town's environmental and natural resources well-protected?

Question Nine are there any development pressures on the town's natural resources?

Question 10. Are there any policies or programs that town should permit to better protect its natural environmental, historical, cultural or recreational resources? And yes, are they and how will it help protect these resources?

Becca: So I will leave this up to both of you Marcia and Dave, to determine which questions you think you want to respond to. And I'll make sure that those responses are brought to the Open Space Committee.

Becca: If there's no further comment on the Open Space Committee questions. I'll move us on to our next item which is the Standard Special Conditions I provided at the last meeting and copy of a couple towns' different special conditions. You will have had some time to review those and I would like to discuss in a bit more detail now. Specifically which conditions you would like to see, if we were to make a Standard Conditions to be modified that we could choose from

Marcia: The two samples that you showed last time, if we could merge them together somehow and just make a checklist that would be more efficient than what we have been doing. You have very eloquent language when you write conditions. I think you know how to add in specific language.

Becca: Thank you for that Marcia. The Conservation Commission reserves the right to hire at the applicant's expense outside consultants to perform inspections and a budget review to ensure compliance with appropriate federal, state and local laws and regulations at any point between the filing of an application to the issuance of a Certificate of Compliance. So that's the right to hire peer review. Dave, were there any other specific conditions that you thought that we should either copy or modify in our own conditions?

Dave: The applicant shall provide the Conservation Commission with written documentation that the Order of Conditions are recorded with the Registry of Deeds. I can speak from a matter of fact that we've had a lot of Certificate of Compliance requests come up and not necessarily has the order been recorded.

Dave (cont'd) Making sure that an order is recorded at the Registry ensures that it does not get lost. It is also a requirement under the state Wetlands Protection Act. And whose responsibility is it, the applicant's responsibility or our responsibility? I believe the condition is written that the applicant has to provide the written documentation to the Commission. I don't think there's any fee associated with the Registry itself and the hearing process, if there's a specific fee for recording that would be in the local bylaw, which we don't have.

Becca: Okay, so we need to draft up some bylaws to reinforce these conditions, not necessarily for all of the conditions.

Becca: Do you have any more specific conditions?

Dave: The agent of the Conservation Commission shall have the right to enter and inspect the property to evaluate compliance with conditions stated in the Order of Conditions and may require the submittal of any data deemed necessary by the Commission for that evaluation.

Becca: The Conservation Commission shall have the right to monitor and inspect and that comes from our authority under the Wetlands Protection Act as well. It's something that we can do without local bylaws. So enter and inspect any of the properties that we have an order out on. We have a right to come on the property with warning, typically. Any time of day, whatever is reasonable, in order to inspect and make sure that the order is being followed, that there's no risk to wetland resources etc. And it's important to note that the conditions specifically say the commission members or their agents, that language is important to have if we ever get a conservation agent like most other towns have. That is a salaried position so that the town can hire the most qualified candidate with the most experience and knowledge to advise this Commission, and they would aid the Commission in doing site visits and reviewing Notices of Intent, storm water reports, and all of that, which currently we pass on to the peer reviewers or do ourselves.

Dave: The applicant shall ensure that all contractors and subcontractors and other personnel performing the real work are fully aware of the permit's terms and conditions. The contractor will be held jointly and independently liable for any violation of the other conditions resulting from failure to comply with his conditions. How many times have we gone on a job site? And we're told by the people working there that they didn't know, they were never told. This absolutely is important. What is enforcing compliance with the applicant to make sure it's now their responsibility to make sure that everyone on that property is aware of the terms and conditions of the order of conditions?

Becca: I agree with that and I would modify the language slightly to include a statement other towns have, that a copy of the Order be kept on-site at all times and is easily accessible by all contractors, subcontractors, etc. for review.

Marcia: Maybe they should post it like the building permit in a waterproof envelope.

Dave: For everyone on their property that has trailers set up as their main office, and those trailers don't have desks inside them where the plans would be kept, a check-in binder is normally where a copy of the Order of Conditions is kept. That way anybody who has questions on it and needs to review it can do so in a warm, dry place. And being that it's normally a lot of a fairly thick packet of papers is more accessible than possibly being stuck on a clipboard somewhere. Orders I've seen get to 20 to 30 pages long. The definitions can be in a separate document like a glossary of conditions.

Becca: So with the standard conditions typically these are just making more clear what specifically the Commission's authority is under a state Wetlands Protection Act or under a local bylaw. There are some that are more specific to a project site. I know Ashland has conditions concerning snow removal and storage on site. Sometimes there are specific things in regards to oil spills that type of work, which are included depending on the project.

And a new standard things which are under authority of the Wetlands Protection Act as it is such as landscape debris isn't going to be thrown into a resource area without a permit and probably wouldn't even receive a permit for that in case it comes to spill. So those are all things that we have authority on under the Wetlands Protection Act. They're technically just stated there under the Wetlands Protection Act they need to be restated it does not matter. They should maybe they should not every person has an understanding of the act.

Dave: Let me read Franklin's if I may. The Commissioners have the right to impose additional conditions as necessary to protect the interests of the Wetlands Protection Act. We don't have a bylaw yet, but I think we just leave it at the interest of Wetlands Protection Act.

Becca: Are there other conditions that you would like to see added whether it's necessarily from the examples provided or if there's something you think that you think should be added that might not have been included in one of those examples?

Marcia: It would be nice if we could have a conversation with the Building Inspector and have an amended form that simply has a place to check off that someone has evaluated conservation issues. And to make sure that we're in the loop because I know in the past that someone discovers too late that they should have filed with us.

Dave: Obviously, we as Commission members aren't necessarily going to be able to respond to everything that comes before the Building Inspector in a timely fashion. Our board is very busy as we are. We don't always see every email that comes before us. Sometimes it takes longer to respond because we have in some cases full-time jobs or other life things. The reason they can have such a standard condition that would include those things is because they do have an acting agent who is a salaried position, who is either part-time or full-time depending on the town, to do those minor jobs on behalf of the Commission to respond to emails to do public relations, answer phone calls, dot our I's and cross our T's and make sure that our Notice of Intent application is complete. Notification to abutters has been done correctly, and to make sure that plans that are before the Building Department, the Planning Board, and Zoning Board policies are being dealt with as a conservation issue. That might tie into a much larger problem here. Like other towns who do not have municipal GIS at this point, that accurately depicts where resource areas are in regards to property boundaries. I think that's something that the town may need to pursue. If we have such a GIS, it's easy for a Building Inspector or Planning Board to type in an address and say, "Oh yeah, there's wetlands on that property, we should contact conservation," or say, "Well, it doesn't seem that it's anywhere near wetlands or streams or anything." And it's up to them if they want to contact us or not.

Becca: Besides the wetlands, are there other overriding acts or laws that we have, such as Army Corps of Engineers stormwater management, two main laws that we enforce our 310 CMR 10.00, which is typically referred to as the Wetlands Protection Act. And the other one, give me a sec, I want to make sure I get the citation correct, is typically referred to as the Conservation Commission Act, and is part of the general laws. Massachusetts General law chapter 40, Section eight. So those are where we get our authority from, and they refer to each other and the Endangered Species Act. The Endangered Species Act as technically administered by the Natural Heritage Endangered Species Program. Where our authority comes in, is that the Wetlands Protection Act, one of the interests it dictates is with wildlife, defined as endangered and threatened species. Whenever we receive a Notice of Intent, part of that Notice of Intent includes checking Natural Heritage if there's any such wildlife on their property. There is currently modern technology a streamlined interactive map that allows you to see what is listed as estimated priority habitat, species of concern and endangered species, threatened Species. If the property is within that area, then they have to send a letter to Natural Heritage to confirm that the proposed project will have no impact and Natural Heritage would send a letter back confirming or denying that they may issue conditions, and it's going to be stated in the notice that Natural Heritage has been contacted in such a case. We as a Commission cannot close the hearing until we receive that confirmation from Natural Heritage, just the same as we can't close our hearing until we receive a DEP file number for the project.

Becca (cont'd): If there is not priority habitat, there is no legal obligation to contact Natural Heritage unless there is physical evidence provided to the Commission and the applicant, showing that there is presence of an endangered or threatened species on the property, as opposed to just the habitat.

Dave: Okay, that's very informative. So we indirectly have authority through Natural Heritage. It's not a direct remit for us. And so the same thing would apply to vernal pools.

Becca: Vernal pools do not typically have buffer zones or real protections unless they're certified there's no certified vernal pools in Hopedale right now, so that can always change. If a vernal pool is within estimated priority habitat, and Natural Heritage of course would take more interest in that vernal pool, it may receive additional protections.

Dave: We do need a GIS to mark wetlands on people's property. That would be very efficient. Currently the state has a GIS system though it is not the most accurate and Hopedale has not had a lot of areas surveyed. So it's certainly not the most accurate for Hopedale specifically. There are different types of municipal GIS. I believe there's grants for such a thing, but because the cost of creating a municipal GIS and to continue and to upkeep it, that may be something that if the Commission wants to pursue from a conservation standpoint, might need to coordinate with other committees and make a proposal to the Finance Committee and the town administrator and Select Board.

Becca: Back to the subject. We still have to hammer out this list. I think we have a good idea of the basis so I think with what you all suggested, I can draft things together. Maybe make draft conditions that are more specific that we can review and then edit from there.

Marcia: Merge the best parts of both of these that we can through and see which ones are specific to local bylaws and make sure that those are separate.

Becca: That is our last official item on the agenda. Please do still have listed member prerogative. If there's any general comments that either if you want to say if there's requests for future agenda items you would like to be added. Now is the time to do some. I will pass first to Dave did you have a general comment you wanted to make?

Dave: I think this fits the letter we wrote to both the Planning Board, to the Select Board and Zoning Board of Appeals regarding the way that those in the who are responsible for programming projects examine the way we do it, centering everything that's happening with climate change and all those other factors. In the last month and a half, I've collected five or six articles and briefs regarding changes have already been made. I wasn't trying to be overly dramatic when I said that these changes are coming rapidly, because the change is coming rapidly. And I think this is something that we all need to be aware of. And we really need to get

on top of it. I think if we if we could serve as advocate to that. I think that will serve everyone's purpose for any project down the road. You should make that one of the conditions that they provide for a five year and a 10 year.

Becca: The problem was quite correct, that they are required to abide by present law and the law that was passed last March.

Dave: It still is going through a period of adjustment as to actually who was going to be responsible for implementing it as we look forward to meet the standards that are required by the law. The articles I read about not only buildings to be built, but also buildings that are already in existence to be retrofitted. I bring this up because of the expense. It's much easier to design and build a building in the design phase than to retrofit an existing building. This is something that's not going to go away. It's going to be a growing issue. And I think we have to be aware of it and we have to be on top of it.

Becca: I agree with that. Dave, and related to the topic, this is not a distant thing, these changes are happening now. To that point, even stormwater standards are currently in the process of being changed. They have already proposed changes. Part of those changes is inclusion of environmental design for buildings. They're opening comment period on those changes. The next few months will be discussion of MACC (Mass. Association of Conservation Commissions) conference coming up in the first couple weeks of March.

And once those comment review periods are over, they will be finalizing and updating their stormwater conditions. So not only us as a Commission, but also Water and Sewers, Planning, and all our other departments who do stormwater are going to be learning what that means, but also recognizing that what we're going to be expecting for the future is these changes happening quickly to the policies that we have from a state level in regards to correcting, updating, and amending them to match the current climate change. It's definitely important that we replicate on a local level, whether that's through creation of local stormwater bylaws, wetland bylaws, tree protection bylaws, etc. And having that parallel the state's efforts and maybe go a step further to make sure that we are preparing for these changing climates.

Dave: So the DEP also gives us the authority to influence builders, but we can't really enforce that without local bylaws. As far as our authority goes for stormwater. We have authority under the state stormwater quality standards under the Wetlands Protection Act in addition to wildlife and Prevention of Pollution, also, public private groundwater supply, stormwater control, erosion, and a few other interests. I can't remember them all off the top of my head. So stormwater comes under authority for those purposes.

Becca: When we see them as part of a Notice of Intent hearing, most projects require a stormwater management plan. There are assumptions single family homes are exempt from the state stormwater.

Dave: There are towns that have a local stormwater bylaw, that single family homes are not exempt.

Becca: So when they we Notice of Intent, they might not file a state stormwater management plan but they still have to do a stormwater analysis to have a plan that's in line with the local bylaws. Okay, could that be one of our conditions that it has to meet stormwater performance standards under the Wetlands Protection Act? Because we don't have a bylaw.

Dave: Any project where we're doing the stormwater report.

Becca: That's one condition I'm not sure we necessarily need to write down because we're preparing the stormwater management plan and then approval, we're basically saying that it meets those performance standards.

Dave: Okay, but maybe we should just reference that Wetlands Protection stormwater performance standards, partly part of the footnotes or whatever, you know, so they know where we're getting the standards. Any competent developer would know this, but there might be some newbie that doesn't know that so maybe we model a little bit more. They have findings of fact where they list the work that is being approved and where the work is occurring.

Becca: Storm Water Management Plan associated with the Notice of Intent, can be approved so that work includes that plan and we expect those performance standards outlined in the plan will be met.

Marcia, you want to say in terms of general items, we are still a member prerogative, agenda item requests and the like.

Marcia: I wanted to mention that we should post our minutes now. I don't know whose responsibility it is to post the minutes once they're approved. Is it the town clerk or so once we've approved from I've sent to the town clerk for posting? We haven't had any updates since last May.

Becca: I thought that I had submitted the minutes approved but I'll double check on that. I'll make sure that those minutes are posted.

Becca (cont'd): We have been asked to present a budget to the Finance Committee for the next fiscal year. I received an email from Diana a couple of days ago. Regarding the next budget. This short notice is due I believe for the 18th so the Finance Committee can discuss it next week. This is an operating budget.

Marcia: I think we talked about being able to hire an agent is one of our terms. That we can hire a consultant if we need to that that should be provided for in the budget.

Becca: In terms of having an agent, or looking to have somebody to help administratively, that would require a budget and I'm not sure.

Marcia: Oh, yeah. administrative help. I'm not sure what value would be put on that.

Becca: I think we're a little far off from asking for conservation agent at this point.

Marcia: We can hold a space for one, maybe put in 200 or floating fund just to hold the space.

Becca: As far as salary positions go, we would have to set up a whole new account to the Finance Committee. Create a new account to pay salary differentials. I don't think that's something we necessarily should pursue until we're actually asking for an agent.

Marcia: What was our budget last?

Becca: We had no budget. This Commission has not had a budget. We had an issue with some trees that are on the conservation land and Pine Crest. That land is under our care and custody. And there were trees on the border of our property and some resident properties that were in danger of falling. They were rotting, and they presented a severe hazard of safety of people. We as a commission had a budget of zero and could not move the trees or care for them with any way to remove this liability. How it had been ultimately handled is it came under the town administrative jurisdiction and she was able to pull funds from Finance Committee to cover that. I believe there was discussion about creating an account for at the very least, the tree maintenance along the borders of those conservation properties, but I'm not sure if the account was ever officially created. Maybe it's a conversation that we really need to have with the finance committee. It took a good two months just to take down a couple of trees that were in danger of falling. And I can speak for myself here that every time there was a storm in that time. I was just praying that they didn't fall to the risk of that family. They had those families actually plural, to different properties.

And being that this is our responsibility, I find it quite concerning that we don't have a proper operating budget in order to maintain the safety of those properties, even though they're not open access, to at least maintain the boundaries so that people's residential homes and lawns are protected or to post our conservation land.

Becca (cont'd): That needs to be posted but it cannot be posted until the property is surveyed because we do not know the exact boundaries at this time.

Marcia: What do you think, give a ballpark of what you're looking for in the budget.

Becca: That's difficult to say, because it's a difference between operating budget and capital budget. I'd say if we are looking to survey that property and purchase small signs to basically mark it. I have an example here. It looks like a trail marker. This one's metal. I have ones that are plastic. The outside reads the name of the town and then Conservation Boundary on the bottom. One says the name of the town and then Protected Resource Area.

They're small, smaller than the palm of my hand. And they're not up in people's faces so it could be a one-time thing to get a bunch of those. We got to turn in our budget by the 18th. And today is the 16th. I would say it's just a draft of items that we want. And maybe we send a letter or email to the Finance Committee that at some point, at least one of us sits down with them to discuss these items, and maybe get their input on what they think the cost associated should be. Because it's certainly not my expertise. I don't think it's any of our expertise as to say how much money it should an administrative assistant cost, or how much does an agent cost?

I can speak to the cost of tree maintenance as tree warden. I can kind of speak to the cost of what it would take to survey land based on averages. Ultimately, the Finance Committee would be the ones that we should meet with, either as a joint meeting or one of us speaking with them, or even a letter that they sent a response to us to discuss later.

Marcia: If they need it by the 18th we could send a letter that says our operating budget requires X, Y and Z and we need you to fill in the cost associated with it. Send a letter and say this is what we would propose for a budget as we have a budget of zero and it's not our area of expertise.

Becca: We request assistance in determining what the acceptable value would be for those items. And mention separately capital items so invoices for the purchase of the markers, surveying the property, anything that's a one-time item is considered capital budget as opposed to operating budget. We'd be asking that we get a certain amount to care for boundary trees each year and that would be a rotating budget that we get the amount each year to do those trees. If we determine we don't need that much after a couple of years, we reduce it. If we determine it's not enough, we ask for an increase and explain why. And the Finance Committee determines how to balance that if it is balanced. Capital Budget is normally funded by grants or by exclusion.

Marcia: Send them a letter just to ask them to estimate you know, these items and see what they say because if they have a deadline, you know, at least we tried to comply.

Becca: I can certainly provide a draft at least listing what we're looking at. Requesting expenditure for consulting services is paramount for us. I'll submit a draft of what we stated today to the Finance Committee, to Diana, our account administrator and I think we plan ahead for the fiscal year after this upcoming one. So that we have that prepared and maybe throughout the year we are able to discuss with Finance Committee, do some research, talk to some contractors and some consulting firms. To see what was the cost and go from there.

The hourly fee for a conservation agent depending on the town and depending on if they're part time or full time is anywhere between \$35,060 to \$50,000, sometimes more in some of the higher-paying towns. There's a very large range. I think we in Hopedale while we're very busy, we as a commission are busier because we work full-time jobs. I think we would only do a part-time agent if we were to do that. That would still cover most of what we need help with.

Marcia: Move to adjourn.

Becca: That is a quorum two ayes. The time is 9:53. This meeting is adjourned.

The Commission's next meeting will be March 15 at 6 p.m.

Agenda will be posted per standard posting requirements. Agenda will include call-in/Zoom meeting information.