

## **Town of Ayer Conservation Commission**

Town Hall \* One Main Street \* Ayer, MA 01432 \* 978-772-8249  
Minutes for 10/28/2021

Location: Remote Meeting via Zoom, accessible to public, due to COVID 19 Pandemic

Present: Mark Phillips (MP, Vice-Chair), George Bacon (GB, Member), Jennifer Amaya (JA, Member), Jessica Gugino (JG, Member/Clerk), Scott Murray (SM, Associate Member), Jo-Anne Crystoff, (CA, Conservation Administrator)

Not Present: Jon Schmalenberger (JS, Chair)

APAC Recorded: Yes

### **7:00 PM – Open Meeting**

- **Confirmation of Agenda**

- GB moved to confirm the agenda as posted; JA 2<sup>nd</sup>.
  - Motion approved unanimously by Roll Call Vote 4-0.

- **Approval of Meeting Minutes**

- GB moved to accept the minutes for 10/14/2021 as written; JA 2<sup>nd</sup>.
  - Motion approved unanimously by Roll Call Vote 4-0.

- **Public Input**

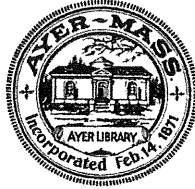
- No public input received.

- **Public Meeting: Notice of Possible Violation – 27 Harvard Road, Theodore Maxant**

- Assessor's Map 35, Parcel 21
- Mr. Maxant was present via Zoom.
  - Mr. Maxant has made improvements to this parcel, taking down an old house, cleaning up junk, cutting some brush along the edge, spreading new loam, and re-seeding.
- An intermittent stream crosses Harvard Road and runs south of this activity as the stream flows to Bowers Brook.
  - CA said she cannot be sure these improvements took place outside of the 100 ft. buffer zone area.
- A site walk was scheduled for Tuesday, 11/2, at 4:30 p.m.

- **Public Meeting (cont'd.): Request for Determination of Applicability (RDA) – 7 Mountain View Avenue, Pat Hall**

- Assessor's Map 22, Parcel 9
- Pat Hall was present via Zoom.
- JG, being an abutting neighbor, recused herself from the discussion but continued to take notes for the minutes.
- A site walk was performed by JS and MP on 10/19 to review the area where Ms. Hall would like to replace a deteriorating wooden slat retaining wall on her Sandy Pond beachfront.



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- MP said the existing retaining wall is holding back a lot of sand.
  - If the wood is removed before a new barrier is erected, much of that sand would risk washing away.
  - He and JS have suggested driving in posts to create a new barrier before the old one is removed.
- GB and JA were fine with this as long as all precautions are taken to keep sand from entering the pond.
- GB moved to issue a Negative Determination of Applicability (DOA); JA 2<sup>nd</sup>.
  - Motion approved unanimously by Roll Call Vote 3-0, with JG abstaining as recused.
  - CA will have the signed DOA ready for Ms. Hall to pick up on Monday.
- **Public Meeting (cont'd.): RDA – 20 Oak Ridge Drive, Edward Kelley**
  - Assessor's Map 20, Parcels 42 & 43
  - Due to a family emergency, Mr. Kelley was unable to participate.
  - A site walk was performed by JS, MP, and JG on 10/19 to look at the 6 trees within the buffer zone to nearby Pine Meadow Pond that Mr. Kelley would like to take down, either because they are dead, damaged by lightning, or leaning toward his house.
    - It was confirmed that all of the trees present a hazard.
  - GB moved to issue a Negative DOA; JA 2<sup>nd</sup>.
    - Motion approved unanimously by Roll Call Vote 4-0.
- **Public Meeting (cont'd.): RDA – 30 Central Avenue, Nashoba Associated Boards of Health (NABH), Jim Garreffi**
  - Assessor's Map 27, Parcel 44
  - Mr. Garreffi, Director of the NABH, participated via Zoom.
  - A site walk was performed by JS, MP, and JG, with Town Planner Mark Archambault accompanying, on 10/19 to look at the project area.
  - MP said he was concerned with the amount of work proposed in close proximity to the intermittent stream, including the removal of trees along the far edge of the parking lot, and said he thought this application should instead be reviewed under a Notice of Intent (NOI) filing.
    - JG, GB and JA concurred.
    - JG also noted that the proposed riprap stormwater basin would only be about a foot off the sidewalk and that, during the site walk, the need for some sort of fencing was raised, for public safety.
  - GB moved to issue a Positive DOA, requiring the filing of an NOI; JA 2<sup>nd</sup>.
    - Motion approved unanimously by Roll Call Vote 4-0.
    - Mr. Garreffi will contact CA for assistance in filing an NOI.
- **Public Meeting (cont'd.): RDA – 71 Nashua Street, Jesi Clinton**
  - Assessor's Map 13, Parcel 42
  - Jesi and Ryan Clinton were present via Zoom.



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- JA, being an abutting neighbor, recused herself from the discussion.
- This RDA was last discussed at ConCom's 8/26/2021 meeting, which was followed by a site walk on 8/31.
- Following subsequent consultations with their landscaper as well as a civil engineer friend, the Clintons presented a revised plan.
  - The new plan proposes installing a retaining wall to the right of the narrow driveway where it crosses over a culvert.
  - This side of the driveway drops down toward the culvert at a relatively steep angle and has been eroding, putting the stability of the driveway at risk.
  - The retaining wall would be comprised of precast concrete blocks, approximately 2 ft. x 2 ft. x 4 ft., and set approximately 2 ft. off the driveway.
  - It would then be backfilled with traprock between the wall and the driveway.
  - Minimal soil would be disturbed, and none of the wetland would be disturbed, including the existing slope above the culvert to the retaining wall.
  - The top of the concrete retaining wall would be flush with the driveway.
  - Erosion controls will be installed, to be inspected by CA.
- GB moved to issue a Negative DOA; JG 2<sup>nd</sup>.
  - Motion approved unanimously by Roll Call Vote 3-0, with JA abstaining as recused.
- **Public Meeting: RDA – Sunflower Court, Pondview Condominiums, Merle Adelman, Trustee**
  - Assessor's Map 7, Parcel 70
  - Ms. Adelman was present via Zoom.
  - When Pondview was built, two trees were planted 6 ft. from the foundation of two duplexes, even though the regulations state trees were supposed to be planted 15 ft. away.
    - These trees are now causing some damage.
  - The RDA proposes removing these two trees, planting replacements at more appropriate locations to maintain the landscaping look, and also trimming back branches of black birches in the abutting conservation area behind 1 Sunflower Court which are now encroaching over the fencing and beginning to cause some damage to homes.
    - CA will swing by at some point the following week for a site walk.
- **Public Hearings (cont'd.): 13 Notices of Intent (NOIs), 0 Washington Street, "Panther Place" OSRD subdivision, Northeast Site Development, LLC., Joseph Levine**
  - Assessor's Map 13, Parcels 12, 13 & 14
  - Present via Zoom were Joe Levine, of Northeast Site Development, and Brian Butler, of Oxbow Associates.
  - Opened under the Wetlands Protection act and Ayer Wetlands Bylaw:
    - Lot 1, MassDEP # 100-0463
    - Lot 2, MassDEP # 100-0464
    - Lot 3, MassDEP # 100-0465
    - Lot 4, MassDEP # 100-0466
    - Lot 5, MassDEP # 100-0467



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- Lot 13, MassDEP # 100-0468
  - Lot 14, MassDEP # 100-0469
  - Lot 15, MassDEP # 100-0470
  - Lot 16, MassDEP # 100-0471
  - Lot 17, MassDEP # 100-0472
  - Lot 19, MassDEP # 100-0473
  - Lot 20, MassDEP # 100-0474
  - Lot 21, MassDEP # 100-0475
- Per discussion on 10/14, only lots 1, 2, and 3 were to be reviewed this evening, the rest to be continued.
  - Updated plans for lots 1, 2 and 3 have now been submitted, per the requests made by ConCom at the previous meeting, and found satisfactory.
  - These plans, including color coding between different buffer zone areas, now accurately represent the conservation issues on each lot.
  - The draft Orders of Conditions (OOCs) for these lots have also been reviewed and just require a couple of small edits.
    - JA thought the revised plans provided great clarity for future homeowners and should be the standard going forward.
- **NOI – Lot 1, MassDEP # 100-0463**
  - GB moved to approve the NOI and issue the OOC as drafted and amended for 100-0463; JA 2<sup>nd</sup>.
    - Motion approved unanimously by Roll Call Vote 4-0.
    - Per the Certificate of Vote, CA will sign the OOC on behalf of ConCom.
  - GB moved to close the Public Hearing for 100-0463; JA 2<sup>nd</sup>.
    - Motion approved unanimously by Roll Call Vote 4-0.
- **NOI – Lot 2, MassDEP # 100-0464**
  - GB moved to approve the NOI and issue the OOC as drafted and amended for 100-0464; JA 2<sup>nd</sup>.
    - Motion approved unanimously by Roll Call Vote 4-0.
    - CA will sign the OOC on behalf of ConCom.
  - GB moved to close the Public Hearing for 100-0464; JA 2<sup>nd</sup>.
    - Motion approved unanimously by Roll Call Vote 4-0.
- **NOI – Lot 3, MassDEP # 100-0465**
  - GB moved to approve the NOI and issue the OOC as drafted and amended for 100-0465; JA 2<sup>nd</sup>.
    - Motion approved unanimously by Roll Call Vote 4-0.
    - CA will sign the OOC on behalf of ConCom.
  - GB moved to close the Public Hearing for 100-0465; JA 2<sup>nd</sup>.
    - Motion approved unanimously by Roll Call Vote 4-0.
- **Continuances**
  - Mr. Levine will pick up the signed OOCs for Lots 1, 2, and 3 on the following Tuesday.



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- CA will prepare draft OOCs for the next 3 lots – Lots 4, 5, and 13 – for review at the next meeting.
- GB moved to continue the Public Hearings for the remaining 10 NOIs – Lots 4, 5, 13, 14, 15, 16, 17, 19, 20, and 21 – to 11/18; JA 2<sup>nd</sup>.
  - Motion approved unanimously by Roll Call Vote 4-0.
- **Public Hearing (cont'd.): NOI – 65 Westford Road, National Grid, Cory Schultzman, MassDEP # 100-0476**
  - Assessor's Map 8, Parcel 9
  - Kelan Koncewicz, of VHB (engineering firm Vanasse, Hangen, Brustlin, Inc.), presented the project via Zoom on behalf of National Grid.
  - The project proposes improvements to Sandy Pond No. 237 substation, located at 65 Westford Road.
  - The 8.4 acre substation is located on a portion of a larger 41 acre parcel and consists of primarily maintained lawn with some brush and scrub.
    - Three nearby wetlands were delineated by VHB on 11/14/2018, with flagging refreshed on 9/9/2021.
    - These areas are two Isolated Vegetated Wetlands (IVW) – Wetland 1 and Wetland 2 – regulated under the local wetland bylaw (Article XXVI), and a third area of Bordering Vegetated Wetlands (BVW) – Wetland 3 – regulated under both the Wetlands Protection Act and the local bylaw.
    - Total permanent buffer zone impacts involve 4689 sq. ft., primarily gravel and grading.
    - Total temporary buffer zone impacts involve 2206 sq. ft.
    - Only Wetland 2 (IVW) has impacts within the 50-ft. No Disturb buffer zone, but the local bylaw and regulations here only apply to previously undisturbed buffer zone; this area has already been altered and is therefore exempt.
    - The project site is within Priority Habitat of Rare Species and Estimated Habitate of Rare Wildlife, requiring review by NHESP (Natural Heritage & Endangered Species Program).
  - The proposed improvements are:
    - installation of a new fence to enclose the facility;
    - expansion of the 23-kV yard at the southwest corner, including grading and stormwater infiltration trenches;
    - replacement of a new riser pole (Pole P2388-2) for the 2388 line, by Wetland 2;
    - installation of a below-ground conduit from the new 23-kV yard fence to the new riser pole;
    - installation of two new poles along the 232 line to relocate conductors, by Wetland 3;
    - improvements to the access road, involving vegetation management and minor grading, on the north side of the project site, in order to access the new pole locations;



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- placement of gravel to fill potholes along portions of the access road near the new riser pole.
  - Other details:
    - Erosion and sedimentation controls are included in the project description.
    - No work will directly impact the wetlands.
    - A stormwater management report was included with the NOI.
    - CA said the permit letter from NHESP was received earlier in the day.
  - A site walk was scheduled for Tuesday, 11/2, at 5 p.m.
    - The previously scheduled site walk in advance of the Public Hearing was cancelled due to heavy rains.
  - GB moved to continue the Public Hearing to 11/18/2021; JA 2<sup>nd</sup>.
    - Motion approved unanimously by Roll Call Vote 4-0.
- **Public Meeting: Conservation Analysis, “Stratton Hill” Open Space Residential Development (OSRD), Fox Meadow Realty Corp., David Moulton**
  - Assessor’s Map 17, Parcels 1-3, 7, 8, 11-55
  - Previously discussed at ConCom’s 7/22/2021 meeting.
  - Present via Zoom were Attorney Bob Collins, representing Mr. Moulton, and Stan Dillis, of Dillis & Roy Civil Design Group.
    - Numerous concerned residents in the Wright Road area were also observed as present via Zoom.
  - MP began the meeting by stressing that the Commission’s role here was limited to the preparation of a Conservation Recommendation for the Planning Board, based on the Conservation Analysis submitted by the applicant.
    - Decisions about the actual subdivision proposal will be under the Planning Board’s authority and are out of the purview of ConCom, and any comments from viewers should recognize that.
    - The project will next appear before the Planning Board in December.
  - The Ayer portion of the overall project site is approximately 200 acres, with approximately 160 acres to go into conservation, the rest proposed for development.
    - The proposed development site is off of Wright Road, with the subdivision layout extended from Wright Road uphill and passing to the other side of a New England Power easement for high tension lines.
    - Mr. Collins said the plans have reduced the number of proposed house lots above the power lines, from 23 to 16, with the bulk of the lots now on the side closer to Wright Road.
  - The Conservation Analysis was prepared by Seth Donohoe, of Dillis & Roy.
    - The original is dated June 30, 2021, but the current Analysis was revised (August 18, 2021) following comments at ConCom’s July 22, 2021 meeting.
  - JG said she was disappointed that no revisions were made, providing more detail, to the designation of the High, Medium, and Low conservation priority areas, especially in the area sloping down to Long Pond.



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- Mr. Collins said the slope down to the pond, where a retention basin may be located, will be part of the gifted conservation land and said that is in an area that has already been disturbed when the earlier project began in 2005 prior to being temporarily abandoned after 2008.
- CA said not labelling areas identified by NHESP as high priority, but instead as low priority, in her opinion calls into question the validity of the whole Analysis.
- MP stressed that the Conservation Analysis needs to be done properly, and done in relation to the ecological values of the land, not in relation to the development.
- CA said that Town Planner Mark Archambault is proposing that the Planning Board and the Conservation Commission jointly have a third-party peer review done that addresses the needs/questions of both boards.
  - Mr. Collins said he had no problems with a peer review being performed.
- JG asked if the Conservation Management Permit (that encompasses both the Groton side of the project and the Ayer side, when initially issued in 2005) has been revised, per Mr. Collins comment at the July 22 ConCom meeting.
  - Mr. Collins said it has not yet been revised as he wanted to wait until after this second meeting with the Commission.
  - He said the original permit is still valid.
  - They have been conferring with Lauren Glorioso and Jessie Leddick at NHESP.
  - ConCom is asking for written copies of all NHESP comments, etc.
- JG also confirmed with Mr. Collins that all of the data in the Conservation Analysis regarding the endangered Blandings Turtle comes from data observations taken back in 2003.
- Comments from the public were accepted.
  - Al Futterman, Land Programs Director for the Nashua River Watershed Association, was given permission to read a statement into the record.
    - The 9/24/2021 statement is attached to these minutes.
    - Mr. Futterman's statement stressed the importance of maintaining this land as a "poster child of 'core habitat'" for a diversity of wildlife (including moose and bear), and in particular focused on the impact this project would have on the Blanding's turtle if a road crossed underneath the power lines, often an area where this turtle lays its eggs.
  - Scott Wilson, of the Nashua River Birding Committee, spoke to the habitat value of this parcel, noting it's the only area in Ayer where 4 different types of owls, including the saw-whet owl, can be observed.
    - Multiple species of other birds – including fish crow, northern water thrush, and virginia rail, have also been observed from the roughed-in dirt road.
      - All of these birds require the preservation of habitat for their breeding and survival.
  - Annie Reed, of Wachusett Avenue East, was given permission to read sections of her letter to the Planning Board into the record (also attached to these minutes).



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- The two sections she read had to do with the impact of stormwater runoff and the conservation of open space.
  - She asked if a formal MassDEP Environmental Impact Report can be required, and also spoke in favor of a third-party peer review.
  - She did not think the Conservation Analysis as submitted truly captured all of the wildlife that is present in these woods.
  - As in Mr. Futterman's statement, Ms. Reed also expressed concern regarding the detrimental impact of blasting to wildlife, not just nearby residences.
- Mr. Collins said he felt compelled to note, on Mr. Moulton's behalf, that Mass Audubon's Rocky Hill wildlife sanctuary would not exist at all were it not for the gifting of that land to Groton when Mr. Moulton developed a limited portion of the whole parcel on the Groton side.
  - As for the stormwater concerns, Mr. Collins said this would be thoroughly reviewed by the Planning Board, and he thought the project would later additionally have to come back before ConCom for an OOC on this as well.
- CA noted that, aside from Mr. Moulton's generosity, the State also required the preservation of most of the land for conservation when it issued the Conservation Management Permit jointly for the limited developments in both Groton and Ayer in 2005.
- Discussion then turned to how best to proceed in a timely manner on a joint peer review given that this won't come before the Planning Board until December.
  - MP suggested ConCom take its vote now, in support of a peer review in coordination with the Planning Board, and that included review of the Conservation Analysis.
    - The RFP (Request for Proposals) would be drawn up by CA and Town Planner Archambault, to be subsequently reviewed and approved by each board before being issued.
  - GB so moved; JA 2<sup>nd</sup>.
    - Motion approved unanimously by Roll Call Vote 4-0.
- In addition, a site walk of Stratton Hill was scheduled for 8 a.m. on Saturday, 11/6, with 11/13 as a fall-back date if weather prevents a site walk on the 6<sup>th</sup>.
  - Via Zoom, Geoff Tillotson, Chair of the Planning Board, asked if Planning Board members could also attend this site walk and ConCom members thought this would be great.
    - Cautions to wear orange for hunting season were given.
    - Resident Laura Stara, of Wachusett Avenue East, also warned of a lot of broken glass, from vandalism, to be wary of on the site walk.
- **Public Meeting: Request for Certificate of Compliance (COC) – 1 Bishop Road-UCC, LCC, Carlos Obregon, MassDEP # 100-0449**





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- Thomas Christopher, of Christopher Environmental Associates, participated via Zoom on behalf of Mr. Obregon.
  - Mr. Christopher reported that planted sweet fern has grown in and the bank is now stabilized with heavy vegetation and bark mulch.
- CA said the site looks fabulous.
- GB moved to issue a COC for 100-0449; JA 2<sup>nd</sup>.
  - Motion approved unanimously by Roll Call Vote 4-0.
  - CA will sign the COC and mail to Mr. Christopher for filing at the Registry.
- **Discussion: Draft ad for temporary part-time assistant for Conservation Administrator**
  - Town Manager Robert Pontbriand spoke to JG last week and said he would be setting up a meeting the following week to discuss this moving forward.
- **Emergency Certificates**
  - CA had two Emergency Certifications for ConCom to approve for dealing with beaver activity causing flooding issues.
  - Long Pond Dam
    - Beaver here have successfully outwitted the 'beaver deceiver' (flow control device) and this has led to rising water levels in Long Pond and flooding along the Town's easement access road to the dam.
      - Beaver Solutions, Inc., has recommended trapping the beaver here as once they learn how to destroy the beaver deceiver, they will continue to do so.
      - Once the beaver have been trapped, the built-up beaver dam, on top of the man-made dam, will be reduced and the beaver deceiver re-installed.
    - GB moved to approve the Emergency Certification for Long Pond Dam, for trapping beaver and clearing debris to 'reduce' the dam; JA 2<sup>nd</sup>.
      - Motion approved unanimously by Roll Call Vote 4-0.
  - Dam behind 41 Groton-Harvard Road, facing Oak Ridge Drive
    - This area includes a man-made notched concrete dam that controls the waterflow from Pine Meadow Pond into Flannagan Pond.
      - On the other side of this dam, the water flows downhill into a culvert that crosses under Oak Ridge Drive to the Flannagan Pond side.
    - CA received a phone call from the residents at 41 Groton-Harvard Road asking that the DPW be allowed to clear the debris from on top of the dam.
      - The DPW asked the resident to contact ConCom directly.
    - With all the rainfall, the man-made dam was blocked, with water over-topping the dam and flowing around the sides.
      - If the man-made dam is damaged, it could also put at risk the Oak Ridge Drive culvert.



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- Previously, in 2011, the sudden release of impounded water much further up past Pine Meadow Pond led to the wash-out of Oak Ridge Drive at this juncture.
    - GB moved to approve the Emergency Certification for the removal of dam debris at this site; JA 2<sup>nd</sup>.
      - Motion approved unanimously by Roll Call Vote 4-0.
  - It was also noted that Fish & Wildlife does not take a role or comment on clearing beaver debris from the tops of man-made dams or inside of culverts.
    - The merits of having the DPW secure a blanket OOC for yearly maintenance projects, including keeping man-made dams like this clear, was raised.
- **Conservation Commission Office and Member Updates**
  - Beaver activity
    - Continuing the discussion of beaver impacts, CA pointed to another brewing situation on Shaker Road, near Shaker Mill Pond.
    - CA received a phone call from the Conservation Agent in Harvard about flooding back-ups in Harvard from Bennett's Brook.
      - While ConCom recently had a beaver deceiver installed in Bennett's Brook at the *inlet* to Shaker Mill Pond, the pond also has a man-made *outlet* on private property owned by Dan Aho (Shaker Mill Pond OSRD subdivision now under construction) that beavers may be damming up as well.
      - CA said the water level in Shaker Mill Pond is high, but said she doesn't have the expertise to evaluate all the hydrological dynamics of this water system.
    - Mr. Aho responded to an email from CA saying the beaver activity was not bothering him or his property, but that he was not averse to someone else removing the debris from the outlet or installing a beaver deceiver.
      - Since this is private property but may affect Town interests, this would be part of a longer conversation with the Town Manager.
      - MP said there also needs to be collaboration with other towns – given this complaint from Harvard, and previous complaints from a resident in Littleton – so that Ayer isn't solely saddled with the cost of dealing with this area when the primary benefit is felt by other towns.
  - Pre-winter preparations
    - CA suggested ConCom schedule an all-sites site walk to tour and review currently active construction projects before winter sets in.
  - Ayer Solar II
    - Resident Ken Diskin, of Washington Street, asked about environmental monitoring at Ayer Solar II.



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- He has observed logs on the bank of the intermittent stream crossing, destroying the bank, and asked to be copied on the weekly reports from the Environmental Monitor.
- CA said that for the stream-crossing, the bank will suffer some destruction before it is re-built.
  - CA said the project is now employing construction mats which were not part of the proposed plan but are a good idea, even if ConCom was not notified.
  - She also noted that the Environmental Monitor is very good at keeping an eye on the erosion controls and having the project follow up on repairs quickly when needed.
- It was also noted that the project has yet not submitted a MOP (Method of Procedures) even though the OOC requires it.
- **9:40 PM – Adjourn Meeting**
  - GB moved to adjourn; JA 2<sup>nd</sup>.
    - Motion approved unanimously.

Minutes Recorded and Submitted by Jessica G. Gugino, Clerk

Date / Signature of Approval:

11/18/2021

As consultant to the Town of Ayer on its most recent Open Space and Recreation Plan update (2019-2025) I am familiar with each of the town's open space and recreational lands and with all of the town's conservation and still undeveloped lands. While it is not easy to "compare" properties, in my estimation the subject property is a singularly important property in the Town of Ayer. This is true from both an open space or environmental/natural resource perspective and from a recreational potential perspective.

Additionally, I have some chronological sense of this specific proposed development. Having served as the Land Programs Director at the NRWA for the past 22 years I have witnessed various iterations of this project pass before me including when the abutting Rocky Hill Wildlife Sanctuary property was created. In fact, in 2002 the state funded a "Natural Community and Wildlife Habitat Inventory of Snake Hill in Ayer Massachusetts" conducted by Mass Audubon's Ecological Extension Service.

Among other findings, the Extension Service reported that: "...in its isolation from human disturbance (the subject area) serves as habitat for interior forest nesting birds and large mammals which require large, relatively undisturbed natural areas for habitat". These large mammals include bear and moose. This property could be considered a poster child of "core habitat". Ayer is lucky to possess an undisturbed area of this diversity and significant size and would be imprudent to allow it to be developed in the manner proposed. This threatened wildland will be lost to suburban sprawl. Whether it is called a refuge or not, this property most surely is a refuge.

I know others tonight will be speaking about many issues; I'm taking my remaining time to speak to rare species. The most challenging species to protect will be the Blanding's turtle which is listed as a Species of Greatest Conservation Need in all five Northeast states where it occurs. These turtle populations are especially vulnerable because of their low fecundity and low recruitment, and even a small loss of adults can lead to population declines. Adult survivorship, especially of females, is arguably one of the most important factors contributing to population persistence.

The largest threats are roads-- road mortality can send a turtle population into decline, even when all off-road habitats are protected—and habitat loss. The revised Conservation Analysis Appendix A - Rare Herpetofaunal Investigation clearly indicates significant Blanding's nesting on powerlines. Having a subdivision road bisect the powerline on this site will undoubtedly result in a NHESP "taking". The creation of roads and areas of finely crushed gravel may attract nesting females, increasing the risks of turtle and nest mortality and predation. Turtles may be directly killed by equipment or vehicles and habitat may be destroyed by blasting – nearly ¼ of site has areas of 20 % + steepness. Wetlands may become degraded from water discharge, changes in surface or groundwater flow, and chemical or sediment contamination.

Finally, the deed recorded 2005 MassWildlife Conservation and Management Permit #005-042 bullet 19 states that prior to May 2006, two turtle nesting areas were to be created. To my knowledge these were never constructed.

In sum: as others may have already noted:

There are 5 potential vernal pools on site all within the state-certified Vernal Pool Core Area # 167;

100% of this site is within the Petapawag Area of Critical Environmental Concern;

100% is within Natural Heritage & Endangered Species Program (NHESP) BioMap2 Forest Core;

100% is within NHESP Core & Priority Habitats; and

the site is 100% within a state-designated Environmental Justice community.

Thank you for this opportunity to speak.

**Attn: Mark Archambault - Town Planner & Planning Board members:**

**RE Stratton Hill Project**

My husband and I are residents at 7 Wachusett Ave East in Ayer.

We attended the Conservation Commission (CC) meeting on Thursday July 22 and the Planning Board (PB) meeting on July 27, 2021 when the Stratton Hill Project was presented and discussed. Many questions & concerns were raised by the CC and PB members, as well as the affected community. With this letter, I am hoping to try to organize & document the issues, and ask for input & data where appropriate, so that we can appropriately understand and mitigate the impact to the safety and wellbeing of our neighborhood community.

As we know, this land was originally purchased 100 years ago to be developed as a Stone quarry because the site is effectively solid rock. The previous Stratton Hill project that went forward around 2008 included the construction of a dirt loop road & some water/sewer infrastructure. The impacts of this project were severe and widespread, and have been described to me by many neighbors both on and off Wright Road. As a test case, this provided a great deal of useful information about the profound impact that building on this unique quarry-like site would have on the neighborhood and storm drainage. Realistically, there are many lessons learned from that project which to all appearances may be difficult or even impossible to effectively resolve.

Overall, our concerns fall into the following categories:

- Storm water runoff,
- Conservation and Open Space
- Zoning Compliance
- Noise
- Traffic
- Effect on Existing Infrastructure,

We are trying to be proactive w/ information gathering & discussions neighbors, so the next scheduled PB meeting on Oct 26 can be as productive as possible. Needless to say, many of these issues likely overlap the jurisdictions of the CC, PB, ZBA, Transportation, Department of Public Works, Town Counsel, and MA DEP. As a resident, it would be very helpful to get clear guidance as to how responsibility for decisions is allocated between these departments and agencies so that we may address our concerns to the appropriate personnel.

Question 1: Could a summary “roadmap” of departmental decision-making process and responsibility, and a contact list for each of the departments above, be provided to the residents to help us better participate in the public process? If so, please let me know who will provide.



## Storm Water Runoff

Retention ponds are created to provide effective storage for storm surge runoff so that the water can percolate down to the water table rather than flowing off site. Unfortunately, retention ponds built into solid rock don't percolate as they are effectively giant bathtubs with no drain. The 2008 road project test case provides a clear demonstration of this.

I understand from neighbors that the result of the prior development for the loop road has greatly increased runoff at the base of Standish Ave & Wachusett Ave. There are standing puddles at the base of Standish Ave after every rain storm that are only about 50' from Sandy Pond. The stagnant water remains for days or weeks & some of that run-off water likely ends up in the Pond. I understand the retention pond at the base of the dirt road where it connects to Wright Road was installed after there was so much run-off that neighbors had to install sandbags at the perimeter of their properties. Some of these still remain at the edge of Wright road across from the dirt loop. The retention pond is often filled w/ stagnant brown water that is a breeding ground for mosquitoes & often remains for weeks. If this comparatively small project created such an unhealthy situation, I shudder to think what the proposed mature woodland removal, added hardscape, 35 new homes and 4 new retention ponds would do.

I take it as a given that runoff into Long Pond or Sandy Pond is not acceptable, nor is the creation of stagnant man-made ponds which would require treatment with pesticides so as not to threaten our children and aging parents with disease carrying mosquitoes.

Question 2: Can a third-party Civil /water flow professional engineer be retained to fully analyze storm surge run-off issues and proposed solutions that would impact the neighborhood site, surrounding ponds, wetlands and aquifers?

At the CC meeting, the Commission cited a dozen or so deficiencies in the draft & the applicant's attorney indicated that the analysis would be revised accordingly & resubmitted at a future meeting. To make the next CC meeting as productive as possible, I am hoping a copy of the updated proposal can be distributed in advance of the next meeting.

## Conservation and Open Space

The proposal under review would add a +/- 25 acre development into the middle of 200 acres of pristine forest, ponds & wetlands, which is adjacent to over 440 acres of Mass Audubon land in neighboring Groton. Together these represent one of the last undisturbed & undeveloped large tracts of pristine wildlife habitat in central eastern Massachusetts. The Stratton Hill parcel supports moose, black bear, beavers, porcupines & nearly 100 species of birds including Bald eagles. The scale of the project raises a host of concerns about

irreversible damage to a habitat which lies within a State-designated area of Critical Environmental Concern. These concerns include:

- The impact to bird and wildlife habitat during and after construction due to severing this critical wildlife corridor.
- The impact to water bodies in Groton Audubon conservation land as well as Long Pond and Sandy Pond & the beaver pond directly north of the loop road.
- Runoff effects on wetlands and adjacent waterways
- Negative impacts of Blasting- Residents had to endure blasting that went on for weeks just to build the 2008 road. Pets as far away as Sandy Pond were traumatized and kept inside basements to control anxiety. If domestic animals were traumatized, it seems reasonable to expect that native wildlife would be even more affected by near constant explosions & vibrations – possibly driving them out of the area and/or distorting their reproduction cycle.

Prior to approval, these concerns should be reliably addressed by experts and approved by the state.

Question 3: Can the developer be required to produce a formal DEP Environmental Impact Report ?

### Zoning Compliance

It is my understanding that the site plan submitted for the 2008 project is no longer being pursued by the applicant, and no building permit was issued. I understand the new Open Space Zoning Bylaw includes substantially modified requirements.

It is unclear what specific open space calculations are currently proposed. For example, do areas that are counted as open space on the site plan include roads, driveways, retention ponds or other man-made areas or is it just undisturbed woodlands? Are wetlands, ponds, and the 250' required setbacks from bodies of water and streams also included, even though these lands are prohibited from development? If these were to be included, then the developer would not be preserving lands that would otherwise be ineligible to build on, which would seem to skew the intent of the bylaw- which I believe is intended to encourage a smaller footprint of development on a parcel of land in exchange for more density.

Question 4: Is the proposed project fully “as of right” with all current zoning regulations, including Open Space?

## Traffic

Wright Road is a small dead-end road that encircles half of Sandy Pond and is the only access road for the approximately 60 homes around the northeast side of the pond. I understand that the Planning Board will require that a third-party traffic engineer be engaged to perform a Transportation Impact Analysis. In an effort to be helpful, my husband, Philip Gray, submitted a suggested draft traffic study proposal to the Town Planner by on August 18, 2021 that we feel would gather the needed information to see if the neighborhood's concerns can be addressed by the project.

Both Snake Hill Road and Wright Road are narrow roads, and because there are no sidewalks, they must simultaneously accommodate kids on bikes, dog walking, joggers, pairs of people with a baby carriage, etc. along w/ cars pulling in & out of driveways and side Streets. In addition, at The Town Beach, there is significant traffic and parking spaces which back out directly onto Snake Hill Road during the warm seasons. The most optimal period to gather accurate traffic data that includes activity at the Town beach would be during the summer months. Any traffic study done during the off-season will not include important data regarding pedestrian & vehicular activity related to neighborhood use, town beach use, and recreational fishing along the causeway and therefore would not adequately address safety concerns.

There are about 60 existing homes now & it is hard to imagine how this road could handle traffic from 35 more houses. When construction vehicles are present for a new home or tree service, the road bottlenecks & residents are very polite in pulling over & waving people around. When it snows heavily, the road becomes one lane until the plowed piles melt. Construction vehicles required for a large-scale project are large & heavy. The people driving them do not live in the neighborhood & there is no sidewalk. I believe this will create a very dangerous situation for current residents. We respectfully request that no proposal be accepted that does not reliably address how members of the community & pedestrian traffic stay safe and continue to be able to use this quiet dead end road that is the only way home in winter and summer, both during construction and after.

## Noise and Vibration

The applicant's presentation proposes the development of 35 new homes on a new loop road. This includes a new road layout that differs substantially from the 2008 dirt road. The project would require the removal of hundreds of tons of rock ledge for basements for homes on this land that was originally purchased to be developed as a Stone quarry.

As noted above, the rock blasting even for the limited scale 2008 project caused neighborhood residents prolonged disturbance & terrified many pets as far away as Sandy Pond for several weeks. I also heard that cracks appeared in existing basement foundations & created leaky basements. Given what residents had to endure just to build the road, it is vital



to understand what amount of blasting the neighborhood and surrounding residential neighborhood would be expected to endure for this vastly larger project. Asking residents to endure rock blasting for months or years would be a hardship that I expect would result in legal challenges from neighbors. It should be noted that contractors and developers are often wildly overly optimistic on these projections, and a second opinion should be sought to corroborate them.

Question 5: What level and duration of sound and vibration disruption is expected and legally permitted. How would the projected duration and level of disturbance be verified prior to any approval and enforced should approval be granted?

#### Effect on Existing Infrastructure

A water ban has been in effect in Ayer for several years during the warmer months of the year. The aquifers that The Town relies on for fresh water supply are not infinite, and it may not be desirable to the Town & community, to support large developments that put further pressure on our limited water supply. It was noted in the PB meeting that several existing houses are not on the town system, but per Title 5 will need to be tied into the Town sewer prior to being sold (thereby increasing the existing flow without new development).

Question 6: Can the Town request the applicant provide data, which is supported by the Water & Sewer department, to verify the existing pipe diameters/pumps etc accommodate all the existing homes off Wright Rd & side streets, both those that are currently tied in & those that will need to in the future?

The cost of the study and any resulting enlargement of existing water & sewer lines (and required road work) to accommodate new development should be covered by the developer.

Question 7: Will we get verification that no taxpayer funds will be used to facilitate development of this land?

Please note: I request that this letter be entered into the meeting record for the upcoming October 26th Planning Board meeting, when the Stratton Hill project is scheduled for next review. While this letter is too long to be read aloud during the meeting and I don't want to take time from other members of the community who wish their voices to be heard, perhaps the 7 questions can be asked and ideally responded to. I will request a separate meeting w/ Mark Archambault in advance, to streamline procedural efficiency.

Respectfully,

Annie Reed & Philip Gray  
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