

Town of Ayer CONSERVATION COMMISSION



Town Hall ♦ One Main Street ♦ Ayer, MA 01432

Phone 978-772-8220 ext. 143 ♦ Fax 978-772-8208 ♦ concom@ayer.ma.us

MEETING AGENDA Thursday, July 28, 2022

Due to the ongoing COVID-19 Pandemic, in accordance with Chapter 22 of the Acts of 2022, suspending certain provisions of the Open Meeting Law (OML), public bodies otherwise governed by the OML are temporarily relieved from the requirement that meetings be held in public places, open and physically accessible to the public, so long as measures are taken to ensure public access to the bodies' deliberations "through adequate, alternative means." This meeting will be live on Zoom. The public may participate remotely by joining Zoom (**Meeting ID# 840 4058 0886**) or by calling (**929-205-6099**). For additional information about remote participation, please contact Conservation Commission at concom@ayer.ma.us or by calling 978-772-8220 ext. 143 prior to the meeting.

7:00 PM GENERAL BUSINESS / OPEN SESSION

- Approval of Meeting Minutes for July 14, 2022
- Public Input

Public Meeting: Request for Determination of Applicability (RDA): 133 Oak Ridge Drive, Veronica Berry, Map 28, Parcel 50

Public Meeting: RDA: 89 Littleton Road, Milton Raimundo, Map 36, Parcel 232

Discussion: Request for Proposal (RFP) Stratton Hill Conservation Analysis, BSC Group

Discussion: Waterways Sign Project Update

CONSERVATION OFFICE AND MEMBER UPDATES

9:00 PM ADJOURN

RECEIVED
JUL 25 2022

TOWN OF AYER
TOWN CLERK

3:15 pm

CT

Next Scheduled Meeting: 7 PM, August 11, 2022



Town of Ayer Conservation Commission

Town Hall * One Main Street * Ayer, MA 01432 * 978-772-8249

Minutes for 7/14/2022

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

Present: Jon Schmalenberger (Chair), Mark Phillips (Vice-Chair), George Bacon (Member), Jennifer Amaya (Member), Jessica Gugino (Clerk), Heather Hampson (Conservation Agent)

APAC Recorded: Yes

7:01 PM – Open Meeting

- **Confirmation of Agenda**
 - G. Bacon moved to confirm the agenda as posted; M. Phillips 2nd.
 - Motion approved unanimously by Roll Call Vote 5-0.
- **Approval of Meeting Minutes**
 - G. Bacon moved to accept the minutes for 6/23/2022 as written; M. Phillips 2nd.
 - Motion approved unanimously by Roll Call Vote 5-0.
- **Public Input**
 - None received.
- **Discussion: Request for Proposals (RFP), Stratton Hill Conservation Analysis Peer Review**
 - One proposal, from BSC Group, was received by the submission deadline.
 - Their price proposal was for \$10,250, this to be paid by the applicant for the project.
 - J. Gugino said that, after observing the Planning Board meeting on 7/12, it appears that a ‘scoping meeting’ can take place with the reviewer to adjust the scope of the RFP if needed.
 - One thing that was raised at the Planning Board meeting in response to resident concerns about potential blasting, was the possibility of the use of ‘chemical blasting’ rather than explosive.
 - Given the ecological importance of the Stratton Hill site, the impact of blasting in the RFP scope should be expanded to include consideration of the use of chemicals and their impact.
 - In anticipation of increased public participation for the next meeting with the third-party reviewer, the Commission discussed reasonable parameters.
 - Public input and participation will be welcome, but will likely be limited to up to 5 minutes per person.
 - Any particular graphics that might want to be presented should be run by H. Hampson in advance.
 - J. Schmalenberger will provide some opening remarks to clarify to the public the limitations of the Commission’s role with regard to Stratton Hill.



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Minutes for 7/14/2022

- The purpose of the third party peer review is to provide ConCom with information so that it can provide the Planning Board with the strongest Conservation Recommendation possible, per the requirements of Zoning Bylaw Section 10.1, for Open Space Residential Subdivisions (OSRDs).
 - The Planning Board has the bulk of deciding power over this subdivision as most of the land proposed for development is outside of ConCom jurisdiction over Resource Areas, including Buffer Zones.
 - G. Bacon moved to award the contract for the third-party review of Stratton Hill Conservation Analysis to BSC Group; M. Phillips 2nd.
 - Motion approved unanimously by Roll Call Vote 5-0.
 - H. Hampson will seek to schedule BSC Group to attend ConCom's next meeting on 7/28/2022.
- **Discussion: Review of Draft Revision of Special Conditions Boilerplate for Orders of Conditions (OOCs)**
 - J. Gugino circulated a draft revising the boilerplate conditions.
 - J. Amaya said she read through them and accepted all of the changes.
 - H. Hampson said the draft is much easier to read than old versions.
 - M. Phillips asked about the reference to "checked boxes" and per a previous suggestion by G. Bacon, once the document is finalized, H. Hampson will format it to give numbers/letters to each condition and provide boxes that can be checked to indicate that condition applies to that particular OOC.
 - H. Hampson suggested adding a condition to the Project Specific section that specifies proper preparation of a site for overwinter conditions where applicable.
 - Town Counsel will need to review this draft at some point as well.
- **Discussion: Waterways Signs Project Update**
 - M. Phillips provided an update, including some issues recently raised by Geof Tillotson, of the Planning Board, also present via Zoom.
 - Per M. Phillips' request, H. Hampson has drafted a letter to go out the next day (7/15), to notify the Select Board, Building Inspector, Police and Fire departments, and DPW about the project and solicit comments or concerns, including whether additional permitting is needed.
 - Regarding the question raised by Mr. Tillotson as to whether a Request for Determination of Applicability (RDA) would be needed, ConCom discussed this further.
 - J. Gugino found the minutes for a Scout project (10/13/2016) that used posts driven into the ground, and for which ConCom did not require an RDA at that time.
 - Accordingly and for the record, G. Bacon moved to install the grant signs by the same method as permitted in 2016, using poles driven into the ground and using breakaway hardware; M. Phillips 2nd.



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Minutes for 7/14/2022

- The one exception will be the sign for Nonacoicus Brook which is expected to be mounted to an existing guardrail with the assistance of the DPW.
- Motion approved unanimously by Roll Call Vote 5-0.

- **Conservation Commission Office and Member Updates**
 - Pingry Hill Subdivision
 - H. Hampson did a site walk with Erosion Control Specialist Dr. Desheng Wang to review sites with open OOCs and identify things that still need to be done or need to be fixed.
 - Grove Pond Water Chestnut Pull
 - H. Hampson (and J. Schmalenberger) were able to participate in the invasive water chestnut pull organized by Laurie Nehring (PACE) and previously permitted by ConCom under an RDA.
 - Ayer Solar II
 - H. Hampson accompanied the Environmental Monitor for Ayer Solar II, Rhianna Sommers, on a recent inspection visit.
 - She has also sent Rohit Garg additional comments about issues that need to be addressed, including erosion control/silt fence maintenance, the proposed replication area, the box culvert crossing, and the need for matting on some slopes.
 - Pirone Park/Kiddie Junction Removal-Remediation-Replacement Project
 - This project will be coming before ConCom in August with all of the work proposed under a single Notice of Intent application.
 - Beta Group will have its design for the project ready in August.
 - 'Ayer Commons' Chapter 40B Project, Fitchburg Road
 - This project starts the process of securing a 'comprehensive permit' through the Zoning Board of Appeals on Wednesday, 7/20.
 - H. Hampson provided review comments for ConCom.
 - This project will also have to separately come before ConCom down the road as, given the Wetlands Protection Act is State Law, this portion cannot be handled under the comprehensive permit process.
 - Shaker Mill Pond OSRD Subdivision
 - H. Hampson will be meeting with representatives of the developer, Dan Aho, on site tomorrow (7/15) to review the area where a walking trail is supposed to go in along the shore of the pond.
 - Because this is in the 'No Disturb' inner 50 ft. of Buffer Zone, ConCom members were in agreement that the intention for this trail was for it to be a simple walking path with minimal impact to the environment (i.e. no paving, no trees cut down).



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Minutes for 7/14/2022

- 133 Oak Ridge Drive
 - The resident for this property initially contacted H. Hampson about replacing an existing deck using diamond piers that are simply driven into the ground.
 - However now the resident has proposed expanding the deck 8 ft. closer to Flannagan Pond.
 - H. Hampson has recommended the resident submit an RDA, which the Commission agreed with.
- 89 Littleton Road
 - The resident for this property wants to draw water from Shaker Mill Pond to irrigate his lawn, similar to the resident at 87 Littleton Road who received permission (through an RDA) from the Commission to do this in 2021.
 - G. Bacon noted that the previous permit specified water could not be drawn during a drought outside of the guidelines for irrigation watering applied to the Town as a whole.
 - J. Schmalenberger asked that the resident be invited to chat with ConCom about this at the next meeting.
- Flannagan Pond Feasibility Study
 - H. Hampson will be meeting tomorrow (7/15) with Dan Van Schalkwyk, Director of the DPW, and the outside consultant (Tighe & Bond) about the study
- M. Phillips
 - M. Phillips had a conversation with a neighbor on Mountain Laurel, whose property abuts Conservation Restriction (CR) land.
 - The issue of whether invasive vegetation can be managed or not was raised.
 - This should be considered in the development of future CRs, including those done in conjunction with the Planning Board's OSRD process.
 - The control of invasives should be allowable, especially around stormwater basins.
- Mr. Tillotson added that the Planning Board now requires O&M plans (Operations and Maintenance), including for basins.
 - He suggested ConCom include specifications about these issues in their Conservation Recommendations to the Board for OSRD projects.
- **8:37 PM – Adjourn Meeting**
 - G. Bacon moved to adjourn; M. Phillips 2nd.
 - Motion approved unanimously by Roll Call Vote 5-0.

Minutes Recorded and Submitted by Jessica G. Gugino, Clerk

Date / Signature of Approval: _____



WPA Form 1- Request for Determination of Applicability

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

A. General Information

Important:

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



1. Applicant:

Veronica Barry

Name

VeronicaNCBarry@icloud.com

E-Mail Address

133 Oak Ridge Dr.

Mailing Address

Ayer

MA

01432

City/Town

State

Zip Code

(978)821-9793

Phone Number

Fax Number (if applicable)

2. Representative (if any):

Nordic Hammer Home Renovations

Firm

Alexander Blinn

Contact Name

ajb@nordichammerhome.com

E-Mail Address

912 Mass Ave

Mailing Address

Lunenburg

MA

01462

City/Town

State

Zip Code

(978)226-8088

Phone Number

Fax Number (if applicable)

B. Determinations

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

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

Name of Municipality

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



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C. Project Description

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

133 Oak Rdige Dr

Street Address

Ayer

City/Town

28-50

Assessors Map/Plat Number

Parcel/Lot Number

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

The project is located behind the dwelling of 133 Oak Ridge Rd. Ayer, MA. Proposed deck plans place the leading edge of the deck roughly 40' from the edge of the shore. Established vegetation, including domestic grasses, trees, and shrubs, exists between the deck and the shore.

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

"MrMapper" Ayer Assessors Site

Title

July 20, 2022

Date

MassGIS Interactive Property Map

Title

July 20, 2022

Date

Title

Date

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

The proposed plans are to construct a deck that surrounds the current sunroom at the back of the property. The deck will be elevated approximately 8' off the ground. Deck footings will consist of Diamond Pier footing systems that use 4-40" pins that are driven into the ground. Said pins will be the only point of ground penetration, resulting in little to no ground disturbance. The leading edge of the deck is to project roughly 8' off the sunroom, but the leading footings will project only 7' from the edge of the sunroom. The decking material comprises PT framing, composite decking, and railing systems. Decking will be spaced to allow for uniform water dispersion across the footprint to avoid any pooling or points of concentrated discharge of rainwater.



C. Project Description (cont.)

b. Identify provisions of the Wetlands Protection Act or regulations which may exempt the applicant from having to file a Notice of Intent for all or part of the described work (use additional paper, if necessary).

3. a. If this application is a Request for Determination of Scope of Alternatives for work in the Riverfront Area, indicate the one classification below that best describes the project.

- Single family house on a lot recorded on or before 8/1/96
- Single family house on a lot recorded after 8/1/96
- Expansion of an existing structure on a lot recorded after 8/1/96
- Project, other than a single-family house or public project, where the applicant owned the lot before 8/7/96
- New agriculture or aquaculture project
- Public project where funds were appropriated prior to 8/7/96
- Project on a lot shown on an approved, definitive subdivision plan where there is a recorded deed restriction limiting total alteration of the Riverfront Area for the entire subdivision
- Residential subdivision; institutional, industrial, or commercial project
- Municipal project
- District, county, state, or federal government project
- Project required to evaluate off-site alternatives in more than one municipality in an Environmental Impact Report under MEPA or in an alternatives analysis pursuant to an application for a 404 permit from the U.S. Army Corps of Engineers or 401 Water Quality Certification from the Department of Environmental Protection.

b. Provide evidence (e.g., record of date subdivision lot was recorded) supporting the classification above (use additional paper and/or attach appropriate documents, if necessary.)



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

D. Signatures and Submittal Requirements

I hereby certify under the penalties of perjury that the foregoing Request for Determination of Applicability and accompanying plans, documents, and supporting data are true and complete to the best of my knowledge.

I further certify that the property owner, if different from the applicant, and the appropriate DEP Regional Office were sent a complete copy of this Request (including all appropriate documentation) simultaneously with the submittal of this Request to the Conservation Commission.

Failure by the applicant to send copies in a timely manner may result in dismissal of the Request for Determination of Applicability.

Name and address of the property owner:

Veronica Barry

Name

133 Oak Ridge Dr

Mailing Address

Ayer

City/Town

MA

State

01432

Zip Code

Signatures:

I also understand that notification of this Request will be placed in a local newspaper at my expense in accordance with Section 10.05(3)(b)(1) of the Wetlands Protection Act regulations.

Veronica Barry

Signature of Applicant

2022-07-20

Date

Alexander Blinn

Signature of Representative (if any)

2022-07-20

Date

Signature Certificate

Reference number: JY9S9-QH7LZ-DYF2E-FLXEU

Signer	Timestamp	Signature
Alexander Blinn Email: ajb@nordichammerhome.com Sent: 20 Jul 2022 10:49:14 UTC Signed: 20 Jul 2022 10:49:14 UTC	20 Jul 2022 10:49:14 UTC 20 Jul 2022 10:49:14 UTC	 IP address: 73.114.233.72 Location: Lunenburg, United States
Veronica Barry Email: veronicanbarry@icloud.com Sent: 20 Jul 2022 10:49:14 UTC Viewed: 20 Jul 2022 10:57:48 UTC Signed: 20 Jul 2022 10:58:13 UTC	20 Jul 2022 10:49:14 UTC 20 Jul 2022 10:57:48 UTC 20 Jul 2022 10:58:13 UTC	 IP address: 24.218.240.199 Location: Lexington, United States
Recipient Verification: ✓ Email verified	20 Jul 2022 10:57:48 UTC	IP address: 24.218.240.199 Location: Lexington, United States

Document completed by all parties on:
20 Jul 2022 10:58:13 UTC

Page 1 of 1



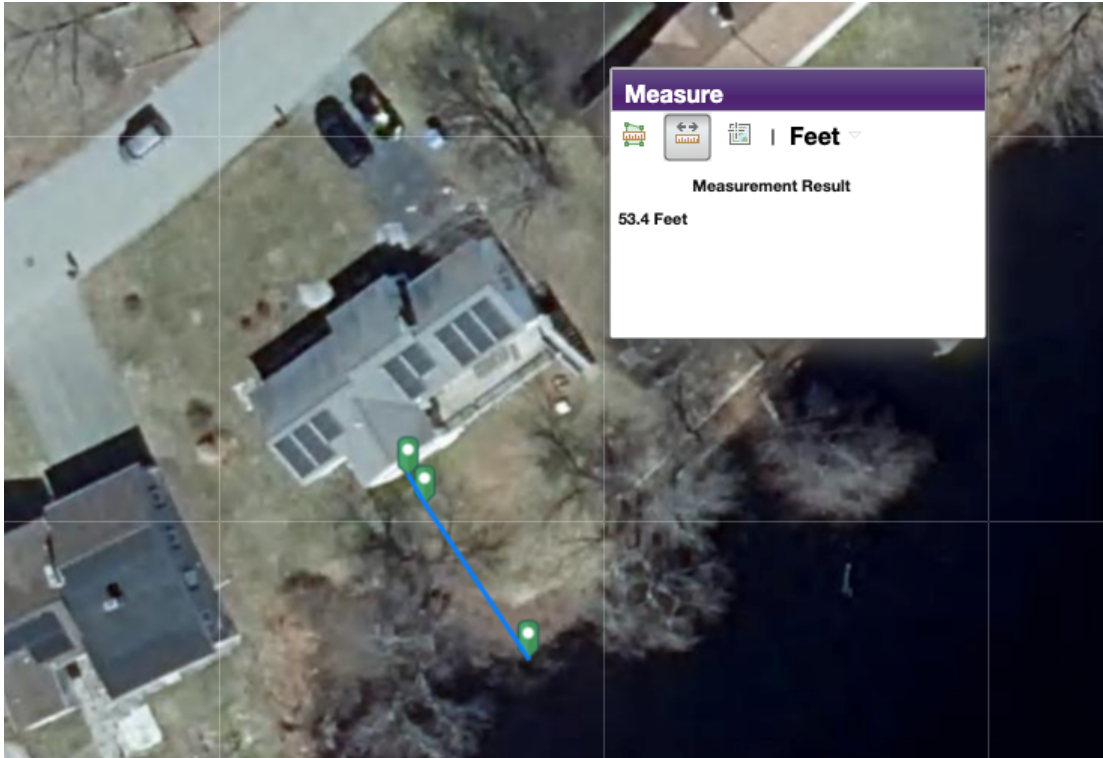
Signed with PandaDoc

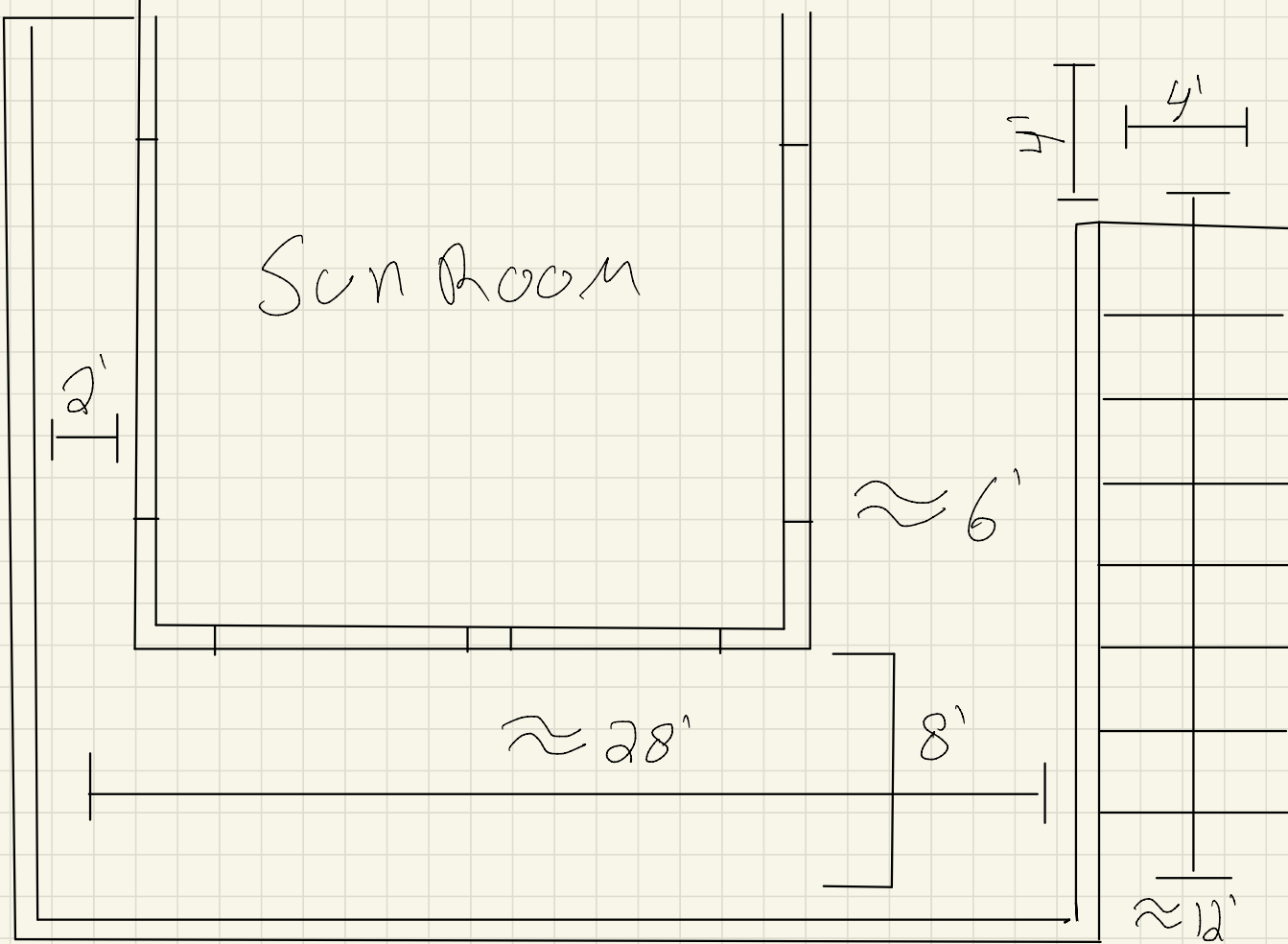
PandaDoc is a document workflow and certified eSignature solution trusted by 30,000+ companies worldwide.



133 Oak Ridge Drive

Sources: massgis.maps.arcgis.com & <https://mrmapper.mrpc.org/>







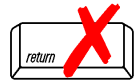
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Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

A. General Information

Important:

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1. Applicant:

Milton Raimundo
Name

milton.saulo@gmail.com
E-Mail Address

89 Littleton Rd
Mailing Address

Ayer
City/Town

MA 01432
State Zip Code

781-759-2200

Phone Number

Fax Number (if applicable)

2. Representative (if any):

Firm

Contact Name

E-Mail Address

Mailing Address

City/Town

State Zip Code

Phone Number

Fax Number (if applicable)

B. Determinations

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

- a. whether the **area** depicted on plan(s) and/or map(s) referenced below is an area subject to jurisdiction of the Wetlands Protection Act.
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Name of Municipality

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



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C. Project Description

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

89 Littleton Rd
Street Address

Ayer
City/Town

Assessors Map/Plat Number

8
Parcel/Lot Number

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

Front and backyard of the property

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

Title Date

Title Date

Title Date

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

Installation of a small irrigation system, which will be acquired by electronic commerce, probably on Amazon, taking water from the pond, located behind the property, using a small water pump.



WPA Form 1- Request for Determination of Applicability
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

C. Project Description (**cont.**)

b. Identify provisions of the Wetlands Protection Act or regulations which may exempt the applicant from having to file a Notice of Intent for all or part of the described work (use additional paper, if necessary).

3. a. If this application is a Request for Determination of Scope of Alternatives for work in the Riverfront Area, indicate the one classification below that best describes the project.

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- Public project where funds were appropriated prior to 8/7/96
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D. Signatures and Submittal Requirements

I hereby certify under the penalties of perjury that the foregoing Request for Determination of Applicability and accompanying plans, documents, and supporting data are true and complete to the best of my knowledge.

I further certify that the property owner, if different from the applicant, and the appropriate DEP Regional Office were sent a complete copy of this Request (including all appropriate documentation) simultaneously with the submittal of this Request to the Conservation Commission.

Failure by the applicant to send copies in a timely manner may result in dismissal of the Request for Determination of Applicability.

Name and address of the property owner:

Milton Raimundo

Name

89 Littleton Rd

Mailing Address

Ayer

City/Town

MA

State

01432

Zip Code

Signatures:

I also understand that notification of this Request will be placed in a local newspaper at my expense in accordance with Section 10.05(3)(b)(1) of the Wetlands Protection Act regulations.

Signature of Applicant

Milton Raimundo
Date

07/14/2022

Date

Signature of Representative (if any)

Date

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.