



TOWN OF WARE

Planning & Community Development
126 Main Street, Ware, Massachusetts 01082
(413) 967-9648 ext. 120

PLANNING BOARD

MEETING AGENDA

Location: Board of Selectmen's Meeting Room
Town Hall, 126 Main Street, Ware, MA 01082

Date & Time: Thursday, December 1st, 2022 @ 7:00 PM

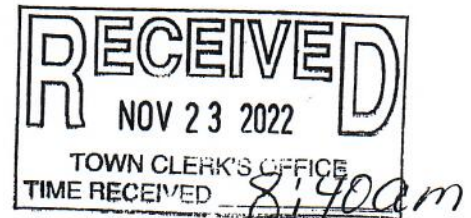
Digital Participation:

Phone number: 929-205-6099
Meeting ID: 784 604 1861
Passcode: 01082

Instructions for call-in option: at or before 7pm call the phone number above and when prompted enter the Meeting ID number. The platform is Zoom Meetings. Join online: <https://zoom.us/join>

-
- **Pledge of Allegiance**
 - **Administrative**
 - Approval of minutes from November 17th, 2022
 - **ANR-2022-12 (252 Belchertown Road)**
 - *Board will vote to decided that their approval is not required under the Subdivision Control Law*
 - **Public Hearings**
 - **7:05pm SP-2022-10 (219 Babcock Tavern Road: Bond Construction Corporation)**
 - Applicant is requesting a Special Permit to remove earth materials at 219 Babcock Tavern Road. Deeded in the Hampshire County Registry of Deeds, Book 12833, Page 207, and Book 07177, Page 314. Assessor's Parcel 4-0-14 & 4-14-2. Zone Rural Residential (RR).
 - **Old Business**
 - Review of newly proposed Subdivision Regulations
 - Sections 2.4.10 (Evidence of Performance and Release/Partial Release of Performance Guarantee) to Section 2.4.14 (Road Acceptance) [Pages 37-45]
 - **New Business**
 - *Any items that the Chairman did not anticipate adding before the creation of this agenda.*
 - **Town Planner Update**

The next Planning Board meeting will be held December 15th, 2022.





TOWN OF WARE

Planning & Community Development

126 Main Street, Ware, Massachusetts 01082

t. 413.967.9648 ext. 120

Planning Board

Meeting Minutes from

Thursday, November 17, 2022

Selectboard Meeting Room

126 Main Street, Ware MA 01082

Planning Board Members in Attendance:

Rick Starodoj, Chairman
Nancy Talbot, Clerk
Ed Murphy
Ken Crosby
Chris DiMarzio
Elizabeth Hancock, Alternate

Staff Members in Attendance:

Rob Watchilla, PCD Dept Director
Kristen Jacobsen, PCD Dept Admin

Members of the Public in Attendance:

PLEDGE OF ALLEGIANCE

Chairman R. Starodoj called the meeting to order at 7:00pm and led the Pledge of Allegiance.

ADMINISTRATIVE

Approval of Minutes from November 3rd, 2022

Motion made by N. Talbot to approve the minutes as submitted from Thursday, November 3, 2022. Seconded by C. DiMarzio. E. Hancock noted on pg. 7 of the minutes that C. Kadra had said public meeting and not hearing as stated in the minutes*. R. Starodoj asked for wording to be altered to reflect verbiage used "he did not disagree" on pg. 7.

*Upon review of 11/3/22 recorded meeting C. Kadra stated "Public Hearing" this may be found at time stamp 26:57.

R. Starodoj	Aye
N. Talbot	Aye
E. Murphy	Absent
K. Crosby	Abstain
C. DiMarzio	Aye

Three in Favor, None Opposed, One Abstain, One Absence. Approved 3/0/2.

Old Business

R. Watchilla read the memo on the recent Zoning Bylaw changes and stated they are in effect as of the vote at Town Meeting, unless struck down by the Attorney General.

E. Hancock inquired if the Historic Commission would be having a public hearing or a public meeting to discuss the Scenic Road Bylaw. R. Watchilla answered that they would have a meeting in January to discuss it amongst themselves, R. Watchilla, and the Planning Board. He continued by saying that they were going to do public outreach in February 2023 and a public hearing sometime thereafter. R. Starodoj inquired if that meant the Historic Commission would be taking the lead on the Scenic Road Bylaw and R. Watchilla said it was what it sounded like they wanted.

New Business

R. Watchilla read through the proposed modifications to the Subdivision Regulations.

Section 2.4.8.1

Beginning at section h the board discussed potential processes to help ensure future subdivisions are completed.

K. Crosby stated the approved plans are not always brought to the Registry of Deeds, R. Starodoj proposed the town sending them to ensure the plans get registered.

R. Starodoj inquired if it would be possible to introduce a sunset clause. C. DiMarzio agreed and added that a subdivision could be approved but would need to be built within a certain number of years as the complications increase as time moves forward.

The board discussed the process of road acceptance and Private Ways. R. Starodoj suggested having the road acceptance policy in the subdivision regulations and the language would need to be amended in conjunction with the subdivision language. R. Watchilla stated that the subdivision regulations cite the road acceptance policy and that those policies should be followed and requirements for the Planning Board in terms of Site Plans. He continued by stating that the process of road acceptance is regulated by the Selectmen. The Board suggested reviewing both policies with the Selectboard.

R. Starodoj suggested designating Private ways and posting signage for them and discussed the expectation property owners should have if they choose to purchase property on one. N. Talbot discussed the cases where homeowners purchased property in a subdivision believing it would be completed.

The board discussed items in subdivisions that need yearly inspections and the difficulties ensuring such inspections are completed.

The Board discussed the possibility of choosing a number of buildable lots to retain if they were to agree to a covenant and discussed whether that number should be a ratio or percentage based

on the intended number of lots. The board decided a ratio lots would be retained, and the language was altered.

2.4.9

R. Starodoj proposed altering the verbiage ‘so that it shall cause to be completed the necessary improvements...’ C. DiMarzio suggested adding that at least the first phase must be completed within the 5-year window and any phases after that would require a new endorsement from the Planning Board and be subject to amendments, revisions, and increase in securities.

K. Crosby suggested the removal of the line where it mentions rescinding the plan. R. Starodoj suggested leaving it in in order to give future boards or even town council the option. N. Talbot suggested altering the verbiage.

The board left off at section 2.4.10

▪ **Town Planner Update**

The downtown Improvement Committee will be meeting with representatives from Sign-a-Rama on Monday 11/21/22 to determine a location for the sign. The sign is currently being manufactured and should be arriving within the next 4-weeks.

The Town will be submitting a “Request for Qualifications” for the Mary Lane Hospital Adaptive Reuse and Feasibility Study next week

- The study will be funded from the One Stop for Community Growth Program, through the Department of Housing and Community Development (DHCD).
- Proposals will be due by December 15th at 2pm.

A study will be performed to see what the hospital building could be used for and will include potential demolition of the site.

The town has several possible uses in mind and the consultant who is hired will be required to do public outreach.

N. Talbot inquired about the study. R. Watchilla responded that the town can weigh in about the demolition of the building and if another use for the buildings could be found they (Bay State) would cooperate with the town.

The board discussed when the various hospital buildings were constructed and the potential importance of not demolishing them.

Motion made by N.Talbot to adjourn the meeting at 8:40pm. Seconded by K. Crosby. No additional discussion.

R. Starodoj	Aye
N. Talbot	Aye
C. DiMarzio	Aye
E. Murphy	Aye
K. Crosby	Aye

All in favor. Approved 5/0/0.

NEXT PLANNING BOARD MEETING DATE:

Thursday, December 1st, at 7:00pm.

Minutes from Thursday, November 17th, 2022.

Respectfully submitted by,

Kristen Jacobsen
Administrative Assistant
Planning & Community Development

Minutes Approved on: _____

Starodoj _____

Murphy _____

Talbot _____

Crosby _____

DiMarzio _____



TOWN OF WARE

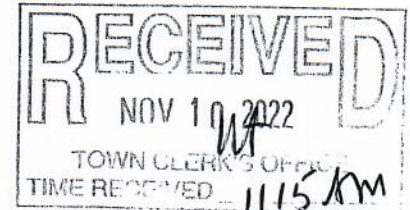
Planning & Community Development

126 Main Street, Ware, Massachusetts 01082
t. 413.967.9648 ext.118 rwatchilla@townofware.com

Notice of Public Hearing Planning Board

LEGAL NOTICE

to be published in the *Ware River News*
issues 11/17/2022 and 11/24/2022



SP-2022-10

NOTICE is hereby given that the Ware Planning Board, acting as the Special Permit Granting Authority, will hold a Public Hearing on **THURSDAY, December 1st, 2022 at 7:05pm**, on the application of Bond Construction Corporation, for a Special Permit for earth removal under Section 4.8.5, of the Zoning Bylaw, and pursuant to MGL Chapter 40A. Pursuant to Chapter 22 of the Acts of 2022, this hearing will be conducted in person and via remote means, in accordance with applicable law. This means that members of the Planning Board as well as members of the public may access this meeting in person, or via virtual means. In person attendance will be held in the Board of Selectman's Meeting Room, 126 Main Street, Ware, MA. It is possible that any or all members of the public body may attend remotely, with in-person attendance consisting of members of public. The meeting may be accessed remotely via zoom. Go to <https://zoom.us/join> or join by phone. Phone Number: 929-205-6099; Meeting ID: 784 604 1861; Password: 01082.

SITE LOCATION: 219 Babcock Tavern Road, Ware, MA. Said premises being further described in deeds recorded in the Hampshire County Registry of Deeds, Book 12833, Page 207, and Book 07177, Page 314. Property is also identified as Assessor's Parcel 4-0-14 & 4-14-2. Zoned: Rural Residential (RR).

A complete copy of the application can be found at the Town Clerk's office and on the Planning & Community Development Department website under Recent Filings. Anyone interested or wishing to be heard on the application should appear at the time and place designated.

WARE PLANNING BOARD
Richard Starodoj, Chairman



TOWN OF WARE
Planning & Community Development
126 Main Street, Ware, MA 01082
t. 413.967.9648 ext. 120

PERMIT SUMMARY REPORT

To: Planning Board
From: Robert A. Watchilla, Director of Planning & Community Development
Date: November 3, 2022
Permit: **Special Permit Request (SP-2022-10) for
Bond Construction Corporation – Earth Removal at 219 Babcock Tavern Road**

The applicant is requesting a special permit to remove earthen products (gravel) from the land behind 240 Babcock Tavern Road (known as 219 Babcock Tavern Road). The following materials were submitted to the Planning & Community Development Office on October 14, 2022:

- **Special Permit Application**
 - Applicant is listed as “Karen Hubacz of Bond Construction Corporation”
 - Owner is listed as Kathleen Knight/Kulas Irene Life Estate of 240 Babcock Tavern Road
 - Zoned as Rural Residential (RR)
 - Two parcels (4-0-14 & 4-14-2) combined to be approximately 168 acres
- **Application Packet which includes**
 - Land Owner Authorization Form (signed by Kathleen Knight)
 - Background and project narrative
 - *Continuation of the earth removal activities progressing southerly to the property line*
 - *Including earthen products east of the residence located at 240 Babcock Tavern Road*
 - *Considered an improvement of the agricultural lands by removal and regrading of steep slopes to permit an increase in tillable land area on the property*
 - *Access to the removal site will be through an existing paved driveway that serves the barns and out buildings*
 - *Stated Best Management Practices (BMP's) including:*
 - *Silt Fences and Waddles at down-stream limit of work*
 - *Water quality swale along toe of the work toward the proposed infiltration basin*
 - *An infiltration basin is proposed at the south east corner of the work*

- All disturbed surfaces will be loamed and seeded once they meet final elevation for stabilization
 - Proposed earth removal area is approximately 10 acres of land area
 - Estimated earth volume to be removed is 194,500 cubic yards
 - Rate of removal from the site will vary based upon market needs for earthen products
- Existing Conditions
 - Area is undeveloped, with active earth removal activity to the north
 - On site testing performed by the applicant has shown stratified sands and gravels to the limit of the test holes
 - Ground water observation pipes have been installed and do not show any indication of ground water
 - Proposed location lies above the 100 year flood plain
 - There is an existing wetland to the east of the project area and an isolated wetland to the south of the project area, but no work will occur within the 100 foot buffer zones
 - Proposed location is outside of the priority habitat area
 - There are no vernal pools within 1,000 feet of the proposed work area
 - Not located in the aquifer protection overlay district
- Requested Waivers and Explanations for non-conformance with Operational Standards
 - No excavation shall be permitted below the grade of a road bounding the property at any point nearer than 150' to such road.
 - ***Minor grading to shape the slopes within the 150-foot offset. The applicant is matching the elevation of the kettle hole on the south west portion of the property. This will also permit for an even 5% slope to the limit of work to the east.***
 - No Excavation below the natural grade of any property boundary shall be permitted nearer than 50 feet to such boundary
 - ***Applicant is proposing minor shaping within 50 feet of the property line to the south. The top of the slope for the earth removal being 50 feet from the property line.***
 - No slope created by the removal operation shall be finished at a grade in excess of two feet horizontal to one-foot vertical (2: 1).
 - ***The applicant states that no finished slope will be greater than 3:1.***
 - The installation and gaging of groundwater monitoring wells at a frequency established by the planning board.
 - ***Applicant had not mentioned this in their memo.***
- Supporting documents include:
 - Certified Abutters List
 - FEMA Flood Map
 - Ware River Flood Study
 - Mass GIS showing Priority Habitats
 - Excerpt from USDS Soils Maps and Soil Descriptions

- **Site Plans of the Proposed Project**
 - Prepared by Andrew R. Baum, P.E.
 - Site plans show the existing and finished grades
 - Property boundaries as well as earth removal boundaries are identified
 - Drawn at a scale of 1 inch equals 50 feet
 - Identifies existing structures and proposed locations of erosion control, wattles, and silt fences
 - Shows wetland boundaries and groundwater testing well locations

Comments from Other Departments

- **Conservation Department**
 - John Prenosil (Conservation Agent) sent the PCD Director the following statement on November 1, 2022:
 - *I met Don Frydryk and Karen Hubacz yesterday afternoon and walked a portion of the proposed project area. Based on the proposed project limits, topography, and existing conditions, I have no further concerns relative to wetland impacts.*
- **Health Department**
 - Andrea Crete (Health Director) has stated on November 1, 2022, that she has no health concerns arising from the proposed project.
- **Planning & Community Development**
 - The PCD Department is concerned with the project area to the south sitting up along to the property line, and infringing within the 50 foot buffer area.

END OF REPORT

Planning Board
Zoning Board of Appeals

Robert A. Watchilla
Director of Planning &
Community Development

Town of Ware

Planning & Community Development

Application for Special Permit



126 Main Street
Ware, MA 01082
413.967.9648 ext. 120
www.townofware.com

SP-20 22 - 10

Applicant
Name of Applicant (primary contact): Karen Hubacz, Bond Construction Corporation
Address: 98 North Spencer Road, Spencer, MA 01562
Phone: 508-885-6100 Cell: 508-847-1592
Email Address: karenhubacz@bondsandandgravel.com

Owner
Name of Owner (primary contact): Kathleen Knight/Kulas Irene Life Estate
Address: 240 Babcock Tavern Road, Ware, MA 01082
Phone: _____ Cell: 413-374-7431
Email Address: _____

Request
Choose applicable Zoning Bylaw Section: 4.8.5 - Earth Removal
Will the project require a: **Site Plan Review:** ☐ Yes* ☒ No **Variance:** ☐ Yes* ☒ No *Explain in narrative

Property
Location of Property: 219 Babcock Tavern Rd on easterly side Including & behind #240 Babcock Tvrn.
Assessor's Tax Map/Parcel Number: Map 4, Parcels 0-14 & 14-2
Deed Reference - Hampshire District Registry of Deeds Book/Page Number: 12833/207 & 07177/314
Plan Reference - Hampshire District Registry of Deeds Book/Plan Number: Plan Bk 95/Pg 60
Zoning District: RR - Rural Residential Acreage: 168 acres total
Check all that apply: ☐ Wetlands ☐ Floodplain ☐ Aquifer

Proposal
Brief description of the proposal: Applicant proposes removal of earthen products (gravel) behind #240 Babcock Tavern Road.

Sign
Applicant's signature: [Signature]
Owner's signature: [Signature]
Date: _____

Official Use Only: Preliminary Review By: RW Date: 10/14/22
Fee: \$ 757.00 Date Paid: 10/13/22 Check #: _____
Date of Public Hearing: _____
Decision of Board: _____
Date of Decision: _____ Expiration Date: _____

Town Clerk's stamp:

RECEIVED
OCT 14 2022
TOWN CLERK'S OFFICE
TIME RECEIVED 11:50 AM



SHERMAN & FRYDRYK
Land Surveying and Engineering
A division of Hancock Survey Associates, Inc.

October 11, 2022

via email & hand delivery

Town of Ware
Planning & Community Development
Ware Town Hall
126 Main Street
Ware, MA 01082

Re: Earth Removal Operations Special Permit Application
Babcock Tavern Road, Ware, MA

Dear Members of the Board;

On behalf of our client, Bond Construction Corp., this office herewith submits an application and supporting materials for Earth Removal Operations Special Permit in accordance with the requirements of Section 4.8.5 of the Ware Zoning Ordinance. This application is to permit the continuance of earth removal activities performed under agricultural activities.

Included with the application, please find the following intended to comprise of a Special Permit Application.

1. A check in the amount of \$757.00 based on a Level 2 Special Permit application fee payable to the Town of Ware. (\$750 fee plus \$1 per abutter)
2. Fourteen (14) copies of the Earth Removal Application including:
 - Application for Special Permit
 - Land Owner Authorization Form
 - Certified Abutters List (300')
 - Project Narrative
 - Conformance with Zoning Requirements Summary
 - Excerpt from FEMA Flood Map
 - Excerpt from Ware River Flood Study
 - Excerpt from Mass GIS showing Priority Habitats
 - Excerpt from USDS Soils Maps and Soil Descriptions
3. Seven (7) Full size Plan entitled "Plan of Land in Ware, Ma, Prepared for Bond Construction Corp, Close Out Grading" Dated October 7, 2022
4. Ten (10) Reduced copies of Site Plan
5. One (1) CD with all application information in PDF including full size set of plans



SHERMAN & FRYDRYK
Land Surveying and Engineering

A division of Hancock Survey Associates, Inc.

This office looks forward to working with the Board and other Town agencies throughout this project. If the Board should have any questions, concerns, or if you require any additional information for the review of this project, please contact the undersigned.

Respectfully Submitted,
Sherman & Frydryk

By:

Andrew Baum, PE
Senior Project Manager

Cc: Karen Hubacz, President/CEO, Bond Construction Corp. - Applicant
Kathleen Knight, Property owner

Planning Board &
Zoning Board of Appeals

Robert A. Watchilla
Director of Planning &
Community Development

Town of Ware
Planning &
Community Development
Land Owner
Authorization Form



126 Main Street
Ware, MA 01082
413.967.9648 ext. 120

Applicant

Name of Applicant (primary contact): Karen Hubacz
Company: Bond Construction Corporation
Address: 98 No Spencer Road, Spencer, MA 01562
Phone: 508-885-6100 Cell: 508-847-1592
Email Address: karenhubacz@bondsandandgravel.com

Owner

Name of Owner: Kathleen Knight
Address: 240 Babcock Tavern Road, Ware, MA 01082
Phone: _____ Cell: 413-374-7431
Email: _____

Property

Address of Property: 219 Babcock Tavern Road, on the easterly side of babcock taven Road
Assessor's Tax Map/Parcel Number: 4-0-14

Proposal

Brief description of the proposed work: applicant proposes removal of earthen products behind #240 Babcock Taven Road

Authorization

As the owner or authorized agent of the property listed above, I hereby give permission to the Applicant as stated above to perform work at aforementioned property. Said permission includes, but is not limited to, acquiring all required permits and performing all work required to complete the project.

By signing this Form, I acknowledge and agree that I am not released from responsibility for:

- (a) the payment of any and all fees associated with the issuance of any: permits, orders, notices or other approvals ("Approvals") by the Town of Ware pursuant to any applications, including taxes, that effect said property;
- (b) the satisfactory completion of all work authorized by such Approvals in compliance with all applicable town, state and federal laws, codes, rules, regulations and requirements; and
- (c) correcting any violations of the terms and conditions of such Approvals issued by the Town of Ware pursuant to any application to effect my property.

Signature

Original Owner's Signature (Blue Ink Only): Kathleen Knight Date: 10/2/02
Mailing Address: 240 Babcock Tavern Road Town/State/Zip: Ware, MA 01082
Phone Number: 413-374-7431 Email: _____



SHERMAN & FRYDRYK
Land Surveying and Engineering

A division of Hancock Survey Associates, Inc.

Project Narrative

History

The farm located at 219 Babcock Tavern Road has performed earth removal and re-grading operations since 2009 in conjunction with the Applicant, Bond Construction Services, Inc. The purposes of the operation were to promote improved field conditions for the continued agricultural use of the property.

Earth removal operations have occurred on the easterly side of Babcock Tavern Road beginning approximately 400 feet south of the barn yard area. Access to the earth removal area has been provided via the existing paved driveway that serves the barns and out buildings. A gravel access road has been utilized from the end of the paved driveway to the active removal area.

The volume of earth removal from the site has varied based upon the market needs and project schedules. The earth removal progression has proceeded from north to south. Completed areas have been loamed, seeded, and utilized as a hay field at the current time.

Proposed Project

The proposed project will be a continuation of the earth removal activities progressing southerly to the property line. The project will include removal of earthen products east of the residence located at 240 Babcock Tavern Road.

This permit application is based upon the request of the Board to apply for an Earth Removal Permit to allow the continuation of improvement of the agricultural lands by removal and regrading of steep slopes to permit an increase in tillable land area on the property.

Access to the removal area will be unchanged. Trucks will access the site from the existing curb cut on Babcock Tavern Road. Drivers existing the site have access to Route 32 via Old Belchertown Road or Emery Street to State Street to the south into Palmer. Bridge/Road weight restrictions on other collector streets will be honored by drivers as appropriate. The Applicant has worked with the Town of Ware and the Town of Palmer in routing trucks on non-weight restricted roads and bridges to gain access to highway routes.

Sedimentation controls for the site are shown on the included site plan. Best Management Practices (BMP's) include:

- Silt fences and Waddles at down-stream limit of work.
- Water Quality Swale along toe of the work toward the proposed infiltration basin.
- An infiltration basin is proposed at the south east corner of the work.
- All disturbed surfaces will be loamed and seeded once they meet final elevation for stabilization.

The proposed removal area is approximately 10.0 acres of land area. The estimated volume of earth to be removed is approximately 194,500 cubic yards. Rate of removal from the site will vary based upon market needs for earthen products from this area.



Existing Conditions:

The proposed excavation area is undeveloped. Ground cover consists of woodland and active earth removal activity to the north. Topography consists of steep eskers and kettle holes consistent with an outwash plain. On site testing performed by the Applicant has shown stratified sands and gravels to the limit of the test holes. Ground water observation pipes have been installed and do not show any indication of ground water.

The Ware River is located to the 500 to 1,000 feet east of the property. Review of the Ware River detailed flood study show that the proposed activity is above the 100 year flood elevation of 379+. No proposed activity under this permit application will result in the loss of flood storage of the Ware River basin.

There is a GIS mapped wetland located to the east of the project area and an isolated wetland to the south of the proposed work. The enclosed design plan shows that the work will occur outside of the respective 100 foot buffer zones.

The proposed work is outside mapped Priority Habitat as shown in the enclosed Species Habitat map. There are no Certified Vernal Pools within 1,000 feet of the proposed work area.

The work area is not located in any mapped Surface Water Supply or Wellhead Protection zones.

Conformance with Operational Standards

The following is a listing of Operational Standards set forth in the Ware Zoning Bylaw (Section 4.8.5 (D)) and a summary of compliance or waiver requests:

1. No excavation shall be permitted below the grade of a road bounding the property at any point nearer than 150' to such road.
Minor grading to shape the slopes within the 150-foot offset. The applicant is matching the elevation of the kettle hole on the south west portion of the property. This will also permit for an even 5% slope to the limit of work to the east.
2. No excavation below the natural grade of any property boundary shall be permitted nearer than 50 feet to such boundary.
Minor shaping is proposed within 50 feet of the property line to the south. The top of slope for the earth removal begin 50 feet from the property line. Accordingly, the Applicant requests a waiver from this requirement.
3. No slope created by the removal operation shall be finished at a grade in excess of two feet horizontal to one-foot vertical (2:1).
No finished slopes are proposed steeper than 3:1.
4. All excavated areas shall, upon completion of the operation, be covered with not less than four inches of loam suitable for seeding, brought to the finish grade and seeded in a manner complying with Mass DOT standards.
Applicant agrees to this condition.
5. Within the Flood Plain Overlay District, excavation of earth products shall be prohibited if such excavation will lower the level of the water table or will interfere with the natural flow pattern or reduce the flood storage capacity of a stream.



The project is outside the Flood Plan Overlay District. As noted in the narrative, the project will not interfere with the natural flow pattern of the watershed.

6. No excavation shall be made at less than 10 feet above the annual high water table, as established from test pits and soil borings.

Test pits were dug around the perimeter of the work in April of 2022. Twenty (20) foot witness pipes. The attached plan shows the test pit locations and respective elevations. The lowest monitoring well has a bottom elevation of 365.3 without water encountered. This roughly correlates with the adjacent wetland elevation of 362 (per Google Earth Spatial Data). The proposed work ceases at elevation 380 for the infiltration basin, which is 15 feet higher than the water table.

7. All top soil and subsoil stripped from operation areas shall be stockpiled, seeded with an erosion control seed mixture, and used in restoring the area.

Applicant agrees to this condition. As noted previously, the purpose of this removal is to provide additional tillable land for agricultural purposes.

8. Trucking routes and methods shall be specified by the Board which shall seek the advice of the Chief of Police with regard thereto.

As previously noted, this is a continuation of an ongoing earth removal project. The Applicant has worked with the Town of Palmer and Town of Ware with respect to acceptable trucking routes. There are no bridge weight restrictions from the site to major arterial roads (Route 9, Route 32, and Route 181)

9. All access roads leading to public ways shall be treated with suitable material to reduce dust and mud for a distance of 200 feet back from the public way.

The site is currently accessed via the curb cut to the barn area. There is a paved driveway at the entrance that transitioned to an established gravel road to the existing operation. The proposed work will utilize the current access route.

10. Standard Massachusetts accepted road signs warning of "Trucks Entering" shall be placed on the road on each side of the entrance, in locations approved by the Ware Department of Public Works and Ware Police Department.

Applicant agrees to this condition.

11. The boundaries of the area of operation must be clearly marked by the applicant and maintained at all times.

Applicant agrees to this condition.

12. Operators shall immediately clean up any spillage on public ways, and are responsible for repairs to any public ways damaged as a result of the trucking traffic serving the earth removal operation.

Applicant agrees to this condition.

13. Any shelters or buildings erected on the premises for use by personnel or storage of equipment shall be screened from public view and shall be removed from the premises within 60 days after they are no longer needed for work upon that site.

No shelters are proposed at this time. The Applicant agrees to this condition should a shelter or building be erected to support the earth removal operation.

Considerations for Decision (4.8.5 (F. Decision))

- In accordance with the Decision section of the Bylaw, the Applicant wishes to address the following Decision considerations of the Board:



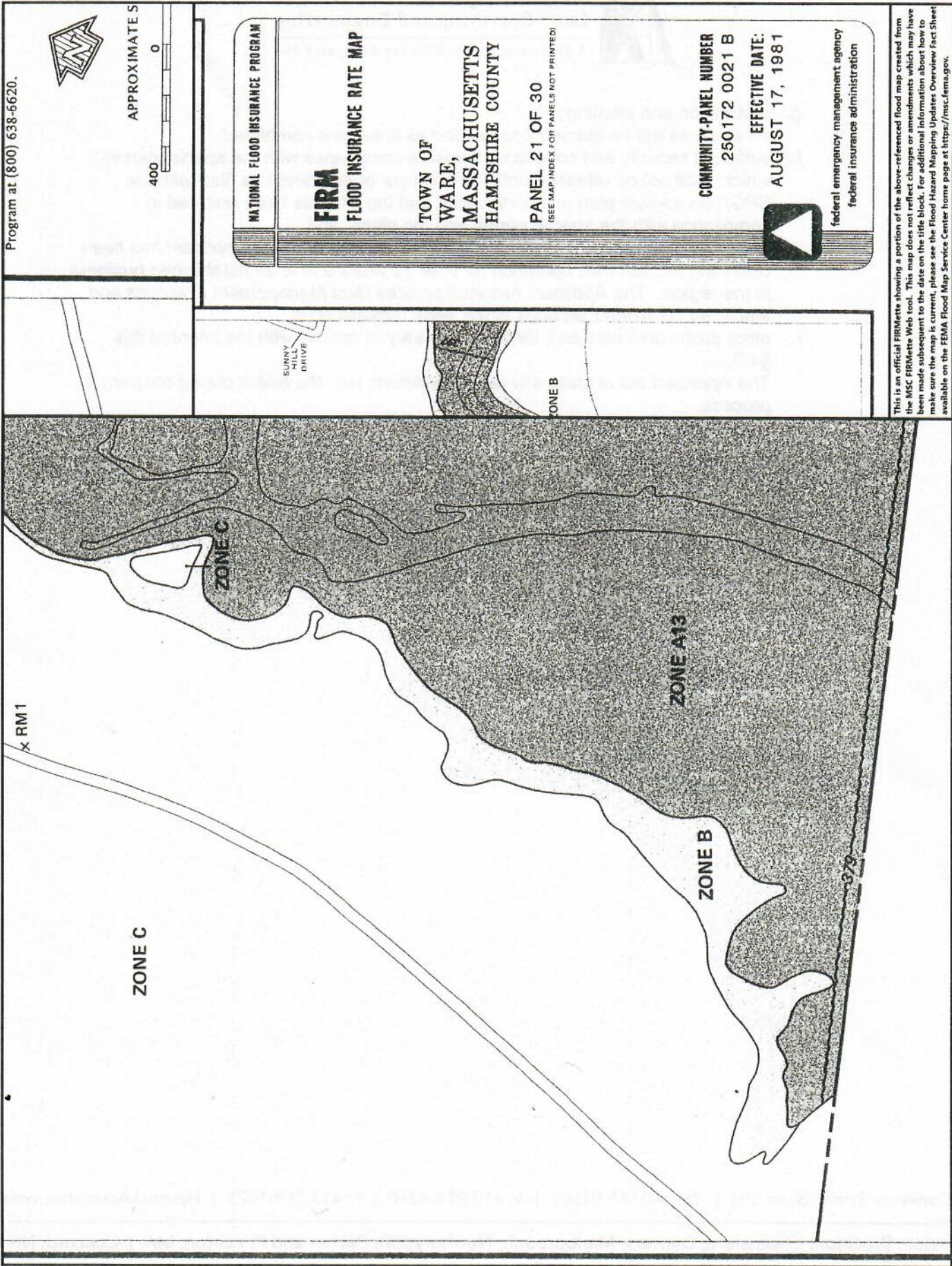
1. The SPGA shall take into consideration the following in reaching its decision:
 - a. The health, safety and general welfare of the inhabitants of the Town;
The project is not a detriment to the health, safety and general welfare of the inhabitants of the Town. The project will provide earthen products need for the continued construction and maintenance of infrastructure to the Town and surrounding communities. The project as designed is to permit additional agricultural use of the property. The applicant is not maximizing the removal of material but seeking to re-grade the property for the intended use and remove the excess material.
 - b. The removal will not be detrimental or injurious to abutters or the neighborhood, either by the alteration of existing topography or by a substantial change in the use of the streets in the neighborhood; and
Removal and regrading will not be detrimental to abutters. Site has been designed to direct runoff to the east of the project into an infiltration basin.
 - c. The effect on natural resources, including but not limited to the recharge of the water table or condition of the surface water.
Project is designed to maintain groundwater separation, separation from abutting wetlands and provide additional agricultural use on the property. Recharge to groundwater is promoted via an infiltration basin at the easterly side of the project limits.
2. The SPGA may impose conditions pertaining to:
 - a. methods of removal,
The Applicant plans to continue excavation activities proceeding in a southerly fashion. Areas to the north that have been brought to sub-grade and no longer needed for operational storage will be loamed and seeded as the project progresses to the south.
 - b. type and location of structures and fencing,
No structures or fencing are proposed with this application.
 - c. hours of operation,
Hours of Operation are proposed to be Monday through Saturday, 7:00 am to 5:00 pm.
 - d. area, location and depth of excavation and steepness of slopes,
The proposed expansion area is approximately 10 Acres. The depth of excavation is shown in the attached plans. Finished slope steepness is also shown and is shallower than the regulations restriction. Total material removal is estimated to be 194,500 cubic yards.
 - e. drainage,
Project involves regrading the existing landform to slope down gradient from the west (Babcock Tavern Road) to the east. Project will direct runoff to an infiltration basin shown on the plans. The Applicant is requesting a waiver from drainage calculations as the surface change will be from woodland to pasture surface composition with a less steep finish grade reducing the watershed time of concentration..
 - f. disposition of boulders and stumps,
Boulders will either be hauled off site for crushing or buried. Stumps will be ground on site and used for surface stabilization or hauled off site for disposal.

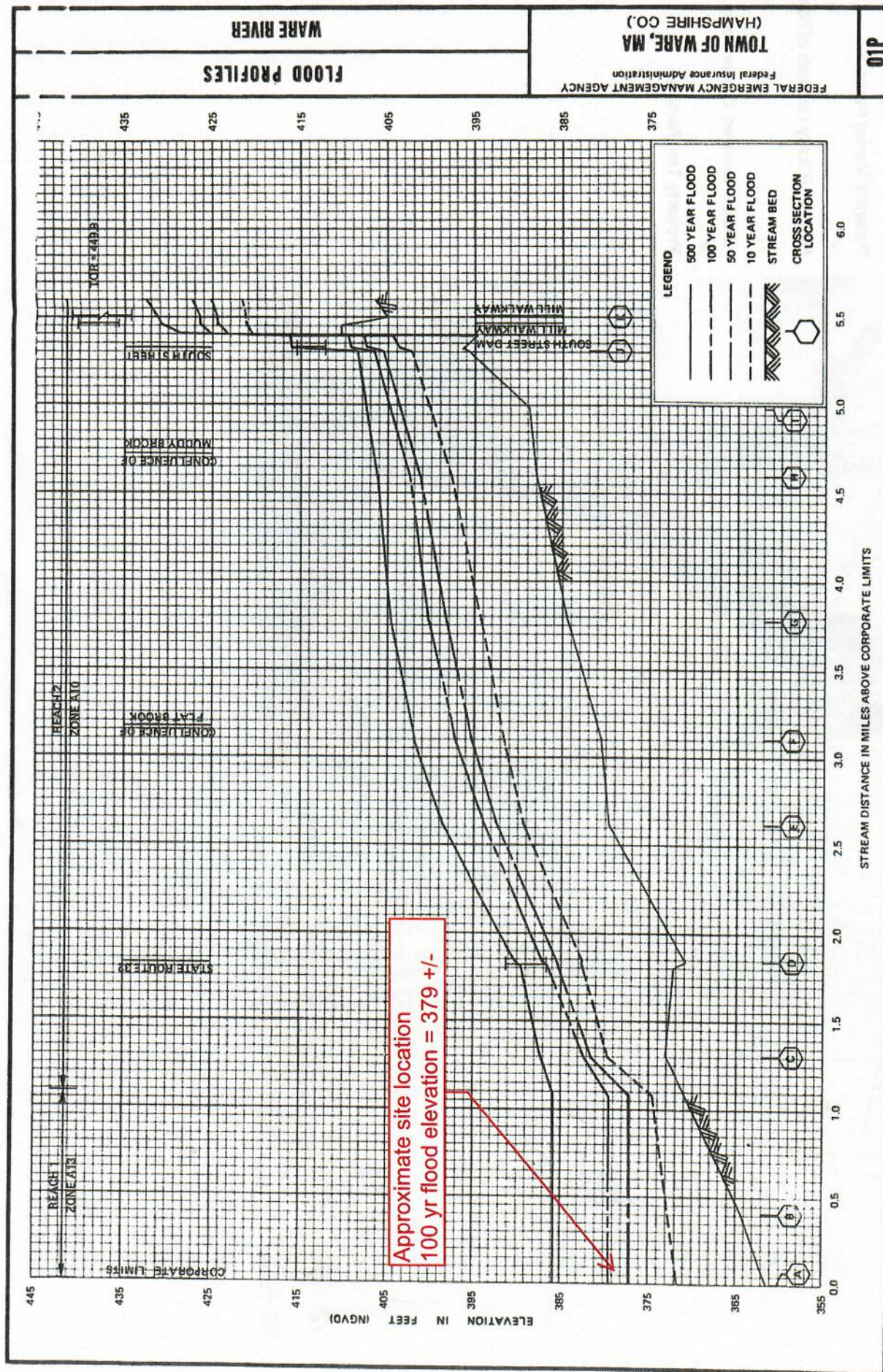


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- g. restoration and planting.
All surfaces will be loamed and seeded as areas are completed.
- h. sufficient security and covenants to insure compliance with the special permit, which shall not be released until the surveyor or engineer has filed with the SPGA an as-built plan and certification that the site has been restored in compliance with the special permit and the plans, and
The Applicant requests a waiver from this requirement. The Applicant has been operating this removal operation for over 10 years and is an established business in the region. The Applicant has incorporated Best Management Practices and stabilized completed sections of the earth removal area.
- i. other such conditions as it deems necessary to comply with the intent of this §4.8.5.
The Applicant will discuss any other conditions with the Board during the permit process.





Excerpt from FEMA Detailed Flood
Insurance Study
Dated February 17, 1981

Species Habitat Map







Map Scale: 1:6,050 if printed on A portrait (8.5" x 11") sheet.
 0 50 100 200 300 Meters
 0 250 500 1000 1500 Feet
 Map projection: Web Mercator Corner coordinates: WGS84 Edge tics: UTM Zone 18N WGS84



Natural Resources
Conservation Service

Web Soil Survey
National Cooperative Soil Survey

MAP LEGEND

 Area of Interest (AOI)	 Spoil Area
 Soils	 Stony Spot
 Soil Map Unit Polygons	 Very Stony Spot
 Soil Map Unit Lines	 Wet Spot
 Soil Map Unit Points	 Other
 Special Point Features	 Special Line Features
 Blowout	 Water Features
 Borrow Pit	 Streams and Canals
 Clay Spot	 Transportation
 Closed Depression	 Rails
 Gravel Pit	 Interstate Highways
 Gravelly Spot	 US Routes
 Landfill	 Major Roads
 Lava Flow	 Local Roads
 Marsh or swamp	 Background
 Mine or Quarry	 Aerial Photography
 Miscellaneous Water	
 Perennial Water	
 Rock Outcrop	
 Saline Spot	
 Sandy Spot	
 Severely Eroded Spot	
 Sinkhole	
 Slide or Slip	
 Soddy Spot	

MAP INFORMATION

The soil surveys that comprise your AOI were mapped at 1:25,000.

Warning: Soil Map may not be valid at this scale.

Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service
Web Soil Survey URL:
Coordinate System: Web Mercator (EPSG:3857)

Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Hampden and Hampshire Counties, Massachusetts, Eastern Part
Survey Area Data: Version 17, Sep 9, 2022

Soil Survey Area: Hampden County, Massachusetts, Central Part
Survey Area Data: Version 16, Sep 9, 2022

Your area of interest (AOI) includes more than one soil survey area. These survey areas may have been mapped at different scales, with a different land use in mind, at different times, or at different levels of detail. This may result in map unit symbols, soil properties, and interpretations that do not completely agree across soil survey area boundaries.

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Date(s) aerial images were photographed: Oct 15, 2020—Oct 31, 2020

MAP LEGEND

MAP INFORMATION

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

Map Unit Legend

Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
1	Water	7.8	4.8%
2A	Pootatuck fine sandy loam, 0 to 3 percent slopes, occasionally flooded	30.2	18.7%
15A	Scarboro-Rippowam complex, 0 to 2 percent slopes, frequently flooded	25.6	15.9%
253A	Hinckley loamy sand, 0 to 3 percent slopes	7.5	4.7%
253B	Hinckley loamy sand, 3 to 8 percent slopes	40.5	25.1%
253C	Hinckley loamy sand, 8 to 15 percent slopes	6.0	3.7%
253D	Hinckley loamy sand, 15 to 25 percent slopes	4.1	2.5%
260B	Sudbury fine sandy loam, 3 to 8 percent slopes	0.6	0.4%
422C	Canton fine sandy loam, 8 to 15 percent slopes, extremely stony	1.0	0.6%
422D	Canton fine sandy loam, 15 to 35 percent slopes, extremely stony	0.0	0.0%
447E	Gloucester and Canton soils, steep, extremely stony	23.8	14.7%
Subtotals for Soil Survey Area		147.0	91.1%
Totals for Area of Interest		161.4	100.0%

Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
1	Water	1.7	1.1%
2A	Pootatuck fine sandy loam, 0 to 3 percent slopes, occasionally flooded	1.2	0.8%
52A	Freetown muck, central lowland, 0 to 1 percent slopes	0.3	0.2%
95A	Podunk fine sandy loam, 0 to 3 percent slopes, occasionally flooded	0.5	0.3%
98A	Winooski silt loam, 0 to 3 percent slopes, occasionally flooded	3.5	2.2%
253A	Hinckley loamy sand, 0 to 3 percent slopes	0.7	0.5%

Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
253C	Hinckley loamy sand, 8 to 15 percent slopes	0.1	0.1%
718A	Saco Variant silt loam, frequently ponded, 0 to 2 percent slopes, frequently flooded	6.2	3.8%
Subtotals for Soil Survey Area		14.4	8.9%
Totals for Area of Interest		161.4	100.0%

Hampden and Hampshire Counties, Massachusetts, Eastern Part

253B—Hinckley loamy sand, 3 to 8 percent slopes

Map Unit Setting

National map unit symbol: 2svm8

Elevation: 0 to 1,430 feet

Mean annual precipitation: 36 to 53 inches

Mean annual air temperature: 39 to 55 degrees F

Frost-free period: 140 to 250 days

Farmland classification: Farmland of statewide importance

Map Unit Composition

Hinckley and similar soils: 85 percent

Minor components: 15 percent

Estimates are based on observations, descriptions, and transects of the mapunit.

Description of Hinckley

Setting

Landform: Outwash deltas, outwash terraces, kames, kame terraces, moraines, eskers, outwash plains

Landform position (two-dimensional): Summit, shoulder, backslope, footslope

Landform position (three-dimensional): Nose slope, side slope, base slope, crest, riser, tread

Down-slope shape: Concave, convex, linear

Across-slope shape: Convex, linear, concave

Parent material: Sandy and gravelly glaciofluvial deposits derived from gneiss and/or granite and/or schist

Typical profile

Oe - 0 to 1 inches: moderately decomposed plant material

A - 1 to 8 inches: loamy sand

Bw1 - 8 to 11 inches: gravelly loamy sand

Bw2 - 11 to 16 inches: gravelly loamy sand

BC - 16 to 19 inches: very gravelly loamy sand

C - 19 to 65 inches: very gravelly sand

Properties and qualities

Slope: 3 to 8 percent

Depth to restrictive feature: More than 80 inches

Drainage class: Excessively drained

Runoff class: Very low

Capacity of the most limiting layer to transmit water

(Ksat): Moderately high to very high (1.42 to 99.90 in/hr)

Depth to water table: More than 80 inches

Frequency of flooding: None

Frequency of ponding: None

Maximum salinity: Nonsaline (0.0 to 1.9 mmhos/cm)

Available water supply, 0 to 60 inches: Very low (about 3.0 inches)

Interpretive groups

Land capability classification (irrigated): None specified

Land capability classification (nonirrigated): 3s

Hydrologic Soil Group: A

Ecological site: F144AY022MA - Dry Outwash

Hydric soil rating: No

Minor Components

Windsor

Percent of map unit: 8 percent

Landform: Outwash deltas, outwash terraces, moraines, eskers, kames, outwash plains, kame terraces

Landform position (two-dimensional): Summit, shoulder, backslope, footslope

Landform position (three-dimensional): Nose slope, side slope, base slope, crest, riser, tread

Down-slope shape: Concave, convex, linear

Across-slope shape: Convex, linear, concave

Hydric soil rating: No

Sudbury

Percent of map unit: 5 percent

Landform: Outwash deltas, outwash terraces, moraines, outwash plains, kame terraces

Landform position (two-dimensional): Backslope, footslope

Landform position (three-dimensional): Head slope, side slope, base slope, tread

Down-slope shape: Concave, linear

Across-slope shape: Concave, linear

Hydric soil rating: No

Agawam

Percent of map unit: 2 percent

Landform: Outwash deltas, outwash terraces, moraines, eskers, kames, outwash plains, kame terraces

Landform position (two-dimensional): Summit, shoulder, backslope, footslope

Landform position (three-dimensional): Nose slope, side slope, base slope, crest, riser, tread

Down-slope shape: Concave, convex, linear

Across-slope shape: Convex, linear, concave

Hydric soil rating: No

Data Source Information

Soil Survey Area: Hampden and Hampshire Counties, Massachusetts, Eastern Part

Survey Area Data: Version 17, Sep 9, 2022

Soil Survey Area: Hampden County, Massachusetts, Central Part

Survey Area Data: Version 16, Sep 9, 2022

From: [Prenosil, John](#)
To: [Watchilla, Robert](#); [Beckley, Stuart](#); [Marques, Anna S.](#); [Crete, Andrea](#); [Martinez, Jim](#); [Gagnon, Chris](#); [Crevier, Shawn](#); [McAlmond, Geoffrey](#)
Cc: [Croteau, Nicole](#); [Thacker, Kristen](#); [Jacobsen, Kristen](#); [Barlow, Betty](#)
Subject: Re: Special Permit (SP-2022-10) 219 Babcock Tavern Road REQUEST FOR COMMENTS
Date: Tuesday, November 1, 2022 7:10:22 PM

I met Don Frydryk and Karen Hubacz yesterday afternoon and walked a portion of the proposed project area. Based on the proposed project limits, topography, and existing conditions, I have no further concerns relative to wetland impacts.

John

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From: Prenosil, John <jprenosil@townofware.com>
Sent: Thursday, October 20, 2022 11:42:01 AM
To: Watchilla, Robert <rwatchilla@townofware.com>; Beckley, Stuart <sbeckley@townofware.com>; Marques, Anna S. <amarques@townofware.com>; Crete, Andrea <acrete@townofware.com>; Martinez, Jim <jmartinez@townofware.com>; Gagnon, Chris <cgagnon@townofware.com>; Crevier, Shawn <CrSH@townofware.com>; McAlmond, Geoffrey <gmcalmond@townofware.com>
Cc: Croteau, Nicole <ncroteau@townofware.com>; Thacker, Kristen <kthacker@townofware.com>; Jacobsen, Kristen <kjacobsen@townofware.com>; Barlow, Betty <BBarlow@townofware.com>
Subject: Re: Special Permit (SP-2022-10) 219 Babcock Tavern Road REQUEST FOR COMMENTS

Good morning, Rob.

The application mentions a wetland east of the proposed work area and an isolated wetland south of the proposed work area. Have the boundaries of these areas been verified? The Application states their location is based on GIS data. GIS data only provides a general location of wetland resource areas; it does not provide exact boundaries. It would be helpful to have definitive wetland boundaries, and their distance from the proposed limits of work, illustrated on the plan. I'd also like to walk the site.

Let me know if I can be of further assistance.

John

From: Watchilla, Robert <rwatchilla@townofware.com>

Sent: Wednesday, October 19, 2022 12:31 PM

To: Beckley, Stuart <sbeckley@townofware.com>; Marques, Anna S.

<amarques@townofware.com>; Prenosil, John <jprenosil@townofware.com>; Crete, Andrea <acrete@townofware.com>; Martinez, Jim <jmartinez@townofware.com>; Gagnon, Chris <cgagnon@townofware.com>; Crevier, Shawn <CrSH@townofware.com>; McAlmond, Geoffrey <gmcalmond@townofware.com>

Cc: Croteau, Nicole <ncroteau@townofware.com>; Thacker, Kristen <kthacker@townofware.com>; Jacobsen, Kristen <kjacobsen@townofware.com>; Barlow, Betty <BBarlow@townofware.com>

Subject: Special Permit (SP-2022-10) 219 Babcock Tavern Road REQUEST FOR COMMENTS

Hey all,

We have a new special permit filing for an earth removal operation located at 219 Babcock Tavern Road. I have attached the following documents for everyone's review:

- Application
- Cover letter and documents submitted with the application
- Site Plans

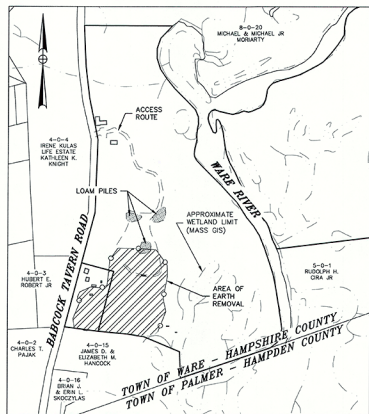
This permit hearing is scheduled to go before the Planning Board at their meeting on Thursday, November 3 at 7pm in the Ware HS Auditorium. I anticipate this particular hearing being continued to a subsequent meeting.

I ask that everyone get their comments to me no later than **Tuesday, November 1 at 3pm**. If you have any questions or concerns, please let me know.

Best,
Rob

Robert Watchilla
Director of Planning & Community Development
Town of Ware
126 Main St.
Ware, MA 01082
413-967-9648 ext. 118





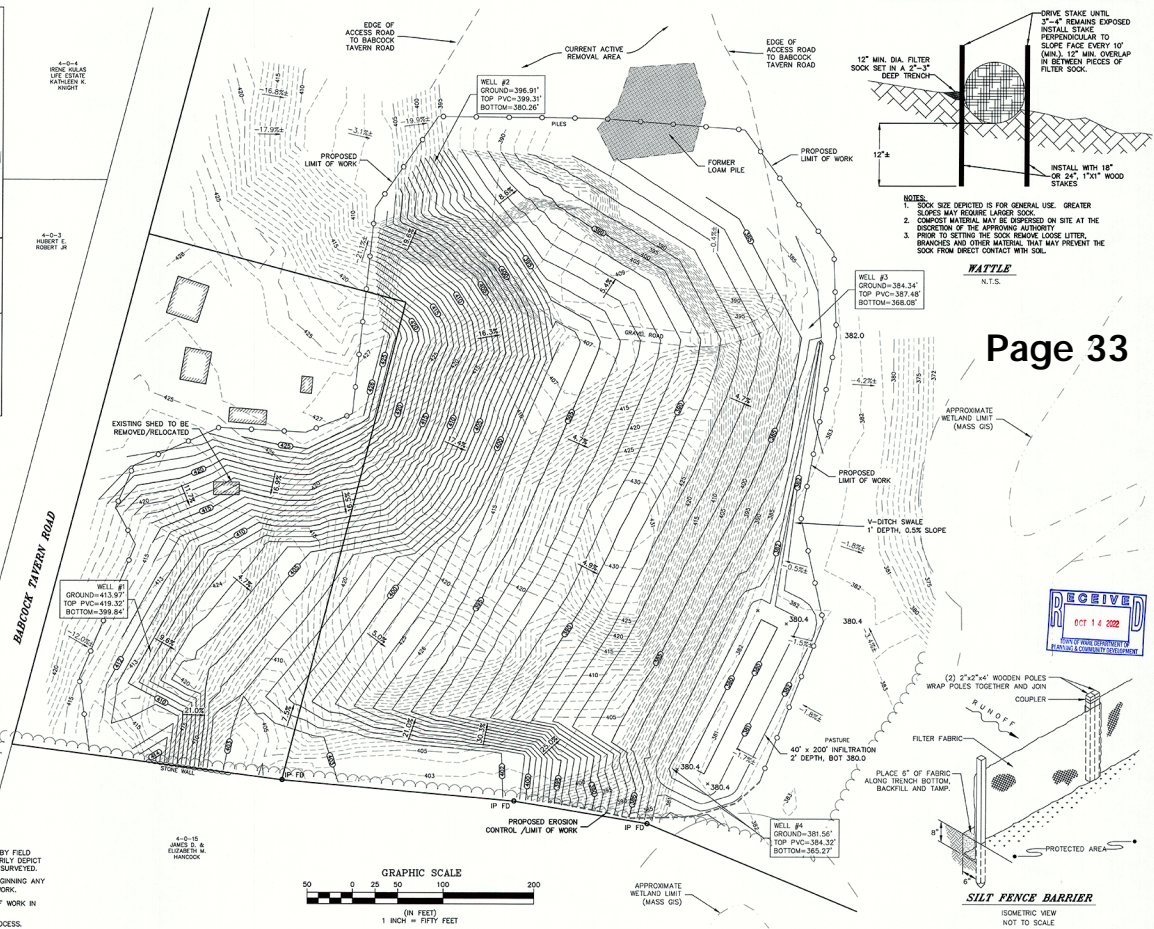
LOCUS MAP
SCALE: 1"=400'

LEGEND

BUILDING	UTILITY POLE W/DUY
SILL LOCATION SHOT	UTILITY POLE
CONTOUR (INDEX)	SIGN
CONTOUR (INTERMEDIATE)	MALEBOK
OVERHEAD ELECTRIC	CONIFEROUS TREE
EDGE OF VEGETATION	DECIDUOUS TREE
EDGE OF WEDGE ROW	TREE STUMP
FLAGGED WETLAND	MONITORING WELL
IRON FENCE	TEMPORARY BENCH MARK
WOOD FENCE	FOUND
CHAIN LINK FENCE	STONE BOUND
STONE WALL	CONCRETE BOUND
GUARD RAIL	IRON PIPE
EDGE OF PAVEMENT	REINFORCING BAR
EDGE OF GRAVEL	DRILL HOLE
PROPERTY LINE	
ABUTTER LINE	

NOTES:

1. LOCATIONS OF UTILITIES SHOWN HEREON ARE THE RESULT OF SURFACE EVIDENCE AS LOCATED BY FIELD SURVEY PLANS OF RECORD, AND OTHER AVAILABLE SOURCES. THIS PLAN DOES NOT NECESSARILY DEPICT THE EXACT LOCATIONS OF ALL UTILITIES WHICH MAY EXIST AT THIS TIME WITHIN THE PREMISES SURVEYED.
2. THE CONTRACTOR SHOULD VERIFY THE EXISTING CONDITIONS TO HIS SATISFACTION PRIOR TO BEGINNING ANY EXCAVATION. "TOP SAFETY" SHALL BE NOTIFIED AT LEAST 72 HOURS PRIOR TO BEGINNING ANY WORK.
3. ALL DISTURBED SURFACES SHALL BE STABILIZED WITH LOAM 4" & SEED AT THE COMPLETION OF WORK IN ACCORDANCE WITH MASSDOT STANDARDS.
4. CONTRACTOR IS RESPONSIBLE FOR MANAGING INTERIM EROSION CONTROLS DURING REMOVAL PROCESS.



NO.	DATE	BY	REVISIONS

SHERMAN & FRYDRYK
Land Surveying, Engineering & Scientists
A DIVISION OF HANCOCK SURVEY ASSOCIATES, INC.
3 Converse Street, Suite 203
Palmer, MA 01069



DESIGN: ARB/RMD	SCALE: 1"=50'
DRAFTING: KTT/RMD	HORIZ: N.A.
CHECKED: D.F.	VERT: N.A.
APPROVED: ARB	DATE: 10/17/2022



CLOSE OUT GRADING
MONITORING WELL SKETCH & EARTH REMOVAL PLAN

PLAN OF LAND IN WARE, MA
PREPARED FOR BOND CONSTRUCTION CORP.

PROJECT NUMBER 22019
SHEET NUMBER 1 OF 1

- b) In the case of a surety company bond, such an agreement for an extension shall not be effective until the surety delivers to the Planning Board a written statement that the surety agrees to the proposed alteration of the completion schedule and that such alteration shall not relieve or affect the liability of the surety company.
- c) In the case of a covenant, the Board may grant final approval of the Definitive Plan conditional upon the completion of the construction of all ways and installation of utilities within specified time period from date of said covenant. Failure to complete such improvements shall automatically rescind approval of the plan.
- d) Failure to complete all improvements as required by these rules and regulations within the time allotted shall cause the Planning Board to draw upon the performance guarantee (surety bond, deposit of money, letter of credit) in order to complete said improvements and/or schedule a public hearing in order to rescind approval of the subdivision in accordance with appropriate sections of MGL c. 41, § 81.
- e) If the specified subdivision improvements in accordance with the Rules and Regulations are not completed within five (5) years of the date of the bond, deposit of money, lender's agreement or covenant, the Planning Board may require an estimate of the costs of the remaining work, increase the amount of the performance guarantee proportionately, and establish a new date for completion of said required improvements. Failure of the developer to complete the improvements within said five (5) year period, or any extension thereof, shall not relieve the developer from his/her obligation to pay for increased costs for completing the improvements in excess of his/her performance guarantee and shall be grounds for rescission of the approval of the plan pursuant to G.1., Ch.41, Sec. 81 W.

Commented [WR5]: Is there better language that can be used here?

2.4.10 Evidence of Performance and Release/Partial Release of Performance Guarantee

- a) Procedures for partial release

The developer may, upon partial completion and installation of required improvements in a subdivision, the security for the performance of which was given by bond, deposit of money, letter of credit, or covenant, make formal application, in writing either by hand delivery or certified mail, to the Planning Board for partial release of his/her/their performance guarantee, in accordance with the procedures set forth herein. It is up to the discretion of

the Planning Board whether to approve such request. The Planning Board may deny, approve or partially approve such request. The Planning Board shall determine/approve the actual dollar amount (where applicable). The Planning Board may require a change in the form/method and amount of the Performance Guarantee when a partial release is requested by the applicant.

1. Financial performance guarantee

The amount of such a bond, or deposit of money, or letter of credit or three-party agreement for lender fund retention held may, from time to time, be reduced by the Planning Board. The applicant shall present to the Planning Board a list of all construction items performed and/or completed, said list to be based on the subdivision approval, and the subdivision regulations in their entirety. The amount to be reduced by the Planning Board, after consultation with the Highway Superintendent, shall be based upon federal or state prevailing wage construction costs at the time the application for reduction is made. The Planning Board shall withhold adequate funds to complete the project, but shall withhold no less than 20% of the original approved cost estimate. At the completion of the project (based on a written acceptance from the Planning Board that the project has been completed) and a one-year warranty period, the amount withheld shall be released under section 2.4.10.a.

2. Covenant

The developer may request a release of conditions for lots where the required improvements have been completed for that section of roadway beginning at any intersection with a Town road and abutting lots up through the last lot to be released. Lots may only be released if they abut the functionally (in the opinion of the Planning Board) completed portion of the road. No partial release from the covenants will be approved if the total length of roadway, including a temporary turnaround, abutting said designated lots, exceeds the Town's maximum allowable length for dead-end streets unless the Planning Board has already approved within the limits of the development a dead-end street exceeding said limits. In the absence

of financial performance guarantees, adequate covenants will be held to ensure completion of the project, including record plans, street acceptance plans, site inspections, and legal work. In addition, a covenant on one lot which can be built on will be held until either a) the Town has acceptance all of the Definitive Plan's roadways a Town streets, or b) said covenant has been exchanged in lieu of the cash value (as determined by the Planning Board) of the lot. Covenant shall be inscribed on the Definitive Plan or in a separate document referred to on the Plan, and delivered to the Planning Board.

- i. The subdivider may request a Release of lots from covenant, in exchange for a bond, deposit of money or surety provided that:
 - A revised Construction Cost Estimate (see Section 2.4.8.1.i) for all of the work remaining to be completed in accordance with the approved plans has been submitted.
 - Lots will be released in area of the subdivision where all the required improvements have been completed.
 - The lots run consecutively and are released on both sides of the road simultaneously, beginning with the lots nearest any intersection of the subdivision road and a Town road.
 - The amount of the surety of Bond shall be determined by the Planning Board, based on the submitted revised Construction Cost Estimate and their estimates for constructing the road within existing approval. The amount of the Surety or Bond shall be determined on a request-by-request basis, and each request shall be judged on its own merits.
 - The amount of the Surety or bond on existing lots for which prior Surety or Bond has been given may be increased by the Planning Board should the specified Subdivision improvements in accordance with these rules and regulations not be completed within the allotted time period as specified and such increase would take into consideration increased construction costs.

- Such a covenant shall be inscribed on the Definitive Plan or in a separate document referred to on the Plan, and delivered to the Planning Board. The Planning Board shall turn over the covenant to the Town Counsel who shall review its contents.

3. All requests for a partial release of the performance guarantee must be accompanied by:
 - i. A revised Construction Cost Estimate (see Section 2.4.8.1.i) for all of the work remaining to be completed in accordance with the approved plans.
 - ii. A certification from the project's engineer that all work and systems have been completed in accordance with the approved plans and are functioning as designed and intended.
 - iii. Proof that all fees to cover inspections for the release of the performance guarantee have been paid in full by the applicant.
 - iv. "As-Built" plans for that portion of the roadway for which a partial release is being requested.

b) Procedures for full/final release.

The developer may, upon completion and installation of required improvements in a subdivision, the completion of record plans and street acceptance plans, as specified in these rules and regulations, and the completion of a one-year labor and materials warranty period make formal application, in writing either by hand delivery or certified mail, to the Planning Board for full release of any outstanding performance guarantee.

1. Before the Planning Board releases the full interest of the Town in said performance guarantee, the Planning Board shall:
 - i. Receive a certification from the project's engineer that all work and systems have been completed in accordance with the approved plans and are functioning as designed and intended.

The sanitary sewer and public water systems must be pressure tested and videotaped and comply with the municipality's

standards. Documentation of such testing and videotaping must be submitted.

In no instance shall bonding or covenants be released for the final road course and sidewalks until said work has withstood one full winter season. Partial or final release for this work may be requested of the Planning Board no sooner than April 1st of the calendar year subsequent to completion of way and walks.

- ii. That the streets and drainage system have functioned as designed and intended and been in use for through one full winter.
- iii. Obtain in writing from the Director of Public Works, or from a registered professional engineer chosen by the Planning Board (and paid for by the applicant), a certificate of statement that all work and systems required by these rules and regulations has been constructed in conformance with the approved construction plans. In the case where roadways will remain under private ownership, the above-mentioned certificate or statement shall be supplied by the project's registered professional engineer.
- iv. Receive from the applicant written evidence from the electric, telephone, gas and cable TV companies and all other public and private utilities stating that their respective underground systems have been installed and are functioning to their satisfaction.
- v. Receive from the applicant written evidence from a Registered Land Surveyor that all permanent bounds and monuments on all street lines and on the lot or lots within the subdivision are in place and are accurately located in accordance with the approved Definitive Plan.
- vi. Find that all fees to cover inspections for the release of the performance guarantee have been paid in full by the applicant.
- vii. Obtain from the applicant a set of record "as-built" construction plans. Approval of said plans by the Planning Board shall take place after review of the former by the Director of Public Works.

- viii. Receive from the applicant street acceptance plan or plans and necessary documents. Said plans and documents, after approval by the Planning Board and the Director of Public Works, shall be presented by the Planning Board to the Town Meeting for a formal street acceptance in accordance with the Town Street Acceptance Policy.
 - ix. Copies of all of the recorded lot deeds showing that the applicant has retained their rights to the subdivision road(s) right-of-way, or Certification from developer's lawyer that all deeds to lots contained phrasing which retained his rights to the right-of-way(s).
 - x. All "as-built" Definitive Subdivision Plan information pertaining to the creation of the lots (including annotation of frontage, dimensions, acreage, etc.) shall also be submitted in a digital format acceptable to the Town using drawing interchange files (AutoCAD compatible files). Horizontal and vertical control shall have at least two (2) points tied (in feet) into the most recent Massachusetts State Plane Coordinate System using municipal GIS monuments stationed throughout the Town. Horizontal control shall have a closure of 1:12,000 or better. Vertical control must be of second order D Class 2 accuracy or better and be tied to USGS datum. All records of control shall be delivered to and reviewed by the Town.
 - xi. All "as-built" Definitive Subdivision Plan, Record and Street Acceptance Plan information shall also be submitted in pdf and AutoCAD compatible format or in another digital format acceptable to the Town.
- 2. If the Planning Board determines that all improvements as shown on the endorsed definitive plan and all required plans and legal documents have been completed satisfactorily, it shall release all the interest of the Town in such performance guarantee and return the bond to the person who furnished the same, or release the covenant, by appropriate instrument, duly acknowledged, which may be recorded.
 - 3. If the Planning Board determines after inspection that said construction or installation has not been completed, or wherein said construction or installation fails to comply with these rules and regulations, the Planning Board shall send by registered mail to the

applicant and to the Town Clerk the details wherein said construction or installation fails to comply with its rules.

4. The applicant shall have 30 days after receipt of such notice to correct all problems mentioned in the above. Failure of the applicant to finish all the necessary work within said 30 days shall cause the Planning Board to draw upon the bond or deposit of money as mentioned below.
5. Any such bond may be enforced and any such deposit may be applied by the Planning Board for the benefit of the Town of Ware, as provided in MGL c. 41, § 81, upon failure of the performance for which any bond or deposit was given to the extent of the reasonable cost to the Town of completing such construction and installation.

2.4.11 Recording of plan

The developer shall, within 10 days after the definitive plan has been endorsed, record said plan, required forms and, whenever applicable, the Planning Board's order of conditions, public easements (plans and documents), restrictive covenants, master deeds, etc., at the Hampshire County Registry of Deeds, and in the case of registered land with the Recorder of the Land Court. Within seven (7) days of said recording the applicant shall provide the Board with a copy of the Registry's receipt of said recording including the book, page number, and date of recording. The cost of said recording shall be borne by the developer.

2.4.12 Rescinding Approval of the Plan

Failure of the applicant to record the Definitive Plan at the Hampshire County Registry of Deeds within six (6) months of its endorsement or to comply with the construction schedule of the performance agreement shall constitute sufficient cause for the Board to rescind such approval, in accordance with the requirements of section 81-W of Chapter 41 of the General Laws as amended.

Commented [WR6]: Going back to the earlier question, is there better language to use here than "rescinding approval of the plan"?

2.4.13 Preconstruction Conference

Prior to commencement of construction, the developer and the contractor must meet with the Director of Public Works and other relevant Town officials (preferably at a single meeting) to review the subdivision permit and conditions. The applicant must provide evidence that all required documents

have been recorded and all required fees paid. Subsequent to said recording and prior to any building permit being issued, the project applicant shall file within seven calendar days one print of the definitive plan with the Building Inspector. Further, in accordance with the statute, where approval with covenant is noted thereon, the Inspector shall issue no permit for the construction of a building on any lot within the subdivision, except upon receipt from the Planning Board of a copy of the certificate of performance releasing the lot in question.

2.4.14 Road Acceptance

Commented [WR7]: See earlier question regarding generic transfer of title deed for private roadways.

When a road or way in a subdivision has been completed in a manner fulfilling the requirements of the Planning Board, the Applicant may request the Planning Board or their designee to inspect the road or way in order to give a recommendation to Town Meeting, on whether the road or way should be accepted.

Process for road acceptance can be found in the Town of Ware Road Acceptance Policy.

The Planning Board shall require the following information before making a recommendation to the Town Meeting:

- a) Two (2) copies of a plan of the road or way "as built," at a scale of one inch equals forty (1" = 40') feet to the inch at size 24" x 36". Said plan to show a center line profile (4 feet per inch on the vertical scale and 40 feet per inch on a horizontal scale) taken at fifty (50) foot intervals along the road or way as it has been completed. All utilities, public and private, above and below grade shall be shown on the plan as they exist. Said plan shall also be submitted in an electronic format acceptable to the Planning Board.
- b) Two (2) copies of the description by metes and bounds of each road and easement considered for acceptance by the Town. After acceptance by the Town Meeting of a road or way in an approved subdivision, the "as built" plan referred to above, the vote of the Town Meeting and the description of the road or way shall be recorded with the Hampshire County Registry of Deeds by the Town Clerk.
- c) A release of liens under oath from all contractors and subcontractors approved for work on the road or way, attesting to the fact that all

payments due them for labor and materials have been received, and that payments for all materials have been rendered.

- d) A plan for maintenance of the subdivision right-of-ways, easements, roads, and sidewalks for the time after acceptance by the Town and continuing for 20 years. The maintenance plan should include provision for the maintenance of road pavement, sidewalks, soil settling problems, street sweeping, snowplowing, maintaining vegetative stabilization of all rights-of-way and easements, erosion controls, Fall leaf cleanup, catch basin and drainage system cleaning and maintenance, all stormwater management systems, and other provisions as determined to be necessary by the Board.
- e) A Roadway Conveyance Plan showing the overall boundary of the proposed roadway to be conveyed to the Town. This plan must include the bearing and distance descriptions of the roadway right-of-way.
- f) A Roadway Conveyance Instrument prepared by an attorney and in a form suitable for execution by the Board of Selectmen after acceptance of the roadway at Town Meeting. This instrument must include a legal description of the right-of-way and include reference to any easement documents.
- g) An Easement Conveyance Plan showing overall boundary of any proposed easements to be conveyed to the Town. This plan must include the bearing and distance description of the easement tied to the roadway right-of-way.
- h) An Easement Conveyance Instrument prepared by an attorney and in a form suitable for execution by the Board of Selectmen after acceptance of the easement at Town Meeting. This instrument must include a legal description of the easement as well as a description of the Town's rights within the easement

Town Planner Update: December 1st, 2022

- **The Deadline for the “Request for Qualifications” for the Mary Lane Hospital Feasibility and Adaptive Re-Use Study will be December 15 at 2pm.**
 - There was a sight walk that took place on December 1, 2022 at 12pm with some of the interested applicants.
 - The Mary Lane Hospital Committee will be involved with the interview and selection process of qualified applicants.
- **The Town has recently submitted the following grant applications:**
 - EPA Brownfields Clean Up Grant
 - For the Former Ware MGP Plant on Monroe Street.
 - Community Compact Grant
 - For purchase of a drone for inspectional services and training for seven individuals from the following departments: PCD, Building, Conservation, Fire, and Police.
 - For funding an Economic Development Strategic Plan with help from the Pioneer Valley Planning Commission (PVPC).