

TOWN OF SOUTHBOROUGH



CONSERVATION COMMISSION

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November 8, 2024

Zoning Board of Appeals
9 Cordaville Road
Southborough, MA 01772

**Subject: Conservation Commission Review Comments
120 Turnpike Road – Comprehensive Permit**

In review of the most recently submitted materials, the Conservation Agent has the following comments pertaining to the Comprehensive Permit application at 120 Turnpike Road. Please note the following are provided by the Agent only and have not been further discussed by the Commission due to timing of public hearings and submitted documents.

Existing comments from 10/4/24 Commission letter and applicant response dated 11/4/24 (numbering remains consistent). For ease the applicant response is in blue, and the newest Commission comments are in red:

1. Resolved.
2. Resolved – existing ponds are jurisdictional wetland resource areas.
3. The applicant submitted a Notice of Intent (NOI) to the Conservation Commission on 4/23/2024. Since the submittal of the NOI, plans have drastically changed, and no revised information or package has been submitted to the Commission. The Commission has had no open public hearings regarding this application due to the change in layout, therefore the Commission has not had the opportunity to fully review the current project in compliance with state and local regulations.
 - a. The applicant states in their waiver list that they are only requesting a waiver from the 20' no touch from the edge of a wetland resource areas. Therefore, all other aspects shall comply with Chapter 170, Wetlands Protection and associated Wetlands Regulations.
 - b. To conform with the Southborough Wetlands Regulations, the 20' and 100' Buffer Zones should be shown on all resource areas, including the pond.

The Plans now show the 20 foot no disturb and 100 foot buffer zones. We propose work within 20 feet of a resource area in two locations. One is a slight regrading of the existing parking area south of the pond. The other is a compensatory wetland replication area off wetland flag D6.

While there appears to be buffer zones added to the resource areas, they are not labelled and are not located on any key or legend.

4. Resolved.
5. Resolved.
6. Resolved.
7. Resolved.
8. The Post Construction O&M states the watering of lawn areas, yet the waiver list requests a waiver for a permanent water supply system or watering method. Please advise.

A well dedicated to supplying irrigation of landscaping around the building will be installed in the location shown on the Plans on the north side of the 10 bay garage. There will be no irrigation system around the septic system area to avoid any accidental saturation of the leaching trenches.

I recommend the irrigation well be moved out of the 100' Buffer Zone or as far away as possible.

9. Resolved, but the Commission may request or condition that erosion controls be checked daily during construction.
10. Resolved.

11. The proposed construction entrance should be depicted on the site plan at the proposed site access to the undeveloped portion of the site.

We now show the proposed site exit mat location on the Erosion & Sedimentation Control Plans. It's at the southwest corner of the existing pavement to be removed.

There is an area depicted on the plan that is assumed to be what is stated above but is not labelled or included in a key or legend. When looking at the plans there is no indication of what this area is and should be addressed accordingly.

12. It is the understanding of the Conservation Commission that Lot 4C is to be conveyed to the Conservation Commission in compliance with DEP #290-1046 and Planning Board Major Site Plan Approvals.

- a. The lot was to be donated in its natural state as open space due to its adjacency to Breakneck Hill Conservation Land
- b. The current proposal calls for vegetation clearing, grading, and the installation of a new stone drainage swale.
- c. The drainage swale does not appear to be discussed within the Post Construction O&M Plan and would be on Town property. It is unclear whether the applicant plans to maintain this swale and/or requires an easement or similar for access and maintenance of this feature.
- d. The Conservation Commission objects to the presence of improvements and/or destruction of the native state of the area referred to as Lot 4C that will be under their ownership.
- e. The Commission suggests that the ZBA discuss if the presence of improvements and permanent stormwater features on open space to be donated to the Commission is appropriate or if the project can be completed without alteration to Lot 4C.

Condition #22 of the Major Site Plan Approval granted on August 26, 2019 did not say that none of the land to be donated could have been altered. It said that it had to have clean title and that it must have a phase 1 verification that there were no hazardous wastes on site. These will be provided. 5.6 acres, or 90% or Lot 4C will remain untouched by the Applicant's proposed work.

Comments remain. At the time of issuance of the decision by Planning Board and the Conservation Commission, the area to be protected was/is undisturbed. The requirement was prior to this proposal and should be consistent with the approvals at that time.

The ZBA should determine when the land is to be conveyed to the Conservation Commission. If conveyed prior to construction without necessary easements, then the Conservation Commission would need to approve and/or issue a license for work to occur on Conservation property. If approval is not granted, then the project would not be in compliance with the approved plans.

If work is to happen before the granting of the lot, then the Commission holds their objection to the presence of improvements and/or destruction of the native state of the area that will be under their ownership and does not believe that it reflects the requirement of the condition required under previously issued decisions as stated.

The ongoing maintenance of the landscaping and drainage swale is not mentioned in the long-term Operation & Maintenance Plan, therefore it is unclear of the post-construction plans to maintain this swale by the applicant. If an easement is proposed, then the ZBA and Conservation Commission should review and approve the proposed language for the transfer of the property and any necessary easements during the public hearing process as

it is relevant to the project components and compliance. The Town should not be responsible for the maintenance of infrastructure that serves a private development. The Commission, as the future property owner, must be included in discussions on easements on property that will be under their care and control. This information should be agreed upon prior to the close of the public hearing and subsequent issuance of a decision as portions of the project, as proposed, are contingent on the use of this area.

13. The Pollution Prevention Plan within the submitted Plan set states that a temporary settling basin will be installed downgradient of work to the north of the more easterly garage. This area does not appear to be shown on the plans and would be located adjacent to the pond. If a temporary settling basin is to be utilized, it should be shown on the plan in an appropriate location.

We have added the proposed location of a temporary settling basin to the Erosion & Sedimentation Control Plans.

Additional erosion controls should be proposed downgradient of the temporary settling basin due to its proximity to wetland resource areas.

14. Resolve, the ZBA should consider conditioning that the use of hay is strictly prohibited.
15. Resolved, but may require additional conditioning during the Notice of Intent process.
16. Resolved, to be conditioned during the Notice of Intent process.
17. Resolved.
18. Resolved.
19. Resolved, but may require additional conditioning during the Notice of Intent process.
20. Resolved, but may require additional conditioning or discussion during the Notice of Intent process in areas of steeper slopes.
21. Resolved.
22. The Planting Plan, within the Landscaping Notes, describes several different types of seed mixes. The applicant shall demonstrate where each seed mix shall apply.

There are 4 different types listed in the Landscaping Notes. Lawn seed is to be applied to grassed areas of slope 3: 1 or flatter. Slope seed mix is to be applied on slopes steeper than 3: 1. Detention basin seed mix is only to be applied if there's any inadvertent alteration of the ponds and wildlife seed mix only to repair any accidental alteration of wooded areas beyond the intended scope of work.

The Landscaping Plan should expressly show where specific seed mixes are to be applied. “Inadvertent alteration” and “accidental alteration” of areas not previously approved is problematic, especially as inadvertent alteration of the ponds would be a violation under the Wetlands Protection Act as they are jurisdictional wetland areas.

23. 47 of the proposed trees and shrubs are proposed to be planted on Lot 4C, which is to be transferred to the ownership of the Conservation Commission. The applicant should confirm location of the proposed landscaping and how they will be maintained.

- a. The Commission suggests that the ZBA determine if these plantings are required to be maintained in perpetuity and if the location is appropriate if the property will not be owned by the applicant.
- b. The Commission requests that the ZBA determine if the number of plantings is sufficient to provide screening to the abutting Town property and vistas from Breakneck Hill Conservation Land.

We will provide easements as necessary and work with the ZBA on this matter.

As the Conservation Commission will be owners of the property, any potential easements should be reviewed and agreed upon by the Commission prior to the close of the public hearing and subsequent issuance of the decision by the ZBA. Without the agreement on any potential easements, the ZBA does not have complete information on the maintenance of landscaping and stormwater management infrastructure. No easements or information is available on the newest documents submitted to the ZBA.

The proposed landscaping is on an area that is to be donated to the Conservation Commission. As previously stated in comment 12, the Commission objects to alteration and/or improvements that are to be completed on the lot to be donated to the Commission. The Town should not be responsible for maintenance of landscaping that serves a private development, especially if they are to serve as screening.

24. Resolved, but may require additional conditioning or discussion during the Notice of Intent process in areas of steeper slopes.

New comments as of 11/8/2024:

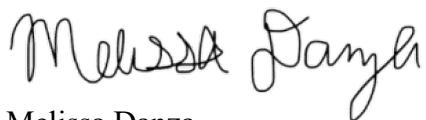
25. The proposed site plans do not show the proposed layout of parking. There are blue dashed lines that in comparison with the Landscape Plan, appear to be new landscape islands. The parking layout has not been updated to its final conditions. Additionally, this line is not shown in any key or legend, therefore is difficult to understand what is being proposed.

- a. There is no note as to the removal of existing landscape islands within parking areas and the proposed building.

26. The Landscape Plans do not match the parking shown in the site plans, especially in areas to the north of the proposed building so it is unknown what the final parking layout will be.
27. The Lighting Plan has not been updated with the most recent site plan changes and therefore does not match the current proposed layout of the site or buildings.
28. Permanent monuments should be placed along the boundaries of the lot, at a minimum of every corner or change in direction, to be transferred to the Conservation Commission and be a condition of the ZBA decision.
29. There are several items and line types that are not shown on a key or legend. All utilized line types shall be shown on a legend to limit confusion.
30. Silt sacks shall be installed in every existing catch basin within the project limits during construction.
31. There does not appear to be any specs or information regarding the proposed retaining walls on the plan set.
32. As outlined in Lucas Environmental's peer review letter dated October 28, 2024, there are discrepancies in the wetland boundaries compared to what was discussed on site during the review.
33. The Commission will further review the proposed wetland replication during the Notice of Intent process but the ZBA should require, and condition, that any replication be done at a 2:1 rate for any wetland resource area alterations.
34. The ZBA should be cognizant that the submitted plan contains alteration, destruction, and infrastructure on a lot that's purpose is open space and previously required and agreed to be conveyed to the Conservation Commission. The entirety of the lot to be conveyed was to be for open space, habitat, and addition to Breakneck Hill Conservation Land. The application, as proposed, has destruction of naturalized areas within open space for the purposes of a private development on an area that should have already been conveyed to the Commission. Landscaping, stormwater infrastructure, and associated tree clearing behind these limits, are proposed on the lot to be conveyed. The Commission and Conservation Department does not agree that work should be allowed on this parcel as the requirement was to protect and preserve this area. No work or alteration should be allowed on this parcel.

The comments listed in this letter are not inclusive of a complete review by the Commission and/or its staff. The Commission may have further comments on revised materials and during the public hearing process under the Notice of Intent. Please do not hesitate to contact us at your earliest convenience with any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Melissa Danza".

Melissa Danza
Conservation Agent