

Save the Pine Barrens, Inc.
P.O. Box 1699
Plymouth MA 02362
www.communitylandandwater.org
environmentwatchesoutheasternma@gmail.com
508-891-552

October 24, 2023
Certified Mail No. 7020 1290 0001 4655 7209
Via Email: MassDEP SERO

Wetlands Program Chief
MassDEP Southeast Regional Office
20 Riverside Drive
Lakeville, MA 02357

Re: Request for Positive Superseding Determination of Applicability
Location: 0 Colony Place, Plymouth, MA (PCC-23-19R)
Plymouth Town Assessor's Map 104 Lot 26-41

No known DEP File Number assigned by Plymouth Conservation Commission

Dear MassDEP:

This is a Request for a Positive Superseding Determination of Applicability under the Wetlands Protection Act (WPA), G.L. c. 131, Section 40 and regulations at 310 CMR 10.00. On October 11, 2023, the Plymouth Conservation Commission ("Commission") erroneously found the work described in the Save the Pine Barrens, Inc. ("STPB") August 29, 2023 Request for Determination of Applicability ("RDA") was not subject to jurisdiction under the Wetlands Protection Act, Mass. General Laws, Chapter 131, Section 40 ("the Act") and the regulations thereunder, 310 CMR 10.00 et seq ("the Regulations") or Town of Plymouth Wetlands Protection Bylaw, Chapter 196 of the General Bylaw. The Commission determined that no Notice of Intent was necessary and issued the Determination of Applicability ("DOA") attached as Exhibit 1.

The Activity (defined by 310 CMR 10.04) proposed by Claremont at the site consists of altering Areas Subject to Protection that include Bank, Bordering Vegetated Wetland, Land Under Water Bodies and Land Subject to Flooding. Claremont plans to alter a pond created by gravel mining operations. Claremont claims the pond and wetland resource areas are a stormwater management system exempt from the jurisdiction of the Act, Regulations and Bylaw.

The Commission failed to establish and failed to require Claremont to establish that the gravel pit pond has been operated, maintained and/or improved as a stormwater system as defined by 310 CMR 10.04. Therefore, the Activity in the Areas Subject to Protection require a Notice of Intent filing.

STPB requests that the Department issue a Positive Superseding Determination of Applicability under 310 CMR 10.05(3)(c) that the extensive work described in STPB's RDA is within wetland resource areas under the Act so that any removing, filling, dredging or altering requires a Notice of Intent and permission of the Commission. STPB also requests that the Department determine whether the boundaries of the resource areas depicted on the plans included in the RDA are accurately delineated. The Commission did not do a site inspection and the landowner provided no wetlands delineation.

The RDA is attached hereto as **Exhibit 2**. The *Narrative to Accompany Request for Determination of Applicability* included with the RDA is also attached and incorporated by reference herein.

This Request is filed in a timely manner, within ten business days after the issuance of the Order. It is filed in accordance with the provisions of 310 CMR 10.03(7)(a)(2) and 310 CMR 10.05(7)(a-d). Attached as **Exhibit 3** is a copy of the filing fee and filing fee transmittal form, which have been sent to the DEP Lockbox.

STPB and the Ten Residents Group has standing to make this Request pursuant to 310 CMR 10.05(7)(a)1 as the applicant (or requestor).

The Commission's "negative" DOA is erroneous

Claremont owns the Site which is 12.79 acres. It includes a pond, jurisdictional Bank, Bordering Vegetated Wetlands, Land Under Water Body and Waterways, Land Subject to Flooding, and vegetated upland area. The jurisdictional area also contains an area mapped as Open Water by the Massachusetts Department of Environmental Protection and an area mapped as Freshwater Pond by the U.S Fish and Wildlife Department. The entirety of the Site lies within a Zone II wellhead protection area for a public water supply well for the Town of Plymouth. The Areas Subject to Protection are now surrounded by upland vegetation, comprised of various grasses, shrubs such as sumac, and mature trees such as pitch pine.

Claremont plans to construct up to 348 residential apartment units on the Site. In order to do so it plans to reconfigure the pond and alter wetlands. This includes Work that will dredge, fill and alter Resource areas. Neither Town nor Claremont have provided evidence that the Work is exempt from the Wetlands Protection Act.

The SDA seeks a Positive Determination that the Site has Areas Subject to Protection under the Wetlands Protection Act including:

- Bank
- Bordering Vegetated Wetland (Swamp)
- Land Under Water Bodies and Waterways (under Pond)
- Land subject to flooding (Bordering or Isolated Areas)

The Site has an approximately 1,527 foot bank as defined by 310 CMR 10.54(2), a portion of the land which abuts and confines a water body, in this case occurring between a water body

(Pond) and a vegetated bordering wetland. The bank is totally vegetated, serving to maintain the bank's stability and improve water quality by reducing erosion into the pond. The vegetated bank also provides shade which moderates water temperatures inside the pond. The bank may also serve the function for providing breeding habitat for aquatic or semi-aquatic species. The Activities proposed by Claremont include alteration and removal of Bank.

The Site has a Bordering Vegetated Wetland as defined by 310 CMR 10.55(2), a freshwater wetland that borders on a Pond. In this case, the freshwater wetland on the Site is a Swamp composed of saturated soils supporting a variety of wetland indicator plants. The freshwater wetlands serve the public interests by protecting water supply, providing flood control, providing storm damage prevention, and providing protection to groundwater and surface water resources from pollution in stormwater runoff. This Bordering Vegetated Wetland has water at or near the ground surface during a significant portion of the year and supports wetland indicator species plants. The Bordering Vegetated Wetland is significant to the protection of the local drinking water supply, as the Site sits atop the Plymouth Carver Sole Source Aquifer, and the Site lies within a Zone II Wellhead Protection Area for the Town of Plymouth's Public Water Supply (**Exhibit 10**). The Activities proposed by Claremont involved the removal and alteration of the Bordering Vegetated Wetland.

The Site contains approximately 1.36 acres of Land Under Water Bodies and Waterways as defined by 310 CMR 10.56(2)(a). Included within its boundary is an 0.3-acre area described as "Open Water" by the MassDEP which is an Area Subject to Protection. The Site contains a 1.06-acre area described by the U.S. Fish and Wildlife Service as a Freshwater Pond, which is also an Area Subject to Protection. The Land Under Water Bodies may consists of pervious material, providing a point of exchange between the surface water and groundwater. This pervious material detains and removes dissolved and particulate nutrients from the surface water runoff, and serve as traps for toxic substances. The Activities proposed by Claremont include dredging and filling the Lands Under Water Bodies.

The Site contains Bordering Land Subject to Flooding as defined by 310 CMR 10.57(2)(a) and Isolated Land Subject to Flooding as defined by 310 CMR(2)(b). The Bordering Land Subject to Flooding provides temporary storage area for flood waters during times of heavy precipitation, and provides significant protection for wildlife habitat. This area provides important food, shelter, migratory and overwintering areas, and breeding areas for wildlife, providing a richness and diversity of soil and vegetation. In this case, the Isolated Land Subject to Flooding provides flood control and storm damage prevention to a localized area. The Activities proposed by Claremont involve the filling, removing and altering of the Land Subject to Flooding.

The Commission failed to require evidence under 310 CMR 10.02(5) to show the Activity that will impact the Areas Subject to Protection is exempt under 310 CMR 10.02(c) or 10.02(4)

The existing stormwater management system on the Site constitutes Areas Subject to Protection as described above and in the Exhibits.

The Commission failed to require Claremont to establish by credible evidence that the Activity is exempt from an NOI. To do so, Claremont must meet the standards of *Stormwater Management Standards* as provided in the *Stormwater Management Policy (1996)* or 310 CMR 10.05(6)(k) through (q), and show the wetland meets 310 CMR 10.02(c)(1) and (2). The Commission failed to require any evidence and Claremont failed to meet its burden. 310 CMR 10.02(5).

Even if Claremont can establish that the Areas Subject to Protection identified in STPB's RDA were constructed according to the 1996 Standards and had an Order of Conditions, Claremont was required to show that the alleged stormwater system has been operated and maintained according to the 1996 Standards and subsequent revisions and the Town Stormwater Regulations. 310 CMR 10.02(2)(c). This requires a Stormwater Pollution Prevention Plan (SWPPP) and a record of annual monitoring. The Commission failed to require this evidence and issued the negative RDA anyway. There is no evidence of an Operations and Maintenance Plan or SWPPP or records of annual monitoring for the existing stormwater system from 2006 to the present. There is no record Claremont conducted **annual O&M** performed as required by the 1996 Standards and current state and local standards. 310 CMR 10.02(2)(c).

Conclusion:

For the foregoing reasons and as detailed in the RDA, STPB requests that the Department issue a Superseding Determination of Applicability that:

1. The Site contains areas subject to jurisdiction under the Act, Regulations and Bylaw;
2. That the Activity is within resource areas under the WPA and will be removing, filling, dredging or altering such areas and thus requires the filing of a Notice of Intent and permission of the Plymouth Conservation Commission;
3. Claremont must delineate the boundaries of all resource areas in or within 200 feet of the Project Locus; and
4. That Claremont cease and desist work on the Site that until such time as a new, complete resource area delineation has been conducted and an Order of Conditions obtained.

Thank you.

Very truly yours,

Margaret E. Sheehan

Exhibits

Exhibit 1: October 11, 2023 Conservation Commission Determination of Applicability

Exhibit 2: Request for Determination of Applicability, Plymouth Wetlands Protection Bylaw and Rules and Regulations, Section 9(B)(2) and Wetlands Protection Act, G.L. c. 131, Section 40, Landowner: Claremont Plymouth LLC, Applicant: Community Land and Water Coalition/Save the Pine Barrens (STPB)

Exhibit 3: Lockbox Check and Fee Transmittal Form

Cc: Town of Plymouth, Conservation Commission CERTIFIED MAIL # 7020 1290 0001 4655 7216

Claremont Development, Lakeshore Drive, Bridgewater, CERTIFIED MAIL # 7020 1290 0001 4655 7186



Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
WPA Form 2 – Determination of Applicability
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40 and
 Town of Plymouth Wetlands Bylaw

PLYMOUTH
 FILE NUMBER:
 PCC-23-19R

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.



From:

Plymouth
 Conservation Commission

To: Applicant

Save The Pine Barrens
 Name
 PO Box 1699
 Mailing Address
 Plymouth MA 02360
 City/Town State Zip Code

Property Owner (if different from applicant):

Claremont Plymouth II, LLC
 Name
 2 Lakeshore Center
 Mailing Address
 Bridgewater MA 02324
 City/Town State Zip Code

1. Title and Date (or Revised Date if applicable) of Final Plans and Other Documents:

Proposed Stormwater Modification (plan set) Colony Place, Plymouth Massachusetts, pgs 1 and 5	
Title	Date
_____	_____
Title	Date
_____	_____
Title	Date
_____	_____

2. Date Request Filed:

August 29, 2023

B. Determination

Pursuant to the authority of M.G.L. c. 131, § 40, the Conservation Commission considered your Request for Determination of Applicability, with its supporting documentation, and made the following Determination.

Project Description (if applicable):

The proposed work involves dredging, filling, and altering of a wetland resource area protected under 310 CMR 10.00
 The proposed work also involves the deconstruction of known wildlife habitat.

Project Location:

Colony Place
 Street Address
 104/000
 Assessors Map/Plat Number

Plymouth
 City/Town
 026/041
 Parcel/Lot Number



Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
WPA Form 2 – Determination of Applicability
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40 and
 Town of Plymouth Wetlands Bylaw

PLYMOUTH
 FILE NUMBER:
 PCC-23-19R

B. Determination (cont.)

The following Determination(s) is/are applicable to the proposed site and/or project relative to the Wetlands Protection Act and regulations:

Positive Determination

Note: No work within the jurisdiction of the Wetlands Protection Act may proceed until a final Order of Conditions (issued following submittal of a Notice of Intent or Abbreviated Notice of Intent) or Order of Resource Area Delineation (issued following submittal of Simplified Review ANRAD) has been received from the issuing authority (i.e., Conservation Commission or the Department of Environmental Protection).

1. The area described on the referenced plan(s) is an area subject to protection under the Act. Removing, filling, dredging, or altering of the area requires the filing of a Notice of Intent.

2a. The boundary delineations of the following resource areas described on the referenced plan(s) are confirmed as accurate. Therefore, the resource area boundaries confirmed in this Determination are binding as to all decisions rendered pursuant to the Wetlands Protection Act and its regulations regarding such boundaries for as long as this Determination is valid.

2b. The boundaries of resource areas listed below are not confirmed by this Determination, regardless of whether such boundaries are contained on the plans attached to this Determination or to the Request for Determination.

3. The work described on referenced plan(s) and document(s) is within an area subject to protection under the Act and will remove, fill, dredge, or alter that area. Therefore, said work requires the filing of a Notice of Intent.

4. The work described on referenced plan(s) and document(s) is within the Buffer Zone and will alter an Area subject to protection under the Act. Therefore, said work requires the filing of a Notice of Intent or ANRAD Simplified Review (if work is limited to the Buffer Zone).

5. The area and/or work described on referenced plan(s) and document(s) is subject to review and approval by:

 Name of Municipality

Pursuant to the following municipal wetland ordinance or bylaw:

 Name

 Ordinance or Bylaw Citation



WPA Form 2 – Determination of Applicability

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40 and
Town of Plymouth Wetlands Bylaw

B. Determination (cont.)

6. The following area and/or work, if any, is subject to a municipal ordinance or bylaw but not subject to the Massachusetts Wetlands Protection Act:

7. If a Notice of Intent is filed for the work in the Riverfront Area described on referenced plan(s) and document(s), which includes all or part of the work described in the Request, the applicant must consider the following alternatives. (Refer to the wetland regulations at 10.58(4)c. for more information about the scope of alternatives requirements):

- Alternatives limited to the lot on which the project is located.
- Alternatives limited to the lot on which the project is located, the subdivided lots, and any adjacent lots formerly or presently owned by the same owner.
- Alternatives limited to the original parcel on which the project is located, the subdivided parcels, any adjacent parcels, and any other land which can reasonably be obtained within the municipality.
- Alternatives extend to any sites which can reasonably be obtained within the appropriate region of the state.

Negative Determination

Note: No further action under the Wetlands Protection Act is required by the applicant. However, if the Department is requested to issue a Superseding Determination of Applicability, work may not proceed on this project unless the Department fails to act on such request within 35 days of the date the request is post-marked for certified mail or hand delivered to the Department. Work may then proceed at the owner's risk only upon notice to the Department and to the Conservation Commission. Requirements for requests for Superseding Determinations are listed at the end of this document.

1. The area described in the Request is not an area subject to protection under the Act or the By laws.
2. The work described in the Request is within an area subject to protection under the Act, but will not remove, fill, dredge, or alter that area. Therefore, said work does not require the filing of a Notice of Intent.
3. The work described in the Request is within the Buffer Zone, as defined in the regulations, but will not alter an Area subject to protection under the Act. Therefore, said work does not require the filing of a Notice of Intent, subject to the following conditions (if any).

4. The work described in the Request is not within an Area subject to protection under the Act (including the Buffer Zone). Therefore, said work does not require the filing of a Notice of Intent, unless and until said work alters an Area subject to protection under the Act.



Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
WPA Form 2 – Determination of Applicability
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40 and
 Town of Plymouth Wetlands Bylaw

PLYMOUTH
 FILE NUMBER:
 PCC-23-19R

B. Determination (cont.)

5. The area described in the Request is subject to protection under the Act. Since the work described therein meets the requirements for the following exemption, as specified in the Act and the regulations, no Notice of Intent is required:

Exempt Activity (site applicable statutory/regulatory provisions)

6. The area and/or work described in the Request is not subject to review and approval by:

Plymouth

Name of Municipality

Pursuant to a municipal wetlands ordinance or bylaw.

Plymouth Wetland Bylaw

Name

Ordinance or Bylaw Citation

C. Authorization

This Determination is issued to the applicant and delivered as follows:

- by hand delivery on by certified mail, return receipt requested on

Date

October 11, 2023
 Date

This Determination is valid for **three years** from the date of issuance (except Determinations for Vegetation Management Plans which are valid for the duration of the Plan). This Determination does not relieve the applicant from complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.

This Determination must be signed by a majority of the Conservation Commission. A copy must be sent to the appropriate DEP Regional Office (see <http://www.mass.gov/eea/agencies/massdep/about/contacts/>) and the property owner (if different from the applicant).

Signatures:

J. Randolph Parker, Jr., Chair

Lucas Nichols

Karen Edwards

Paul Churchill

Sean Andersen

James F. Carpenter

Walter Morrison, III

October 11, 2023

Date Signed



D. Appeals

The applicant, owner, any person aggrieved by this Determination, any owner of land abutting the land upon which the proposed work is to be done, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate Department of Environmental Protection Regional Office (see <http://www.mass.gov/eea/agencies/massdep/about/contacts/>) to issue a Superseding Determination of Applicability. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and Fee Transmittal Form (see Request for Departmental Action Fee Transmittal Form) as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Determination. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant if he/she is not the appellant. The request shall state clearly and concisely the objections to the Determination which is being appealed. To the extent that the Determination is based on a municipal ordinance or bylaw and not on the Massachusetts Wetlands Protection Act or regulations, the Department of Environmental Protection has no appellate jurisdiction.

Any person aggrieved by a decision of the Conservation Commission under the Town's Bylaw may appeal to Superior Court within 60 days from the date of issuance of this Determination.

Any condition pertaining solely to the Town of Plymouth Wetlands Bylaw may not be appealed to the State.

All other conditions are being issued under both the Massachusetts Wetlands Protection Act and Town of Plymouth Wetlands Bylaw and pursuant regulations.

INSTRUCTION PAGE

REQUEST FOR DETERMINATION OF APPLICABILITY

(WPA FORM 1)

WHAT IS NEEDED TO COMPLETE YOUR APPLICATION

PRIOR TO HEARING: Please make sure you follow the Field Requirements noted in the Rules and Regulations Section 9C regarding staking of the project elements and buffer zone resource areas. Commissioners will inspect sites the Saturday before the hearing thru Tuesday of the hearing. Please leave stakes in place until a decision on the project has been made.

Mail one (1) copy of the completed application
(including all supporting plans) to:

Department of Environmental Protection
20 Riverside Drive λ Lakeville MA 02347

FEES: (Collected under the Plymouth Wetland Bylaw)

- \$100.00**.....Application Fee/payable to Town of Plymouth
- \$100.00**.....Penalty Fee/payable to Town of Plymouth (IF APPLICABLE)
- \$1.00/name.** Abutter Notification Fee: payable to Town of Plymouth
- \$55.29**..... Advertising Fee: payable to Town of Plymouth

Mail two (2) copies of the completed application
(Including 2 copies of all supporting plans) to:

Plymouth Conservation Commission
26 Court Street Plymouth MA 02360
(via Hand-delivery or Certified Mail-Return Receipt)
Send a PDF Packet with Application and Plan to
rstcroix@plymouth-ma.gov

Your abutter's list (Page 6) **MUST BE CERTIFIED** by the
Assessor's Office – separate \$25 fee.

Sign, date and title any hand-drawn plans

Note: Abutter notification not required for well installations and perc tests, ONLY.

Conservation Office Staff:

Rachel St. Croix
Administrative Assistant,
508-747-1620 x10139
rstcroix@plymouth-ma.gov

Richard Vacca
Conservation Planner
508-747-1620 x10140
rvacca@plymouth-ma.gov

Town Hall
26 Court Street, Plymouth, MA 02360
3rd Floor, Department of Planning & Development



WPA Form 1- Request for Determination of Applicability

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

PCC-__R

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:

Save the Pine Barrens
 Name _____ E-Mail Address environmentwatchesoutheasternma@gmail.com
 P.O. Box 1699
 Mailing Address _____
 Plymouth MA 02362
 City/Town _____ State _____ Zip Code _____
 (508) 259-9154
 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 Plymouth 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.
- 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).



WPA Form 1- Request for Determination of Applicability

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

PCC- R

C. Project Description

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

Colony Place	Plymouth
Street Address	City/Town
Assessor's Map 104	Lot 26-41
Assessors Map/Plat Number	Parcel/Lot Number

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

Please see attached narrative.

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

Proposed Stormwater Modification (plan set) Colony Place, Plymouth, Massachusetts, pgs 1 and 5	May 9, 2022
Title	Date
_____	_____
Title	Date
_____	_____
Title	Date
_____	_____

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

The proposed work involves dredging, filling, and altering of a wetland resource area protected under 310 CMR 10.00.
The proposed work also involves the destruction of known wildlife habitat.



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).

N/A

The purpose of this RDA is to determine whether the area depicted on the map and in the attached work plans is subject to protections under the Act.

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.)

N/A

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:

Colony Place Plymouth II LLC

Name

2 Lakeshore Center

Mailing Address

Bridgewater

City/Town

MA

02324

State

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.

Katherine B. Harrelson

08/29/2023

Signature of Applicant

Date

Signature of Representative (if any)

Date

Narrative to Accompany Request for Determination of Applicability
Plymouth Wetlands Protection Bylaw and Rules and Regulations, Section 9(B)(2) and
Wetlands Protection Act, G.L. c. 131, Section 40
Landowner: Claremont Plymouth LLC
Applicant: Community Land and Water Coalition/Save the Pine Barrens (STPB)

This is a Request for Determination of Applicability (RDA) under the Wetlands Protection Act (WPA), G.L. c. 131, Section 40 and regulations at 310 CMR 10.00 and Town of Plymouth Wetlands Protection Bylaw, Chapter 196, Section 196-8(J) and the Rules and Regulations for Plymouth Wetlands Protection Bylaw (Bylaw), Section 6, for Activity Subject to Regulation under G.L. c. 131, Section 40 proposed by Claremont Plymouth LLC (Claremont) in Resource Areas.

Under the state Wetlands Regulations, 310 CMR 10.05(3)(a)(1), Requests for Determinations of Applicability, states “Any person who desires a determination as to whether M.G.L. c. 131, § 40 applies to the land, or to work that may affect an Area Subject to Protection under M.G.L. c. 131, § 40, may submit to the conservation commission by certified mail or hand delivery a Request for Determination of Applicability, Form 1.” See also Plymouth Wetlands Protective Bylaw, Rules and Regulations, Section 6.

Save the Pine Barrens (STPB) requests a Positive Determination of Applicability that the plan of Claremont Plymouth LLC, Attachment 1, contains Areas Subject to Protection under G.L. c. 141, Section 40 and the Regulations and Bylaw. See Part II.

Claremont proposes to undertake Activities on the Site that will remove, fill, dredge or alter an Area Subject to Protection.

The Activity (defined by 310 CMR 10.04) consists of altering the Areas Subject to Protection that includes an existing stormwater management system. Claremont has not met its burden under 310 CMR 10.02(5) to prove that the proposed work involves a stormwater management system designed, constructed, installed, operated, maintained and/or improved as defined by 310 CMR 10.04 and does not require an NOI. Therefore the Commission should issue a Positive RDA and require an Notice of Intent

I. Overview: Site Description

The Site is or was known on the Town of Plymouth Tax Assessor as Map 104 Lot 26-41. The Site is or has been also known as “Lot 5” and may have been subdivided into Lots 5A, 5B and 5C shown on the Exhibit 1. The Site is a total of 12.79 acres, with Lot 5B at 5.78 and Lot 5C at 7.01 acres. The Site also receives run-off from the adjacent Lot 5A parcel at 6.89 acres (Plymouth Tax Assessor’s Map 104 Lot 26-40), as well as an additional approximately 60 acres in the Plymouth Colony Place complex.

The Site is bound to the north by land owned by the Town of Kingston, to the south by a residential area, Mariner’s Way, and to the west by the West Wood Village residential area. The

Site has been altered by a commercial sand and gravel mining operation that started in about 2004.

Prior to 2004, the parcel had varying topography with hills up to about 150 to 200 feet across the area. It was forested, covered by a pitch-pine/scrub oak forest typical of the Pine Barrens region. Beginning in 2004 and continuing through 2006, a commercial sand and gravel mining operation was conducted on the Site and surrounding areas. The mining operation was permitted by the Plymouth Zoning Board of Appeals (ZBA) for 2.5 million cubic yards. An unknown volume of sand and gravel was mined from the Site by the operators, Gary Darmin and P. A. Landers Trucking. There is no record that the Site was restored or revegetated according to the ZBA special permit or the Zoning Bylaw requirements. The mining operation excavated into the Sole Source Aquifer on the Site which violated the state Drinking Water Regulations. When Saxon Properties proposed Colony Place development, it sited the stormwater drainage basin in the southwest corner of the parcel, using the pond created by the commercial mining operation.

The jurisdictional swamp is currently located in an area that was excavated by the commercial mining operation. During permitting for Colony Place, this was proposed during 2004-2006 as a water quality wet pond to treat stormwater runoff from a portion of the Colony Place development, with a runoff area approximately 60 acres of primarily impervious surface. Part of the area is vegetated, consisting of an upland area comprised of various grasses, shrubs such as sumac, and mature trees such as pitch pine.

The entirety of the Site lies within a Zone II wellhead protection area for a public water supply well for the Town of Plymouth.

II. Claremont's Site Development Plans

In March 2023, the Plymouth Zoning Board of Appeals (ZBA) issued Amended Decision Case No 4063 purporting to issue a Special Permit (ZBA Permit) under the Town Zoning Bylaw for construction on the Site. The ZBA Permit contains no conditions requiring compliance with the Wetlands Protection Act or Town Bylaw.

On August 1, 2023, the Planning Board voted to grant Claremont Plymouth II LLC a Minor Modification "of the subdivision control regulations to allow for the Stormwater Management Area located on the non-buildable lot (a portion of Lot 26-41 on that certain plan titled "Approval Not Required Plan, 800 Colony Place, Lots 26-38 & 26-39 Plymouth MA". The Planning Board did not require proof of compliance with the Wetlands Protection Act or Town Bylaw for construction on the Site.

Claremont plans to construct up to 348 units on the Site. In order to do so it plans to reconfigure an existing stormwater system on the Site that serves about 60 acres in Colony Place. This includes Work that will dredge, fill and alter Resource areas. The volume of water of the new stormwater management system will increase and the work on the system will alter or affect the

stormwater system and increase the total or peak volume and/or increase the volume of land exposed to higher potential pollutant loads. 310 CMR 10.02(4).

Neither Town nor Claremont have provided evidence that the Work is exempt from the Wetlands Protection Act or Bylaw. The Conservation Commission has not responded to a request for the reason why the Activity does not require a Notice of Intent filing. Neither the Town nor Claremont have made available to the public records to show that the construction of the stormwater management system in about 2004 on the Site had an Order of Conditions, Order of Resource Area Delineation or Determination of Applicability for the project or a Certificate of Compliance. 310 CMR 10.02(5)

III. Areas Subject to Protection, 310 CMR 10.02(1) and Bylaw, Section 196-4

The RDA seeks a Positive Determination that the Site has Areas Subject to Protection under the Act and the Bylaw including:

- Bordering Vegetated Wetland
- Land Under Water Bodies
- Bank
- Vegetated Wetland
- Isolated Vegetated Wetland
- Surface Water Body
- Freshwater wetland
- Swamp
- Land subject to flooding or inundation by groundwater or surface water

Additional areas subject to protection under the Bylaw include areas within 100 feet of these resources. Bylaw, Section 194-6.

The Site has an approximately 1.55-acre jurisdictional swamp as defined by the Town of Plymouth Wetlands Protection Bylaw Chapter 196 Section (10)(II)(B)(2)(c) which is located in the southwest portion of the Site and is an Area Subject to Protection. Included within its boundary is an 0.3-acre area depicted on Exhibit 2, described as "Open Water" by the MassDEP which is an Area Subject to Protection. Also depicted on Exhibit 3 is a 1.06-acre area described by the U.S. Fish and Wildlife Service as a Freshwater Pond.

Under the Rules and Regulations for Plymouth Wetlands Protective Bylaw (Chapter 196 of the Town of Plymouth Bylaws) Section 10, Part II(B)(2)(c), *the term "swamps" as used in this section shall mean areas where ground water is at or near the surface of the ground for a significant part of the growing season or where runoff water from surface drainage frequently collects above the soil surface...*

The Resource Area on the Site, as depicted in Exhibits 2, 3, and 4 performs the natural functions of a swamp as defined under the Plymouth Bylaw and contains areas of bordering vegetated wetland, land under water bodies, bank, vegetated wetland, isolated vegetated

wetland, surface water body, freshwater wetland, and land subject to flooding and inundation by groundwater or surface water.

Additionally, according to Chapter 196, Plymouth Wetlands Protection Bylaw, Section 2, Purpose, two of the protected functions of a wetland are the protection of wildlife habitat and aesthetics. Wildlife habitat is present on the Site according to observations of residents and information provided to the Plymouth Planning Board on July 26, 2023 on Claremont's project.

Witnesses have given testimony and comments to the ZBA and Planning Board about the hydrogeological function, wetland values, natural resource values, wildlife habitat values and aesthetic values of the Resource Areas on the Site.

IV. Claremont has not met its burden under 310 CMR 10.02(5) to show the Activity that will impact the Areas Subject to Protection is exempt under 310 CMR 10.02(c) or 10.02(4)

The existing stormwater management system on the Site constitutes Areas Subject to Protection as described above and in the Exhibits.

A. No evidence the 2006 stormwater system was built in accordance with regulations or had an Order of Conditions

In order to be exempt from an NOI Claremont must prove that the system has been designed, constructed, installed, operated, maintained and/or improved in accordance with the *Stormwater Management Standards* as provided in the *Stormwater Management Policy (1996)* or 310 CMR 10.05(6)(k) through (q), and that it meets 310 CMR 10.02(c)(1) and (2). Claremont has not met its burden. 310 CMR 10.02(5).

STPB made a public records request to the Town for the relevant records and asked the Conservation Commission for an explanation of why Claremont is not required to obtain an Order of Conditions to alter the existing stormwater system. No records have been provided to show that Claremont met its burden under 310 CMR 10.02(5). The Commission has not responded.

Neither the Town nor Claremont have provided **as built plans** for the existing stormwater system on the Site to show the system was built in accordance with the stormwater rules and policy under 310 CMR 10.02(2)(c)(1) and 10.02(4). There is no **Notice of Intent from 2006 and no Certificate of Compliance**.

Even if Claremont can establish that the Areas Subject to Protection alleged in this RDA were constructed according to the 1996 Standards and had an Order of Conditions, in order for the areas to be exempt from the Act and Regulations, Claremont must show that the alleged stormwater system has been operated and maintained according to the 1996 Standards and subsequent revisions and the Town Stormwater Regulations. 310 CMR 10.02(2)(c). This requires a Stormwater Pollution Prevention Plan (SWPPP) and a record of annual monitoring.

Neither the Town nor Claremont have provided an Operations and Maintenance Plan or SWPPP for the existing stormwater system from 2006.

Even if there was an O&M Plan and SWPPP, the Town and Claremont have provided **no records of the annual O&M** performed as required by the 1996 Standards and current state and local standards. 310 CMR 10.02(2)(c).

The Commission should find the Activity requires an NOI or require Claremont to meet its burden under 10.02(5) to establish by the best available evidence under 310 CMR 10.02(5) that no NOI is required.

V. Description of the Activity and impact on interests protected under the Act and Bylaw

The Activity proposed by Claremont consists of draining, dredging and filling in of a protected wetland resource area including freshwater pond, open water, land under water, bordering vegetated wetland and wildlife habitat. The Activity consists of altering an established wetland, which performs the functions of filtering, cleaning, and regulating the flow and discharge of surface water, in a Zone II wellhead protection area.

The Activity will impact wetlands functions and values and impair the ability of the Areas Subject to Protection to contribute to the following interests under 310 CMR 10.01(2):

- protection of public and private water supply
- protection of groundwater supply [Plymouth Carver Sole Source Aquifer]
- flood control
- storm damage prevention
- prevention of pollution
- protection of wildlife habitat

The Activity will have a significant and/or cumulative impact upon the wetland functions and values above and the additional functions and values under the Bylaw, Section 196-1, including but not limited to:

- to maintain and preserve water resources
- aesthetic and recreational values
- ensuring a stable quality of life
- Bylaw Section 196-1(A)-(D).

VI. Forms

See accompanying WPA Form 1: *Request for Determination of Applicability*.

VII. Field Requirements

STPB does not have access to the Site for purposes of a wetlands delineation. We respectfully request that the Plymouth Conservation Commission provide a wetlands delineation and NOI, following which the Plymouth Conservation Commission should perform a Site visit to confirm the boundaries of the wetland as required by the Bylaw.

VIII. List of Exhibits

1. Exhibit 1A: Locus Map, courtesy of Highpoint Engineering, Inc.
2. Exhibit 1B: Lot Area Exhibit dated 06-17-22, courtesy of Beals and Thomas
3. Exhibit 1C: Claremont Development Areas on the Site. Lots 5B and 5C are the subject of this RDA where there are Areas Subject to Protection under 310 CMR 10.02(1)
4. Exhibit 2: Google Earth Image Depicting Approximate Boundary of Areas Subject to Protection under 310 CMR 10.02(1)

Image created using Google Earth based on observations from public roadway.

5. Exhibit 3: MassDEP Mapped Resource Area

Jurisdictional area of Open Water as mapped by the MassDEP.

6. Exhibit 4: U.S. Fish and Wildlife Mapped Resource area

Jurisdictional area of Freshwater Pond as mapped by U.S. Fish and Wildlife service.

7. Exhibits 5 through 9: Google Earth Images of Site, 2003 to 2023

Exhibits show the natural revegetation of the Site and formation of wetland resource areas after cessation of maintenance on the property.

8. Exhibit 10: Plymouth Public Water Supply Zone II Map

Map depicting the hydrogeological function of the Site, its natural resource areas, and its vegetation in relation to the protection of Plymouth's public water supply.

Exhibit 1A: Locus Map, courtesy of Highpoint Engineering, Inc.



Exhibit 1B: Lot Area Exhibit dated 06-17-22, courtesy of Beals and Thomas

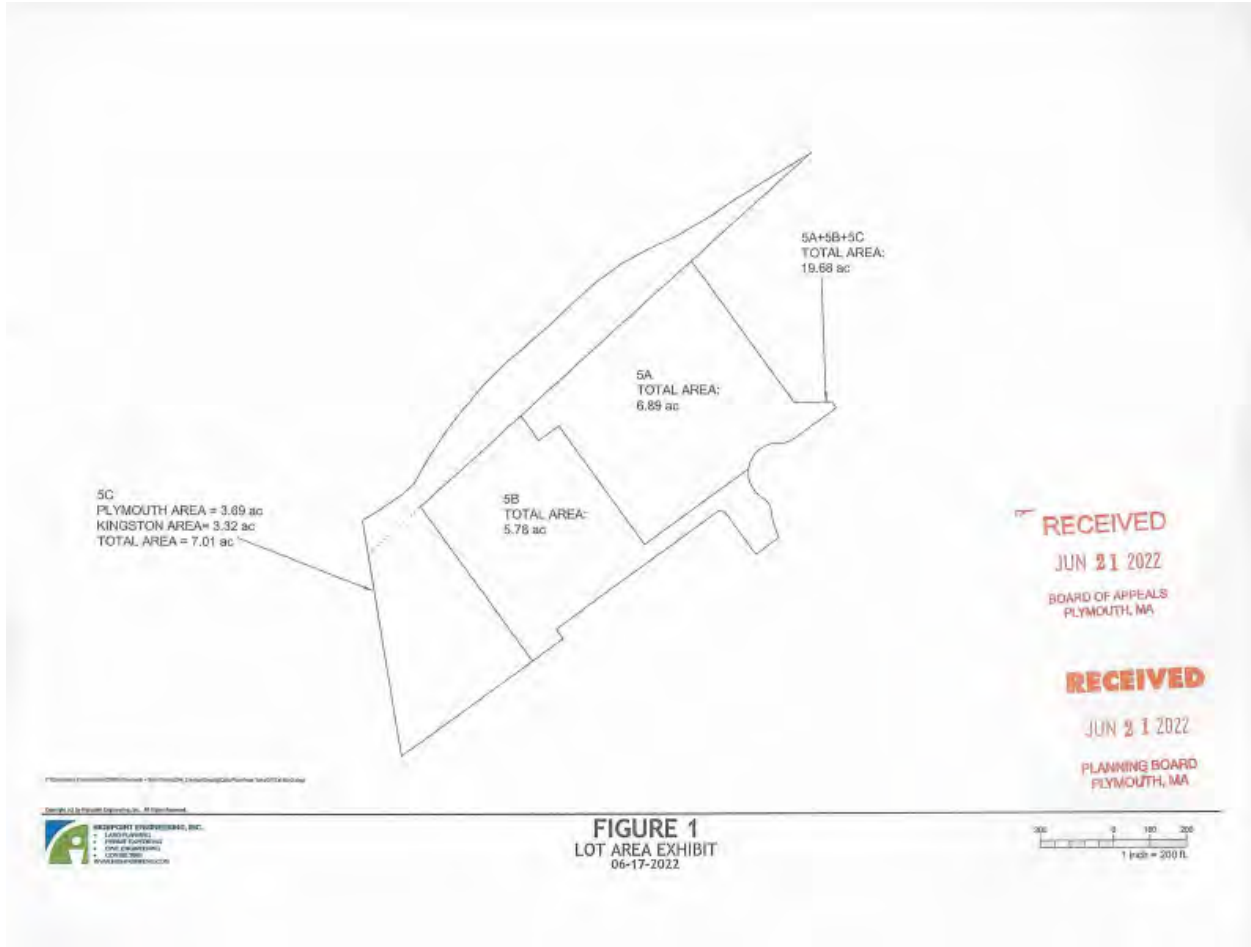


Exhibit 1C: Claremont Development Areas on the Site. Lots 5B and 5C are the subject of this RDA where there are Areas Subject to Protection under 310 CMR 10.02(1)



Exhibit 2: Google Earth Image Depicting Approximate Boundary of Areas Subject to Protection under 310 CMR 10.02(1)



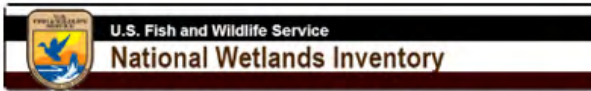
Exhibit 3: MassDEP Mapped Resource Area

DEP Wetlands



- DEP Wetlands Detailed**
- Barrier Beach System
 - Barrier Beach-Deep Marsh
 - Barrier Beach-Wooded Swamp Mixed Trees
 - Barrier Beach-Coastal Beach
 - Barrier Beach-Coastal Dune
 - Barrier Beach-Marsh
 - Barrier Beach-Salt Marsh
 - Barrier Beach-Shrub Swamp
 - Barrier Beach-Wooded Swamp Coniferous
 - Barrier Beach-Wooded Swamp Deciduous
 - Bog
 - Coastal Bank Bluff or Sea Cliff
 - Coastal Beach
 - Coastal Dune
 - Cranberry Bog
 - Deep Marsh
 - Barrier Beach-Open Water
 - Open Water
 - Rocky Intertidal Shore
 - Salt Marsh
 - Shallow Marsh Meadow or Fen
 - Shrub Swamp
 - Tidal Flat
 - Wooded Swamp Coniferous
 - Wooded Swamp Deciduous
 - Wooded Swamp Mixed Trees
- Property Tax Parcels**

Exhibit 4: US. Fish and Wildlife Mapped Resource Area



Map 104 Lot 26-41



August 9, 2023

Wetlands	Freshwater Emergent Wetland	Lake
Estuarine and Marine Deepwater	Freshwater Forested/Shrub Wetland	Other
Estuarine and Marine Wetland	Freshwater Pond	Riverine

This map is for general reference only. The US Fish and Wildlife Service is not responsible for the accuracy or currentness of the base data shown on this map. All wetlands related data should be used in accordance with the layer metadata found on the Wetlands Mapper web site.

National Wetlands Inventory (NWI)
This page was produced by the NWI mapper

Exhibit 5: Google Earth Image of Site, 2003



Exhibit 6: Google Earth Image of Site, 2006



Exhibit 7: Google Earth Image of Site, 2012



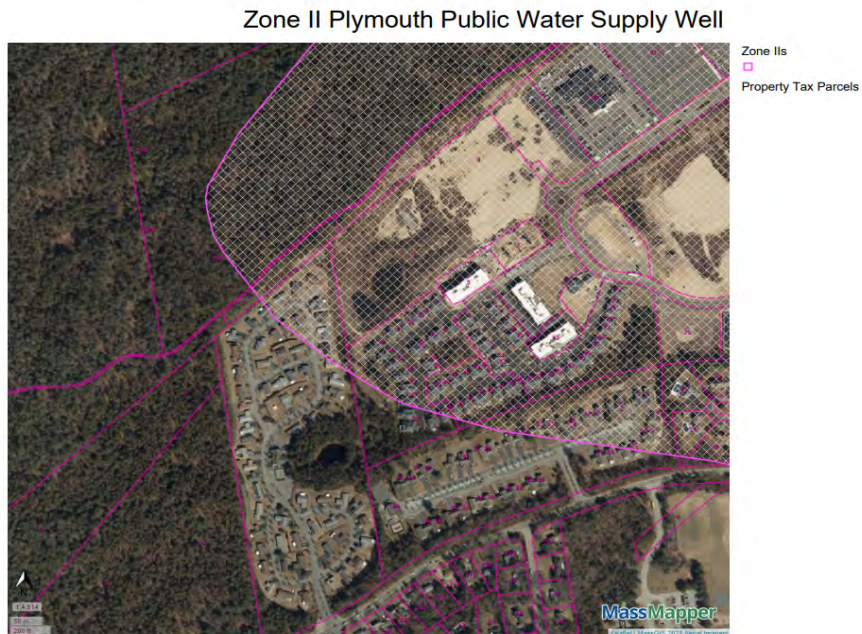
Exhibit 8: Google Earth Image of Site, 2014



Exhibit 9: Google Earth Image of Site, 2023



Exhibit 10: Plymouth Public Water Supply Zone II Map



Attachment 1: Proposed Stormwater Modification (plan set) Colony Place, Plymouth, Massachusetts, May 9, 2022, pgs 1 and 5

PROPOSED STORMWATER MODIFICATION COLONY PLACE PLYMOUTH, MASSACHUSETTS

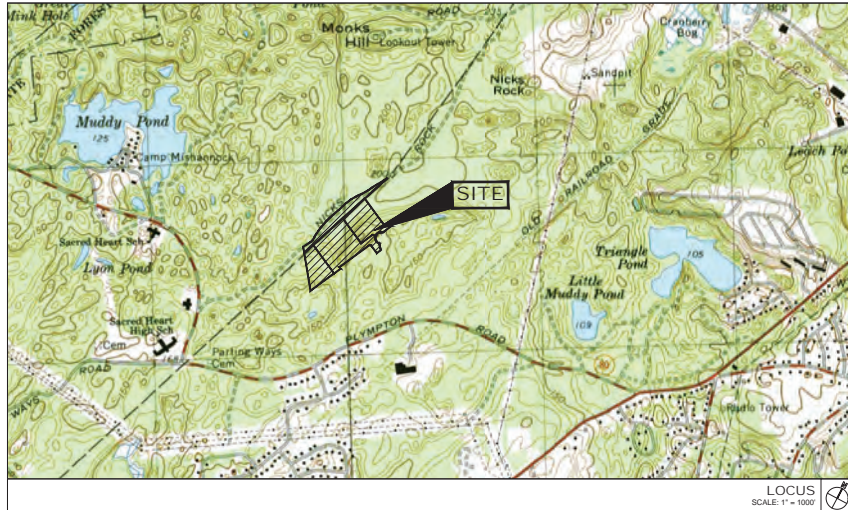
ISSUED FOR MINOR SUBDIVISION MODIFICATION: DATE 05/09/2022
 REVISED: 08/12/2022
 REVISED: 03/24/2023
 REVISED: 06/20/2023



Highpoint Eng. Inc.
 2 Lakeshore Center 1st Floor
 Bridgewater, MA 02324

CLASH:
 Claremont Plymouth, LLC
 2 Lakeshore Center 1st Floor
 Bridgewater, MA 02324

CONSULTANT:



LOCUS
 SCALE: 1" = 1000'

PROJECT TEAM

APPLICANT: CLAREMONT PLYMOUTH, LLC
 2 LAKESHORE CENTER 1ST FLOOR
 BRIDGEWATER, MA 02324
 TEL: (508) 279-4300
 ATTN: MICHAEL SHUNTA

OWNERS: CLAREMONT PLYMOUTH, LLC
 CLAREMONT COMPANIES
 2 LAKESHORE CENTER 1ST FLOOR
 BRIDGEWATER, MA 02324
 TEL: (508) 279-4300
 ATTN: MICHAEL SHUNTA

CIVIL ENGINEER: HIGHPOINT ENGINEERING, INC.
 980 WASHINGTON STREET
 SUITE 216
 DEDHAM, MA 02026
 TEL: (781) 770-0977
 ATTN: MICHAEL FABBIANO
 WWW.HIGHPOINTENG.COM

SURVEYOR: BSC GROUP
 803 SUMMER STREET
 BOSTON, MA 02127
 TEL: (617)-896-4300
 ATTN: ADAM SLOAT

ENVIRONMENTAL ENGINEER: RMA ENVIRONMENTAL
 20 MAIN STREET,
 NORTH KINGSTOWN, RI 02852
 TEL: (401) 741-9667
 ATTN: JOSHUA ROSENBERG, PE
 WWW.RMAHYDRO.COM

TRAFFIC ENGINEER: GPI
 179 MAIN STREET, SUITE 420
 BOSTON, MA 02113
 TEL: (617) 812-7295
 ATTN: JAMES NOYES, PE
 WWW.GPINET.COM

GEO TECHNICAL ENGINEER: McPHAIL ASSOCIATES, LLC
 2269 MASSACHUSETTS AVENUE
 TEL: (617) 868-1420
 ATTN: JONATHAN W. PATCH, PE
 WWW.MCPHAILGEO.COM

GENERAL CONTRACTOR: ATL CONSTRUCTION
 841 N BEDFORD STREET
 EAST BRIDGEWATER, MA 02333
 TEL: (508) 378-3366
 ATTN: MARK MONTERO
 WWW.ATLCONSTRUCTION.US



INDEX OF DRAWINGS

ISSUE HISTORY:	ISSUED FOR MINOR SUBDIVISION MODIFICATION 11 MAR 20 2022					ISSUED FOR MINOR SUBDIVISION MODIFICATION 08/12/2022					ISSUED FOR MINOR SUBDIVISION MODIFICATION 03/24/2023					ISSUED FOR MINOR SUBDIVISION MODIFICATION 06/20/2023					
	1	2	3	4	5	1	2	3	4	5	1	2	3	4	5	1	2	3	4	5	
CIVIL PLANS																					
C1 TITLE SHEET																					
C2 GENERAL NOTES AND LEGEND SHEET																					
C3 SITE PREPARATION & DEMOLITION PLAN 1																					
C4 SITE PREPARATION & DEMOLITION PLAN 2																					
C5 GRADING & DRAINAGE PLAN 1																					
C6 GRADING & DRAINAGE PLAN 2																					
C7 LANDSCAPE PLAN																					
C8 LANDSCAPE DETAILS & SEED MIX PLAN																					
C9 DETAIL SHEET 1																					
C10 DETAIL SHEET 2																					
C11 DETAIL SHEET 3																					
C12 DETAIL SHEET 4																					
REFERENCE PLANS																					
-- EXISTING CONDITIONS PLAN SHEET 1 OF 2 (BY OTHERS)																					
-- EXISTING CONDITIONS PLAN SHEET 2 OF 2 (BY OTHERS)																					
-- CONSTRUCTION SCHEDULING PLAN																					
-- TOLL-UP ABUTTER EXHIBIT																					
-- SUBDIVISION MODIFICATION (DRAFT)																					
-- DRAINAGE ASSESSMENT EXHIBIT (DRAFT)																					

PROPOSED STORMWATER MODIFICATION

PLYMOUTH, MA
 COLONY PLACE | LOTS 26-40, 26-41 (AKA LOT 5 AND PARCEL B)
 PLYMOUTH, MA 02360
 OWNER/APPLICANT: CLAREMONT PLYMOUTH, LLC

REV	DATE	DESCRIPTION
1	05/09/2022	RESPONSE TO COMMENTS
2	08/12/2022	RESPONSE TO COMMENTS
3	03/24/2023	RESPONSE TO COMMENTS
4	06/20/2023	RESPONSE TO COMMENTS

ISSUE TYPE:
 MINOR MODIFICATION
 ISSUE DATE:
 05/09/2022
 PROJECT NUMBER:
 21035

DRAWN BY: AUA
 CHECKED BY: MF
 Copyright (c) by Highpoint Engineering, Inc.
 All Rights Reserved.

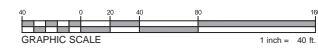
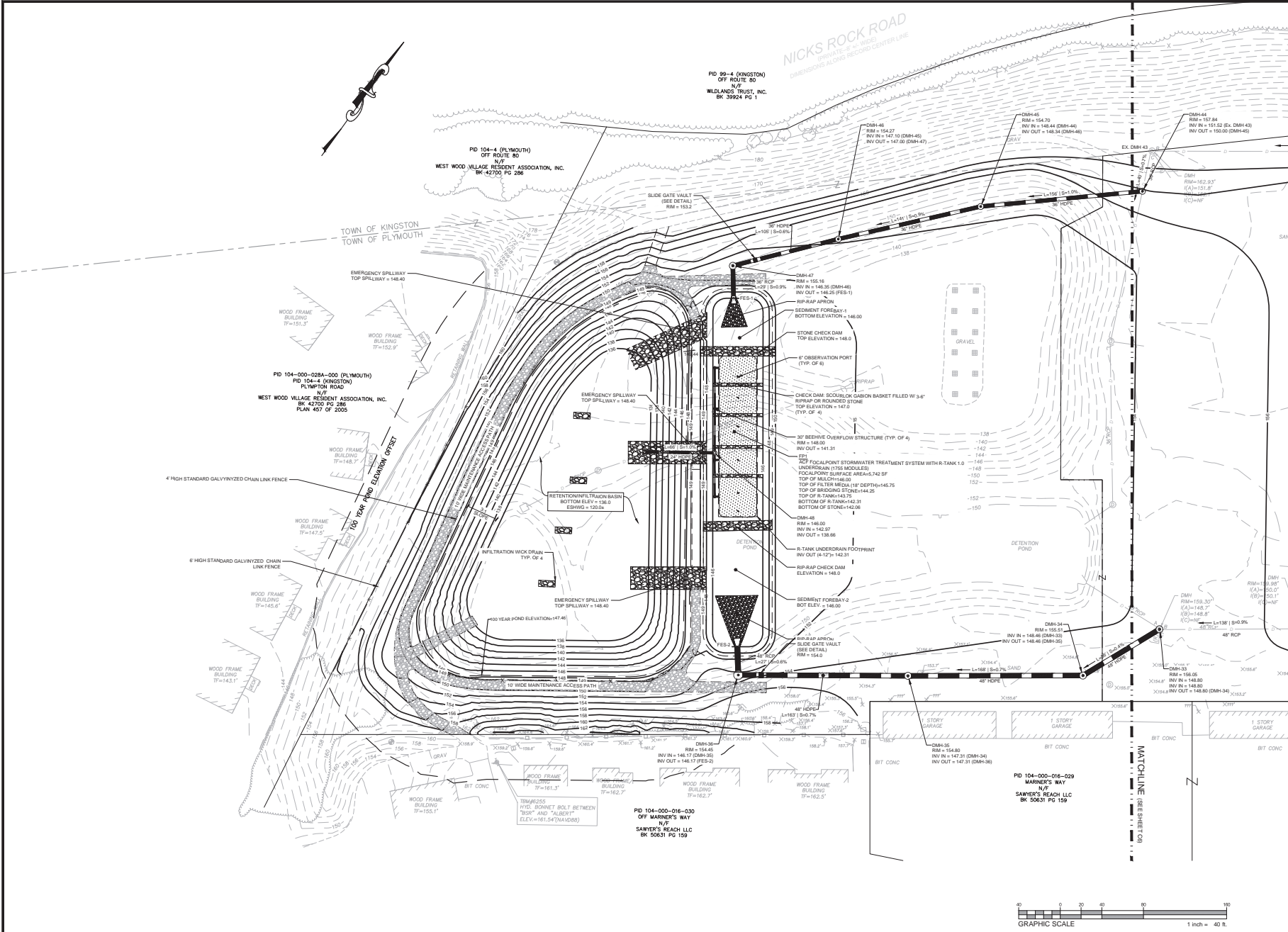
TITLE SHEET

SHEET NUMBER:
C1
 SHEET 1 OF 12

NO.	DATE	DESCRIPTION
1	06/20/2023	RESPONSE TO COMMENTS
2	06/20/2023	RESPONSE TO COMMENTS
3	06/20/2023	RESPONSE TO COMMENTS
4	06/20/2023	RESPONSE TO COMMENTS

ISSUE TYPE:
 MINOR MODIFICATION
 ISSUE DATE:
 05/09/2022
 PROJECT NUMBER:
 21035
 DRAWN BY: JJP
 CHECKED BY: MF
 Copyright (c) by Highpoint Engineering, Inc.
 All Rights Reserved.

GRADING & DRAINAGE PLAN
 SHEET 5 OF 12



PD 99-4 (KINGSTON)
 OFF ROUTE 80
 N/F
 WILDLANDS TRUST, INC.
 BK 39924 PG 1

PD 104-4 (PLYMOUTH)
 OFF ROUTE 80
 N/F
 WEST WOOD VILLAGE RESIDENT ASSOCIATION, INC.
 BK 42700 PG 286

PD 104-000-028A-000 (PLYMOUTH)
 PD 104-4 (KINGSTON)
 PLYMOUTH ROAD
 N/F
 WEST WOOD VILLAGE RESIDENT ASSOCIATION, INC.
 BK 42700 PG 286
 PLAN 457 OF 2005

PD 104-000-016-030
 OFF MARIKES WAY
 N/F
 SAWYER'S REACH LLC
 BK 50631 PG 159



Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
Request for Departmental Action Fee
Transmittal Form

DEP File Number: **4**

Provided by DEP

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

A. Request Information

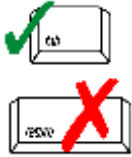
1. Location of Project

Colony Place, Assessor's Map 104, Lot 26-41
 (Claremont Plymouth II, LLC, property owner) Plymouth

a. Street Address 28552017148 b. City/Town, Zip \$120.00

c. Check number _____ d. Fee amount _____

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



2. Person or party making request (if appropriate, name the citizen group's representative):

Save the Pine Barrens

Name _____

P.O. Box 1699 _____

Mailing Address _____

Plymouth MA 02362

City/Town State Zip Code

(508) 259-9154 _____ environmentwatchesoutheasternma@gmail.com

Phone Number Fax Number Email Address

3. Applicant (as shown on Determination of Applicability (Form 2), Order of Resource Area Delineation (Form 4B), Order of Conditions (Form 5), Restoration Order of Conditions (Form 5A), or Notice of Non-Significance (Form 6)):

Save the Pine Barrens

Name _____

P.O. Box 1699 _____

Mailing Address _____

Plymouth MA 02362

City/Town State Zip Code

(508) 259-9154 _____ environmentwatchesoutheasternma@gmail.com

Phone Number Fax Number Email Address

4. DEP File Number:

Not applicable

B. Instructions

1. When the Departmental action request is for (check one):

- Superseding Order of Conditions – Fee: \$120.00 (single family house projects) or \$245 (all other projects)
- Superseding Determination of Applicability – Fee: \$120
- Superseding Order of Resource Area Delineation – Fee: \$120

Send this form and check or money order, payable to the *Commonwealth of Massachusetts*, to:

Department of Environmental Protection
 Box 4062
 Boston, MA 02211



Request for Departmental Action Fee

Transmittal Form

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

B. Instructions (cont.)

2. On a separate sheet attached to this form, state clearly and concisely the objections to the Determination or Order which is being appealed. To the extent that the Determination or Order is based on a municipal bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.
3. Send a **copy** of this form and a **copy** of the check or money order with the Request for a Superseding Determination or Order by certified mail or hand delivery to the appropriate DEP Regional Office (see <https://www.mass.gov/service-details/massdep-regional-offices-by-community>).
4. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.



UNITED STATES
POSTAL SERVICE®

POSTAL MONEY ORDER

Serial Number

28552017148

Year, Month, Day

Post Office

U.S. Dollars and Cents

\$120.00

One Hundred Twenty Dollars and 00/100 *****

Amount

Pay to

Commonwealth of Massachusetts

Clerk

02

Address

Box 4062

From

Save the Pine Barrens

Boston, MA 02211

Address

P.O. Box 1699

Memo

Superseding Deter. Applicability

Plymouth, MA

SEE REVERSE WARNING • NEGOTIABLE ONLY IN THE U.S. AND POSSESSIONS

⑆00000800 2⑆

28552017148⑈