MANCHESTER ESSEX CONSERVATION TRUST

Preserving natural beauty, wildlife, and resources at the gateway to Cape Ann

Box 1486 • Manchester, Massachusetts 01944
978 890 7153 • www.mect.org

Zoning Board of Appeals
Town of Manchester-by-the-Sea
10 Central Street
Manchester-by-the-Sea, MA 01944

July 27, 2022

Dear Board Chair Mellish and members of the ZBA,

Heat Emergency. Cooling centers. Splash pads. Newspapers, digital feeds and news broadcasts were full of these terms and images this week. This urban-center vocabulary is already headed to small towns like Manchester-by-the-Sea. It is ironic that the area once renown as the summer escape from the heat of Boston, is under threat of becoming a heat sink. I find it ironic that as Boston prepares heat resilience solutions for hotter summers, with particular focus on Boston's *environmental justice neighborhoods*, which include planting trees, Manchester is facing a plan to cut down 7 acres of trees, to *build affordable housing* which would be surrounded by massive heat absorbing retaining walls. We already have the thing that IS an asset, that IS part of smart development: we have acres of forest that cools FOR us, wherever we have that, we need to leave it untouched, because it will become more and more important for climate resiliency.

The Manchester Wetlands Bylaw and Vernal Pools

Since 1987, Manchester has adopted and amended its local wetland bylaw to provide increased protection to wetland resources, keeping abreast of scientific understanding of the value of these resources. The original bylaws were amended in 1999, replaced in their entirety in 2010, and amended again in 2014. Manchester has invested a significant amount of time in researching and modifying these bylaws. The majority of the cities and towns in Massachusetts have their own wetlands ordinances/bylaws that provide more protections to wetlands than does the state law under the Massachusetts Wetlands Protection Act. The state and local wetlands laws are administered together by the local conservation commission. Work must meet the stricter of the state and local requirements. Home rules, or customized local bylaws that are approved by the state attorney general's office, allow municipalities to customize protection specific to their individual topography, hydrology, and geology needs. Some cities and towns also have wetlands protection requirements in their zoning ordinances/bylaws too.

The applicant has requested waivers (19 or more) from the Manchester Wetland Bylaws - many of these involve vernal pool "buffers" for pools adjacent to the development site on conservation property. The applicant has repeatedly stated that he cannot build the project without these waivers and has stipulated that the Housing Appeals Committee will overturn a denial of these waivers. The local wetland bylaw indicates that the town believes that work within 200’ of a vernal pool is presumed to have a harmful impact on the vernal pool, and it’s the Applicant’s

Box 1486 • Manchester, Massachusetts 01944
978 890 7153 • www.mect.org

responsibility to prove otherwise. These waiver requests cover a major portion of the proposed development, and no development other than a 40B would claim to be exempt from this bylaw. The truth is that 18% of the actual building is in the vernal pool buffer zone, along with 40% of the roadway, 50% of the sidewalk, and 52% of the water treatment areas. These are not insignificant. We believe the Zoning Board should deny the request for ALL wetland waivers that address the vernal pool buffers and the upland habitat.

Our experts have determined that the proposed development would have a measurable impact on the amount of water flowing into the vernal pools, which may result in them not holding water at all, or for the required time period to support the amphibians and other life that they support. See comments submitted by Dan Hill, Liz Pyle, Scott Horsley and Patrick Garner.

The Wildlife Habitat Study

On February 15, 2022, the Manchester Conservation Commission unanimously voted to require the applicant to conduct a wildlife study in accordance with their bylaw.

The submitted Wildlife Habitat Study is rich on boiler plate details – the information is generic and light on actual specific details about the wildlife and habitat of the surrounding uplands and wetlands. It mentions roughly 13 species of birds, 8 species of mammals, 1 snake, and was conducted during a short window of time. A walk with an Audubon bird specialist can yield 3 or 4 times as many different bird species in half an hour. Approximately 10 trees and shrubs are mentioned in the study – while a scientific vascular plant study documented 300 species of plants in the surrounding wetland and woodlands.

The Wildlife Habitat Assessment includes numerous unfounded conclusions. Under the scientific method, not finding evidence to support a hypothesis does not mean the hypothesis has been proven false, yet we repeatedly see the Wildlife assessment claim that there will be “no adverse impact” from this project.

Here's a paraphrased example of an extreme case of jumping to an unfounded conclusion as exemplified by this report.

- We don’t know what rare species are located in the Wilderness Conservation Area and The Monoliths, two nearby areas designated as priority habitat for endangered species.
- We didn’t know what to look for, where to look for it, or the appropriate season or time of day to look for “it”.
- We didn’t find it.
- Therefore, “we can presume that there are no rare plant or animal species on-site”

Another statement in the report reads: "The proposed project will result in the loss of approximately 7.2 acres of wooded habitat, provided however, that a portion of the site is

MANCHESTER ESSEX CONSERVATION TRUST
Preserving natural beauty, wildlife, and resources at the gateway to Cape Ann
Box 1486 • Manchester, Massachusetts 01944
978 890 7153 • www.mect.org

planned to be native meadow mix that will **exponentially improve the pollinator habitat** found in this area."

An exponential improvement in pollinator habitat? That is quite a generous, yet unfounded conclusion in favor of the applicant. Our native bumblebees of Massachusetts, particularly the species rapidly headed for the endangered list (*bombus vagans* and *bumbus fervidus*), have specific flower needs. Is the pollinator field providing prunella and Saint John's wort, penstemon or other plant species that would support these specific bee species? Or is it just the generic mix of coreopsis and black-eyed susans, mixed with annuals that the non-native honeybees love. What species are included in the applicant's native plant mix? None have been specifically identified. Wasps, butterflies and moths feed on the oaks, willow, alder, birch, cherry trees in the threatened area. What is the applicant planting that will replace 7 acres x 40 ft tall of the existing pollinator system that will support this claim of exponential pollinator habitat improvement? The Wildlife Habitat Assessment also ignores the applicant's landscape designer's claims that the pollinator habitat will be allowed to succeed into a forest in the distant future. The applicant has promised, but has not provided, a pollinator habitat management plan, an invasive management plan nor a prohibition on herbicide, fungicide and pesticide use – all of which would have deleterious impacts on not only the pollinators, but the entire surrounding wildlife habitat and vernal pools, but merit no discussion in the Wildlife Habitat report.

"Exponential improvement in pollinator habitat" is an example of a conclusion in this report with no scientific basis. Existing willow, viburnum, clethra, blueberry, huckleberry, sarsaparilla, sassafras, eupatorium, asters and goldenrod and elderberry - not necessarily in that order, unfold into an extended season of nectar and pollen. Wood nymph and satyr (butterflies) larva feed on sedges which are bountiful in the wetlands; there are abundant red-spotted purple, and mourning cloak butterflies in the woodland and woodland edges whose larvae feed on the birch, willow and oaks.

Lepidoptera caterpillars in woodland trees, particularly oaks, and the wetland willows are a major source of food for birds, like the warblers and vireos for which this area is renowned, but these birds or food sources do not appear in the Wildlife and Habitat Study. Other insects, arachnids and less commonly known species on the taxonomic tree add to the food chain but are not mentioned in this study. Nesting wood ducks and Virginia rail were in the northern vernal pool for the past two years but they get no mention in the Wildlife and Habitat Study. American bitterns have been heard intermittently over a period of years, yet they're not mentioned. The analysis of the existing habitat has been insufficient.

The Wildlife Habitat Study should not be considered a valid assessment of the impact of this project on the existing habitat. The local wetland bylaws should not be waived, especially if waivers are based on the habitat study. I encourage you to take the bold step, and DENY the application for a comprehensive permit. Our legal counsel and experts have provided ample and sound reasons for a denial. And our week long weather pattern has given us all cause to seriously consider the most advanced concepts, for protection of the environment.

MANCHESTER ESSEX CONSERVATION TRUST

Preserving natural beauty, wildlife, and resources at the gateway to Cape Ann

Box 1486 • Manchester, Massachusetts 01944
978 890 7153 • www.mect.org

With gratitude and optimism,

Patrice Murphy
Executive Director
Manchester Essex Conservation Trust