

**BAILEY'S POND – OVERVIEW OF FAFARD'S OBJECTIONS TO PLANNING BOARD'S 2013 SITE PLAN DECISION**

Feb. 2015

Issues – Contested Findings/Conditions	Language from Decision (“Conditions” only)	Fafard Comments
<b>TECHNICAL ISSUES</b>		
<p><b>Retaining Walls/Slopes</b></p> <ul style="list-style-type: none"> <li>• <b>Gen'l Condition 4</b> (rejects proposed design)</li> <li>• Findings a.12</li> </ul>	<p><b>General Condition 4 (p. 16)</b></p> <p><b>Engineered Slope in the northern pod</b> - The Board shall not approve the alteration of site slope in the northern pod along Summit A venue as presented in the schematic engineering design. The applicant may submit an alternate layout for the access road and residential structures such that it requires minimal disturbance of the slope and significantly less removal of earth. Retaining walls, if any, shall be no more than a total of 6 feet in height from the bottom to the highest point of any retaining wall. Tiered walls may be used but shall not exceed a total combined height of six (6) feet.</p>	<ul style="list-style-type: none"> <li>• <b>REQUIRES COMPLETE REDESIGN OF PROJECT</b></li> <li>• “Typical” details have been provided for slopes and retaining walls (Sheets C-10 and C-7) <ul style="list-style-type: none"> <li>o 6’ max already shown on plans for each wall. 1:1 slope has been utilized to replace use of previously-shown tiered walls.</li> </ul> </li> <li>• Site specific engineering drawings are typically done by the manufacturer after you buy the wall system</li> <li>• See Plan Sheets C-007 (block wall details) and C-010 (slope details) and OCG letters dated 12/7/12, 2/8/13 and 9/18/13</li> </ul>
<p><b>Parking</b></p> <ul style="list-style-type: none"> <li>• <b>Gen'l Condition 5</b> (rejects proposed design)</li> <li>• Finding a.6</li> </ul>	<p><b>General Condition 5 (pp. 16-17)</b></p> <p><b>Parking Layout for individual structures</b> - The parking layout shows tandem parking for individual units. The Board shall only allow parking spaces that are not blocked by any other proposed parking space. The Applicant shall submit a final parking layout plan to demonstrate that parking spaces are laid out such that any car may be driven in or out of a space without requiring any other parked vehicle to be relocated.</p>	<ul style="list-style-type: none"> <li>• <b>REQUIRES COMPLETE REDESIGN OF PROJECT</b></li> <li>• Each unit has 4 parking spaces: 2 side-by-side exterior spaces and 2 interior garage spaces (tandem)</li> <li>• Bylaw only requires 1.5 spaces per unit</li> <li>• The Site Plan exceeds applicable requirements even you ignored the garage spaces</li> </ul>
<p><b>Off-Site Sidewalks</b></p> <ul style="list-style-type: none"> <li>• <b>Condition III.6</b> – requiring sidewalks along Summit Ave and Route 150</li> </ul>	<p><b>Condition III.6 (p. 28)</b></p> <p><b>Final Roadway and construction details:</b> The Applicant shall submit detailed engineering drawings for roadway design, including cross-section details and other construction details, including but not limited to, sidewalk construction, pedestrian shoulder, retaining walls and slopes greater than 2: 1 slope, guard rails, ADA compliant handicap ramps, mounting details for street lighting fixtures, entrance boulevard, and tree planting. Roadway cross-sections including sidewalks and pedestrian shoulders shall be included along the two entrance roadways, <b>along Summit Avenue and Rte 150</b>, typical roadway loops and the emergency access from Beacon Street. Final details showing the grading of the full bio detention areas with planting list and quantities of each plant type for the bio-retention areas shall be submitted to the Board. The Board shall review and approve these details prior to start of any construction activity on site.</p>	<ul style="list-style-type: none"> <li>• Overbroad to the extent it requires “sidewalks and pedestrian shoulders shall be included along the two entrance roadways, <u>along Summit Avenue and Rte 150...</u>” <ul style="list-style-type: none"> <li>• C-2 drawings call out the sidewalks proposed. None proposed along Summit Ave and Rte 150 (off-site).</li> <li>• No Ordinance provision requiring such off-site improvements.</li> <li>• Other issues related to grading and significant expense for approx 1,500 feet of sidewalk.</li> </ul> </li> <li>• Requires further Board review prior to construction.</li> </ul>
<p><b>Traffic/Circulation</b></p> <ul style="list-style-type: none"> <li>• Finding a.5 – further review of traffic issues</li> </ul>	<p><i>[this is a finding, but not a condition]</i></p>	<ul style="list-style-type: none"> <li>• Fafard’s traffic consultant demonstrated that the traffic associated with this project could easily be accommodated by nearby roadways.</li> <li>• Fafard has secured a MassDOT permit for the project since the Board’s decision.</li> </ul>

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<b>Stormwater Management</b> <ul style="list-style-type: none"> <li>Finding a.8</li> </ul>	<i>[this is a finding, but not a condition]</i>	<ul style="list-style-type: none"> <li>All consultants agree that design meets regulatory standards.</li> <li>Drainage outlet from Pond has not been studied, so not clear that it is actually at “maximum capacity.” Appears to be more of a maintenance issue.</li> <li>Outlet structure is not on the Property and is the responsibility of a third party.</li> </ul>
<b>Riverfront Area</b> <ul style="list-style-type: none"> <li>Finding a.7</li> </ul>	<i>[this is a finding, but not a condition]</i>	<ul style="list-style-type: none"> <li>These are ConsComm and DEP issues</li> </ul>
<b>Open/Recreational Spaces</b> <ul style="list-style-type: none"> <li>Finding a.13</li> </ul>	<i>[this is a finding, but not a condition]</i>	<ul style="list-style-type: none"> <li>Proposed project meets Ordinance requirements by including approximately 16.9 acres of open space, or 66% of the project area. See letter from Fafard engineer to Board dated August 21, 2013.</li> <li>Fafard expressed willingness to place conservation restriction on open space area.</li> <li>Requiring more open space, without any compensation, is not authorized by the Ordinance and would amount to an unlawful taking.</li> </ul>

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<b>ARCHITECTURAL ISSUES</b>		
<b>Context/Surrounding Area</b> <ul style="list-style-type: none"> <li>Findings a.2, a.9, a.10, a.11</li> </ul>	<p><i>[this is a finding, but not a condition]</i></p>	<ul style="list-style-type: none"> <li>Fafard disagrees with Board’s characterization of the surrounding area, which consists of Route 495 directly to the north, Route 150 and former Truck Stop directly east, Bailey’s Pond, and residential properties with varying architectural qualities and styles.</li> </ul> <p>[See historical Master Planning designation for this property]</p>
<b>Building Design</b> <ul style="list-style-type: none"> <li><b>Gen’l Condition 27</b></li> <li><b>Condition III. 4</b> (discussed below)</li> </ul>	<p><b>General Condition 27 (pp. 23-25)</b></p> <p>Site and Building Design – The dwelling units and structures (fences, walls, and similar structures) shall meet the criteria set forth and outlined below. This condition shall also be noted in the pertinent legal documents, including Master Deed and Condominium Association Declaration of Trust. The Site and Building Design Standards are as follows: (each bullet addressed separately below)</p> <ul style="list-style-type: none"> <li><b>Building Design</b> – A minimum of four (4) building designs shall be submitted to the Board for review and approval.</li> <li><b>Exterior Siding</b> – Only wood shingles, wood lap siding, or masonry shall be used. Fiber-cement siding material such as HardiPlank or CertainTeed’s Weatherboards may be substituted. Vinyl, aluminum and steel siding are specifically prohibited;</li> <li><b>Roofing Materials</b> – Only “architectural” or “slateline” asphalt, real red cedar, slate, or rubber slate will be permitted. Porches may incorporate copper or metal as long as it does not represent more than 20% of the total roofing area. Plumbing vent pipes shall not be located on any front-facing surface of the roof and shall have a color that will blend in with the color of the roofing material. For the purpose of these standards, the front yard shall be considered the area along the face of the building parallel to the main access way. The face directly opposite of the front face shall be considered the rear of the building. Roof dormers shall not occupy more than 33% of a roof surface and shed dormers shall not be permitted along the front roof surface located along the main access way;</li> </ul> <p><b>[continued below] ...</b></p>	<ul style="list-style-type: none"> <li><b>REQUIRES COMPLETE REDESIGN OF BUILDINGS</b></li> <li>Unreasonable – Goes too far in mandating architectural details that are not required by the Ordinance and inconsistent with the Project.</li> <li>Fafard submitted details in materials submitted with letter dated 11/12/12 and later committed to additional details in its 8/22/2013 letter, as follows:</li> </ul> <div data-bbox="1970 909 2893 1221" style="border: 1px solid black; padding: 5px;"> <ul style="list-style-type: none"> <li>Frieze boards will be installed to provide horizontal breaks at the different floor elevations and at the start of the roof line gables.</li> <li>Siding colors will be varied and consistent with the provided color palette</li> <li>The use of skylights to break up roof lines will be provided.</li> <li>Roof shingles will charcoal colored.</li> <li>Pipe penetrations on the roofs will be painted to match the color of the roof.</li> <li>Sidelights will be provide where possible at entry doors.</li> <li>Exposed concrete will be limited to 24 inches or less.</li> <li>Deck material will be stained pressure treated wood (see enclosed photograph).</li> <li>Steps will be a stamped precast concrete in the likeness of stone (see enclosed photograph).</li> </ul> </div>

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General Condition 27 – cont...	<p><b>General Condition 27 – Continued...</b></p> <ul style="list-style-type: none"> <li>• <u>Windows</u> – All windows shall be double hung and six (6) over six (6) sashes. All windows at the same floor level shall be of equal height. If shutters are proposed then all windows shall have shutters. Window caps or crowns may be capped with copper, lead and metal. Windows on the façade and sides of all structures shall have grilles installed between and outside the window or be “true divided light”, and shall fit the architectural style of each home. Alternatively, simulated true divided light may be acceptable but snap on grilles will not be allowed. Blank walls shall not be allowed. Large palatian windows on the second floor above the main entrance shall not be allowed. Double ganged windows shall be allowed only when facing the rear yards;</li> <li>• <u>Doors and Entrances</u> – Following traditional entrance design, the door surrounds, moldings, steps, entablatures, transoms, pediments, door casings, projections, porticos and door canopies and columns should all follow the principles of the <u>Orders</u> for traditional buildings.</li> <li>• <u>Chimneys</u> – All chimneys shall be made of brick or stone masonry work, or be of cultured stone veneer. Wooden “chases” are not permitted; however, direct vent are permitted provided they do not exit through the front wall;</li> <li>• <u>Exter Trim/Porches</u> – articulated trim details for the windows, fascia, rakes, corner boards and porches shall be in keeping with the architectural style of each home. Porches will used upgraded decking and balustrade materials such as edge grain fir, mahogany, teak, redwood, or cedar. Trex decking or the like will not be permitted on front porches, but may be used for rear decks. Pressure treated wood may be used for framing, but shall not be left exposed;</li> <li>• <u>Rear Decks/Patios</u> – as with front porches, upgraded trim details will be incorporated, and no exposed pressure treated wood will be allowed. With the exception of patios beneath, spaces below deck areas will be landscaped and enclosed with lattice which will finished with stain or paint or be of low-maintenance vinyl. Patios will be made from brick, stone or unit pavers. Unfinished concrete patios will not be permitted;</li> </ul> <p><b><u>[continued below] ...</u></b></p>	[see above]

Issues – Contested Findings/Conditions	Language from Decision (“Conditions” only)	Fafard Comments
General Condition 27 – cont...	<p><b>General Condition 27 – Continued...</b></p> <ul style="list-style-type: none"> <li>• <u>Landscaping</u> – Landscaping shall be consistent with the Landscape Plan(s);</li> <li>• <u>Retaining walls</u> – Retaining walls shall be made from stone or brick and shall not be made from interlocking concrete block (which have a commercial appearance), unless they are of the “tumbled” or “stressed” type (which resemble cobblestone or granite);</li> <li>• <u>Foundations</u> – Foundations in poured concrete shall be limited to a maximum of eighteen (18) inches of exposed concrete in the front yard and to twenty four (24) inches of exposed concrete in the rear and side yards for grading and drainage purposes only. Exposed foundation walls shall be screened with landscaping. All other foundations shall be faced with brick, stone veneer or better;</li> <li>• <u>Fences</u> – to maintain consistency in the development, any fences along the exclusive use areas shall either an open post and rail style or decorative metal or wooden fence, no higher than 42 inches in height. Chain link or stockade fences are not permitted;</li> <li>• <u>Garages</u> – Two bay garages shall have individual doors for each bay. Garage doors shall have transom light.</li> <li>• <u>Screening for HVAC Units</u> – All HVAC units located at grade shall each be screened with three evergreens initially at 3 feet in height from approved grade and located to the side or rear of the structures to be built;</li> </ul>	[see above]
<p><b>Signs</b></p> <ul style="list-style-type: none"> <li>• <b>Gen’l Condition 26</b></li> </ul>	<p><b>General Condition 26 (p. 23)</b></p> <p><u>Signage</u> – Any signage proposed for this project shall be restricted to only one free standing ground sign. The proposed sign shall not exceed twenty (20) square feet in area and six (6) feet in height and shall be made of wood or similar materials. Only indirect lighting shall be allowed. The applicant shall submit a sign package showing materials, colors, size, location and method of mounting for ground sign. The sign package shall be reviewed by the board for consistency with this Decision and shall render its findings and decision on the signage at that time;</p>	<ul style="list-style-type: none"> <li>• Requires further review.</li> <li>• Unreasonably restrictive for a project of this size.</li> </ul>

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<p><b>PROJECT TIMING AND SEQUENCING</b></p>		
<p><b>3-Year Completion Deadline</b></p> <ul style="list-style-type: none"> <li><b>Gen'l Condition 3</b></li> </ul>	<p><b>General Condition 3 (p. 16)</b></p> <p><u>Time-frame for Completion of infrastructure improvements</u> – All improvements shall be completed within three (3) years from the issuance of this Approval. The improvements in the two development pods may be started separately, but together shall be fully complete within these three years. However, any portion of the drainage or utility infrastructure that is required to be built for any of the pods shall be required to be completed in the initial phase.</p>	<ul style="list-style-type: none"> <li>Collectively , the “project timing and sequencing” conditions noted here would require completion of <u>all</u> utilities and infrastructure before 1<sup>st</sup> building permit application.</li> <li>They would also require that all infrastructure work be completed within 3 years of the Decision date.</li> <li>These requirements are unreasonable and unrealistic.</li> </ul> <p><b>See Proposed Phasing:</b> See 9/18/13 letter providing proposed phasing.</p>

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<p><b>Requirements Before Building Permit</b></p> <ul style="list-style-type: none"> <li>• <b>Gen'l Conditions 14, 15 and 16</b></li> </ul>	<p><b>General Condition 14 (p. 19)</b></p> <p><b>As-Built Plans and Repairs</b> – To ensure compliance with the terms and conditions of this Decision and any approval or order by any federal, state-agency, the applicant shall submit plans with a certification from a Professional Engineer or Architect registered in the Commonwealth of Massachusetts that the Project “As-Built Plan” complies in all substantive respects with this Decision and any other approval or order by any federal, state or local agency. Any damage to public roads and walkways shall be repaired and/or replaced to the satisfaction of the DPW Director and City Engineer.</p> <p><b>General Condition 15 (p. 19)</b></p> <p><b>Issuance of Building Permits for individual Buildings:</b> No applications for building Permits shall be made for any proposed multi-family structures until all utilities, sewer pump station and associated environmental mitigation, roadway infrastructure and stormwater management systems have been completed. A Final As-built and a certification form the Applicant’s Engineer shall be submitted showing the completion of work along with a request to release the individual buildings for construction. The Board shall review and approve the final As-built and require the Consultant to the Board to issue a letter indicating that all completed work shown on the As-built has been done as per approved plans and in compliance with all local, state and federal permits.</p> <p><b>General Condition 16 (pp. 19-20)</b></p> <p><b>Release of Covenant for Building (Project Phasing):</b> A Project Phasing Plan shall be submitted to the Board identifying when the individual buildings be constructed. The Board shall release individual buildings from the covenant to apply for building permits in four (4) batches no less than eight (8) buildings at a time, such structures being adjacent to each other of the site. At least 90% of the buildings in one batch must be under construction before the next batch of buildings shall be release for construction.</p> <p><b>Condition IV.1, “PRIOR TO MAKING BUILDING PERMIT APPLICATION” (p. 29)</b></p> <p><b>Infrastructure Improvements</b> – All infrastructure improvements including those required under state and federal permits, roadway and access, pump station, on-site stormwater drainage system shall be completed as per Final Plans. The Applicant shall submit a letter from the Board’s construction observation consultant that these improvements have been completed in accordance with the Final site Plan and engineering designs and details as approved by the Board. The developer shall request written confirmation from the Fire Department that the Fire hydrants are installed per approved plans and to the satisfaction of the Fire department. The City Engineer and DPW Director shall also be requested by the developer to sign off on the installation and proper function of the pump station as per approved engineering drawings.</p>	<ul style="list-style-type: none"> <li>• Requires more than warranted prior to construction of first building</li> <li>• Overly broad in what is required in the As-Built certification, particularly by referencing “any other approval or order by any federal, state or local agency.”</li> <li>• Also overly broad in vaguely requiring repairs to satisfaction of the DPW Director and City Engineer, without regard to when repair is needed.</li> <li>• Ignores proposed phasing of development</li> </ul>

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<p><b>Requirements Before Occupancy</b></p> <ul style="list-style-type: none"> <li>• <b>Conditions V.1 and V.2</b></li> </ul>	<p><b><u>CONDITION V – “PRIOR TO MAKING REQUES FOR ANY OCCUPANCY PERMIT (1<sup>st</sup> Residential structure)” (p. 29)</u></b></p> <p>The applicant shall file with the board and all other relevant public agencies for review and for consistency with this Decision any documents and shall have completed the following actions:</p> <ol style="list-style-type: none"> <li>1. <b><u>Site Stabilization and Environmental Mitigation:</u></b> All required site stabilization, and environmental mitigation shall be substantially prior to making application for the occupancy permit first residential structure;</li> <li>2. <b><u>Certification of Improvements</u></b> – The Applicant shall submit a letter to the Building Inspector from the Planning Board verifying that conditions of approval have been met and that construction to date is per the approved plans</li> </ol>	<ul style="list-style-type: none"> <li>• Not feasible or reasonable</li> <li>• <u>Inconsistent with P&amp;S Agreement</u> and Site Plan Regs</li> <li>• Ignores proposed phasing, as outlined in letter dated 9/18/13</li> </ul>

Issues – Contested Findings/Conditions	Language from Decision (“Conditions” only)	Fafard Comments
<p><b>Requirements for Further Review – Before Building Permit Application</b></p> <p>Conditions require further review of many matters and materials:</p> <ul style="list-style-type: none"> <li>• Walls/slopes in northern pod <b>(Gen’l Cond. 4)</b></li> <li>• Parking layout <b>(Gen’l Cond. 5)</b></li> <li>• Signs <b>(Gen’l Cond. 26)</b></li> <li>• Legal Documents <b>(Cond. III.1)</b></li> <li>• Architectural drawings <b>(Cond. III.4)</b></li> <li>• Plans for pump station <b>(Cond. III.5)</b></li> <li>• Roadway/sidewalk and construction details <b>(Cond. III.6)</b></li> <li>• As-builts of completed infrastructure/utilities prior to building permit application <b>(Cond. IV.1)</b></li> </ul>	<p><b>General Condition 4 (p. 16) – Walls/Slopes in Northern Pod. [discussed above]</b></p> <p><b>General Condition 5 (pp. 16-17) -- Parking Layout for individual structures. [discussed above]</b></p> <p><b>Condition 26 (p. 23) – [requiring Board approval of “sign package”] [discussed above]</b></p> <p><b>Condition III.1 (p. 26) – [requiring Board’s approval of various “legal documents”] [discussed above]</b></p> <p><b>Condition III. 4 (p. 28)</b></p> <p><b>Submission of Architectural Drawings and construction details:</b> A copy of the complete set of detailed architectural drawings for proposed buildings pursuant to building design standards stated in this Approval shall be submitted to the Board for review and approval prior to making application for a building permit. Construction details and description of materials for all retaining walls shall be submitted to the Board for review and approval prior to submission of application for a building permit.</p> <p><b>Condition III. 5 (p. 28)</b></p> <p><b>Final plans for pump station:</b> The Applicant shall submit detailed engineering drawings and details for the proposed pump station for review and approval by the Board. The Board may require the information submitted to be reviewed by its Consultant for compliance with approved Plans.</p> <p><b>Condition III. 6 (p. 28) [discussed above]</b></p> <p><b>Final Roadway and construction details:</b> The Applicant shall submit detailed engineering drawings for roadway design, including cross-section details and other construction details, including but not limited to, sidewalk construction, pedestrian shoulder, retaining walls and slopes greater than 2: 1 slope, guard rails, ADA compliant handicap ramps, mounting details for street lighting fixtures, entrance boulevard, and tree planting. Roadway cross-sections including sidewalks and pedestrian shoulders shall be included along the two entrance roadways, along Summit Avenue and Rte 150, typical roadway loops and the emergency access from Beacon Street. Final details showing the grading of the full bio detention areas with planting list and quantities of each plant type for the bio-retention areas shall be submitted to the Board. The Board shall review and approve these details prior to start of any construction activity on site.</p> <p><b>Condition IV.1 (p. 29) – [requiring as-built and certifications of all infrastructure being completed, subject to Board review, prior to building permit application] [discussed above]</b></p>	<p><b>REQUIRE COMPLETE REDESIGN OF PROJECT and FURTHER REVIEW</b></p>

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<p><b>AFFORDABLE UNITS</b></p> <ul style="list-style-type: none"> <li>• <b>Gen’l Condition 11</b></li> <li>• <b>Condition V.4</b></li> </ul>	<p><b>General Condition 11 (p. 18)</b></p> <p>The Project is required to provide affordable units are per Section V.F. The Board did not receive any information on the allocation of affordable units in the Project. Pursuant to Section V.F of the Amesbury zoning Bylaw, the Applicant shall be required to satisfy the following conditions:</p> <p>a) The allocation of affordable units in individual structures shall be reviewed and approved by the monitoring agent. For the purposes of this project, Office of Community and Economic Development (OCED) in the City of Amesbury shall be the monitoring agent. OCED shall ensure that the units are distributed uniformly in the development and are not considerably different from the market rate units in total floor area, finishes, amenities and location within the individual buildings. At least one market rate unit shall always be provided in any residential structure in which an affordable unit is proposed. No more than two affordable units shall be allowed in any multi-family structure without the approval of the monitoring agent. The applicant may submit necessary documents, not limited to specifications, architectural drawings and floor plans for review by OCED and approval from the Board at any-time prior to issue of occupancy permit for any unit in the proposed development; and</p> <p>b) Prior to issue of occupancy permit for any unit, the documents for the affordable units, including the Affordable Unit Deed Restriction, Master Deed and the condominium association documents shall require review and approval, both, by the OCED and the Board. The above referenced documents as approved by the Board shall then be recorded at the Essex Registry of Deeds and two (2) copies of the recorded documents shall be provided to the Board. Any change to these recorded documents at any time would require approval from the board.</p> <p><b>Condition V.4 (p. 30)</b> – [Requiring recording of Affordable Unit Deed Restrictions as approved by the Board...].</p>	<ul style="list-style-type: none"> <li>• Board has no authority to impose affordable housing requirements</li> <li>• Property has benefit of zoning freeze – such that zoning ordinance in place prior to adoption of affordable housing requirements applies</li> <li>• Affordability Housing Regulations are also unlawful <ul style="list-style-type: none"> <li>○ Violate M.G.L. c. 40A, s. 9, because they require a mandatory extraction from the developer, instead of providing a voluntary incentive to provide affordable housing (e.g. density bonus). M.G.L. c. 40A, s. 9 provides that “Zoning ordinances or by-laws may also provide for special permits authorizing increases in the permissible density of population or intensity of a particular use in a proposed development; provided that the petitioner or applicant shall, as a condition for the grant of said permit, provide ... housing for persons of low or moderate income.”</li> <li>○ Unlawful extraction/taking without any compensation.</li> </ul> </li> </ul>

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<b>MISCELLANEOUS</b>		
<b>Inspections by 3<sup>rd</sup> Parties</b> <ul style="list-style-type: none"> <li>• <b>Gen'l Condition 6</b></li> </ul>	<p><b>General Condition 6 (p. 17)</b></p> <p><b>Inspections</b> - The Board shall require the inspection of the following: 1) roadway, stormwater and drainage infrastructure, utilities; 2) earth filling, site grading and stabilization; 3) landscaping and environmental mitigation; and 4) other improvements on the site as per Final Plans. This inspection shall be done to ensure that the work is carried out in accordance with the Final Plans and to ensure that all improvements are in compliance with the conditions stated in this Approval. The Board shall require the establishment of a construction observation account and the Applicant shall provide the funds necessary for inspection by the Board's consultant prior to start of any construction activity. To the extent feasible, the Board will coordinate with the Commission to retain the same consultant.</p>	<p>Unreasonably open-ended. Fails to identify inspection tasks and reasonable parameters.</p>
<b>Legal Documents</b> <ul style="list-style-type: none"> <li>• <b>Condition III.1</b></li> </ul>	<p><b>Condition III.1 (p. 26-27)</b></p> <p>No activity shall commence until the Board has issued final approval of all documents submitted for the Board's review:</p> <p>1. <b>Legal Documents:</b> The following documents shall be submitted for record or review and approval, as necessary: [Recorded Documents, Easements, Public Access Easements, Covenant]</p>	<p>Unlawful by requiring further Planning Board review.</p>
<b>Special Permit for Earth Filling</b> <ul style="list-style-type: none"> <li>• <b>Condition III.2</b></li> </ul>	<p><b>Condition III.2 (pp. 27-28)</b></p> <p><b>Final Special Permit Approval for Earth Filling:</b> The Applicant shall have received a special permit approval under Section XI.B of the Amesbury Zoning Bylaw to allow earth filling on the Project Site. The applicant shall submit to the Board a copy of the recorded Special Permit Decision.</p>	<p>Fafard disputes the legality of this “special permit” requirement given that the development is an “as-of-right” development, but is willing to apply for the earth filling special permit if other issues can be resolved.</p>