



Diane N. Tradd
Assistant City Manager/DPD Director

R. Eric Slagle
Director of Development Services

Shaun Shanahan
Building Commissioner

MEMORANDUM

TO: Kevin Murphy, City Manager
Diane Tradd, DPD Director

FROM: R. Eric Slagle, Director of Development Services

RE: MOTION BY MAYOR KENNEDY - REQ. CITY MGR. REPORT TO CITY COUNCIL REGARDING VOTES NECESSARY BY THE CONSERVATION COMMISSION REGARDING THE WETLANDS ADJACENT TO THE CAWLEY SITE AND THE NATIONAL HERITAGE ENDANGERED SPECIES AREA THAT IS ADJACENT TO THE CAWLEY SITE.

This memorandum addresses the request from Mayor Kennedy regarding the conservation commission jurisdiction over the Cawley site. Although the process is still in the early stages, and final plans have not been drafted, the initial proposals for a potential high school at the Cawley site indicate the following areas of jurisdiction. First, the wetlands on the north of the parcel would trigger a Notice of Intent (NOI) filing for any work to be done within 100 feet of a resource area, as defined by the Wetlands Protection Act and our local Wetlands Ordinance. Our Conservation Commission allows for a delineation of wetlands to be done concurrently with the NOI for the construction. Second, though the Conservation Commission does not have local jurisdiction over the endangered species area on the site, during the NOI filing, the Commission requires a letter of compliance for the state for endangered species issues.

The NOI process would require an abutter notice and a public hearing, at which time the Commission would need a majority vote to approve an Order of Conditions for the project. Please note, however, that there is an appeal process to the MassDEP should an aggrieved party not be satisfied with the local Commission decision, and the MassDEP would have superseding jurisdiction over Wetlands Protection Act issues.

ES

03/20/2017



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DIVISION OF
FISHERIES & WILDLIFE

1 Rabbit Hill Road, Westborough, MA 01581
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Jack Buckley, *Director*

April 4, 2017

Kevin Murphy
Lowell City Manager
375 Merrimack Street
2nd Floor, Room 43
Lowell MA 01852

RE: Existing Lowell High School- 50 Father Morissette Boulevard, 38 Kirk Street, 55 French Street

Dear Applicant:

Thank you for submitting a MESA Project Review Checklist and other information regarding your project to the Natural Heritage & Endangered Species Program of the Massachusetts Division of Fisheries & Wildlife (the "Division").

Based on a review of the information that was provided and the information that is currently contained in our database, the Division has determined that this project, as currently proposed, **does not occur within Estimated Habitat of Rare Wildlife or Priority Habitat** as indicated in the *Massachusetts Natural Heritage Atlas* (13th Edition). Therefore, the project is not required to be reviewed for compliance with the rare wildlife species section of the Massachusetts Wetlands Protection Act Regulations (310 CMR 10.37, 10.59 & 10.58(4)(b)) or the MA Endangered Species Act Regulations (321 CMR 10.18). Any additional work beyond that shown on the site plans may require a filing with the Division.

Please note that this determination addresses only the matter of **rare** wildlife habitat and does not pertain to other wildlife habitat issues that may be pertinent to the proposed project. If you have any questions regarding this letter please contact Daisy Medeiros, Endangered Species Review Assistant, at (508) 389-6357.

Sincerely,

Thomas W. French, Ph.D.
Assistant Director

cc: William R. Maher, PE, Nitsch Engineering

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Jack Buckley, *Director*

April 19, 2017

Kevin Murphy
City of Lowell
City Hall, 375 Merrimack Street
Lowell MA 01852

RE: Project Location: Clark Road/Douglas Road
Project Description: Construction of New High School
NHESP File No.: **17-36597**

Dear Applicant:

Thank you for submitting the MESA Project Review Checklist, site plans (dated March 19, 2017) and other required materials to the Natural Heritage and Endangered Species Program of the MA Division of Fisheries & Wildlife (the "Division") for review pursuant to the Massachusetts Endangered Species Act (MESA) (MGL c.131A) and its implementing regulations (321 CMR 10.00).

Based on a review of the information that was provided and the information that is currently contained in our database, the Division has determined that this project, as currently proposed, **will not result in a prohibited Take** of state-listed rare species. This determination is a final decision of the Division of Fisheries & Wildlife pursuant to 321 CMR 10.18. Any changes to the proposed project or any additional work beyond that shown on the site plans may require an additional filing with the Division pursuant to the MESA. This project may be subject to further review if no physical work is commenced within five years from the date of issuance of this determination, or if there is a change to the project.

Please note that this determination addresses only the matter of state-listed species and their habitats. If you have any questions regarding this letter please contact Daisy Medeiros, Endangered Species Review Assistant, at (508) 389-6357.

Sincerely,

A handwritten signature in black ink that reads "Thomas W. French".

Thomas W. French, Ph.D.
Assistant Director

cc: William Maher, Nitsch Engineering, Inc

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