



Waltham Land Trust, Inc.
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A non-profit organization dedicated to preserving our community's natural resources through open space advocacy, education, acquisition, and protection.

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**Protecting
Waltham's land
...forever.**

June 17, 2020

Via Email Only

Page Czepiga, Assistant Director
Massachusetts Environmental Policy Act Office
100 Cambridge Street, 9th Floor, Boston, MA 02114
page.czepiga@mass.gov

Re: Waltham High School EEA#16097 – DEIR Submission

Dear Assistant Director Czepiga:

In accordance with 301 CMR 11.08, the Waltham Land Trust (WLT) writes to submit the organization's comments to the Draft Environmental Impact Report (DEIR) concerning the plans for the Waltham High School dated May 15, 2020.¹ After carefully reviewing the DEIR, WLT is pleased to see that efforts have been made to further reduce the amount of land developed and the overall environmental impact of the project.

Specifically, WLT would like to acknowledge the following measures which it views as positive aspects of the new preferred alternative plans:

- Elimination of wetland alterations and alterations to the intermittent stream
- Reduced total acreage of altered land
- Reduced total number of parking spaces
- Reduced total impervious surfaces

WLT has generally supported the location of the High School at 554 Lexington Street throughout this process. This was in large part because the organization recognizes both the unique and urgent need for a new high school, and because it became clear as more information emerged over the past several years that this land was at high risk of being sold to a private developer – an outcome which could have had an even more detrimental environmental impact. WLT also supports the City's desire to repurpose the existing high school to meet other educational infrastructure needs so that further development of Waltham's open space can be prevented.

WLT continues to have concerns about the overall environmental impact of adding the six acres of the open space parcel, referred to as "Jericho II" in the DEIR, without further mitigating measures. When WLT last addressed this issue, it was in early March 2020 as the Waltham City Council was preparing to vote to

¹ Please note that the Waltham Land Trust Board includes a City Councillor, a member of the Waltham Historical Commission, and a member of the School Building Committee. These individuals recused themselves from the discussion and development of this response.

transfer the property to the School Department. This transfer was discussed with minimal notice to the community and largely in executive session.

Because City Solicitor Cervone has named WLT specifically in his April 27, 2020 Memorandum regarding whether Article 97 applies to the Jericho II parcel, we feel compelled to address that issue briefly here.

Both Article 97 of the Massachusetts Declaration of Rights and MGL c. 30 § 61 recognize that negative environmental impacts of development in a community also negatively impact the people who live there. This is especially true with regard to those members of the community who are marginalized or have the fewest resources and thus more acutely feel the effects of environmental damage, whether it comes in the form of losing access to safe public woodlands and green space and their attendant benefits, or bearing the brunt of the negative consequences of climate change.

For these reasons Massachusetts has chosen to give its residents rights, under the Commonwealth's Constitution, to the quality of life that clean water and open space provide. Accordingly, the law requires the use of all practicable means and measures to minimize damage to the environment in projects such as this one. Article 97's "no net loss" policy also requires that when one parcel of open space is developed it is replaced by protecting other land in the community of equal conservation value.

Reasonable minds can differ regarding the interpretation of *Smith v. City of Westfield*, 478 Mass. 49 (2017), and whether Article 97 protection applies to the Jericho II parcel. There are many reasons that WLT has suggested in good faith that this is the case – including, but not limited to, the City holding the property out as protected open space to the public, the public using it continuously for that purpose since its acquisition, and the inclusion of the parcel as protected open space in a whole host of City plans upon which it relies for many different purposes, including grant applications. Indeed, in the Project Narrative of the Environmental Notification Form (ENF) for the high school itself, section 2, page 1, SMMA states "[t]he building is proposed to be sited in the southwestern quadrant of the property, *adjacent to the Jericho Hill conservation land*, such that the footprint of development may be optimized, and open space preserved... (emphasis added)."

In light of the above, WLT was disheartened to see that the DEIR reflects no plans to permanently preserve six acres of open space of similar conservation value in exchange for the Jericho II parcel. WLT would encourage that MEPA require this step, in the spirit of Article 97's "no net loss" requirements. If development of the Jericho II parcel is truly essential to the high school moving forward, those mitigating measures are the right thing to do, even if there may be a difference of opinion as to what is strictly legally required. The law sets a floor but not a ceiling in this regard.

After careful consideration, however, WLT ultimately believes the appropriate manner to address the majority of its concerns is outside the MEPA review process. While we wholeheartedly reject Attorney Cervone's characterization of the organization's position – particularly as by his definition the majority of Waltham's open space is entirely vulnerable to development – WLT intends to make its case to the Waltham community directly, rather than in this forum.

There are many reasons WLT has reached this conclusion. To say we find ourselves in a different world now than we were at the beginning of March is at best a massive understatement. WLT recognizes that

our community is feeling exhausted, hurt, isolated, and divided. Yet another protracted disagreement about the land involved with this project, in addition to all the other serious issues Waltham currently faces, is simply not in our community's or WLT membership's overall best interests. WLT also recognizes that with state and local budgetary constraints expected to result from the pandemic the need to move this project forward has grown ever more urgent.

This is a time when unity must carry the day. We hope that all parties involved will likewise commit to finding a more harmonious way forward. This is not about choosing between supporting conservation or kids. WLT is working every day towards the same goal as the City and other proponents of this project: a better future for Waltham's children.

Sincerely,

A handwritten signature in blue ink, appearing to read "Anna Richardson". The signature is fluid and cursive, with the first name "Anna" and last name "Richardson" clearly distinguishable.

Anna Richardson, Clerk