

**CONSERVATION
COMMISSION**



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Town of Walpole
Commonwealth of Massachusetts

Date: February 14, 2020

Applicant responses in red below. April 30, 2020

To: Zoning Board of Appeals

From: Conservation Commission/

Landis Hershey, Conservation Agent

RE: Comprehensive Permit Application and Notice of Public hearing
Cedar Crossing and Cedar Edge (51-53-55 Summer Street)

The Conservation Commission reviewed and discussed the plans, **Proposed Multifamily Development 51-53-55 Summer Street, dated January 10, 2020** provided for comment with the Comprehensive Permit Application from the Zoning Board of Appeals. The following comments addresses the requested waiver of the Wetland Protection Bylaw and Regulations and some preliminary comments on the submitted plans. A full review of the plans will be conducted when the project is filed with the Conservation Commission.

It is recommended that the ZBA and the Conservation Commission work together with a peer review consultant to review the stormwater management system requirements and stormwater management report since jurisdiction is shared.

BACKGROUND

On 7/15/2019 an Abbreviated Notice of Resource Area Delineation (ANRAD) application DEP #315-1205 was submitted to the Conservation Commission for review of the wetland resource areas located at 55 Summer Street (map 52, lots 59 and 60). On 8/20/2019 the Conservation Commission issued an Order of Resource Area Delineation (ORAD) approving the wetland resource area as shown on the plan dated 8/14/2019. This locked the wetland resource area delineation in for three (3) years.

On 11/20/2019 a second ANRAD DEP #315-1215 was submitted to the Conservation Commission for review of the wetland resource areas located at 55 Summer Street rear (map 52, lots 78). On 1/15/2020 the Conservation Commission issued a second ORAD approving the wetland resource area as shown on the plan dated 12/10/2019.

The wetland resource areas reviewed and approved in the field include bordering vegetative wetlands (BVW), river and river front area, land subject to flooding, (3) three vernal pools, and the 25-foot no alteration area (jurisdictional with the Walpole Wetlands Protection Bylaw Only). The wetland resource areas were reviewed with the Applicant's wetland specialist from Oxbow Consultants flag by flag in the field with the Conservation Agent.

Conservation Commission comments to ZBA

MA Wetland Protection Act

The Applicant is required to file with the Conservation Commission under the MA Wetlands Protection Act and Regulations (310 CMR 10.00) for activity located within the 100-foot buffer zone of the BVW and activity within the 200-foot riverfront area. The Conservation Commission anticipates receiving a Notice of Intent (NOI) application under the Massachusetts Wetlands Protection Act and Regulations from the Applicant for this proposed project. Under this anticipated NOI filing the Conservation Commission will review all activity under the jurisdiction of the Wetlands Protection Act and Regulations which should include but are not limited to: stormwater management, activity proposed within the riverfront area, work proposed within 100-feet of BVW, and alteration to wetland resource areas associated with the proposed crossings.

Walpole Wetlands Protection Bylaw (revised 5-7-2018) and Regulations (revised 6-26-19)

In addition, to the state level of wetland resource protection under the MA Wetlands Protection Act and Regulations, the town adopted the Wetland Protection Bylaw (Bylaw) and Regulations (Ch. 561. Div. 2 of the General Bylaws) which includes both requirements of the MA Wetland Protection Act and requirements over and beyond that of the Wetland Protection Act and Regulations.

REQUEST FOR WAIVERS

The Applicant is seeking a waiver from the Wetland Protection Bylaw and Regulations, specifically the sections taking jurisdiction beyond the MA Wetlands Protection Act and Regulations, such as:

***Regulations section 1.4.1**-The Commission shall require the Applicant to maintain a twenty-five (25) foot wide contiguous, undisturbed vegetative buffer measured from, and parallel to, the wetland resource boundary, as a minimum.*

The no alteration area requirement is supported by the definition of Protected Resource Area **§561-9 of the Bylaw and section 1.2 of the Regulations:**

***§561-9: Definitions Protected Resource Area** - shall mean the following areas: any bank, freshwater wetland, marsh, bog, wet meadow, swamp, stream, river, pond, lake, vernal pool, or any land bordering thereon, or any land subject to flooding or inundation. Said resource areas shall be protected whether or not they border surface water. Bordering in this context shall mean either (a) 100 feet horizontally lateral from any of the foregoing areas; or (b) 100 feet horizontally lateral from the water elevation of the 100 year storm, whichever is the greater of (a) or (b); and (c) land within 200 feet of the mean annual high-water line of any year round river or stream.*

Regulations – section 1.2-Any bank, freshwater wetland, marsh, wet meadow, bog, swamp, stream, river, pond, lake, vernal pool (as defined by the Natural Heritage & Endangered Species Program), or any land bordering thereon, or any land subject to flooding or inundation. Bordering in this context shall mean either (a) 100-feet horizontally lateral from any of the foregoing areas; or (b) 100-feet lateral from the water elevation of the 100 year storm, whichever is the greater of (a) or (b); and (c) land within 200-feet of the mean annual high-water line of any year round river or stream. Further defined in Section 9 of the Bylaw.

RECOMMEND TO DENY WAIVER:

The Conservation Commission is in opposition to the ZBA waiving the Bylaw and Regulation requirement to include a 25-foot no alteration area as a minimum for the proposed project for the following reasons.

1. The project proposes to develop the majority of the buffer zone to the BVW and proposes to alter a considerable amount of river front area for the construction of basins. Maintaining a portion of the buffer zone as undeveloped for the reasons describe below is beneficial to the town's aesthetics, recreation and health benefits for water quality and the potential impacts of climate change.

The project has been revised to minimize the impacts to the buffer zone by avoiding development within the 25 ft local "no disturbance" area except for three (3) locations within the project, at wetland crossing #1, wetland crossing #2 and the area required for emergency vehicle access between the single family homes and the apartments where the road has been reduced to a minimum width of 20 feet as required by the fire department.

total buffer (s.f.)	total disturbance (s.f.)	disturbance percentage
257160	14987	5.8%

2. The no alteration area provides protection to the wetland resource areas for the interests of the Town as stated:

§561-1: Purpose -The purpose of this Bylaw is to protect wetlands, water resources, flood prone areas and adjoining land areas in this municipality by controlling activities deemed by the ("Commission") likely to have significant or cumulative effect upon wetland values, including but not limited to the following: public or private water supply, ground water, flood control, water pollution, erosion and sedimentation control, storm damage prevention, fisheries, shellfish, wildlife habitat, recreation, aesthetics, and agricultural values (collectively, the "wetland values protected by the Bylaw ").

The project proposes to meet the requirements of the Massachusetts Stormwater Management requirements by proposing treatment trains of Best Management Practices (BMP's) to recharge, treat and detain stormwater throughout the project to meet the standards to protect groundwater resources, pollution and protect against

storm damage. Erosion and sedimentation controls have been designed into the project to protect these areas during construction. Further interim erosion controls including temporary sedimentation basins, swales, dykes and check dams along with other interim measures will be included in the Stormwater Pollution Prevention Plan during the filing of NPDES to allow for interim staging and phasing of the project to ensure wetland protection.

Compliance with the performance standards of the Act is presumed to uphold the protected statutory interests protected under the Act.

3. **Section 1.3 of the Bylaw Regulations -Bordering Lands** explains the benefits of the no alteration area. Summery below:

The no alteration area provides a vegetative buffer to prevent incremental alteration of wetland resource areas from erosion, sedimentation, landscape maintenance practices, windblown trash and pollutants, and potential impacts of climate changes, and supports the protection of wildlife habitat, water quality, flood protection and ground water protection.

The no alteration area benefits the protection of the wetland resource areas by providing shade from forested buffer areas to modify temperature fluctuations, the vegetation traps pollutants, filters sediments, slows water velocity, the roots permit absorption of water into the groundwater, reduces potential flooding, and protects wildlife by maintaining a small portion of upland corridors for travel, edge habitat, and food and shelter.

The project has been revised to minimize the impacts to the buffer zone by avoiding development within the 25 ft local “no disturbance” area except for three (3) locations within the project, at wetland crossing #1, wetland crossing #2 and the area required for emergency vehicle access between the single family homes and the apartments where the road has been reduced to a minimum width of 20 feet as required by the fire department.

All of the area within the 25-foot buffer zone will be under the control of the Apartment owner or the future Homeowners Association and Condominium Association. These entities will be responsible for the onsite maintenance, mowing, etc.

total buffer (s.f.)	total disturbance (s.f.)	disturbance percentage
257160	14987	5.8%

4. **Buffer Zone Protection Documentation:** These benefits of protecting a portion of the upland adjacent to wetland resource areas is extensively included in the MACC (Massachusetts Association of Conservation Commissioners) *Buffer Zone Guidebook*, dated June 6, 2019.

No comment necessary.

5. **Proposed Plans:** The Applicant included the 25-foot no alteration area into the proposed design of the project so it appears that they are able to incorporate the requirement into their

design. It is the opinion that the requirement should remain so that the Conservation Commission may provide the ZBA with additional comments if the design changes.

The Applicant will continue to show the limit of the locally jurisdictional 25 foot no disturbance buffer zone.

6. **Vernal Pool protection:** The Conservation Commission in the past has imposed a 50-foot no alteration area around vernal pool habitat. The relationship between upland habitat and vernal pool habitat is important in that the species which inhabit the vernal pool in the spring to reproduce live in the upland area during other seasons.

There is no regulation in Walpole's wetland bylaw that imposes a 50-foot no alteration area around vernal pools. However, the Applicant has modified the plans by eliminating three (3) 4-unit buildings and designing and adding 2 six-unit buildings to make a good faith attempt to provide a 50 foot no disturbance buffer zone to the vernal pools. The amended plan has a 50 foot no disturb zone to the vernal pools except at a small area that is (38.2 +/-) feet at the closet and consists of a (1,570 +/- including grading) square foot area along Road C (originally Partridge Lane) nearest the clubhouse. The 1570 square feet of disturbed area equals 2.78% of the on-site non-regulatory 50ft vernal pool buffer.

PRELIMINARY PLAN REVIEW

The following is a preliminary review of the plans submitted to the ZBA entitled *Site Plan for Proposed Multifamily Development 51-53-55 Summer Street, Walpole, MA*. Howard Stern Hudson, dated and signed 1-10-2020 Katie Enright, Civil Engineer.

Erosion Control and Grading Notes:

1. It is strongly recommended that the Applicant revise the erosion controls to replace straw wattles and haybales with a clean compost sock or a micro-filter mitt sized to manufacture specification for the slope. It has been the experience of the Conservation Commission that straw wattles are inefficient methods of erosion control and are not permitted in Order of Conditions issued by the Commission. Haybales are no longer used as a method of erosion control unless used on paved surfaces around catch basins because they introduce invasive and nuisance vegetation into the wetlands environment.

Erosion controls and details have been updated per this request.

2. **It should be clear in the notes the limit of work and erosion control line shall be surveyed staked prior to any other work including cut and stump.** The survey stakes shall be placed at the down grade limit of the erosion control location, identified as limit of work on the stake, and securely left in place until removal of erosion controls is approved by the town authority.

This is acceptable as a condition of approval.

Conservation Commission comments to ZBA

3. The Commission's requirement for erosion controls include compost sock, silt fence and orange construction fence in areas where construction is 25 feet from the wetlands to prevent additional alteration.

The plans have been updated to provide this information.

4. It should be noted that sediments shall be removed when accumulated to 25% along the erosion controls.

This is acceptable as a condition of approval.

5. It is preferred that the location of the construction period sedimentation basins not be the same location as the permanent basins.

This is acceptable as a condition of approval.

6. The Applicant should submit a sheet entitled construction stormwater management which shows potential locations of temporary sediment basins, swales and other control method, construction entrance pad, stockpile areas, staging areas, fueling areas, clean out areas, construction parking and location of additional erosion controls and other components of the SWPPP requirements.

This detailed construction plan will be created at a later date with cooperation and coordination between the site contractor, engineer and Applicant. This can be provided to the Conservation Commission as a condition of approval.

7. Note 5 of grading should include: stormwater BMP's shall be surveyed and certified by a Certified Engineer prior to accepting post-construction run-off. No construction period runoff shall be directed to stormwater BMP's.

The stormwater BMP's will be reflected on an as built. An engineer will certify compliance with the approved design.

8. Sediment basins and erosion controls shall be cleaned when they reach 25 %.

This is acceptable as a condition of approval.

Plans:

9. The infiltration basins should be located on plans so that the entire basins can be observed and reviewed. Some of the sheets show partial basin and this is difficult to review.

Plan sheets have been developed so at least one sheet shows the entire basin for review.

10. Headwalls, inlet, outlets, riprap pads and all other components of the stormwater BMP's

should be shown on the drainage sheets.

These details have been added to the Grading and Drainage Plans.

11. The infiltration basins shall comply with the DEP Stormwater Structural BMP's- Volume 2/chapter 2 requirements including locating entire basin 50-feet from surface water (includes wetland). They should include a backup under drain. The plans should include specific details and cross sections for each basin and pretreatment proposed.

These details and requirements have been incorporated into the revised Site Plan set.

12. Wetland roadway crossing detail sheet shall be noted on grading sheets and details of crossing provided in set. This will be required by the Conservation Commission.

This detail has been provided in the revised Site Plan set.

13. Provide detail sheet of wetland road crossing required by the Conservation Commission.

This detail has been provided in the revised Site Plan set.

14. I could not determine how roof drainage is to be handled from the plan sheets. The Conservation Commission would like roof drainage to be infiltrated into the ground. Roof drainage system should be shown on the plans.

Roof drainage is infiltrated into the ground adjacent to each building. Excess water is piped into the nearest drainage structure. These details are shown on the revised Site Plan set.

15. The plan set will require a replication area and details of a replication area for the wetland alterations. This will be required by the Conservation Commission.

The replication areas, planting and grading details are shown on the revised Site Plan set.

The Conservation Commission reserves the ability for the Conservation Agent as well as any other potential peer reviewer to add to the attached comments upon receipt of the NOI or if revised plans are submitted by the Applicant.

