

January 9, 2023

Wayland Conservation Commission  
ATTN: Linda Hansen, Conservation Administrator  
Wayland Town Hall  
41 Cochituate Road  
Wayland, MA 01778

RE: **Cascade Residential Housing Development - Notice of Intent**  
**113-115 Boston Post Road, Wayland, MA**  
**DEP File No. 322-1000**

Dear Ms. Hansen,

Nover Environmental Consulting, LLC (NEC) has completed their initial review of the November 2022 Notice of Intent (NOI) submission for the Chapter 40B Residential Development referred to as Cascade Wayland (the Project). The Project is proposed on two separate parcels of land located at 113 and 115 Boston Post Road in Wayland, MA (the Site). NEC's role in the NOI hearing proceedings is to provide the Commission with technical and regulatory support related to project compliance with the applicable MA Wetland Protection Regulations' General Performance Standards (the Regulations). We also evaluated the NOI for completeness to determine whether the submission sufficiently described the site, the work, and the effects of the work on the interests identified in the MA Wetlands Protection Act, M.G.L. Chapter 131, Section 40 (the Act). We understand that BETA Group, Inc. (BETA) is providing the Commission with technical peer review with respect to stormwater management design compliance with 310 CMR 10.05(6)(k) as well as other necessary credible technical support required to determine if the project adheres to the definitions and standards set forth in the Regulations.

NEC has found that the information submitted by the Applicant in their NOI Application is insufficient to describe the site, the work, and the effect of the work on the interests identified in the MA Wetlands Protection Act, M.G.L. Chapter 131, Section 40 (the Act). Further, based on BETA's initial review, the Project's stormwater management design cannot be presumed to protect the interests of the Act.

The basis for the comments presented herein include a site meeting and review of the following:

- *Notice of Intent Application*, dated November 16, 2022; Prepared by LEC Environmental Consultants, Inc.
- Plan set: *Cascade Residential Housing Development, Boston Post Road, Wayland, Massachusetts, Middlesex County* by C1.0 Engineering, LLC; dated November 14, 2022; stamped and signed by William Doyle, MA P.E. No. 41510; 6 sheets.
- Stormwater Report: *"113-115 Boston Post Road, Wayland Massachusetts, Post Construction Stormwater Management Report"* prepared by C1.0 Engineering, LLC, dated November 14, 2022.
- *Riverfront Area Restoration Planting Plan, 113-115 Boston Post Road, Wayland, Massachusetts* prepared by LEC Environmental Consultants, Inc.; dated October 14, 2022.
- WETLANDS/AMESBURY DEP File #002-1015 Superseding Order of Conditions dated January 30, 2013.

## **General Site and Project Description**

According to the NOI, the Site is comprised of two assessor's lots totaling 6.483 acres parcel located on the southerly side of Route 20. The 113 Boston Post Road parcel (1.266 acres) is presently occupied by an existing vacant single-family dwelling, detached garage structure and presumably an abandoned septic system. The 115 Boston Post Road lot (5.217 acres) is the former Mahoney's Nursery commercial business. Vacant and dilapidated structures, gravel surfaces in various physical stages, and an abandoned septic system occupies the lot. Small areas of both lots extend across Pine Brook, a perennial stream and mapped Cold Water Fishery Resource. Areas Subject to Protection and Jurisdiction that exist on the Site include 200-foot Riverfront Area (RA), Bank, Land Under Water (LUW), Bordering Land Subject to Flooding (BLSF), Bordering Vegetated Wetlands (BVW) and 100-foot buffer zone. Vegetated areas on the Site are stabilized with both native and invasive species as described in the NOI.

According to the NOI, the project description includes the demolition of existing structures, driveways, parking lots, and impervious and gravel areas associated with an abandoned garden center and single-family dwelling, and construction of a 60-unit, 4-story affordable housing development (under M.G.L. Chapter 40B) with associated access drives, parking lots, stormwater BMPs, on-site wastewater treatment facility (that will not exceed 11,000 gallons per day<sup>1</sup>) and mitigation. As described in the NOI's General Project Description, portions of the Project are located within RA and BLSF associated with Pine Brook and within the 100-foot buffer zone to BVW. Accessory features to the Project described include site grading, a retaining wall, erosion controls, invasive species management, native revegetation, a meadow, and stormwater management.

The extent of Degraded RA boundary depicted on the NOI site plans was delineated in the field by LEC Environmental Consultants, Inc. (LEC) in August 2022. According to the NOI, LEC identified and delineated areas containing structures, impervious surfaces, gravel, and other land absent of topsoil to define the limit of Degraded RA.

## **Completeness Review - NOI**

NEC found that the information submitted by the Applicant in their NOI application is insufficient to describe the site, the work, and the effect of the work on the interests identified in the Act for several reasons. Under the Act and Regulations, the Commission must be provided with sufficient information to make this determination (310 CMR 10.05(6)(c)).

- CR1. The NOI site plans are only conceptual and don't provide a sufficient level of detail for a comprehensive review by the Commission. The Regulations specify that the information submitted by the Applicant with the NOI must be "sufficient to describe the site, the work or the effect of the work on the interests identified in M.G.L. c. 131, § 40 ....". Therefore, NEC believes that it would be appropriate for the Commission to cease further review of the Project until sufficient information is provided.
- CR2. NEC found it difficult to find the resource area boundaries on the existing and proposed conditions NOI site plans. It is also difficult to determine how the qualifications and quantifications of RA and BLSF impacts have been applied to the Site and Project. NEC recommends that subsequent site plans submitted to the Commission better and more clearly describe the site and the effects of the work on the resource areas.

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<sup>1</sup> Approval of Supplemental Hydrogeological Evaluation Report dated August 31, 2021; issued by the MA DEP.

While we realize that figures were provided in the NOI that does provide better detail, the NOI plans-of-record that are referenced in an Order of Conditions should reflect the work permitted (or not permitted) by the Order clearly for the Commission, developer, contractor, issuing authority, or person providing compliance monitoring of the Project.

- CR3. The submission of the sufficient detailed site plans should reflect design conditions set forth in the Comprehensive Permit issued on January 15, 2019, by the Wayland Zoning Board of Appeal that materially affect work Subject to Jurisdiction under the Regulations. The Applicant should provide a written statement if they believe that no Comprehensive Permit conditions will require future design changes that would affect jurisdictional work and current permitting.
- CR4. NEC understands that the Project has not received a Groundwater Discharge Permit from MADEP. Therefore, the Commission cannot presume that the on-site wastewater treatment facility will protect the interests of the Act. The Commission could require that the Groundwater Discharge Permit be obtained prior to issuance of an Order of Conditions approving the work.
- CR5. On August 31, 2021, the MADEP issued an *Approval of Supplemental Hydrogeological Evaluation Report*. The document references a report titled *Revised Hydrogeological Report: Groundwater Mounding Analysis for Proposed Subsurface Disposal System* prepared by Geosphere Environmental Management, Inc. dated February 3, 2021. It is NEC's understanding that this report and all supplemental plans and data collected from the Site to date will be submitted to the Commission for this NOI review. Based on our NEC's review of the MADEP approval document, it is unclear whether they were aware that Pine Brook was a CFR/Critical Area (per the DEP Stormwater Regulations and Standards).
- CR6. The existing conditions plan should be stamped by a MA Professional Land Surveyor (PLS). Pursuant to 310 CMR 10.05(4)(h), the Commission can require that supporting plans and calculations be prepared and stamped by a licensed and/or certified professional when in its judgement the complexity of the proposed work warrants the relevant expertise. Given that the NOI site plans depict conditions including 100-year floodplain elevations, horizontal setbacks from field established resource area boundaries, Degraded RA quantifications, etc., the plans need to be certified by a PLS for the Commission to be able to rely on them to describe the site and confirm Regulatory compliance.
- CR7. The NOI did not provide sufficient information in support of the Degraded RA boundary. During the Site meeting on January 4, 2023, BETA's MA Approved Soil Evaluator, Gary D. James, P.E. observed topsoil at varying thicknesses in shallow observation holes within areas delineated by LEC as Degraded RA. Based on the observation of well vegetated land containing topsoil, an presumably agreed upon boundary of Degraded RA was identified in the field that was generally located by BETA's GPS equipment. A revised existing conditions plan will be developed by the Applicant that depicts the regulatory Degraded RA as defined in the Regulations at 310 CMR 10.58(4).

In the WETLANDS/AMESBURY DEP File #002-1015 Superseding Order of Conditions dated January 30, 2013, the MADEP rendered the opinion that two issues needed to be examined. One, is whether the area is devoid of topsoil and therefore meets the definition of degraded within the meaning of the regulations; and two, under which regulatory performance standards for RA should the site be evaluated. Until the Applicant submits the revised Degraded RA boundary and applicable evaluation for compliance with the RA Regulations, the NOI does not contain sufficient information to describe

the effects of the work on the resource area or the appropriate regulatory standards for RA that should be applied.

- CR8. The Regulations under 310 CMR 10.58(5) state that, "Redevelopment means replacement, rehabilitation or expansion of existing structures, improvements of existing roads, or reuse of degraded or previously developed areas." It is not clear how the Limit of Redevelopment shown on the NOI site plans was established under the definitions found in the Regulations and at this time, NEC does not agree with the Applicant's interpretation. NEC recommends that the Applicant specifically address this comment.

### **Wetland Resource Area Boundaries and Performance Standards**

The boundaries to Bank, Mean Annual High Water (establishing the 100- and 200-foot RA) and BVW established in the field by others were confirmed by LEC. Based on NEC's observations during the January 4, 2022, Site meeting, the flagged boundaries of resource areas observed appeared adequate. We also understand that the resource area boundaries were peer reviewed during the Comprehensive Permit application process.

The following comments are related to compliance specific to areas Subject to Protection and Jurisdiction as defined in the Regulations.

- RA1. The NOI combines the total of RA, Degraded RA, non-Degraded RA and disturbance on both assessor's lots. According to 310 CMR 10.58(4)(d), to confirm that the Project will have no significant adverse impact on the RA's ability to protect the interests identified in the Act, each lot needs to be evaluated independently. Once the revised Degraded RA is depicted on the NOI site plans and agreed upon by the Commission, the Applicant will need to submit a revised evaluation of the work proposed in the RA for each lot under the applicable standards.
- RA2. The Regulations under 310 CMR 10.58(5) state that, "Redevelopment means replacement, rehabilitation or expansion of existing structures, improvements of existing roads, or reuse of degraded or previously developed areas." Therefore, to determine the extent of redevelopment per 310 CMR 10.58(5), the limit of Degraded RA needs to be re-established.
- RA3. NEC defers to BETA to confirm the BLSF boundary elevation established by the Applicant. It is our understanding that BETA will be recommending that the Applicant submit additional technical information in support of their BLSF boundary delineation. Once the BLSF boundary is confirmed by BETA and more detailed Project information is provided, NEC will be able to determine if the Project meets performance standards per 310 CMR 10.57(4).

### **Stormwater Standards**

BETA is providing the technical peer review of the stormwater management design along with other civil and hydrological elements of the Project Review that NEC will rely on for our analysis of regulatory compliance under Act and Regulations. It is NEC's understanding that BETA will be providing comments relative to the Project's compliance with the Stormwater Standards and that subsurface exploration to document the Estimated Seasonal High Groundwater Elevation in the location of the stormwater BMP (as required by the Standards) will be conducted.

- SW1. To presume the stormwater management system will protect the interests of the Act, it must comply with the Stormwater Regulations and Stormwater Standards (the Standards). Until BETA and the Commission are satisfied that the Project complies with the Standards, the Project cannot be presumed to protect the interests of the Act.
- SW2. The NOI WPA Form 3 correctly indicates that a portion of the site constitutes redevelopment. The DEP Stormwater Checklist incorrectly indicates that the Project is a Redevelopment Project. The Project is a Mix of New Development and Redevelopment. The New Development must fully comply with the Standards and the Redevelopment portion of the Project must meet the Standards to the Maximum Extent Practicable and must make improvements to existing conditions. A corrected Stormwater Checklist and Report should also be submitted to the Commission and BETA for review.

### **Review Summary**

Based on our review of the NOI, it is our opinion that the Applicant has not provided the Conservation Commission with sufficient information to describe the Site, the work, and the effect of the work on the interests identified in the Act. Therefore, we advise the Commission not to issue an Order of Conditions approving the Project until all the deficiencies of this NOI are satisfactorily address, the Project fully protects the interests of the Act, and all work complies with the performance standards of the Rivers Protection Act.

If you have any questions, please contact me at any time. Thank you.

Very truly yours,

**Nover Environmental Consulting, LLC**

A handwritten signature in black ink, appearing to read 'Marta J. Nover', with a stylized flourish at the end.

Marta J. Nover

cc: BETA Group, Inc.