



TOWN OF ARLINGTON

MASSACHUSETTS

CONSERVATION COMMISSION

December 18, 2020

Zoning Board of Appeals
Town of Arlington
730 Massachusetts Avenue
Arlington, MA 02474

**RE: Thorndike Place – Application for Comprehensive Permit
Fifth Set of Comments from Conservation Commission**

Dear Chairman Klein and Members of the Board:

The Arlington Conservation Commission (ACC) provides this fifth set of comments to the ZBA in advance of its December 22, 2020 hearing to consider the wetlands and stormwater components of the Thorndike Place Comprehensive Permit Application. The Conservation Commission is providing this comment letter to assist the ZBA as it moves forward with its review of the permit application, including under the Town of Arlington Wetlands Protection Bylaw (the Bylaw).

The Conservation Commission recommends that the ZBA not grant any waivers requested by the Applicant to the Bylaw and the Commission's Wetland Regulations promulgated under the Bylaw.

Presence of Isolated Vegetated Wetlands

The ZBA should assume that Isolated Vegetated Wetlands (IVW) are present on the site (in the Northeast corner), despite the Applicant not showing them on the latest plans. This is because BETA Group's review for evidence of potentially filled wetlands "did not look at soil profiles underlaying disturbed areas" as indicated in their "Site Peer Review #2" letter, dated November 20, 2020. That is, BETA Group relied on BSC's evaluation of hydrology and did not take its own soil samples to evaluate the potential for hydric soils as an indicator of IVW. The ZBA should note that the lack of wetland vegetation is not in-and-of-itself the defining factor for IVW, especially since this is a disturbed (e.g., by filling) site and since the vegetation observed by BSC were invasives, which are inconclusive for wetland delineation. Under Section 21 of the applicable Town Wetland Regulations, where an area has been disturbed, one looks for indicators of saturated or inundated conditions sufficient to support a predominance of wetland indicator plants, even if those wetlands plants are no longer present.

A preponderance of the evidence indicates that IVW are present, including: 1) IVWs were delineated and officially confirmed by the ACC in 2000 or 2001 (where BSC was the peer reviewer); 2) one of the two soil tests performed by BSC in 2020 indicate the presence of wetland soils; and 3) the 12/3/2020 memorandum from the Town Engineer strongly supports the continued presence of these IVWs.

While the Applicant's latest project redesign no longer has buildings in the IVWs, work will occur within the 100-foot Buffer Zone or Adjacent Upland Resource Area ("AURA"), so the Applicant must meet the Arlington Wetland Regulation's standards for work within the AURA (see below).

Work Proposed in AURA

As the ACC has pointed out before, Section 25 of the Arlington Wetland Regulations prohibits any work within the first 25 feet of the AURA (the No-Disturbance Zone), and work within the 25-100 foot portion of the AURA (the Restricted Zone) shall be avoided and alternatives pursued, with work allowed only if no reasonable alternatives are available.

When the Applicant proves that reasonable alternatives are not available or practicable, the Restricted Zone is evaluated as suitable for "no, temporary, limited, or permanent disturbance" based on the characteristics of the area (reference Section 25 of the Arlington Regulations for definitions).

If the ZBA decides to approve the project, the ACC asks the ZBA to include conditions that the area of IVW and their AURA be shown again on the plans (they were on the September 2020 plans), and that no disturbance be allowed within 50 feet, limited activity be allowed within the 50-75 feet, and mitigation be provided for any disturbances of the 50 -100 feet.

Vegetation Removal and Replacement

As you know, Section 24 of the Arlington Regulations for Wetlands Protection require that any vegetation removed or extensively pruned requires "in-kind replacement" in wetland resource areas including Bordering Land Subject to Flooding (the 100-year floodplain) and the AURA. This project proposes extensive vegetation removal in the AURA, including in the AURA of the IVW for the compensatory flood storage area.

"In-kind replacement" means "a combination of species type and surface area as defined by the area delineated by the drip line of the affected plant(s)."

"In-kind" means the same type and quantity of plant species that was removed, extensively pruned, or damaged. Only non-invasive plant species shall be planted as replacements.

Here, the Applicant has not provided the specific information required to demonstrate compliance with this Section of the Arlington Wetland Regulations. This includes the reasons for removal and a detailed planting plan showing the location, size, and species of vegetation to be removed as well as the proposed replacements.

While the Application provides a Planting Plan (Sheet L-100, March 13, 2020), it does not include sufficient information to evaluate whether the proposed replacement of the trees and other vegetation planned to be removed complies with Section 24 of the Regulations.

The ZBA should require now, or include as a condition of approval, that the Applicant show the species, numbers, locations and care instructions of all plants in the design. The Applicant needs to describe how these plantings will compensate for the numbers, density, species and variety of vegetation that will be removed for the Project.

Stormwater Management Plan

The Applicant needs to present a Stormwater Management Plan that is responsive to the concerns and comments raised in the Conservation Commission, the Engineering Division and BETA comment letters. This includes suitable documentation accurately establishing the seasonal high groundwater elevations (within the footprint of the chambers) to ensure that there is a two-foot separation between the bottom of the infiltration chamber and the water table. It is not sufficient to presume what the water table elevation is based on past borings of an undefined date or limited exploration. The Frimpter Method should be used.

Further, the stormwater management design and system must account for any discharge from the site building roof. The disposition of rooftop stormwater must be fully evaluated and presented, both from the standpoint of managing stormwater runoff as well as addressing the MA Wetlands Protection Act's recharge standards for stormwater management. Further, to the extent that one of the infiltration chambers must be relocated to outside the sewer easement, the new locations must be identified. If the proposed stormwater management system must be resized or relocated, this could have bearing on either the footprint of the proposed building area, or the encroachment on wetland resource areas or both given the constrained nature of the site.

Precipitation Data

The Commission understands that the Applicant has used the Cornell method to derive precipitation values for the analysis, consistent with Arlington's current wetland protection regulations. Since the Applicant has previously indicated its desire to address the community's environmental concerns, the Commission continues to respectfully request that the Applicant conduct an analysis using NOAA+ values. The MADEP indicates that NOAA+ precipitation values incorporates risk observed in the current data (storm data based on storms up to 2014) to reflect the range of larger observed storms. The Commission has required such analysis for another large town of Arlington development and such analysis was accordingly conducted. We are hopeful that the environmental impact assessment for this project will reflect the current state of knowledge. While use of NOAA+ plus data could increase the size of the required stormwater management features, we feel this level of protection is warranted in this area vulnerable to flooding.

Low Impact Development

Per MADEP's Stormwater Management design guidance, the Conservation Commission continues to advocate for low impact development techniques/alternatives that minimize land disturbance and impervious surfaces.

Conclusion

The Conservation Commission urges the ZBA not to grant any waivers requested by the Applicant from the Bylaw and the Town's wetlands bylaw and regulations as these provide flood control, storm damage prevention, and other interests of local concern.

We hope the ZBA finds the above comments helpful in providing clarity on missing information for Stormwater Management and providing direction on mitigation and conditions for protection of wetland resource areas including IVW, floodplain, and the AURA. Please contact us should you have questions. I and other ACC members plan on attending the ZBA's continued hearing on the Application on December 22, 2020.

Very truly yours,

Susan

Susan Chapnick, Chair
Arlington Conservation Commission