



July 02, 2021

Christian Klein, Zoning Board of Appeals

Town of Arlington
50 Pleasant Street
Arlington, MA 02476

**Re: 1165R Massachusetts Avenue - Arlington, MA
Comprehensive Permit Civil Special Conditions Recommendations**

Dear Mr. Klein:

As requested, BETA Group, Inc. (BETA) is providing Recommended Conditions for the Draft 1165R Massachusetts Avenue MGL Chapter 40B Comprehensive Permit. Where appropriate, we have taken recommendations from our latest Civil/Wetlands/Traffic Peer Review Comment Letters and incorporated them as recommended Permit Conditions. These Draft Findings and Recommended Conditions consolidate BETA's Recommended Draft Findings and Permit Conditions with those issued by the Arlington Conservation Commission (ACC) on June 25, 2021. Findings and Conditions proposed by the ACC are labeled following the condition with "(ACC)".

RECOMMENDED CIVIL/ SITE PLAN/ STORMWATER CONDITIONS

1. The Applicant shall submit a complete set of final plans reflecting the various changes in the design that have occurred during the review process. The plans should reflect changes to surface parking, proposed grading, stormwater systems, the stream channel cross section and other relevant site features.
2. The Applicant shall provide an Erosion and Sediment Control Plan as part of the final plan set indicating the type and location of proposed erosion controls. Additional erosion controls shall be shown around the relocated Ryder Brook channel.
3. The Applicant shall coordinate with the Arlington Public Works Department and local utility companies regarding all proposed site utility connections to confirm compliance with applicable construction standards.
4. The location of the existing utility pole within the right of way from Massachusetts Avenue has been noted as a safety concern by the Board and the public. The Applicant has indicated that the existing utility pole cannot be relocated due to various constraints. The Applicant has stated that they have worked with the utility owner and adjacent property owner but have not come to a feasible resolution. The Applicant should continue to work to resolve this issue including further exploration of relocating the pole further east but within the right of way. Prior to initiating construction, the Applicant shall provide the Board with a written summary of the coordination efforts between the Applicant and the utility owner regarding the relocation of the pole. If it is finally determined that the pole cannot not be relocated, the Applicant, prior to construction, shall provide the Board with a plan for mitigating safety and visibility issues related to the pole.

5. Prior to construction, the Applicant shall prepare a Construction Management Plan (CMP) for review and approval by the Board. The CMP will provide documentation of various construction related activities. The CMP should include:
 - Project Description and outline of primary construction tasks
 - Project Schedule including hours of operation, duration of primary construction tasks and estimated completion date.
 - Project logistics related to maintaining flow through the Site within Ryder Brook
 - Project logistics including staging areas, truck routes, laydown areas, contractor parking and traffic management.
 - Site Management including noise mitigation, dust control and security.
 - Public Safety and Coordination including contact information and site inspections.
 - Provide advance E-mail or website information regarding construction activities for public information.
6. Ryder Street shall not be used for construction deliveries between the hours of 7:30 AM to 8:30 AM and 3:00 PM to 4:00 PM on school days as provided in the letter from Krattenmaker, O'Conner & Ingber, PC to Christian Klein, Chairperson dated June 8, 2021.
7. The Applicant shall perform a preconstruction and post construction survey of adjacent properties on Ryder Street and the Massachusetts Avenue right of way including photographs and/or video.
8. The Applicant shall monitor vibrations in the vicinity of the properties adjacent to Ryder Street throughout the course of construction. The location of vibration monitors shall be coordinated with the Board or its designee.
9. The Applicant has submitted truck path diagrams to the Board showing turning paths for construction vehicles accessing the site. The diagrams were prepared by Bohler Engineering dated June 7, 2021. The truck paths shall be maintained free of stockpiles, stored equipment, debris and other construction materials to ensure adequate construction and emergency access.

Stormwater Management

1. To avoid adding excess nitrogen runoff, the Applicant shall only treat the planted areas within resource areas with slow-release nitrogen fertilizer. Application of this fertilizer cannot occur in the summer, or after storm events. Lawn fertilizer shall only be applied twice a year, in spring and fall. The application of plant nutrients shall otherwise comply with 330 CMR 31.00. No other herbicides or treatment methods are approved. No pesticides or rodenticides shall be used to treat pest management issues within Resource Areas. **These shall be continuing conditions in perpetuity that survives the expiration of this permit.** (ACC)
2. Pervious surfaces shown on the project plans shall be maintained as specified in the stormwater report and logs/reports shall be maintained by the Applicant. Pervious surfaces shown on the project plans shall not be replaced by impervious surfaces. **This shall be a continuing condition in perpetuity that survives the expiration of this permit.** (ACC)
3. No snow storage is permitted within the AURA or other Resource Areas. A snow storage plan shall be submitted to the ZBA prior to construction completion. If these areas are insufficient for storage during the snow season, snow shall be removed from the site. Sediments and debris

shall be removed from snow storage areas in the early spring. **This shall be a continuing condition in perpetuity that survives the expiration of this permit.** (ACC)

4. The Applicant shall protect all adjacent catch basins using silt socks during construction. (ACC)
5. The Applicant shall conduct catch basin sump cleanings at the end of the project work period. (ACC)
6. The Applicant shall submit copies of the SWPPP inspection reports to the ZBA within 10 days of the date of each report. (ACC)
7. The Applicant shall submit a revised final Stormwater Report including Operations and Maintenance Plan documenting the various changes in the design that have occurred during the review process.

RECOMMENDED TRAFFIC CONDITIONS

8. Site access will be provided via Ryder Street to the west, an existing right of way from Massachusetts Avenue to the south, and Quinn Road to the east. The Site will be signed directing vehicles to enter via the Massachusetts Avenue right of way or Quinn Road and exit via Ryder Street. Both the Ryder Street and Massachusetts Avenue /Quinn Road driveways will allow two-way travel for existing abutting uses.
9. The Applicant shall install all proposed traffic signs and pavement markings shown on the approved final plans. Signs and markings shall conform to the Manual on Uniform Traffic Control Devices (MUTCD), latest edition and other applicable state or local requirements.
10. The proposed site provides 128 parking spaces in a combination of structured garage spaces and surface parking spaces. No changes to the number, configuration or designation of parking spaces shown on the final approved plans shall be made unless approved by the Board through a modification process.
11. Turn restrictions shall be incorporated for vehicular traffic exiting the property at Ryder Street. These restrictions include prohibiting right turns onto Ryder Street except for bicycles. Parking restrictions for residents shall also be incorporated. To reinforce these restrictions, the Applicant shall:
 - a. Provide a transportation package to all residents which shall include turn restrictions at Ryder Street, access/egress restrictions, no resident or guest parking on Ryder Street.
 - b. Have the on-site property manager promptly address any reported infractions with the resident including providing written warnings.
 - c. Advise residents who have repeated infractions and warnings that their lease will not be renewed once it terminates.
12. Guest parking will be managed by the on-site property manager. Guest parkers shall be required to register their vehicles with the property manager in advance and shall be assigned a designated parking space.
13. Four (4) short term parking spaces shall be provided and maintained in the courtyard for taxis, rideshare vehicles, deliveries and visitors remaining for 1 hour or less.

RECOMMENDED RESOURCE AREA FINDINGS AND CONDITIONS

Recommended Findings

14. In the fall of 2020, the Applicant filed a Request for Determination of Applicability (RDA) to determine the Resource Area jurisdictions of the property under the Wetlands Protection Act. The Arlington Conservation Commission (ACC) issued a determination (October 24, 2020) that Ryder Brook is not jurisdictional as a stream under the MassDEP Wetlands Protection Act (WPA). However, the ACC distinguished that Ryder Brook is jurisdictional as an intermittent stream under the Arlington's Wetland Bylaw and implementing Regulations (ACC).
15. The Project Site contains several resource areas Subject to Protection under the Act, its Regulations, and the Bylaw:
 - Bank to Mill Brook (Perennial Stream)
 - Bank to Ryder Brook (Intermittent Stream – Jurisdictional under the Bylaw only)
 - Land Under Waterbodies - Mill Brook
 - Land Under Waterbodies - Ryder Brook (Bylaw only)
 - Bordering Land Subject to Flooding associated with Mill Brook.
 - 200-foot Riverfront Area to Mill Brook
 - 100-foot Adjacent Upland Resource Areas (AURA) associated with Mill Brook and Ryder Brook (Bylaw only)
 - 100-foot Buffer Zone to on-site Areas Subject to Protection under the Act and Bylaw (ACC).
13. Due to the location of Mill Brook and Ryder Brook, most of the jurisdictional Resource Areas within the site are the 100-ft Wetlands Buffer, the Adjacent Upland Resource Area (AURA), and the 200-ft Riverfront Area. The floodway and floodplain are generally confined to the channelized Mill Brook (ACC).
14. In addition to reviewing the jurisdiction of Ryder Brook through the RDA process, the ACC also determined that a significant portion of the site is exempt from the Riverfront Standards of the WPA and Bylaw due to the Historic Mill Complex Exemption (310 CMR, Section 10.58 (6) (k)). The limits of the Historic Mill Complex are delineated on the plan entitled "Pre-1946 Mill Complex Footprint Exhibit" prepared by Bohler Engineering, dated August 7, 2020, revised September 21, 2020 (ACC).
15. The Project will require an Order of Conditions from the Arlington Conservation Commission for work in areas Subject to Protection and Jurisdiction pursuant to the Massachusetts Wetlands Protection Act, M.G.L. Chapter 131, Section 40 (the Act) and its Regulations (310 CMR 10.00) (ACC).
16. In its current condition, the site contains a total of 4,135 square feet of pervious surface in the AURA (2,507 square feet in the 0-25 ft zone of the AURA and 1,628 square feet in the 25–75-foot zone of the AURA). The project as proposed would increase the amount of pervious surface by 7,315 square feet, from 4,135 square feet to 11,450 square feet. The proposed 0–25-foot zone would have 4,012 square feet of pervious surface and the 25–100-foot zone would have 7,438 square feet of pervious surface (ACC).

17. In its current condition, the site contains a total of 3,416 square feet of pervious surface in the 200-ft Riverfront Area. The project proposal would increase the amount of pervious surface by 5,342 square feet, from 3,416 square feet to 8,758 square feet (ACC).
18. The proposed plan for relocating Ryder Brook provides enhanced resource area functions to the site, including habitat value, pollution prevention, storm damage prevention, and flood control. The existing Ryder Brook is approximately 120 linear feet long, and the proposed relocated Ryder Brook is approximately 200 linear feet long. The existing Ryder Brook has approximately 250 linear feet of Bank and 816 square feet of Land Under Water. The proposed relocated Ryder Brook has approximately 363 linear feet of Bank and 1880 square feet of Land Under Water. Ryder Brook currently contains mostly non-native plants. The proposed planting plan for Ryder Brook contains all native plants and coir fascine for natural erosion control and bank stabilization (ACC).
19. ACC maintains that the project as proposed complies to Section 25D of the Arlington Regulations for Wetlands Protection because the plan proposes mitigation to increase the pervious area in the 0-25' AURA, which is considered an enhancement of the resource area (ACC).
20. ACC maintains that the project as proposed complies to Section 25C of the Arlington Regulations for Wetlands Protection because the Applicant submitted an Alternatives Analysis prepared by Bohler Engineering (ACC).
21. ACC maintains that the project as proposed complies to Section 4(b) of the Arlington Regulations for Wetlands Protection because of the vegetative mitigation and resource area improvements, including improvements to habitat value, pollution prevention, storm damage prevention, and flood control along the relocated Ryder Brook and Mill Brook (ACC).
22. The Applicant used NOAA 14+ data for the proposal's stormwater management calculations, which is consistent with current best practices to represent the expected precipitation (ACC).
23. The Project, as proposed, does not require any impacts to the FEMA Floodway or 100-Year FEMA Floodplain.
24. The Project, as proposed, complies to Section 25E of the Arlington Regulations for Wetlands Protection because the plan will result in a decrease in total impervious surface within the first 50 feet of the AURA, which is considered an enhancement of the resource area.
25. The Project, as proposed, complies to Section 25F (1 and 2) of the Arlington Regulations for Wetlands Protection because the Project results in a decrease in total impervious surface within the AURA and there will be an enhancement of the Resource Area values. In addition, the Project significantly decreases the total impervious area onsite, and plantings are proposed throughout the development.
26. The Notice of Intent filed under the Wetlands Protection Act (M.G.L. Chapter 131, Section 40) and its Regulations (310 CMR 10.00) shall also include a detailed evaluation addressing all requirements under the Application for Vegetation Removal in accordance with Section 24 – Vegetation, E (1) through E (7) of the Arlington Wetlands Protection Bylaw. This should include the elements described in the guidance provided in Section 24 E as follows:

- Narrative describing existing conditions, proposed plantings, list of existing and proposed species, size of existing species and proposed species, quantity plants before and after revegetation and the rational the removal and maintenance plan.
- Affirmation of the Revegetation Activities: All plans must be accompanied by written testimony and scale diagram from a certified arborist or wetland scientist or landscape architect. The document must include at a minimum the necessity of vegetation removal, surface area to be removed, quantity of individual plants by species.
- Planting Plan: Drawn to scale, properly identified resource area and buffer zone and the project site, location of replacement species, comply with (AAN), erosion controls, estimated tree canopies after 15 years of growth, name, sizes and locations of trees to be planted, and total area of SF of the area shaded by the canopies.
- Existing species list
- Replacement species list
- Rational for Removal
- Maintenance Plan

Pre-Construction

27. Erosion control measures shall be installed per the approved plans (ACC).

During Construction

28. Stockpiled materials in the AURA or other Resource Areas shall be covered or managed to prevent sedimentation into and damage to Mill Brook and the relocated Ryder Brook (ACC).
29. No dumpsters shall be allowed within the AURA or other Resource Areas (ACC).
30. No heavy equipment may be stored overnight within the AURA or other Resource Areas and no refueling, or maintenance of machinery shall be allowed within the AURA or other Resource Areas (ACC).
31. Any dirt or debris spilled or tracked onto any paved streets shall be swept up and removed daily (ACC).
32. Any water discharged as part of any dewatering operation shall be passed through filters, on-site settling basins, settling tank trucks, or other devices to ensure that no observable sediments or pollutants are carried into any Resource Area, street, drain, or adjacent property. Any catch basins, drains, and outfalls to be used in dewatering operations shall be cleaned out before operations begin (ACC).

Professional Monitoring

33. Prior to commencement of construction, the Applicant must hire a qualified environmental monitor with professional credentials to be selected by the ZBA and to be on-site throughout the duration of the project. This period shall begin when siltation controls are installed and shall end with issuance of a Certificate of Compliance. The monitor shall submit an electronic report to the ZBA weekly regarding construction progress, relation to resource areas, and shall state whether such work is in their professional opinion in compliance with the comprehensive permit. During the duration of the project, the qualified environmental monitor shall also submit an electronic report after every rain event exceeding 0.5 inches of rain in a 24-hour period to the ZBA regarding the condition of the site during and after the rain event, as well as

the status of erosion controls and any additional measures to address stormwater management issues caused by said rain event. The ZBA reserves the right to change the frequency of inspections based on contractor performance, weather, or site conditions. All materials required to be submitted to the ZBA shall also be submitted to the Environmental Monitor (ACC).

34. The Applicant must hire a professional engineer to oversee the installation of the stormwater management system. A stormwater mitigation report must be submitted to the ZBA within 10 days of the completion of the stormwater management system. The stormwater report shall include as-built plans, photographs from installation, and a written summary of the installation of the stormwater management system and stormwater best management practices (e.g., porous pavement and other stormwater features, as applicable) (ACC).
35. The Applicant shall submit the contact information of the party responsible for monitoring and maintaining the planted vegetation within stream relocation areas to the ZBA. Should any changes be made to this party, the ZBA shall be notified. **This shall be a continuing condition in perpetuity that survives the expiration of this permit.**

Recommended Plantings and Landscape Plan

36. The Applicant shall submit for review and approval by the ZBA an invasive management plan for work in the AURA and other Resource Areas outlining all locations for invasive management, the species and quantities of invasive plants to be managed, and the method of management. (ACC).
37. All mitigation plantings and all plantings within resource areas shall be native and be installed and maintained according to the standards of the American Association of Nurserymen (AAN). No cultivars of native plantings shall be allowed. **This shall be a continuing condition in perpetuity that survives the expiration of this permit** (ACC).
38. All plantings planted and invasive species removed through this project in Resource Areas or as mitigation shall be monitored for three years. A monitoring report shall be submitted annually in June for the three-year monitoring period, reporting on the health of the new plantings and the success of the invasive plant management. The annual report shall identify any plantings that did not survive and summarize the replacement of the plantings. A survival rate of 80% must be achieved at the end of the third monitoring year. If there is less than an 80% survival rate of the plantings after the third year, the Applicant must submit recommendations for replacements to the ZBA for approval (ACC).
39. The Applicant shall protect all area trees per the Town Wetlands Protection Regulations, Section 24 Vegetation Removal and Replacement, protecting trees through securing (not nailing) 2x4 boards, between 6-8 feet in length, around tree base. The boards shall be installed vertically such that one end is installed directly into the ground. Alternative protection measures must be approved by the ZBA (ACC).

Relocated Ryder Brook

40. The Land Under the relocated Brook (Land Under Water Bodies) shall be protected in perpetuity. **This shall be a continuing condition in perpetuity that survives the expiration of this permit** (ACC).
41. The Bank of the relocated Brook shall be protected in perpetuity. **This shall be a continuing condition in perpetuity that survives the expiration of this permit** (ACC).

42. Work associated with re-routing the Ryder Brook channel shall be completed during Phase 1 of the Construction Phasing Plan to ensure flow through the Site will be uninterrupted during construction. Within Phase 1, the following work associated with re-routing shall be completed:
- Grading the proposed Ryder Brook channel.
 - Stabilizing the Ryder Brook substrate with the approved stone/substrate material
 - Stabilizing the Banks and adjacent areas with seed.
43. River stone and broken stone to be used as the substrate for Ryder Brook shall consist of washed material and shall be free from overburden, spoil, shale and organic material to protect water quality.
44. Erosion controls shall be installed upgradient the Banks of the relocated Ryder Brook once the channel has been graded and stabilized.

Mitigation

45. All mitigation as proposed as part of this project shall remain in perpetuity. The approved planting areas, invasive removal areas, the water quality units, and the stormwater system shall remain in perpetuity and if replacement is necessary, shall be subject to the approval of the Commission. **This shall be a continuing condition in perpetuity that survives the expiration of this permit (ACC).**

If you have questions about any of these conditions or findings, please feel free to contact us.

Very truly yours,

BETA Group, Inc.



Laura Krause
Senior Environmental Scientist



William McGrath, P.E.
Senior Associate

cc: Paul Haverty, Attorney
Patrick Hanlon, Vice Chair
Jennifer Raitt, Director of Planning and Community Development