



TOWN OF ARLINGTON

MASSACHUSETTS

CONSERVATION COMMISSION

July 23, 2021

Zoning Board of Appeals
 Town of Arlington
 730 Massachusetts Avenue
 Arlington, MA 02476

**RE: 1165R Mass Ave – Application for Comprehensive Permit
 Fifth Set of Comments - Response to Updated Waiver Request List**

Dear Chairman Klein and Members of the Board:

The Arlington Conservation Commission (ACC) provides this fifth set of comments to the ZBA to consider the wetlands and stormwater components of the 1165R Mass Ave 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) and local Wetlands Regulations, specifically in consideration of the Applicant’s Waiver Requests. The ACC submitted a previous comment letter specifically about waiver requests, dated June 8, 2021. This letter addresses updated Waiver Requests as received from the Applicant on July 22, 2021.

LIST OF WAIVERS

<i>Bylaw Regulation</i>	<i>Requirement</i>	<i>Proposed</i>	<i>Waiver</i>	<i>ACC Comment</i>
Wetlands Regulations, §20C	Restriction on work on banks of Ryder Brook.	Work proposed on Ryder Brook.	Waiver requested.	ACC agrees with waiver, as long as a deed restriction is recorded for the property to protect the Bank of the relocated Ryder Brook.
Wetlands Regulations, §22	Performance regulations for land under water bodies and restrictions on work on land under water bodies and within 25’ of such land.	Work proposed within Ryder Brook.	Waiver requested.	ACC agrees with waiver, as long as a deed restriction is recorded for the property to protect the Land Under the relocated Ryder Brook.

Bylaw Regulation	Requirement	Proposed	Waiver	ACC Comment
Wetlands Regulations, §24	Restrictions on vegetation removal.	Some vegetation will be removed along the bank of Ryder Brook.	Waiver requested.	ACC recommends that Applicant withdraw this waiver. The project as proposed is in compliance with Section 24 because of the removal of invasives and the planting of native vegetation / enhancement of the resource area, elsewhere on the property. These 2 reasons meet Section 24.D.3 and 24.D.5, both of which allow the Commission to give approval for removal and replacement.
Wetlands Regulations, §25	No new buildings within the first 50' of the Adjacent Upland Resource Area unless approved in evaluating the existing total impervious surface on site.	New buildings are proposed within the first 50' of the Adjacent Upland Resource Area.	Waiver requested.	ACC recommends that this waiver be withdrawn because the project as proposed is in compliance with Section 25E (as well as 25C and 25D) because of the project's improvement to the resource area.
Wetlands Bylaw Title V, Article 8, §16 and Wetlands Regulations, §11	The Conservation Commission approved reducing the Bylaw permitting fee by 20%.	Permitting and Consulting Fee.	Waiver requested of 50% of these fees.	ACC approves a 20% reduction in fees. Applicant estimated fees to total \$15,000; therefore, 20% reduction would lower fees to \$12,000.
Wetlands Bylaw Title V, Article 8, §§10 and 11	Bond requirements.	Applicant does not propose to post any security.	Waiver requested.	ACC does not agree with this waiver. Given the proximity of the project to the onsite Resource Areas and the potential for the project to impact resource area values if proposed mitigation is not implemented as planned, the ACC agrees with BETA's recommendation to retain the right to require a performance bond, primarily related to the stream relocation portion of the Project.

We hope the ZBA finds the above recommendations helpful in our common goal to protect the Wetland Resource Areas on this site while acknowledging the current site conditions. Please contact us should you have questions.

Very truly yours,

Susan

Susan Chapnick, Chair
Arlington Conservation Commission