



January 17, 2018

VIA EMAIL

Mr. Andrew Port, Director
Office of Planning and Development
60 Pleasant Street
P.O. Box 550
Newburyport, MA 01950

Re: Planning Board Peer Review Letter #3,
Proposed Evergreen Commons/Port Place, 18 Boyd Drive, Newburyport, MA

Dear Mr. Port:

The Horsley Witten Group, Inc. (HW) is pleased to provide the Newburyport Planning Board (PB) with this letter presenting our response to materials submitted by the Applicant in response to our prior peer review letters (HW letters dated November 8, 2017; and December 11, 2017). A list of materials received since our December 11 letter is provided below. Our team reviewed these materials to evaluate whether they addressed our December 11, 2017 comment letter and the discussion at the December 20, 2017 PB hearing. This third comment letter presents only those items that remain to be addressed. We note that the Conservation Commission approved an Order of Conditions for this project on January 9, 2018.

A. DOCUMENTS RECEIVED FOR REVIEW

The following is a list of relevant documents received for review since our December 11, 2017 letter:

- Stormwater Management Operation and Maintenance Plan (revised with figure), Port Place (no date) (rec'd 1/5/18 and revised 1/9/18 and 1/12/18)
- Stormwater Management Operation and Maintenance Plan, Construction Phase, Port Place (no date) (rec'd 1/5/18 and revised 1/12/18)
- Signage and Monument Plan (SMP-1) for 18 Boyd Drive Subdivision (Jan 9, 2018) (rec'd 1/5/18)
- Mitigation Document (rec'd 1/2/18)
- Conservation Restriction (state format) – clean and redline (rec'd 12/28/17)
- Declaration of Conservation Restriction (rec'd 1/12/18)
- Homeowners Association (HOA) Declaration of Trust (rec'd 12/28/17 and revised 1/10/18 and 1/12/18)

- Phasing Plan (rec'd 12/28/17 and revised 1/5/18 and 1/9/18)
- Draft Findings and Conditions for the Planning Board (2 decisions) (rec'd 12/28/17)
- HEC Response to Letter 3 (rec'd 12/19/17)
- Updated narrative (rec'd 12/19/17)
- Open Space Land Use Plan (rec'd 12/19/17)
- Typical Sections Details and Notes C15 (rec'd 12/19/17)
- C-4 Grading Sheet (rec'd 12/19/17)
- Overall Landscape Plan (rec'd 12/19/17)
- Complete revised Notice of Intent (rec'd 1/9/18)

B. COMMENTS

The only documents of specific relevance to the PB that had previously not been sufficiently revised to address our comments are the Homeowners Association (HOA) Declaration of Trust and the Draft Findings and Conditions for the Planning Board. Our comments on those documents of relevance to the PB are as follows, organized by the document reviewed:

Homeowners Association Declaration of Trust:

All prior comments have been addressed. To address specific comments from the last PB hearing, the HOA Declaration has been updated to:

- Separate the general, City-wide Zone 2 restrictions from the development-specific restrictions;
- Provide a plan for locating and restrict movement or damage to open space and conservation area boundary markers;
- Restrict pesticide applications in the wetlands and open space areas;
- Further clarify the responsibilities of the single landscaper and their annual reporting requirements;
- Further clarify the responsibilities of the HOA for the submittal of an annual snow and ice maintenance program;
- Restrict homeowner use of fertilizers or pesticides above and beyond the use by the approved landscaping contractor following the approved landscaping plan; and
- Add guidance protocol as to how pool water can be drained in a manner protective of water quality. We offer minor suggested changes to the pool language in italics below (shown in red for additions and strikethrough for deletions).

8.2.13 Discharge of swimming pool water without neutralization in quantities larger than those associated with normal filter backwash cycles. Neutralization shall consist of holding water in the pool for one week prior to discharge without addition of ~~chlorine or bromide to allow chlorine or bromide~~ chemical treatments to allow chlorine, bromine and other chemicals to dissipate and pH to neutralize. Water shall be tested prior to discharge and demonstrated to have <0.1 ppm of free chlorine and a pH between 6.0 and 8.0. Pool water in excess of the minimal quantity required for filter backwash shall only be drained for winterization (also only minimal amount necessary), maintenance that requires drainage, or pool removal. Neutralized water shall be discharged over natural, vegetated surfaces on one's own lot in a manner that does not cause erosion or otherwise impact neighboring properties, common areas, or wetlands.

Draft Findings and Conditions for the Planning Board:

This document lists findings and conditions separately for both Water Resources Protection District (WRPD) Special Permit and the Subdivision approval. This is HW's first review of these two documents. We offer the following comments:

- We suggest that the PB consider removing or modifying the conditions for revisions that have already been made in other documents or are covered in other documents. This will avoid the potential confusion of having the same item addressed differently in different documents. Examples of conditions that the PB may consider removing or modifying from the Draft Findings and Conditions include:
 - Item 4 under the WRPD conditions and Item 12 under the Subdivision conditions for Conservation Commission Approval.
 - Item 6 under the WRPD conditions and Item 19 under the Subdivision conditions for HOA documents.
- Item 20 under the Subdivision conditions for Conservation Restriction (CR) currently lists two options for securing the CR. This should be updated to address the approach selected by the Planning Board in its approval
- In order to be consistent with the CC approval, we suggest that the PB add or include by reference the conditions from the CC approval regarding construction and maintenance of the approved wetland areas and follow-up monitoring. Those CC approval conditions are listed in Section C below.

C. RECOMMENDED CONDITIONS OF APPROVAL FROM CC APPROVAL

The following conditions are recommended for inclusion in approvals by both the Conservation Commission (Order of Conditions) and the Planning Board (Definitive Subdivision Approval and Water Resource Protection District Special Permit). These conditions were approved by the Conservation Commission as part of the Order of Conditions approved on January 9, 2018. These reflect initial recommendations by HW in our December 11, 2017 peer review letter, suggested responses by the Applicant's team, and discussion at the December 19, 2017 Conservation Commission hearing.

- To the extent practicable, initial alterations within the existing IVW should occur outside of the growing season/active wildlife season and work outside of the winter months (non-growing season) should be limited. If work must begin outside of winter months, disturbance should be phased in order to allow small mammals time to relocate.
- Work within the resource areas shall be conducted as early in the construction process as feasible, such that the resource areas and the functions they provide (specifically flood control and storm damage prevention) will be reestablished with minimal delay.
- No work, including site preparation and land disturbance, may commence unless and until a construction period pollution prevention and erosion and sedimentation control plan that meets the requirements of Standard 8 as further elaborated by the Massachusetts Stormwater Handbook has been approved by the Conservation Commission. This plan may be the same as or include the Stormwater Pollution Prevention Plan (SWPPP) required by the EPA for coverage under the NPDES Construction General Permit. This plan must be submitted to the Conservation Commission or its Administrator for review at least 14 days prior to any planned land disturbance and must be approved in writing by the Conservation Commission or its Administrator prior to land disturbance.
- The Applicant shall include BMPs for stabilizing slopes 3:1 or steeper in the construction period pollution prevention and erosion and sedimentation control plan. This shall include both short and long term stabilization for areas not being actively worked for two weeks or longer. Any stabilizing measures in the plan shall not be susceptible to washing into the resource area. When rough grade will not be worked for longer than 30 days during the growing season, stabilization shall include seeding with a temporary seed mix. When finish grade is achieved, these areas shall be planted and/or seeded as soon as possible within the growing season.
- The Applicant shall continue to monitor groundwater levels within wells 3 and 6 on a monthly or more frequent basis and adjust the proposed elevations within the reconstructed IVW accordingly to ensure that the area supports sufficient hydrology during the growing season resulting in a functional wetland habitat.
- The Applicant shall provide for oversight by a wetland scientist or other qualified individual during all phases of the construction to monitor the IVW and ILSF to ensure that site-specific adjustments can be made that will further ensure the successful restoration/recreation of these resource areas.
- The Applicant shall monitor the recreated IVW for a period of two full growing seasons and submit a monitoring report to the Conservation Commission at the end of each growing season. Any individual dead or dying plants (containerized plants) should be replaced during the two monitoring period. Dead or dying tubelings and seed mix areas should be replaced on a coverage basis rather than based on performance of individual plants. Applicant/owner must demonstrate success based on the general BVW performance standards within the two years of reporting, or additional restoration and continued reporting is required to ensure success.

- The IVW shall support 75% or greater cover of native wetland vegetation after two full growing seasons. In order to establish the extent of a full growing season, the cutoff date for completion of construction will be June 30. The Applicant shall perform remedial actions during each growing season to ensure a native wetland plant community becomes established. If this has not occurred by the end of two growing seasons, the monitoring period shall be extended to ensure two full years of monitoring after remedial work has occurred.
- The Applicant shall install permanent signage in conformance with the Signage and Monument Plan (dated January 9, 2018, included in the Notice of Intent) in order to alert residents and users of the sensitive nature of the area. Signage shall be placed in strategic locations such that it is clearly visible. The signage should include language indicating that the area is environmentally sensitive and that no new disturbance or dumping of debris or yard waste is allowed within this area. The Applicant shall submit sample signage along with a plan of sign locations to the Conservation Commission and/or its Agent for approval prior to installation. The Homeowners Association shall circulate guidelines to the Association members indicating the same regarding the no disturbance buffer and the resource areas and that the signage may not be removed.
- The Applicant shall install educational signage within the Open Space area in conformance with the Signage and Monument Plan (dated January 9, 2018, included in the Notice of Intent), the content and design of which shall be approved by the Conservation Commission and/or its Agent prior to installation.
- The maintenance and management of the Conservation Restriction shall be a part of the Order of Conditions in perpetuity and shall be carried with the property deed. Once the Conservation Restriction is legally established, the Applicant and/or the Homeowners Association shall submit a report at the end of the season (no later than December 15th of each year) documenting a qualified third party inspection of the CR and summarizing the maintenance steps taken within the Open Space area. The Conservation Agent shall be notified in advance of the inspection each year.
- The Applicant shall provide for oversight by a wetland scientist or other qualified individual during the construction of the stormwater overflow feature of the constructed wetland to ensure that the channel is lined with cobbles and that veins and J hooks are created to provide varied flow characteristics, as noted on the plans, to provide additional habitat and to allow for site-specific adjustments that will further ensure the successful restoration/recreation of these resource areas.
- The Applicant shall provide a signed Illicit Discharge Compliance Statement prior to any earth disturbance.

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Thank you for the opportunity to assist the Planning Board and the Conservation Commission in reviewing this significant project. Please feel free to reach out to me at nprice@horsleywitten.com or 508-833-6600 with any questions regarding these comments. As we discussed, I do not plan to attend the PB meeting on January 17, 2018 (this evening).

Sincerely,

Horsley Witten Group, Inc.

A handwritten signature in dark ink, appearing to read "Neal M. Price". The signature is fluid and cursive, with the first name "Neal" being the most prominent.

Neal M. Price
Senior Hydrogeologist

cc: Ms. Julia Godtfredsen, Conservation Administrator
(for the Conservation Commission)
Atty. Lisa Mead, Mead, Talerman and Costa, LLC