



Town of Sudbury

CONSERVATION

Wetlands • Conservation Land Management • Land Protection • Stormwater

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To: Zoning Board of Appeals
From: Debbie Dineen, Conservation Coordinator *D. Dineen*
Date: Feb. 1, 2017
Re: Coolidge II Additional Comments

The Conservation Commission is unable to have representation at your hearing on Feb. 6, 2017. We have a full, busy agenda scheduled for that evening. Therefore, I am providing the ZBA with additional items of concern based on my review of the additional materials received since my last memo. The Conservation Commission has not reviewed these additional materials, as they were not received in time to be placed on an agenda. These include:

- Revised plans with original date of June 29, 2016 and revision date of January 17, 2016. We note that the revision date on the plans is an error and is likely to be January 17, 2017. The applicant should correct this.
- January 26, 2017 Horsley Witten comments from 2nd peer review
- January 26, 2017 letter from Susan Gittelman, B'nai B'rith Housing (BBH) to ZBA in response to the Conservation Commission's original comment memo
- January 24, 2017 letter from Paul Bouton, with Nixon Peabody law firm addressing the financial considerations associated with the subdivision of the parcel.

The Commission has worked on numerous "friendly" 40b projects where these details were forthcoming at early design and the applicant worked with the ConCom throughout to allow a smooth wetland permitting process once the project was approved by ZBA. With the Coolidge Phase II project there appear to be some serious flaws that will impact wetland permitting based on our current knowledge of the design. Also in this case, it appears the applicant is using an approach that sets a tone that is not conducive to cooperative discussion and issue resolution. Additional information and open dialogue is always welcome, however there has been a disappointing lack of information and contact from the applicant on this project.

The Commission requested at the site inspection on June 23, 2017, and at the wetland filing review for the soil borings on Sept. 26, 2016, that the applicant keep the Commission in the loop on the progress and meet with them as necessary. The Commission had not been contacted by the applicant until the Commission initiated another request for a meeting in December. The Commission has initiated all contact with this applicant.

According to the Jan. 26, 2017 Horsley Witten review, the applicant has not addressed all of the issues raised by the ZBA peer reviewer and in fact, as more information is slowly forthcoming, more issues have come to light. The applicant has stated that more details are to be provided in the wetland Notice of Intent. Much of the information that will be contained in the wetland filing is information that also pertains directly to the ZBA permitting scope as stated by HW as the ZBA peer reviewer.

The Jan. 24th legal response concerning the land subdivision and the septic system concerns addresses only one aspect of the subdivision. It does not address how the subdivision of land meets Title V. We

understand that DEP Counsel is reviewing this situation. As a practical matter, the applicant is seeking approval for the discharge of over 13,000 gallons of sewage per day for both phases.. As proposed, this sewage will not be further treated to address pollutant removal. The sewage will be discharged into the ground with minimal treatment, without a mounding analysis, and into an area directly upgradient from a wetland. The primary system proposed is an innovative alternative system (I/A). It is 70' x 79' Presby system consisting of a 19,000 gal septic tank and a 10,000 gal pump chamber. Both Presby and Conventional System are shown although the conventional system appears to represent only the reserve area. It must be fully demonstrated that a primary conventional system can be placed on the site before this I/A system can be permitted. Without submitting any details of the system, the applicant has not demonstrated that the project is permissible based on the land area available for the soil absorption area.

Revised plans show a new unexcavated area at the front of the build that is necessary to achieve setback for septic to cellar/parking garage. Did this impact the number of parking spaces? The January 17, 2016 (2017) plan is the first plan to show this area as unexcavated. This change appears necessary to meet Title V and will reduce the area available under the proposed building. Will this necessitate additional parking above ground?

The applicant refers to the wetlands as "isolated" or "pocket" wetlands. The wetlands are not isolated or pocket wetlands. They are established by a combination of soils and vegetation present that indicate hydrology close to the surface during the growing season. The wetland on site is connected to a much larger wetland via a culvert under the old rail bed. These wetlands connect directly to the Landham Brook/Wash Brook/Sudbury River and Great Meadows NWR.

Detaching roof runoff from the drainage system is considered a Low Impact Development practice that is encouraged by DEP. Applicants are required to perform " a complete evaluation of possible stormwater management measures, including environmentally sensitive site design, low impact development techniques that minimize land disturbance and impervious surfaces (including the use of porous pavement), structural stormwater best management practices, pollution prevention, erosion and sedimentation control, and proper operation and maintenance of stormwater best management practices which will maintain the natural hydrologic characteristics of the land". We have not seen any evaluation of the use of these state-encouraged techniques.

In response to other items of note in the Jan. 26th Horsley Witten (HW) review:

- The limit of work on the plan does not reflect the limit of alteration. Based on HW findings, the applicant is proposing to retain/detain the increase in volume of runoff in the wetland area. This is not permitted per the Wetlands Protection Act. The applicant is stating that the 10-year storm is contained within the basin. As HW points out, that should require a mounding analysis. Without meeting the WPA requirements and/or performing an analysis to demonstrate that mounding will not occur, the stormwater plan is not achievable as presented.
- ZBA should have the details of the proposed components of the stormwater management system. Without this information, they cannot determine if the system will function as intended and stated. We agree with HW that details and cross sections are necessary for review by ZBA, acting on behalf of the town for stormwater permitting.
- The Commission suggested in previous memos to ZBA that the applicant provide construction phase erosion controls, sequencing plans, and construction duration accommodations for traffic, parking, and drainage beginning with the first set of comments earlier in January. These are details that are paramount to the proper management of the site

during the construction. Waiting until the final submittal may not give the ZBA/SCC proper time for review and incorporation of any revisions. Contrary to the statement by the applicant in their Jan. 26 response letter, they have not responded to all issues raised by HW or the Commission other than to state that further information will be submitted in the future.

- The Building Inspector is concerned about the project meeting the building code. He does not monitor construction impacts outside the building. Adequate documentation that the site will function properly during construction is a requirement for ZBA and SCC.
- Snow removal and storage is a design component. As previously stated snow stockpile areas should be designated on the plans and marked on site. At what point should snow be trucked off-site should be a ZBA and SCC permit requirement as it could impact the amount of available parking.
- ZBA should be concerned in its permit with the sequencing of construction. Plans should be developed for review that ensures proper stormwater treatment and functions, safe traffic patterns, adequate parking, and septic treatment during construction.
- The limit of lawn and amount of green space and landscaping should be maximized and added to the plans.

The Commission understands that this is a “friendly” 40b project. We continue to agree with the reuse of the site for this purpose. We do not agree with the extent of development that pushes the envelope on all issues. If the applicant wishes to pursue the density of Phase II as proposed, and given this is “friendly” 40b, we believe the applicant should work with the town to revise the plans to:

- 1) place the ZBA approvals on hold until the Board of Health receives an opinion (pending) from DEP on the legality of the subdivision as it pertains to Title V; and, hold the application until the ZBA submits a stormwater management plan that meets the Wetlands Protection Act requirements for no alteration of wetland, a both of these items are necessary for the project to move forward;
- 2) provide septic treatment that will best treat effluent and reduce future problems, both for the owners and the town;
- 3) provide details to ZBA up front that are necessary to assess the functioning of the stormwater system to ensure the long-term success of the project and protection of downstream wetlands and allow for adjustments at this early stage of design;
- 4) maintain a dialogue with the Conservation Commission to allow the Commission to provide comments to ZBA. The applicant has not contacted the Commission since the meeting on Jan. 3rd to initiate a meeting between the commission and the civil engineer who could not previously attend.

Although the 40b laws may not require some of the details at this point does not mean that they should not be provided. The applicant’s responses to the January SCC comments do not answer most of the questions. They simply state the questions will be answered later in the project when the law requires them to be answered. We have not encountered this resistance in any friendly 40b project to date. Withholding data that would be helpful is not a cooperative approach.

cc: Susan Gittelman, B’Nai B’rith Housing
William Murphy, Board of Health Director
Mark Herweck, Building Inspector
Planning & Community Development Office