

# TOWN OF HINGHAM

## CONSERVATION COMMISSION



Zoning Board of Appeals  
210 Central Street  
Hingham, MA 02043

July 20, 2020

RE: Proposed 40B Development at 302-304 Whiting Street

Dear Members of the Board,

Per your request, I have reviewed the latest eight-sheet plan set entitled "Proposed Dwellings 302-304 Whiting Street," prepared by James Engineering, Inc., dated November 24, 2019 and revised May 28, 2020 and June 15, 2020, and the latest Civil Peer Review letter, prepared by Amory Engineers P.C. and dated March 3, 2020. As the Civil Peer Review letter includes comments on Drainage and Erosion Control, I have focused my comments on the Resource Areas identified on the plan set (100ft Buffer Zone to a Bordering Vegetated Wetland and Riverfront Area) and the related performance standards.

Regarding the 100ft Buffer Zone to a Bordering Vegetated Wetland, Section 22(d) of the Hingham Wetland Regulations lists five performance standards that the current proposal largely meets. Where the current proposal falls short is in the restoration of the previously disturbed portion of the 100ft Buffer Zone. As the Regulations state, "Restoration means planting native vegetation, grading, correcting site drainage, removing debris, or other measures that will improve, restore and protect the wetland values of the Resource Area."

- The plan set notes that the existing structure and utilities within the 100ft Buffer Zone will be "removed." **I recommend** that the Board clarify whether this means abandoned in place or truly removed. If the scope of work includes abandoning the constructed features, **I recommend** a condition requiring their full removal, including excavation, proper disposal, and backfilling with clean soil.
- Additionally, the plan set notes that an area on the western side of both lots, inclusive of a portion of the 100ft Buffer Zone, will be seeded with a wildflower mix. At a minimum, this seed mix should cover the entire previously disturbed portion of the 100ft Buffer Zone, however **I recommend** a condition requiring the full restoration of the 100ft Buffer Zone. Restoration should include grading, applying loam as needed, and seeding and planting a variety of native herbaceous and woody species.

Regarding the performance standards for Riverfront Area, Section 21.1 of the Regulations invokes the State's Wetlands Protection Regulations (310 CMR 10.58) and there are three main points to evaluate (see below). It should be noted that the State's Regulations highly value natural vegetation within Riverfront Area, stating "The presence of natural vegetation within riverfront areas is critical to sustaining rivers as ecosystems and providing these public values [protecting the water supply, protecting groundwater, providing flood control, preventing storm damage, preventing pollution, and protecting aquatic and upland wildlife habitat]." The State's Regulations do not prohibit development, but instead, in the case of a limited development proposal, require preservation, restoration and/or mitigation of naturally vegetated areas within Riverfront Area.

1. Practicable and Substantially Equivalent Economic Alternatives: The State’s Regulations expand on this concept, stating that an alternative meets this definition “...if it is available and capable of being done after taking into consideration costs, existing technology, proposed use, and logistics, in light of overall project purposes. Available and capable of being done means the alternative is obtainable and feasible.” If alternatives to the current proposal have not been discussed, **I recommend** that the Board request an alternatives analysis from the applicant, keeping in mind that the purpose of evaluating the alternatives is to “locate activities so that impacts to the riverfront area are avoided to the extent practicable.”
2. Alteration of up to 10% of the Riverfront Area on the Lot: This performance standard generally applies to new development (vs. redevelopment, see below) and I would consider the current proposal a mix of new development and redevelopment. Assuming that less than 10% of each lot is proposed for development, or alteration, the remaining requirement is to maintain a 100ft wide area of undisturbed vegetation and, in the event that one does not exist, “...existing vegetative cover shall be preserved or extended to the maximum extent feasible...” My previous recommendation related to the full restoration of the developed portions of the 100ft Buffer Zone would also fulfill this requirement.
3. Redevelopment: A key definition in the application of these performance standards is “previously developed,” which the State identifies as “...areas degraded prior to August 7, 1996 by impervious surfaces from existing structures or pavement, absence of topsoil, junkyards, or abandoned dumping grounds.” Assuming that the area of proposed work does not exceed the degraded area on each lot, the following requirements must be met:
  - a. Proposed work shall result in an improvement over existing conditions. As the existing structure and utilities are being removed and reconstructed outside of the first 100ft of Riverfront Area (the Inner Riparian Zone), this is an improvement. The full restoration of the 100ft Buffer Zone increases the amount of improvement.
  - b. Stormwater management is provided according to standards established by MassDEP. (Currently being addressed by the Civil Peer Reviewer.)
  - c. Proposed work shall not be located closer to the river than existing conditions or 100 feet, whichever is less. The proposed house and utilities at 302 Whiting Street are located more than 100 feet away from the river.

Thank you for considering my comments in advance of the upcoming hearing. Should the Board have any immediate questions or require additional information, please feel free to contact me.

Sincerely,

Loni M. Fournier  
Senior Planner: Conservation/GIS

Cc: Emily Wentworth, Senior Planner: Zoning/Special Projects