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March 20, 2017

Via Email and Hand-Delivery

Joseph M. Fisher, Acting Chairman
Town of Hingham
Zoning Board of Appeals
210 Central Street
Hingham, MA 02043

Re: Broadstone Bare Cove Alliance, LLC - 230 Beal Street, Hingham, MA

Dear Chairman and Members:

As you know, we represent Broadstone Bare Cove Alliance, LLC (“Alliance”) relating to its Comprehensive Permit application for the property located at 230 Beal Street, Hingham, MA. We write, on behalf of Alliance, to respond to the Board’s Summary of Outstanding Issues, submitted by the Senior Planner on March 14, 2017. As an initial matter, we appreciate the Senior Planner putting together the summary, and Alliance believes that good progress is being made in closing out remaining items. With regard to the specific items identified, we have listed each question/comment in *italics* and provided responses as follows:

A. Conservation Restriction (CR)

In its Project Eligibility Letter (PEL), MassHousing identified a conservation restriction as one of the items that should be addressed in the comprehensive permit application and explored fully during the public hearing process before the Board. While the Applicant represented to the Board that a perpetual conservation restriction will be placed on the rear portion of the property, the conservation area has not yet been depicted on the submitted plan. As previously suggested by town representatives, including both the conservation officer and real estate counsel, the boundaries of the proposed conservation area should be shown on the plan set as follows:

- 1. Size and Configuration: The PEL references a potential 4 acre conservation area; however, the submitted plan entitled, “Conservation Restriction Plan,” dated 2/24/17, shows two separate conservation restriction areas with a combined area of just 1.97 acres. The conservation area should be revised to encompass the entire back portion of the property, uninterrupted by the proposed boardwalk, to ensure to the extent possible consistency with the PEL recommendations and representations made to the Board.*

Alliance Response: Size: The Project Eligibility Letter (PEL) is issued by MassHousing, and the reference to “four acres” is not an area calculation provided by Alliance. This figure likely was derived from a site approval comment letter submitted by the Hingham Board of Selectmen to MassHousing, in which the Selectmen conveyed concerns about potential negative impacts on this environmentally sensitive area and that “[t]he applicant should protect the back 4 acres of the property, which are not proposed to be disturbed, through a perpetual conservation restriction.” We believe that this was an estimate, provided by the Town, and repeated in the PEL. Alliance has never represented the area to be four acres. Alliance believes that although different entities estimated the area to be protected at various times, the area to be burdened with a Conservation Restriction has always been contemplated to be the southerly area outside of the limit of work shown on the submitted plans. As reflected in the plans submitted to the Board as part of Alliance’s response to the Conservation Commission, dated March 15, 2017, the area proposed to be encumbered is the vast majority of the undeveloped areas of the site, and is approximately 2.2 acres.

Configuration: Alliance’s proposal is, and has been, to encumber an area of the property not proposed to be disturbed with a Conservation Restriction, and to construct the boardwalk upon a narrow strip of unencumbered land that will support the boardwalk. The boardwalk traverses a ridge of previously-disturbed land identified by the archeological consultants, thus avoiding potentially sensitive areas. Alliance is continuing to consult with the Conservation Commission; however, at this juncture, at the advice of other counsel Alliance is unable to commit to encumbering such an important portion of the parcel, without knowing exactly what those burdens may ultimately be.¹ Notwithstanding, we believe the burdening of the areas reflected on the plans meets our commitment to protect the southerly acres from environmental and archeological impacts and future development, and accommodates the Town’s desire to preserve the area.

2. Relation to Site Improvements: *I understand that the upcoming submittal will include the conservation area boundaries overlaid upon the proposed plans. This will allow the conservation officer to assess both the conservation values of the area based on proximity to existing resources (wetlands, floodplain, ACEC, and historic structure) and potential impacts of the development associated with stormwater, snow storage, etc. on these values.*

Alliance Response: Correct; please refer to Alliance’s response to the Conservation Commission, dated March 15, 2017, and plans submitted therewith.

3. Landscape Plan/Vegetation Management: *The submitted Landscape Plan (Sheet L-100) should be updated to show the full limits of the property. Based on our recent site visit, I understand that the following notation will be removed from the plan: “SELECTIVELY CLEAR AND GRUB (TO 6” DEPTH) EXISTING INVASIVE SPECIES TREES, SHRUBS, GROWDCOVER AND VINES WITHIN 200’ LONG AREA LOCATED TO THE WEST OF SHELTRY PATH AND SOUTH OF THE PROPOSED EMERGENCY ACCESS LANE. SELECTIVELY LOCATE AND PLANT THREE (3) NEW NATIVE CEDAR AND THREE (3) WHITE PINE.” Instead, a note will be added regarding removal of invasives and selective*

¹ As a Conservation Restriction is a creature of statute, it requires various levels of comment and approval; and, as such, is subject to potential modification. Specifically, the Conservation Restriction requires (i) acceptance by the Conservation Commission, as grantee, (ii) approval by the Board of Selectmen, and (iii) approval by the Secretary of Executive Office of Energy and Environmental Affairs of the Commonwealth of Massachusetts.

clearing within a 20'-wide area centered on the proposed boardwalk. The Vegetation Plan/Program and Invasives List to be included in the ConCom response letter should similarly address these landscaping plans, as well as maintenance of the southern meadow area.

Alliance Response: The L-100 sheet will show the full limits of the property, the referenced notation will be removed from the plan, and a note will be added regarding the removal of invasives and selective clearing, consistent with your comment and Alliance's response to Conservation Commission comment #1, submitted on March 15, 2017. The selective clearing area as proposed on recent exhibits and discussed at the March 7 site walk is 40' wide, centered on the boardwalk, and will not encroach into the Conservation Restriction area.

4. *Reserved Rights: The owner may reserve rights under the CR to build and maintain the boardwalk, including removal of any vegetation agreed to by the Commission. A draft CR including this right will be prepared prior to conclusion of the public hearing.*

Alliance Response: See Alliance's response to Comment A.1 – Configuration, above.

5. *Public Access: The proposed boardwalk, which will provide a direct pedestrian connection into the adjoining public park, will be an attractive amenity for future residents of the development. Visitors from Bare Cove Park will likely be attracted to the structure as well. The boardwalk design should incorporate features that serve public as well as private interests. These features could include a viewing area, benches, interpretative signage, and directional signage that would guide both residents into the park and the public away from the private development at the end of the boardwalk.*

Alliance Response: Based on current coordination with Mass Historic and our archeological consultant, an expansion of the boardwalk area will not be possible. The boardwalk's location and program were coordinated so as to overlap previously disturbed areas, with sensitive areas on either side. This investigative and reporting process has been completed with MHC. The southerly section of the site contains areas of moderate archaeological sensitivity, and this area has been designated as "no impact" on project plans, with the exception of an at-grade boardwalk. For Alliance to affirmatively grant public access to this area would run counter to the recommendation of the archaeological consultant, in coordination with MHC.

Alliance does not propose to invite the public onto private areas encumbered by the Conservation Restriction or the boardwalk. The proposed boardwalk is located on private property. It serves as a structural path to direct pedestrians through sensitive areas, rather than into them, and is not designed as an area for people to congregate. Enhancements that promote views of the stone structure and surrounding sensitive areas would encourage traffic in areas that we have been advised to avoid. Additionally, Alliance has been advised by other counsel that the affirmative extension of public rights over the private boardwalk structure will invite liability and security issues, particularly in an area adjacent to public park land. Finally, the 1987 Conservation Restriction draft referenced by the Selectmen in their comments to MassHousing, specifically excepted public rights of entry onto the proposed Conservation Restriction area at the southerly portion of the property. Alliance expects that the Comprehensive Permit will apply conditions relating to the approved materials, upkeep and maintenance of the boardwalk.

B. Offsite Improvements

The proposed pedestrian paths that lead to Sheltry Path must terminate at the property line. The proposed northern connection may be relocated further south to an area where the property line is closer to the paved portion of Sheltry Path. You may want to eliminate the proposed southern path since there is approximately 3.5'-4' between the property line and Sheltry Path at this location. Similarly the reinforced turf grass emergency lane must terminate at the property line. No improvements should be proposed on the adjoining park land.

Alliance Response: No improvements will be proposed off-site; and, application plans will be revised as such.

The revised plans should be updated to include vertical granite curbing for the proposed median located within the Beal Street right of way to the immediate west of the project entrance. Revised plans should also include a sidewalk along the south side of Beal Street extending west from the project entrance to the secondary parking area to Bare Cove Park.

Alliance Response: The updated plans will include vertical curbing for the proposed median. Alliance is not proposing the sidewalk referenced above as a part of their application; however, based on comments by the Chairman, at the March 1st hearing, Alliance understands that the Board “would be inclined to want to have this included in the project as a condition.”

C. Accessibility

Revised plans should include a crosswalk at the project entrance in connection with the above referenced sidewalk connecting the project to the secondary entrance to Bare Cove Park.

Alliance Response: Alliance expects that the Board will include a condition relative to the cross-walk, in conjunction with the sidewalk referenced above.

Additionally, I recommend that project representatives meet with the Building Commissioner to discuss accessibility issues related to the proposed pedestrian connections interior to the site that lead to Bare Cove Park, including the boardwalk. I would be happy to coordinate this meeting when those responsible for code review for the project are available.

Alliance Response: Thank you for offering to coordinate a meeting. Alliance’s code consultant team is completing an analysis of the boardwalk and relative accessibility rules. We will reach out upon completion of that work.

D. Architecture

The Board suggested that the Applicant consider design changes intended to break up the building massing and minimize visual impact. You will present conceptual design changes during the upcoming meeting. If these are acceptable to the Board, the Applicant should expect to update the submitted architectural plans in advance of a continued hearing date.

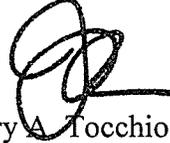
Alliance Response: We are preparing a PowerPoint presentation for the March 21, 2017 hearing with 3D modelling of some of the proposed architectural changes responsive to prior comments.

Finally, we hope to circulate draft conditions for your review by the end of the week.

Alliance Response: Thank you. We look forward to receiving a copy of the draft conditions.

Thank you for the opportunity to present the above-referenced information. We look forward to appearing before the Board at the continued hearing on March 21, 2017.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jeffery A. Tocchio', with a stylized, circular flourish at the end.

Jeffery A. Tocchio