

HANCOCK ASSOCIATES

Surveyors | Engineers | Scientists

January 28, 2020

Reading Conservation Commission
16 Lowell Street
Reading, MA 01867

RE: 259 and 267 Main Street, Reading NOI – Response to MassDEP Comments (MassDEP File #270-0727)

Dear Members of the Commission,

In the matter of a Notice of Intent application submitted in request to permit the construction of a 24-unit 3-story apartment building at 259 and 267 Main Street in Reading, the Massachusetts Department of Environmental Protection (MassDEP) issued a comment letter dated January 8, 2020 (copy provided herein as Attachment A).

The following memorandum provides direct response to these comments in appraisal of the project's ability to meet all performance standards under the Massachusetts Wetlands Protections Act (M.G.L c. 131§ 40) and implementing regulations (310 CRM 10.00).

Comment #1: The permanent filling of BVW for the construction of a building, garage and retaining wall to support the fill cannot be approved, as it does not meet the performance standards in 310 CMR 10.55(4). Specifically, the alternatives analysis does not demonstrate how the project can avoid BVW impacts and how BVW impacts can be minimized, such as reducing the building size and the number of units, as well as relocating the building out of the BVW.

Response: 310 CMR 10.55(4)(b) states, that *“the issuing authority may issue an Order of Conditions permitting work which results in the loss of up to 5,000 square feet of Bordering Vegetated Wetland when said area is replaced”*. Our project proposes the permanent fill of 2,750 square feet of Bordering Vegetated Wetland. As compensatory mitigation, the Applicant proposes to provide 5,500 square feet (2:1 ratio) of wetland replication within the same wetland system, in accordance with all performance standards for wetland replication detailed in 310 CMR 10.55(4)(b) 1 through 7.

310 CMR 10.55(4)(b)7 then states, *“in the exercise of this discretion, the issuing authority shall consider the magnitude of the alteration and the significance of the project site to the interests identified in M.G.L. c. 131, § 40, the extent to which adverse impacts can be avoided, the extent to which adverse impacts are minimized, and the extent to which mitigation measures, including*

HANCOCK ASSOCIATES

Surveyors | Engineers | Scientists

replication or restoration, are provided to contribute to the protection of the interests identified in M.G.L. c. 131, § 40.”

On page 3 of our cover letter dated October 29, 2019 submitted with our Notice of Intent Application we provided an alternatives analysis under the heading “Efforts to Avoid and Minimize Wetland Impacts” as follows:

“The site is constrained by wetland resource areas and zoning district prohibitions. The property is bisected between the Single Family 15 District and Business A District under local zoning ordinance. All elements of the building need be held within the zoned Business A District, which constrains the developable footprint to occur within roughly the first one quarter of the property closest to Main Street.

All jurisdictional wetland resource areas are primarily located outside of the Business A District, with the exception of a projection of BVW, located roughly between wetland flags A-103 through A-113 (refer to Existing Conditions Plan). This portion of the wetland is degraded and has been subject to prior alteration, as the footprint of the condemned single-family home was located partially within the wetland.

In avoidance and minimization of associated wetland impacts, the applicant has compressed the site design to the maximum extent practicable while still maintaining a viable project. For example, the building is designed to provide 35 parking spaces beneath the building to minimize the footprint of paved impervious surface parking.

However, despite efforts to avoid and minimize impacts within wetland resource areas, the project by necessity would need to fill a total of 2,750 square feet of BVW at this location to remain a viable project.

As previously discussed, the majority of the property is degraded due to prior land use as a commercial fuel oil business. We therefore believe that there exists enough on site opportunity to provide compensatory mitigation through wetland replication and restoration, to meet the performance standards in the WPA and Town of Reading Wetland Regulations in demonstrating that the project will provide a net benefit to wetland resource areas in the post construction condition.”

To expand upon this alternatives analysis, in response to MassDEP’s request to appraise the ability of the project to further reduce direct impacts within BVW through reducing the building size and number of units, we maintain that there is no opportunity to do so and maintain an economically viable project. Due to zoning constraints, there is no opportunity to shift or realign the building further out of the proposed wetland impact area. Any reduction to the

HANCOCK ASSOCIATES

Surveyors | Engineers | Scientists

footprint of the building will result in the loss of no less than six (6) condominium units. To provide economic context to this, as Attachment B we provide an analysis of sales revenue and profit margins generated from a 24 unit building versus an 18 unit building. In summary of this analysis, the loss of six (6) units would reduce the net sales revenue by a total of \$3,643,827.00 and reduce the return on net sales from 16.82% to 1.54%, rendering the project economically non-viable. In this case, the developer would not pursue the project and the much needed site restoration efforts would not occur.

Furthermore, in evaluation of *“the magnitude of the alteration and the significance of the project site to the interests identified in M.G.L. c. 131, § 40”* and *“the extent to which mitigation measures, including replication or restoration, are provided to contribute to the protection of the interests identified in M.G.L. c. 131, § 40.”*, we believe that through stormwater design in accordance with management standards, and compensatory mitigation offered through wetland replication and buffer zone and Riverfront Area restoration, all interests for wetland protection are protected.

M.G.L. c. 131, § 40 sets forth a public review and decision-making process by which activities affecting Areas Subject to Protection under M.G.L. c. 131, § 40 are to be regulated in order to contribute to the following interests:

- protection of public and private water supply
- protection of ground water supply
- flood control
- storm damage prevention
- prevention of pollution
- protection of land containing shellfish
- protection of fisheries
- protection of wildlife habitat

- a) **Protection of public and private water supply** – A portion of the property is located within the Zone A Surface Water Protection Zones for Hawkes Pond and the Saugus River associated with public water supply for the City of Lynn. MassDEP commented that BMPs and stormwater discharges to a Zone A are prohibited. In response, Hancock Associates has modified our design to remove all elements of stormwater BMPs within and discharges to the Zone A. Please refer to response to Comment #5 below, revised site plans, and revised Stormwater Report. A viable development project would provide a fully compliant stormwater management system. The existing commercial site has no stormwater management system whatsoever. As such, we believe all interests for public and private water supply are protected.

HANCOCK ASSOCIATES

Surveyors | Engineers | Scientists

- b) **Protection of ground water supply** – All paved surfaces associated with the proposed development direct stormwater into treatment systems and infiltration basins in maintenance of ground water recharge in protection of ground water supply. The existing commercial site has no stormwater management system, with stormwater sheet flowing to gravel surfaces, affording no treatment. We therefore believe all interests for ground water supply are protected.
- c) **Flood control** – There are no mapped FEMA 100-year floodplain elevations located on the property. The low lying areas associated with the BVW adjacent to the perennial stream are mapped as FEMA Zone X 500-year floodplain, which is not regulated under the Massachusetts Wetlands Protection Act. There is no work proposed within the Zone X 500-year floodplain. Through the removal of urban fill and reduction of grades to elevation 88-feet within Wetland Replication Area #1, the project will result in a net increase to flood storage volume with connection to the FEMA mapped Zone X. As such, we believe all interests for flood control are protected.
- d) **Storm damage prevention** – This interest is typically associated with coastal resources or large scale inland wetland resource projects, and is not pertinent to this project. As such, we believe all interests for storm damage prevention are protected.
- e) **Prevention of pollution** – In the existing condition, the property is degraded and was in long term use as a commercial fuel oil business. Phase I and Phase II environmental assessments of the property did not identify any contaminates above threshold levels that would mandate any hazardous material remediation. In the existing condition there are no stormwater BMPs and all stormwater received on the site either flows or infiltrates untreated directly to the jurisdictional wetland resource areas on the property. Through the installation of stormwater BMPs designed in accordance with all Stormwater Management Standards in maintaining water quality standards discharging to the wetland resource areas, we believe that all interests for pollution prevention are protected.
- f) **Protection of land containing shellfish** – There are no shellfish resources on the property, thus this interest is not pertinent to the project. As such, we believe all interests for land containing shellfish are protected.
- g) **Protection of fisheries** – There are no designated Cold Water Fisheries on the property. In the capacity of the perennial stream on the property to provide fisheries habitat, there is no impact to the stream proposed. Therefore, we believe all interests for fisheries are protected.

HANCOCK ASSOCIATES

Surveyors | Engineers | Scientists

- h) **Protection of wildlife habitat** – Wildlife habitat on the property in the existing condition is degraded and of poor value. As detailed in our Notice of Intent application, the invasive species Norway maple (*Acer platanoides*) and Asiatic bittersweet (*Celastrus orbiculatus*) are problematic and abundant throughout the property. There is very little plant species diversity, and little diversity in habitat cover types. Through our proposed replication of wetlands and ecological restoration of the 35-foot No Disturb Zone under the Reading Wetland Bylaw, we are proposing to treat and remove invasive species and plant no less than 450 individual native species trees and shrubs, and 500 individual native herbaceous plants. This will be supplemented with applications of native seed mixes. This ecological restoration will contribute to a significant improvement to wildlife habitat value on the property in the post-construction condition. As such, we believe all interests for wildlife habitat are protected.

We therefore contend that through our comprehensive compensatory mitigation plan the net benefits to wetland resource areas offered through wetland replication and restoration will maintain protection of all interests identified in M.G.L. c. 131, § 40, and that the Conservation Commission, as the issuing authority, has exercised their discretion in permitting this fill of wetlands in complete compliance with 310 CMR 10.55(4)(b)7.

Comment #2: In addition, the 5 foot wide “walkway” through the BVW with associated grading will result in permanent BVW filling that has not been quantified and the applicant has not demonstrated how that alteration can be avoided, minimized and mitigated.

Response: The proposed walking trail has been redacted from this permit application. Herein we provide a revised site plan for submittal, removing any work associated with a walking trail within the Bordering Vegetated Wetland or Riverfront Area. With the existence of the town sewer easement, the DPW regularly maintains vegetation within this easement. In the existing condition the easement is devoid of any vegetation with the exception of low cropped herbaceous ground cover. The ground within the easement is compact and the soil profile over the easement is consistent with urban fill. The project proposes to provide the town with a public pedestrian easement linking Main Street with the sewer easement to Cross Street. The town will have the rights to formalize public access at a future time.

Comment #3: The proposed alteration of Bank requires a Simplified Wildlife Habitat Evaluation... The applicant has not explained how or why 2,315 square feet of BVW and 465 linear feet of Bank associated with an unnamed perennial stream requires restoration. MassDEP has concerns regarding the removal of woody debris within the stream as it likely provides wildlife habitat.

HANCOCK ASSOCIATES

Surveyors | Engineers | Scientists

Response: The proposed restoration of 2,315 square feet of BVW and 465 linear feet of Inland Bank associated with the perennial stream has been redacted from this permit application. The applicant will not perform any streambank restoration or removal of any material from within the stream. The applicant will still propose removal of invasive species and native species plantings within the first 5-linear feet of BVW extending from the top of Bank associated with the stream. As this activity is exclusively limited to ecological restoration offered as compensatory mitigation at the request of the Reading Conservation Commission, and will not result in any appreciable earth disturbance or alteration, we do not believe that this scope of work should be included with our impact area calculations for alteration within BVW. If this restoration work is calculated toward our total impact area calculations for alteration within BVW and pushes the project over the 5,000 square foot threshold for allowable alteration within BVW, thereby mandating that the project obtain an individual Water Quality Certificate to execute, the applicant will redact this scope of work as well. It is important to note that the project meets all performance standards for wetland replication and restoration without this additive scope of restoration work. Herein we provide a revised site plan, removing the proposed in-stream restoration under this NOI.

Comment #4: The cumulative alteration (both temporary and permanent) to BVW will likely be greater than 5,000 square feet, which will require a 401 Water Quality Certification and a 404 General Permit from the Army Corps of Engineers.

With redaction of the proposed physical work to construct a walking trail and perform in-stream restoration, the project will result in the total alteration of no more than 4,840 square foot of impact to BVW (2,750sf permanent / 2,090sf temporary). Thus this project will not require a 401 Water Quality Certificate or a 404 General permit from the Army Corps of Engineers.

Comment #5: In accordance with 310 CMR 10.05(6)(k)6 and the Stormwater Handbook (Vol1, Ch 1, pg 18), BMPs in and stormwater discharges to a Zone A are prohibited, unless essential to the operation of a public water supply. Therefore, the project does not meet the Stormwater Standards.

The proposed detention basin with outfall within the Zone A has been removed. The underground infiltration systems have been enlarged in order to attenuate peak flows through the 100-year storm event. Please refer to attached revised Stormwater Report for additional detail.

HANCOCK ASSOCIATES

Surveyors | Engineers | Scientists

Conclusion

With redaction of the walking trail and in stream restoration, and revised stormwater design to retreat from the Zone A Surface Water Protection Zone, we contend that all elements of this proposed project meet all performance standards under the Massachusetts Wetlands Protections Act and implementing regulations (310 CRM 10.00), and is thus permissible through issuance of an Order of Conditions permit.

Please feel free to contact us with any questions or requests for additional supporting information in this matter.

Respectfully,
Hancock Associates on behalf of Stonegate Construction Corp



David Cowell, PWS, CWB, CERP
Senior Wetland Scientist

cc: MassDEP Northeast Regional Office

Attachments:

- A – MassDEP Comment Letter dated January 8, 2020
- B – Economic Alternatives Analysis
- C – Stormwater Report revised January 29, 2020
- D – Site Plans revised January 29, 2020



Attachment A MassDEP Comment Letter



COMMONWEALTH OF MASSACHUSETTS
 EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS
 DEPARTMENT OF ENVIRONMENTAL PROTECTION
 NORTHEAST REGIONAL OFFICE
 205B LOWELL STREET, WILMINGTON, MA 01887 978-694-3200

CHARLES D. BAKER
 Governor

KATHLEEN A. THEOHARIDES
 Secretary

KARYN E. POLITO
 Lieutenant Governor

MARTIN SUUBERG
 Commissioner

DATE: January 8, 2020

Municipality READING
 (city/town)

RE: NOTIFICATION OF WETLANDS PROTECTION ACT FILE NUMBER

The Department of Environmental Protection has received a Notice of Intent filed in accordance with the Wetlands Protection Act (M.G.L. c. 131, §40):

Applicant:	STONEGATE CONSTRUCTION CORP.	Owner:	
Address:	273 CORPORATE DRIVE, SUITE 150 PORTSMOUTH, NH 03801	Address:	

LOCUS: 259 AND 267 MAIN STREET

This project has been assigned the following file # : NE 270-0727

A FILE NUMBER ONLY INDICATES THAT THE APPLICATION CONTAINS THE MINIMAL SUBMITTAL REQUIREMENTS AND IS ADMINISTRATIVELY COMPLETE - NOT THAT THE INFORMATION IN THE APPLICATION IS ADEQUATE FOR ISSUANCE OF AN ORDER OF CONDITIONS.

Although a file # is being issued, please note the following:

Project cannot be permitted as proposed. The permanent filling of BVW for the construction of a building, garage and retaining wall to support the fill cannot be approved, as it does not meet the performance standards in 310 CMR 10.55(4). Specifically, the alternatives analysis does not demonstrate how the project can avoid BVW impacts and how BVW impacts can be minimized, such as reducing the building size and the number of units, as well as relocating the building out of the BVW. In addition, the 5 foot wide "walkway" through the BVW with associated grading will result in permanent BVW filling that has not been quantified and the applicant has not demonstrated how that alteration can be avoided, minimized and mitigated. The proposed alteration of Bank requires a Simplified Wildlife Habitat Evaluation (See 310 CMR 10.54(4)(a)5 and 10.60). The applicant has not explained how or why 2,315 square feet of BVW and 465 linear feet of Bank associated with an unnamed perennial stream requires restoration. MassDEP has concerns regarding the removal of woody debris within the stream as it likely provides wildlife habitat. This must also be further explained. The cumulative alteration (both temporary and permanent) to BVW will likely be greater than 5,000 square feet, which will require a 401 Water Quality Certification and a 404 General Permit from the Army Corps of Engineers.

In accordance with 310 CMR 10.05(6)(k)6 and the Stormwater Handbook (Vol 1, Ch 1, pg 18), BMPs in and stormwater discharges to a Zone A are prohibited, unless essential to the operation of a public water supply. Therefore, the project does not meet the Stormwater Standards.

This information is available in alternate format. Call Donald M. Gomes, ADA Coordinator at 617-556-1057. TDD# 1-866-539-7622 or 1-617-574-6868.

 <http://www.mass.gov/dep>
 Printed on Recycled Paper

STONEGATE CONSTRUCTION CORP.
 273 CORPORATE DRIVE, SUITE 150
 PORTSMOUTH, NH 03801

ADDITIONAL REQUIREMENTS:

401 Water Quality Certification (314 CMR 9.00) may be required. The project qualifies for 401 Certification under the Army Corps of Engineers' General Permit for Massachusetts (MAGP), provided that the project meets certain conditions outlined in 314 CMR 9.03 and 9.04, and the conditions under MAGP. The MAGP and Stream Crossing Guidelines are available on the web at <http://www.nae.usace.army.mil/Missions/Regulatory/StateGeneralPermits/MassachusettsGeneralPermit.aspx>. Select either "Massachusetts General Permit" or "Massachusetts River and Stream Crossing Standards" from the left side menu.

Review under Section 404 may be required. (Call 1-800-362-4367 for information).

If you have any questions regarding this letter, please contact: PAMELA MERRILL @ (978)-694-3249

Cc: Reading Conservation Commission, Town Hall 16 Lowell Street, Reading, MA, 01867

**Attachment B Economic
Alternatives Analysis**

Reading Project							
DEP Analysis - 24 units vs. 18 units							
Total Units		24			18		
Total Sellable SF		39,076			28,336		
Average Unit Size		1,628			1,574		
Average Sale Price / SF		\$330.00			\$330.00		
Average Unit Price		\$537,295			\$519,493		
		TOTAL	PER UNIT	PER SF	TOTAL	PER UNIT	PER SF
SALES REVENUE:							
Unit Sales:		\$12,895,080	\$537,295	\$330.03	\$9,350,880	\$519,493	\$330.05
Parking Spaces (11 @ \$30K)		\$330,000	\$13,750	\$8.45	\$0	\$0	\$0.00
Gross Sales:		\$13,225,080	\$551,045	\$338.48	\$9,350,880	\$519,493	\$330.05
Marketing & Commissions @ 5%:		\$644,754	\$26,864.75	\$16.50	\$467,544	\$25,974.67	\$16.50
Closing Costs @ 1.5%:		\$193,426	\$8,059.43	\$4.95	\$140,263	\$7,792.40	\$4.95
Cost of Sales:		\$838,180	\$34,924	\$21.45	\$607,807	\$33,767	\$21.45
NET SALES REVENUE:		\$12,386,900	\$516,121	\$317.03	\$8,743,073	\$485,726	\$308.59
DEVELOPMENT COSTS:							
Land:		\$2,000,000	\$83,333	\$51.19	\$2,000,000	\$111,111	\$70.59
Plans & Permitting:		\$240,000	\$10,000	\$6.14	\$240,000	\$13,333	\$8.47
Construction Costs:		\$6,240,000	\$260,000	\$159.71	\$4,950,000	\$275,000	\$174.71
Soft Costs:		\$912,000	\$38,000	\$23.34	\$684,000	\$38,000	\$24.14
Finance Costs:		\$432,000	\$18,000	\$11.06	\$324,000	\$18,000	\$11.44
Contingency @ 5% of Dev. Costs:		\$480,000	\$20,000	\$12.29	\$410,000	\$22,778	\$14.47
TOTAL DEVELOPMENT COSTS:		\$10,304,000	\$429,333	\$263.72	\$8,608,000	\$478,222	\$303.83
NET INCOME:		\$2,082,900	\$86,787	\$53.31	\$135,073	\$7,504	\$4.77
RETURN ON NET SALES:		16.82%			1.54%		

Attachment C Stormwater Report
(revised January 29, 2020)

Attachment D Site Plans
(revised January 29, 2020)