

June 18, 2020  
Revised: October 8, 2021

Westwood Conservation Commission  
Westwood Town Hall  
50 Carby Street  
Westwood, MA 02090

Re: Notice of Intent  
Lot 2B Mill St, Westwood, MA (Map: 28, Parcel: 013, DEP File #338-0706)

Dear Westwood Conservation Commission (WCC):

Goddard Consulting, LLC (Goddard), is pleased to submit this supplemental information in regard to the Notice of Intent (NOI) on behalf of the applicant, Joanne Delapa (Delapa Realty Trust), for the construction of a single-family home, paving of a driveway, and construction of associated structures on the property known as Lot 2B Mill St. in Westwood (DEP File #338-0706). This is a joint filing under the Massachusetts Wetlands Protection Act (WPA), Regulations 310 CMR 10.00 et. al. and the Town of Westwood Wetlands Protection Bylaw.

A copy of the NOI application and full-sized plans has been submitted to digitally and to the Westwood Conservation Commission. The titles of all the documents enclosed are as follows:

A list of new/revised documents is as follows:

- NOI (WPA Form 3) Application Form
- NOI Wetland fee Transmittal Form, Copies of Submittal Checks
- Westwood Property Owner Application Authorization
- Westwood Filing Fee Worksheet
- Affidavit of Service, Abutters List, Notification to Abutters
- Final Order of Resource Area Delineation (DEP File #338-0594), 12/19/16
- Final Order of Resource Area Delineation Extension (DEP File #338-0594) 12/24/19
- *USGS Site Locus*. Goddard Consulting, LLC
- *Ortho View of Site*. Goddard Consulting, LLC
- *Wetland Replication Plan*, Goddard Consulting, LLC 3/19/21
- *Quitclaim Deed*, Bk:14299, Pg: 480, signed 7/17/00
- *Plan of Land in Westwood Mass*, Pilling Engineering Company, Inc., 2/4/69, revised 2/5/69
- *Directional Drilling Means & Methods*, Henniker Directional Drilling LLC
- *Proposed Site Plan of Land Lot 2B- Mill St. Westwood, MA*. GLM Engineering Consultants, Inc. 3/10/2021

### Existing Conditions

Lot 2B Mill St. (Map 28, Parcel 13) is a  $\pm$  4.0-acre property which is currently forested and undeveloped. Per the attached deed and associated plan of land, the parcel has been in existence since at least 1969.

Resource areas on site consists of Bordering Vegetated Wetlands (BVW), Bank of Pond, Riverfront Area, and Bordering Land Subject to flooding. On-site resource areas were confirmed by MassDEP in a Final Order of Resource Area Delineation (FORAD) on 12/19/16. This FORAD was extended on 12/24/19. Of the two on-site BVWs one is centrally located with an upland area adjacent, and one is found in the western portion of the property. The on-site perennial stream is known as Mill Brook and enters the central region of the property from the north before entering Bakers Pond which occupies much of the southern portion of the property. Mill Brook then leaves Bakers Pond flowing off property in the south west corner. Due to the presence of the pond, Riverfront area on site is only assessed to the stream at its inlet and outlet from the pond and is not assessed to the banks of Bakers Pond.

The adjacent lot to the north, known as lot 2A is host to a shared common driveway which exists within a Right of Way easement on that property. While located off site this common drive the subject parcel as referenced in the attached deed.

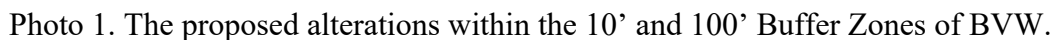
### Proposed Conditions

The applicant is proposing the development of the site with a detached single-family residence and appurtenant amenities. The house is to be sited on the only suitable and easily accessible piece of upland on the site. As stated previously, a shared common driveway located on the adjacent parcel will serve as the primary access path to the proposed residence with an individual driveway constructed off of that right-of-way to service the proposed residence.

Due to the existing deed agreement governing the use of the shared access driveway, underground utilities are not able to be installed within the easement. As a result, the applicant has proposed directional drilling in order to supply water and sewer utilities to the proposed residence. Directional drilling is a trenchless method of installing underground utilities in a way that has no adverse impact to resource areas on the surface. A pilot hole is drilled along a directional path from one surface point to another. Next, the bore created during pilot hole drilling is enlarged to a diameter that will allow the underground utilities to be installed. Lastly, the pipe or wire associated with the utility is pulled through the ground creating a continuous segment underground that is only exposed at the two surface points.

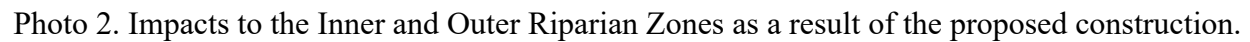
In order to facilitate access from the right of way, a small wetland crossing will be necessitated for construction of the individual driveway. This crossing is currently associated with a small wetland finger which is part of the "GC-series" wetland. A 12" Reinforced Concrete Pipe (RCP) will be placed at this crossing to maintain a hydrologic connection between the wetlands. This will result in 550sf of wetland fill, which will be replicated immediately adjacent to the crossing at 700sf. This fill is replicated at a ratio of 1:1.27. The project as proposed will result in a net increase of 150sf of wetlands on-site.

As stated, the house itself will be sited on the only suitable and readily accessible piece of upland on the subject parcel. The house lot will fall entirely within the 100 ft Buffer Zone of on-site BVW and will result in the alteration of  $\pm 25,301$  sf of Buffer Zone (see Photo 1). No alteration of the 0-10 ft Buffer Zone is proposed in association with house lot itself, only the driveway. Permanent Buffer Zone Impacts total  $\pm 25,301$  sf.



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A summary of resource area and buffer zone impacts is provided in Table 1 below.



**Table 1:** A summary of proposed Resource Area alteration in square feet.

Activity	Total RFA	Inner Riparian Zone	Outer Riparian Zone	100' Buffer Zone	0-10ft Buffer Zone
House and House Site (Including Driveway)	±10,702	0	±10,702	±25,301	±560
Repaving Driveway *occurring within existing impervious surface	±4,801	±2,744	±2,057	±6,521	±189
<b>Total Impacts</b>	±15,503	±2,744	±12,759	±31,822	±749
<b>Total Permanent New Development Impacts</b>	±10,702	0	±10,702	±25,301	±560

#### Regulatory Compliance Under the Wetlands Protection Act

The work proposed under this application impact the Buffer Zone to BVW, therefore under the WPA the project is subject to 310 CMR 10.02(3) which states:

*“3. Activities within the buffer zone which do not meet the requirements of 310 CMR 10.02(2)(b)1. and 2. are subject to preconstruction review through the filing of a Determination of Applicability to clarify jurisdiction or a Notice of Intent under the provisions of 310 CMR 10.05(4) and 10.53(1).”*

**This submittal is a Notice of Intent application. The WPA Regulations [310 CMR 10.02(2)(b)] do not contain performance standards for Buffer Zone Alteration.**

#### Statutory Interest Compliance

To show that the work proposed will not harm the interests protected by the Bylaw, MA WPA and DEP wetland regulations the following statutory interests and BVW/Buffer Zone compliance evaluation was performed.

##### *Protection of Public and Private Water Supply and Ground Water Supply*

**The single-family house is proposed to be connected to town water and sewer facilities and as a result will not draw from ground water via a private well or have a leaching field to impact ground water resource areas.**

*Flood Control and Storm Damage Prevention*

**No replication of the filled wetlands will result in a net increase of 150sf of BVW on-site, therefore improving the ability of onsite wetlands to provide flood control or mitigated storm damage.**

*Prevention of Pollution*

**Erosion control measures will prevent pollution via erosion into adjacent resource areas during construction.**

*Protection to Fisheries, Shellfish, Wildlife Habitat and Rare Species*

**Constructions and erosion control measures will be implemented to secure down-stream protection to fisheries, shellfish and surrounding wildlife habitat. No rare species and/or mapped vernal pools are within the vicinity of the site.**

*Protection of Recreation*

**No recreational resources will be impacted by the proposed project**

*Bordering Vegetated Wetlands: 310 CMR 10.55(4)(b)*

*Notwithstanding the provisions of 310 CMR 10.55(4)(a), the issuing authority may issue an Order of Conditions permitting work which results in the loss of up to 5000 square feet of Bordering Vegetated Wetland when said area is replaced in accordance with the following general conditions and any additional, specific conditions the issuing authority deems necessary to ensure that the replacement area will function in a manner similar to the area that will be lost:*

**The project as proposed will result in 550sf of BVW impacts which is less than 5000sf. These impacts are required in order to facilitate access via the shared common driveway and right of way. Access to upland portions of the lot outside of the right of way would result in even greater impacts to BVW (see below). 700sf of replication is proposed, a ratio of 1:1.27 leading to a net increase of 150sf of on-site BVW.**

*1. the surface of the replacement area to be created ("the replacement area") shall be equal to that of the area that will be lost ("the lost area");*

**The project will impact 550sf of wetlands. The proposed surface area of the replacement area (700sf) is greater than the area that will be lost.**

*2. the ground water and surface elevation of the replacement area shall be approximately equal to that of the lost area;*

**The ground water elevation of the replacement area is expected to be approximately equal to that for the lost area. See attached site plan.**

*3. The overall horizontal configuration and location of the replacement area with respect to the Bank shall be similar to that of the lost area;*

**The BVW impact area does not border the bank of a stream.**

*4. The replacement area shall have an unrestricted hydraulic connection to the same water body or waterway associated with the lost area;*

**The replacement areas will have an unrestricted hydraulic connection to the on-site BVW as they are proposed directly adjacent to it.**

*5. The replacement area shall be located within the same general area of the waterbody or reach of the waterway as the lost area;*

**The replacement areas are directly adjacent to the on-site BVW and the impact area.**

*6. At least 75% of the surface of the replacement area shall be reestablished with indigenous wetland plant species within two growing seasons, and prior to said vegetative reestablishment any exposed soil in the replacement area shall be temporarily stabilized to prevent erosion in accordance with standard U.S. Soil Conservation Service methods; and*

**The replacement area has been designed with native tree, shrub and herbaceous species with the intention of complying with this condition. As described in the attached planting plan, the replacement area will be inspected annually for two growing seasons to ensure that the replacement area meets the 75% coverage within two growing seasons. Any bare soils following construction will have been seeded with a wetland seed mix in order to facilitate rapid soil stabilization.**

*7. The replacement area shall be provided in a manner which is consistent with all other General Performance Standards for each resource area in Part III of 310 CMR 10.00. 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, Sec. 40, the extent to which adverse impacts are minimized, and the extent to which mitigation measures, including replication or restoration, area provided to contribute to the protection of the interests identified in M.G.L. c. 131, Sec. 40.*

**The project has been designed to avoid and minimize wetland impacts. Erosion controls will be placed at the limit of work. The replacement area meets the general performance standards for the altered resource area, which is BVW.**



**In the exercise of its discretion, the Commission should consider that the project has been designed to minimize impacts to BVW and buffer zone to the greatest extent practicable while conforming with the right of way. Due to the lack of viable locations for the house on-site, BVW fill becomes necessary. The disturbed BVW will be replicated at a ratio of 1:1.27.**

#### 10.58 Riverfront Area

*10.58(4)(c) Practicable and Substantially Equivalent Economic Alternatives. There must be no practicable and substantially equivalent economic alternative to the proposed project with less adverse effects on the interests identified in M.G.L. c. 131 § 40.*

Due to the existing distribution on-site resource areas no reasonable alternatives exist for the development of the site. The proposed house site has been located on the only reasonably accessible portion of upland on the site. Proposed access will use an existing shared common driveway to gain access through the majority of on-site RFA, and the proposed individual driveway will be placed outside of RFA. Avoiding use of the common driveway and constructing a driveway elsewhere on site would necessitate filling wetlands and further impacts to Riverfront Area.

Similarly, alternative methods besides directional drilling like trenching would prove to be much more detrimental to the resource areas on-site. Proposed directional drilling for utility the surface impacts associated with directional drilling to Buffer Zone and Riverfront Area as proposed limit resource are impacts to two temporary staging pits. An alternative to directional drilling would involve disturbing the entire length of the utility rather than just two temporary staging pits. Installation by means of directional drilling has been proposed as the only reasonable means of providing subsurface utilities to the site due to existing restrictions on the placement of such utilities within the existing right of way. A copy of the deed of record which establishes these restrictions has been included with this application for your review.

The construction of an alternate driveway would result in  $\pm 6,867$ sf of impact to buffer zone and  $\pm 229$ sf of impact to the 10' buffer zone (see Photo 3.). This alternate construction of a separate driveway would also necessitate  $\pm 6,135$ sf of BVW impact, a significant increase from the proposed 550sf of impacts.



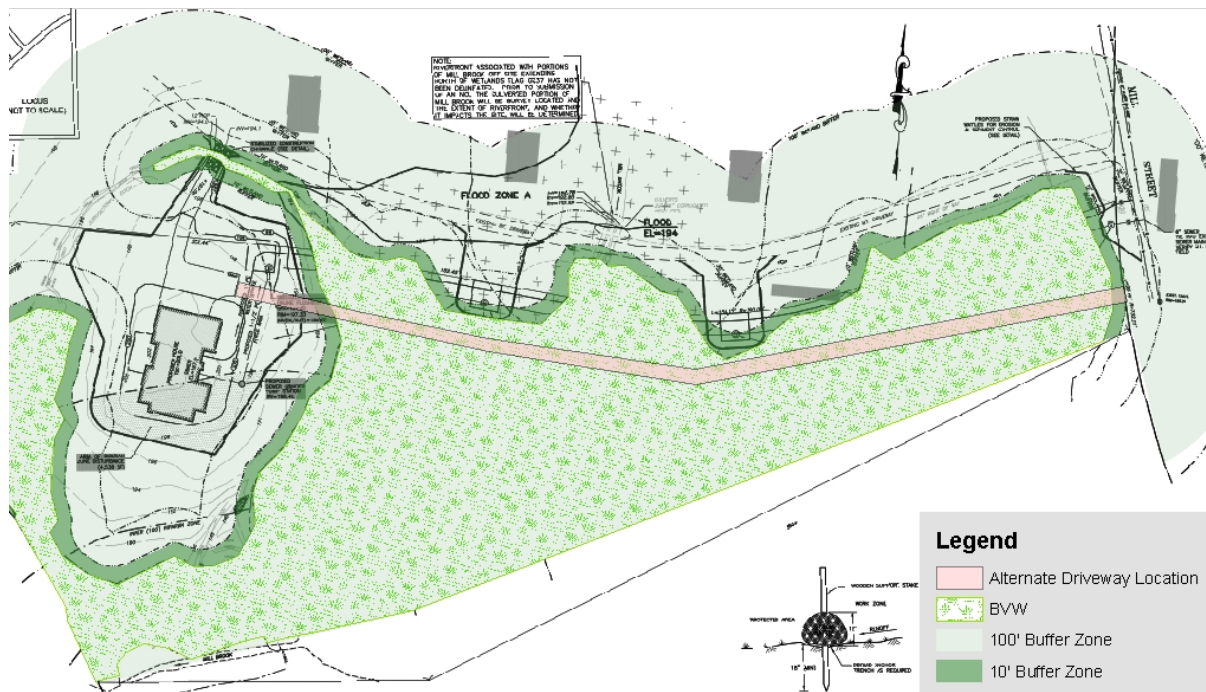


Photo 3. Impacts to Buffer one of BVW associated with the alternative construction of a new driveway.

This alternative would remove impacts to inner riparian zone, but would involve no redevelopment, resulting in 4,010sf of new development impacts to the outer riparian (see Photo 4). Although as proposed there are impacts to the inner riparian zone, these impacts are occurring within the footprint of the existing driveway and in association with the directional drilling staging pits, which are temporary impacts.

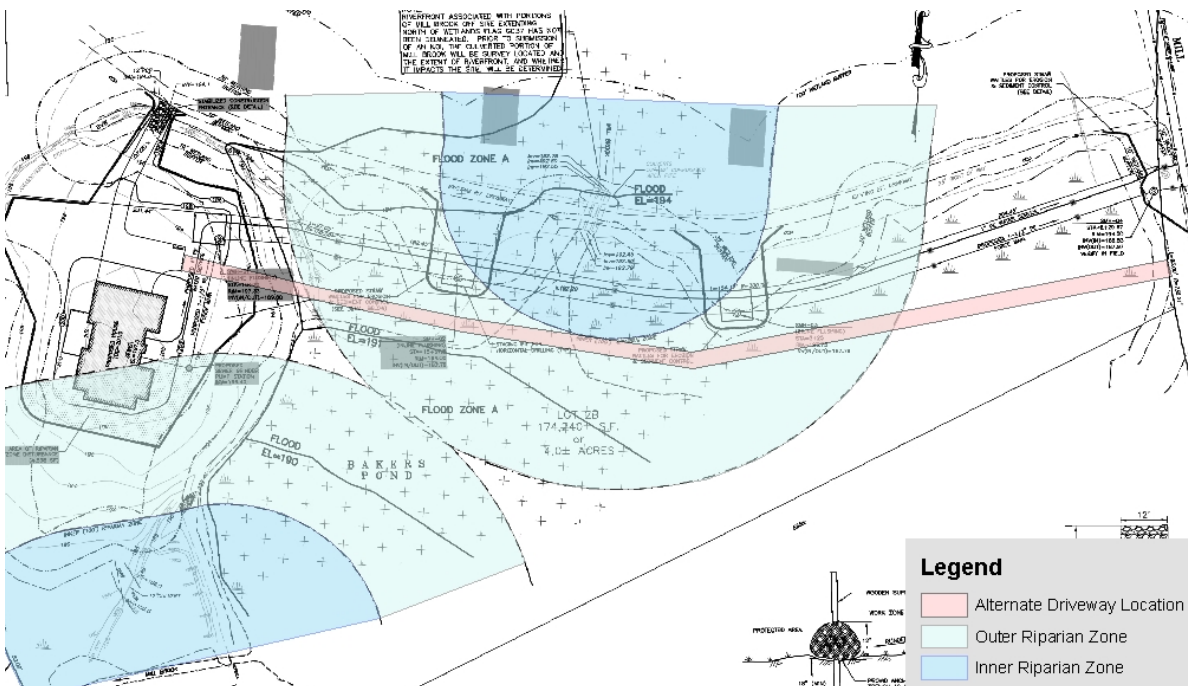


Photo 4. Impacts to Riverfront Area associated with the alternative construction of a new driveway.

*10.58(4)(c)2. Scope of Alternatives: The scope of alternatives under consideration shall be commensurate with the type and size of the project. The issuing authority shall presume that alternatives beyond the scope described below are not practicable and therefore need not be considered. The issuing authority or another party may overcome the presumption by demonstrating the practicability of a wider range of alternatives, based on cost, and whether the cost is reasonable or prohibitive to the owner; existing technology; proposed use; and logistics in light of the overall project purpose.*

*a. The area under consideration for practicable alternatives is limited to the lot for activities associated with the construction or expansion of a single-family house on a lot recorded on or before August 1, 1996.*

The subject parcel was created prior to August 1, 1996. Therefore, the scope of alternatives for the proposed project is limited to the subject parcel.

*10.58(4)(d) No Significant Adverse Impact: The work, including proposed mitigation measures, must have no significant adverse impact on the riverfront area to protect the interests identified in M.G.L. c. 131, § 40.*

*1. Within 200 foot riverfront areas, the issuing authority may allow the alteration of up to 5000 square feet or 10% of the riverfront area within the lot, whichever is greater, on a lot recorded on or before October 6, 1997 or lots recorded after*

*October 6, 1997 subject to the restrictions of 310 CMR 10.58(4)(c)2.b.vi., or up to 10% of the riverfront area within a lot recorded after October 6, 1997, provided that:*

*a. At a minimum, a 100 foot wide area of undisturbed vegetation is provided. This area shall extend from mean annual high-water along the river unless another location would better protect the interests identified in M.G.L. c. 131 § 40. If there is not a 100 foot wide area of undisturbed vegetation within the riverfront area, existing vegetative cover shall be preserved or extended to the maximum extent feasible to approximate a 100 foot wide corridor of natural vegetation. Replication and compensatory storage required to meet other resource area performance standards are allowed within this area; structural stormwater management measures may be allowed only when there is no practicable alternative. Temporary impacts where necessary for installation of linear site-related utilities are allowed, provided the area is restored to its natural conditions. Proposed work which does not meet the requirement of 310 CMR 10.58(4)(d)1.a. may be allowed only if an applicant demonstrates by a preponderance of evidence from a competent source that an area of undisturbed vegetation with an overall average width of 100 feet will provide equivalent protection of the riverfront area, or that a partial rebuttal of the presumptions of significance is sufficient to justify a lesser area of undisturbed vegetation;*

Total on-site riverfront area totals 115,054sf. Proposed permanent alteration of on-site RFA will total 10,702sf. which is also less than 10% of the total RFA on-site (11,505sf). All permanent alteration of on-site RFA will maintain an area of undisturbed vegetation within RFA greater than 100ft. Additional, temporary impacts to RFA which will occur within 100ft of the MAHW line will occur in direct association with the directional drilling staging pits which are expressly allowed under this regulation if “the area is restored to its natural conditions.” The applicant proposes the restoration of natural conditions in all areas which will be temporarily impacted by directional drilling associated with sub-surface utility installation.

*b. Stormwater is managed according to standards established by the Department in its Stormwater Policy.*

The proposed project is a single-family residence and is therefore exempt from adherence to the Stormwater Standards established by the Department.

*c. Proposed work does not impair the capacity of the riverfront area to provide important wildlife habitat functions. Work shall not result in an impairment of the capacity to provide vernal pool habitat identified by evidence from a competent source, but not yet certified. For work within an undeveloped riverfront area which exceeds 5,000 square feet, the issuing authority may require a wildlife habitat evaluation study under 310 CMR 10.60.*

The proposed project will not significantly impair the ability of on-site RFA to provide important wildlife habitat functions. All permanent alteration of on-site RFA will occur more than 100 ft

from the established MAHW line of Mill Brook thereby maintaining important wildlife habitat and movement corridors on-site.

*d. Proposed work shall not impair groundwater or surface water quality by incorporating erosion and sedimentation controls and other measures to attenuate nonpoint source pollution.*

The project has proposed the use of adequate erosion control measures between all proposed work and downgradient resource areas during the construction phase of the project.

*10.58(4)(d)3.: Notwithstanding the provisions of 310CMR10.58(4)(d)1.or 2.,the issuing authority shall allow the construction of a single family house, a septic system if no sewer is available, and a driveway, on a lot recorded before August 7, 1996 where the size or shape of the lot within the riverfront area prevents the construction from meeting the requirements of 310 CMR 10.58(4)(d)1. or 2., provided that:*

- a. The lot can be developed for such purposes under the applicable provisions of other municipal and state law; and*
- b. The performance standards of 310 CMR 10.58(4)(d) are met to the maximum extent feasible. In difficult siting situations, the maximum extent of yards around houses should be limited to the area necessary for construction. Except where the lot contains vernal pool habitat or specified habitat sites of rare species, a wildlife habitat evaluation study shall not be required.*

The subject lot has been in existence since at least 1969, predating the adoption of the Rivers Protection Act. These regulations make it clear that issuing authorities shall allow the construction of a single-family house, driveway, and septic system if no sewer is available on lots that were recorded prior to August 7, 1996, as the locus site has been. All proposed work has been proposed in accordance with 310 CMR 10.58(4)(d)1 with all other applicable municipal and state laws.

### **Regulatory Compliance Under the Westwood Wetlands Protection Bylaw**

The project as proposed is in compliance with the Town of Westwood's Wetland Protection Bylaw with the exception of a small portion of permanent impacts occurring within the 10' buffer of BVW (560sf).

#### *C. Alteration of resource areas.*

*(1) The presumption that activity undertaken within 35 feet of certain resource areas shall alter those resource areas, as set out in Subsection (11) of the definition of "alter" in § 392-8 of this bylaw, shall not apply to:*

- (a) Any lot shown on a subdivision plan filed and approved by the Planning Board pursuant to MGL c. 41, § 81P or 81S, for which application for Planning Board endorsement or approval has been made prior to March 1, 1998;*

*(b) Any lot otherwise in existence as of March 1, 1998;*

*(2) Such land and structures shall be subject to the presumption that any activity undertaken within 10 feet of the boundary of a wetland, bank, pond, vernal pool, stream or river shall alter that resource area. The subdivision of any lot otherwise grandfathered pursuant to Subsection C(1)(a) or (b) above shall be subject to the thirty-five-foot setback presumption.*


Per the attached deed and Plan of Land, Lot 2B has definitively been in existence since at least 1969, predating the March 1, 1998 threshold established in these regulations. Accordingly, the parcel is subject to the 10ft boundary established or house lots created prior to March 1, 1998. Work within this 10ft buffer zone associated with this project is therefore presumed to have impacts on associated resource areas.

Proposed alteration within the 10-ft Buffer will total  $\pm 1,288\text{sf}$ , of which only  $\pm 560\text{sf}$  will be permanent in nature. Permanent impacts are required to gain access to the house lot from the right of way. The applicant requests the Commission to allow an exception to the Town's bylaw, allowing this alteration, as it facilitates access to the proposed house with the least amount of impacts to resource areas on-site.

### Conclusion

Goddard Consulting believes that the proposed project meets all regulatory compliance standards under the WPA and that the project will not have an adverse impact on the on-site resource areas. As such, GC respectfully requests that the Commission issues an Order of Conditions (OOC) approving the project. Please feel free to contact us if you have any questions.

Very truly yours,



Scott Goddard,  
Principal & PWS

Joanne Delapa, Delapa Realty Trust, PO Box 277 Norwood, MA 02062  
MassDEP Northeast Region Main Office, Wetlands Division, 205B Lowell St. Wilmington, MA 01887.