



TOWN OF BELLINGHAM CONSERVATION COMMISSION

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Staff memo 5/13/2025

Outstanding Comments from BSC Peer Review

Prospect Hill Village (DEP file No. 108-968)

Off Lake Street/ Prospect Street

Map 69, Parcel 87 and Map 65 Parcels 20, 22, 22-1, 22-2

Original peer review letter dated 2/25/25 - outstanding comments :

Comment 9 : The applicant proposes to fill 18.090 sf of Isolated Vegetated Wetlands (IVW-H: 1,230 sf and IVWG: 16,860 sf). This will require additional permitting, including but not limited to: 401 WQC (314 CMR 9.04(1), (3) and/or (6)), USACE - Section 404 of the Clean Water Act, and MEPA review (301 CMR 11.03(3)(b)(1)d). - (Similar issue echoed in Comment 35)

Applicant Response- The proposed fill of the Isolated Vegetated Wetland "H" and "G" is optional at the discretion of the commission. Additional permitting requirements will be reviewed should the commission favor the proposed filing and mitigation. We note that the subject IV areas are not subject to Clean Water Act jurisdiction.

- The commission may condition the applicant to obtain all other local, state and federal permits prior to starting work on site - It is unclear based on the applicants and peer review response if additional permitting is required.

Comment 17: The applicant proposes installing an 8-inch sewer line from Cross Street near the intersection of Dupree Road and down Blackmar Street to the proposed development and 4-inch Force Main Sewer generally within the limits of the abandoned railroad grade. Plan Sheet S1 of 4 shows the sewer line crossing beneath an existing box culvert conveying Peters River at approximate Station 2+30 and Plan Sheet 9 of 43 shows the alignment of the sewer line within the parcel and location where it crosses Hoag Brook at a stone box culvert abutment of the railroad (approximate Station 21+10) and where the centerline is in close proximity to wetland (approximate Station 21+60 to Station 22+60)

The applicant should provide more detail on how the sewer line will be installed beneath the Peters River and Hoag Brook box culverts to avoid impacts to those resource areas. Additionally, the applicant should describe how and where trench dewatering will occur within town streets and proximity to wetland resource areas on the subject parcel. There is limited workspace within the limits of the abandoned railroad grade to excavate, stockpile material, install the sewer, dewater, where necessary, and backfill without resulting in direct impacts to wetland resource areas. It appears there are proposed impacts to wetlands from sewer line installation between wetland flags KRA1 and KRA5 that need to be accounted for on the NOI form.

Applicant Response - The suggested information and details will be provided.

- The sheets outlined in the applicants response S1-S4 last revised 1/30/2025, have not been included in the amended plan submission, submitted 5/1/25 (Plans included Sheets 1-43 and Supplemental Sheets A-D)
- The Peters river sewer crossing construction detail on Supplemental Sheet C is new and has not been reviewed or commented on by BSC. The crossing itself, shown on supplemental sheets S1-S4 on plans dated 1/30/2025, does not show a cross section detail or describe how the proposed crossing shall be achieved. The Prospect Hill- EcoTec - Construction Sequence letter dated 2/3/2025 also does not address this crossing.

Comment 18 - The affected bank and channel bottom should be restored to their natural state not armored with riprap. The applicant should provide a restoration plan for the temporary impacts associated with the Hoag Brook sewer line installation and should include using natural riverbed rock for restoration, work in low flow/no flow conditions and any time of year restrictions noted by DMF for fish passage

Applicant response- A restoration plan will be provided, along with a revised construction sequencing.

- The stream channel within the work area will be restored with hand tools, to reestablish the channel topography and surface substrate to pre-work conditions. Flow will then be reestablished by slowly removing the temporary dam and gradually restoring flow to the channel. A detail is provided on supplemental sheet B. Does the applicants response address BSC's concerns regarding best practices for restoration here?

Comment 21- The Application for Permit under Bellingham Wetlands Protection Bylaw & Regulations is missing information related to:

1. Volume of fill being removed from or brought onto the site - this line was left blank and the applicant states that "No major grade changes are proposed. Existing and proposed grades are shown on the subdivision plan included with the application".
2. Quantification of buffer zone impacts- this line has been left blank.
3. Revised impacts to all resource areas to reflect the new design and the recent reclassification of Hoag Brook.
4. The number and type of tree removals proposed within all resource areas and buffer zones.

Applicant response - Comment No. 21-1: Volume of cuts and fills will be provided.

- Where has this been provided? No amended town bylaw document was provided in the NOI that documents the volume of fill and cuts

- There is a note on an EcoTec memo dated 2/3/2025 regarding the Proposed construction sequence that states: **NOTE: It is intended for all excavated material to be re-used on site as fill.**

Applicant response - Comment No. 21-2: Information will be provided.

- Clarifying question for the applicant - does the amended NOI include impacts to the buffer zone of the proposed replication areas? From the information provided it does not appear they were included in the calculation as the new buffer zones were not depicted on the plans.

Applicant response - Comment No. 21-3: Information will be provided.

- Clarifying question for the applicant - does the amended NOI quantification of buffer zones include impacts to buffer zone for the proposed replication areas? I assume it was not used in the calculation as the new buffer zones were not depicted on the plans.
- The total riverfront and impact areas for Riverfront area are detailed as 372,652 sq ft total and 29,996 sq ft to be altered on the NOI amended 4/28/25. This differs from the other two numbers submitted on the NOI submitted 10/16/2025 (299,261 and 18,645). Which numbers are accurate? Under Name of Waterway: the name has been updated from unnamed -inland to Hoag Brook. There are two areas of impacts to riverfront including the unnamed perennial stream and the perennial portion of Hoag Brook.
- Per 10.58(4)(d)(1)(c) for work within an undeveloped riverfront area which exceeds 5,000 square feet, the issuing authority may require a wildlife habitat evaluation study. Do the updated riverfront alterations exceed 5,000 square feet?

Applicant response - Comment No. 21-4: Waiver requested from this requirement.

- At the commissions discretion, is the waiver for tree counts granted?

Comment 27: The applicant should provide a narrative and supporting documents/plans in accordance with 247-33

- Comment has not been addressed, see comment 10 from the BSC peer review supplemental comments dated 4/7/2025

Comment 31: Sheet 20 - Clarify the limit of work and impacts to the 100 foot BZ associated with the creation of a drainage swale along the south end of the project area. This proposed 3-foot-wide swale is proposed outside of the Erosion Control Barrier and will require additional clearing and grading

Applicant Response: We will review this issue and revise the plans as appropriate

- Erosion controls are only shown on part of the swale. A clear limit of work and erosion controls should be depicted any permanent clearing or grading associated with the swale
- Clarifying question: Were these impact areas included in the calculations to calculate impact areas in the amended NOI?

Comment 30: Plan should show the new 25/50/100 foot buffer off the proposed replication area

- This comment has not been addressed. Buffer zones are not depicted off the replication area.

Comment 34: Proposed slopes with a grade in exceeding 3:1 may require reinforced silt fence. Additionally, per § 247-29 B(1)(e), the plan should show the proposed methods for stabilizing and maintaining all embankments facing wetland resource areas, and all slopes equal to, or in excess of, 3:1. This project will also require a Construction General Permit and Stormwater Pollution Prevention Plan, which will require weekly monitoring reports documenting compliance and corrective actions for erosion and sediment controls.

Applicant response: The site has coarse sand and gravel soils throughout, and erosion risk is minimal. All slopes will be treated with topsoil and seed unless noted otherwise.

- The only erosion control proposed has been silt fence with wattle. No additional reinforced silt fences at slopes exceeding 3:1 have been identified.
- The applicant has stated on the plans that a more thorough erosion control plan will be generated for NPDES review.
- Proposed slopes of areas along the replication area and stormwater management structure appear to exceed a 3:1 slope. None of those areas are called out with more extensive erosion controls or embankment stabilization methods on the plans.
- Per this comment the commission may condition the project to require reinforced silt fencing on slopes greater than 3:1 within jurisdictional areas, received the NPDES plan, and to be copied on any weekly SWPPP generated monitoring reports.

Comment 36: The wetland replication plan is incomplete and should be revised to ensure compliance with section 247-20(l) "The proposal for a replication area (submitted with the notice of intent) shall include a detailed plan of the wetland replication showing: [1] Cross-section with indication of groundwater level, soil profile and thickness of organic soil in the existing and proposed wetlands; [2] Plant species detail, including number, type and location of species found in the replication area to be altered, and number, types and locations of species to be introduced into the replacement area; [3] Detail of stabilization plans for replication area of banks; [4] Wildlife habitat diversity plan; [5] Any trees over two inches dbh shall be replaced in accordance with § 247-23 of these regulations, Vegetation removal and replacement.

Applicant Response- Additional replication area details shall be provided. We note however that the proposed IVW fill is within areas that developed in the former gravel mine and the proposed mitigation area is intentionally different.

- The applicant has addressed some of these requirements. The applicant has provided some of the requested information in narrative form and placed the narrative onto the planset.

- No cross section is shown
- The plan does not determine what vegetation currently within the replication area will be altered
- The plan narratively addresses the number type and location of proposed plantings in a generalized format in section 9 that has been amended to address BSC's concerns regarding additional plug plantings. There is no plan planting detail which depicts the number, type and location of the proposed plantings.
- Table 1 is not depicted as a table on the plan set, the words are copied and pasted.

Comment 40: The stormwater basins discharge into the wetland replication area which **does not comply with section §247-20(i)** and is likely to impair the habitat value or negatively impact fauna.

Applicant Response - Comment No. 40: We disagree. The stormwater basins have been designed as recharge basin and to infiltrate 100% of post-development stormwater. There is no discharge proposed into wetland replication. There are provisions, however, for a mechanism to drain down the basin in the event of an emergency. In any event, the Massachusetts Wetland Regulations include stormwater standards and presume that discharges compliant with those standards are protective of the receiving resources. BSC is evaluating the stormwater design with respect to those standards under the purview of the planning board.

- Rob Lussier director of Planning will provide clarity here

Outstanding questions that were asked as part of the peer review working group meeting. Documents included:

Notice of Intent - Prospect Hill Village Additional Information Requested March 12, 2025 and the applicants response - RE: Amende Notice of Intent - DEP File No. 105-0968 - Prospect Village Assessor Map 69, Map 65 - Lot 20, Lot 22, Lot 22-1 and Lot 22-02 dated 4/23:

Item 20: Sewer pump station

- The applicant has stated pump station design pending approval
- Rob Lussier Director of Planning can address this

BSC supplemental peer review dated 4/7/2025 - outstanding comments:

Comment 4 - Summary - Hydrology - addressing hydrologic changes from the box culvert and how that could impact surrounding groundwater levels and the success of any proposed replication area, Soils - conditioning weed free certification of soils, Vegetation: suggesting additional plug plantings on the plan, and requiring an invasive control plan for the area post monitoring

- Hydrology -These concerns were addressed in word form addressed in the “tracked changes” section of the written replication protocol in exhibit 3. Does the explanation by the applicant satisfy BSC’s concerns regarding hydrology changes?
- Soils -The applicant has stated that the topsoil shall be harvested from an upland area of the site (where wetland invasives are not anticipated) with well-composted leaf mold added to increase organic matter content. This combination should minimize the possible introduction of invasives to the replication area. Does the response satisfy BSCs concerns regarding invasive species?
- Vegetation- Plug plantings were added to the planting list on Supplemental sheet D and on Pg 7 of 8 of the plantings plan. The plan also references there being no assurance of survivorship of the plugs. Hand pulling and pesticide application were identified on point 15 of the Wetland Replication Protocol. Does this response satisfy BSC’s concerns for an invasive species control plan?
- The applicant has not addressed requirements from section 247-20(I) relating to the replication plan as noted in Comment 36 of the 2/2/5/25 peer review from BSC peer review as well.

Comments 6, 7, 8, and 10 - Summary - these comments all address stormwater

- The applicant states, “Based on the provisions of Section 247-33.A.1 the proposed project is not a subdivision, commercial project, industrial project or transportation project; therefore section 247-33 of the Regulations are not applicable. Moreover, stormwater management is not an area subject to protection under M.G.L. c. 131 Section 40 and the areas specified in the Regulations at 310 CMR 10.02(1). Likewise, the construction and/or design of a proposed stormwater management basin is not an activity subject to jurisdiction, provided the activity to construct such a basin will not remove, fill, dredge or alter and area specified in 310 CMR 10.02(1). Therefore, Section 247-33 of the Bellingham Wetland Regulations related to “Stormwater Compliance” and the requirement to provide 4- foot separation between the bottom of the basin and estimated seasonal high groundwater is not subject to regulations under M.G.L c. 131 Section 49 or the Bellingham Wetland Protection Bylaw.
- Peer review comments defer to the Planning Board on these outstanding comments.

Comment 9: The Applicant appears to be using the two terms IVW and ILSF synonymously. However, while there is no areal limit to allowing filling ILSF (provided any lost area is replicated at a 2:1 ratio or more), the regulations state the Commission may allow the filling of up to 5,000 square feet of IVW provided 2:1 compensation is provided. It’s unclear to BSC which of the two depressions qualifies as IVW and which qualifies as ILSF. While we may agree that providing compensatory mitigation for the loss of isolated wetlands that are in the early stages of soils, hydrology and plant development, the regulations restrict the loss of IVWs to 5,000 square feet. The Applicant should clarify the IVW vs ILSF status for each of the depressions. Any ILSF determination will require engineering calculations to confirm.

- It is still unclear what areas are considered IVW vs ILSF. The amended NOI states no ILSF shall be filled. Does the applicants additional documents and amended NOI clarify BSC's concerns regarding the status of each depression as IVW not ILSF?

Additional staff comments regarding clarification the most recent submission:

- Dewatering protocol on sheet 43 references haybales. The Conservation Commission does not authorize the use of haybales as an erosion control measure.
- Vernal pools identified in the D and C series that have been confirmed as vernal pools are still not identified on any plan set and are only labeled as isolated vegetated wetlands. The 50' No disturb zone associated with the identified vernal pools is also not depicted on the plans.
- Per a number of the above comments from BSC requesting updated impacts to resource areas and buffer zones, the applicant has provided a revised state NOI form, form 3. No local form has been amended and provided. Clarifying question: Does the most recent local bylaw form dated October 15th 2025 accurately describe the impacts to buffer zone (304,461 square feet)?