



TOWN OF BELLINGHAM CONSERVATION COMMISSION

10 Mechanic Street
Bellingham MA 02019
Telephone: (508)627-2858

To: Conservation Commission, Applicant, File
From: Hannah Chace, Conservation Agent
RE: Blackstone Street (DEP file No. 105-0986 and BWP-376)
Date: 12/5/2025

Dear Commissioners and Applicant ,

I am sending this memo to clarify items that I recommend be addressed in the discussion of the requested waivers at the meeting on December 10th. At the last meeting on November 12th it was identified that the applicant had not compiled information to support his waiver request for the alteration of the 50' Vernal Pool No Disturb Zone (NDZ). Additionally, no information has been submitted to address the 25' NDZ waiver request. The applicant provided some photos of the existing conditions along the ROW in Exhibit 1 of his Notice of Intent submission, but has not provided additional materials via plans or narrative description to support his waiver request for the identification of 10" caliper trees to be removed from the buffer zone. The applicant submitted a number of additional documents in response to the 1st round of peer review comments and requested the second round of peer review commence without any materials to address the 50' Vernal Pool NDZ waiver request. This office has yet to receive any additional materials as of this date December 5th, 2025. To provide further clarity for the commission and applicant on these waivers I have identified pertinent regulatory language and additional information that may be required by the commission to evaluating the waiver request.

Bellingham Wetland Protection Bylaw Regulations

No Disturbance Zones

- Per Bellingham Bylaw regulations 247-25(E) "Establishment of a no-disturbance zone. Unless the presumption set forth in § 247-25D of these regulations is overcome, the following standards shall apply to a vernal pool and its buffer zone: (1) No-disturbance zone. The Commission may require that no activity shall be permitted within a designated number of feet from the delineated edge of a vernal pool, or in the case of a wetland resource area that encompasses the pool, within a designated number of feet from the delineated edge of said wetland resource area. In many cases, this no-disturbance zone may extend for 50 feet. Prohibited activities include, but are not limited to, mosquito spraying, fertilization, herbicide and pesticide applications, grading, landscaping, vegetation control, pruning, cutting, filling, excavation, roadway construction and/or driveway construction.
- Per Bellingham Bylaw regulations 247-24(B)(2)(a) " No-disturbance zone. The Commission may, as a condition of approval, designate a no-disturbance zone which shall, in general, be designated as a specific number of feet from a regulated resource area. Prohibited activities may include, but are not limited to, mosquito spraying, fertilization, herbicide and pesticide applications, grading, landscaping, vegetation control, pruning, cutting, filling, excavation, roadway construction and/or driveway construction. Enforcement of the no-disturbance zone for existing single- and duplex-family residences is discretionary, if the Commission finds the zone's use to be insignificant or

sufficiently mitigated. This is an area within the buffer zones in which virtually no activities or work, other than passive passage, are permitted. No vegetation may be disturbed, and leaf litter and debris shall remain in place. This minimal disturbance area should remain unchanged from its pre-project condition to maintain consistency with Subsection A(5). In general, a no disturbance zone may consist of 0- to 25-foot buffer zone from a resource area but the Commission may impose a smaller or larger no disturbance zone in order to protect the interests under the Bylaw and these Regulations”

This language is purposefully broad, in the previous section 247-24B(1), the regulations identify the scope of review within the buffer zone to include **(a) Slope (b) Soil characteristics (c) Drainage patterns (d) Extent and type of existing vegetation (e) Extent and type of invasive vegetation (f) Amount of impervious surface (g) Wildlife and wildlife habitat (h) Intensity and extent of use (i) Intensity and extent of adjacent and nearby uses**. Per the bylaw language “(t)his approach is intended to allow maximum flexibility for property use while maintaining adequate levels of protection of the resource values protected by the Bylaw.” So while the regulations maintain flexibility the disturbance zones, it is clearly identified that the intent of the regulation is to establish a starting point for review as a 25' No Disturb Zone and a 50' NDZ for vernal pools which has been enforced as policy since its implementation. Based on evidence submitted by applicants or others the Commission may adjust those zones accordingly in order to provide both flexibility of use and protection of resource values.

Alternatives Analysis

- Section 247-3 (B) states “The applicant shall have the burden of proving by a preponderance of the credible evidence from a competent source that the work in the application will not have unacceptable significant or cumulative effect upon the wetland values protected by the Bylaw. Failure to meet the burden of proof may be cause for the Conservation Commission to deny the NOI along with any work or activity proposed therein.”
- Section 247-11(A) states “The Commission possesses the discretion to deny any project or activity that will alter an actual resource area or buffer zone. In general, the Commission will allow only certain projects or activities to alter actual resources which maintain an existing legal use or necessary to address emergency conditions deemed so at the Commission's discretion.
- Section 247-11(C) states “For any other projects or activities that will alter an actual resource area or buffer zone, the Commission may require alternatives analysis. Applicants are required to demonstrate that there are no practicable alternatives to the proposed project with less adverse impact on the protected resource and interests. A practicable alternative is an available and feasible alternative, which will accomplish the project's general purpose, taking into account costs, logistics, the proposed use, and the most current technology.”

The alternatives analysis is further described in sections D through H.

The applicant has stated on multiple occasions that there are “options” for the development of this parcel. Please detail what alternatives have been considered. It should be noted per Section 247-11(D) “ The area in consideration must extend to the subdivided lots (this includes approval not required[ANR] lots), any parcel out of which the lots were created, any adjacent parcels held in common ownership or interest, any

parcels which are in the process of being obtained, any parcels previously held in common ownership or interest with the subject property and any other land, which can reasonably be obtained, as of the effective date of these regulations." The applicant has submitted plans to the NHESP detailing alternative means of access to the site utilizing property in Blackstone over parcels not currently owned by the applicant. It should also be noted that the applicant has stated that he is in possession of plans from a previously proposed development within the same location. This previous development which was ultimately not constructed identified potential alternate road construction using property under control of the applicant to the south. The applicant should detail and describe these alternatives along with any others which he considered and identify why the proposed alternative is the only practicable alternative with the least impacts to resource areas within the project area .

Requested information in support of the 25' NDZ, 50' Vernal Pool NDZ, tree count waivers requested from the applicant

Generally, per section 210 and 211 Alternatives Analysis

Please submit:

1. A brief statement of the relief sought;
2. A description of all reasonably identifiable alternatives to the applicant's proposal that were considered by the applicant and that would avoid or minimize the necessity of the requested relief, along with the reasons why such alternatives were deemed to be inadequate, unworkable or inadvisable; "reasonably identifiable alternatives" includes purchasing at market prices if otherwise practicable, as documented by offers (and any responses). For other land, "reasonably identifiable alternative" means adequate in size to accommodate the project purpose and listed for sale within appropriately zoned areas, at the time of filing a RDA or NOI, within the municipality. Alternatives extend to any sites which can reasonably be obtained within the appropriate area.
3. A statement of all efforts that will be undertaken to minimize impact upon resource areas and buffer zones arising out of the work proposed;
4. Detailed plans for any mitigation measures proposed;
5. Adequate engineering and expert evidence to permit the Commission to evaluate the basis for the applicant's contentions in support of the waiver requested; and
6. Any and all relevant information which the applicant wishes the Commission to consider in deliberating the waiver request.

For additional specificity of this information and its relevance please see the detailed information below.

- Per Bellingham bylaw regulations section 247-25 "Vernal pools and their associated 100-foot buffer zone are likely to be significant to the protection of wildlife habitat and rare plant and animal habitat". Furthermore, "(t)he extreme edges of vernal pool habitat represent one of the most ecologically valuable portions of these habitats". (Bellingham Bylaw regulations and NHESP Guidelines for the Certification of Vernal Pool Habitat). This certified vernal pool (CVP) supports

wildlife in the form of breeding habitat for spotted salamanders, wood frogs, and the entire lifecycle of fairy shrimp. This office has also seen photos submitted that depict wood turtles crossing the roadway to traverse from the wetlands along the south side of the property towards the vernal pool. While this pool likely does not contain breeding/overwintering habitat, wood turtles are likely to use this area during early spring as a food and water source as is the case for many other species. Additionally, other impacted wetlands and their buffer zones are likely to be significant to the protection of Flood Control, Storm Damage Prevention and Prevention of Pollution.

- The highest flood elevation should be observed in order to accurately depict the edge of the CVP to ensure the protection of the extreme edges, especially as this project limit of work is proposed directly alongside flag A4 and within 3-10 feet of other wetland flags in numerous other locations (AA3, AA4, A1A, and A1-A8).



Extent of water on 12.4.2025 is located further than flagged wetland edge.

- Slope
 - The current plans depict a steep upgradient retaining wall with a guard rail. This is a significant grade change and would likely be prohibitive for species which may be within the 100 foot buffer zone and migrating toward the vernal pool directly adjacent to the retaining wall. How will the applicant avoid, minimize or mitigate impacts to wildlife habitat?
 - Staff recommends identifying potential alternatives such as a wildlife crossing design for the target species.
- Drainage Patterns

- The applicant has not provided information on snow storage. Based on site constraints and incredibly close proximity to the vernal pool snow will likely be pushed within or directly adjacent to the vernal pool. Snow melt from with chemicals, salt and sand applied would enter into the CVP changing the pH of the water. Specifically, how will the applicant ensure that during winter season that salts from roadway salting will not be directed towards the vernal pool. How will its impacts to wildlife habitat be avoided minimized or mitigated?
- Staff recommends contemplating alternate roadway layouts and/ or submitting a snow removal, salting and storage plan using environmentally sensitive deicing materials.
- Extent and type of existing vegetation
 - Removal of vegetation reduces shade. This may cause water temperatures and evaporation to increase. It has not been identified what vegetation will be removed or preserved, especially within close proximity to the vernal pool or other wetland resource areas (10" caliper tree waiver request on local bylaw application). How will the applicant avoid, minimize or mitigate impacts of vegetation removal to wildlife habitat?
 - Staff recommends contemplating alternate roadway layouts and/or staking out the proposed limit of work (including the replication area) submitting the information on 10' caliper trees to be removed from the site within buffer zones, and submitting a plan to preserve important vegetation directly adjacent to the CVP, within the 25' NDZ and revegetation plans for the temporary disturbance at the proposed staging area.
- Extent and type of invasive vegetation
 - The LOW is proposed within less than 1 foot of the delineated wetland edge associated with the vernal pool. Roadway creation and maintenance creates soil disturbances that are easily colonized by invasive vegetation. It has not been identified what vegetation will be removed or preserved along roadway edges (see above) or how the applicant plans to revegetate the shoulders of the proposed roadway.
 - How will the applicant avoid, minimize or mitigate impacts from the spread of invasive species to the vernal pool or buffer zone?
 - Staff recommends identifying a plan for vegetative restoration and maintenance and what efforts will be made to reduce the potential for invasive species to colonize the shoulders of the roadway, especially directly along the edge of the CVP.
- Amount of impervious surface
 - The upgraded ROW will change the area from pervious gravel and sand with some vegetative cover to impervious pavement. Impervious surfaces increase the temperature of and contribute to more stormwater runoff. The applicant has

proposed a stormwater management system, which is currently under evaluation to meet state and local criteria by Beals and Thomas, in coordination with the Planning Board. However, unrelated to the increase in stormwater generated by impervious surfaces, surfacing changes surfaces can negatively impact amphibians due to changes in heat, vegetation and moisture.

- How will the applicant avoid, minimize or mitigate the impact of the change in road surfacing on the wildlife habitat provided by the vernal pool and its buffer zone?
- Staff recommends identifying how wildlife crossings could be implemented in the site design.
- Wildlife and wildlife habitat use
 - As detailed in the proceeding and succeeding sections the vernal pool and its buffer zone are significant to the protection of wildlife habitat per Bellingham Bylaw regulations.
 - How will the applicant avoid, minimize or mitigate impacts to the functions of the vernal pool and its buffer zone?
 - Staff recommends implementing alternatives described above and below this section .
- Intensity and extent of use.
 - Roads constructed near pools contribute to high mortality of amphibians. Vehicle traffic is a significant problem for small, slow moving migratory amphibians (ie spotted salamanders and wood frogs) where almost the entire local population may move on the same night. Although the currently proposed plan is for the access to 10 ANR lots, there are corridors left for potential future roadway construction which were also depicted on the submission plans to Natural Heritage. Upgrading the gravel ROW will increase vehicle traffic in the area. Current use of the roadway is limited to occasional and infrequent use by private vehicles typically during daytime. Increased intensity and extent of use of the roadway, especially at night during migration and breeding season typically leads to significant increases in mortality of migrating amphibians.
 - How will the applicant avoid, minimize or mitigate impacts/ mortality generated from the roadway as a hinderance to wildlife movement,
 - Staff recommends contemplating alternate roadway layouts, wildlife crossings, restriction of lighting, and restricting timing of construction activities