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Northborough Conservation Commission
Northborough Town Hall
63 Main Street
Northborough, MA 01532

Re: Waiver Request
0 Hudson Street, Northborough, MA

Dear Northborough Conservation Commission:

Norse Environmental Services, Inc is pleased to submit this Waiver Request on behalf of the applicant, Circle Assets, LLC, for the construction of a retaining wall within the 35' BVW no structure buffer zone and 25' BVW no disturb buffer zone at the property located at 0 Hudson Street (Assessors Map 53 Lot 19, 20, 21) in Northborough, MA. This is a filing under the Northborough Wetlands Protection Bylaw only.

1.0 Existing Conditions

The site of the proposed project consists of two lots, totaling 2.19 acres. These two lots were created from 3 lots which existed prior to 1996. The lots are largely undeveloped except for a gravel parking area at the northern corner of Lot 1, which has existed for several decades as a result of abutter encroachment. In addition, a town sewer line runs through the north west corner of Lot 1. The site historically was old fields with a ditch running west to east diagonally across the property. This ditch is still present within the A-series wetland. The A-series wetland begins on Lot 2 and drains to the southeast of Lot 1 where it borders on the Assabet River. A 12" concrete masonry pipe discharges on to Lot 2 from Hudson Street and has caused erosion that is transporting sediment towards the wetland. The site contains Bordering Vegetated Wetlands (BVW), Bordering Land Subject to Flooding (BLSF), Bank, and Riverfront Area (RA). The Buffer Zone north of the A-series wetland is dominated with nearly 100% Japanese Knotweed from the wetland edge to the road shoulder and gravel parking area.

2.0 Proposed Retaining Wall and Performance Standards under the Northborough Wetland Protection Bylaw

The applicant proposes to construct a retaining wall within the 35' no structure buffer zone and 25' no disturb buffer zone to the on-site BVW. The retaining wall will allow for minimizing net impacts to resource areas on site (reduction of impacts to Riverfront Area and BLSF). minimize grading disturbance, and provide a defined limit of development.

The Northborough Wetland Protection Bylaw, *Section 4.2.3 Activities Within the Buffer Zone-General Performance Standards* states the following:

No foundation, building, road, sidewalk, or other permanent structure shall be placed within thirty (35) feet of any resource area... Notwithstanding the above, the Commission may allow work closer to resource areas if needed:

(a) to provide access to an area where an alteration of BVW has been allowed;

This is not applicable to the proposed project.

(b) if the work qualifies as a limited project (310 CMR 10.53 (3) as amended); or

This is not applicable to the proposed project.

(c) for storm water outlet structures.

This is not applicable to the proposed project.

In other projects the Commission may allow work closer to a resource area if the applicant demonstrates:

(1) alternatives have been considered and in the judgment of the Commission no practical alternative is available;

The alternative to the retaining wall would involve larger permanent impacts to Riverfront Area and BLSF impacts by keeping development near Hudson Street and further from the river. The retaining wall is the most practical alternative to the project as it minimizes disturbance within the 35' buffer while serving the purpose of the project.

(2) project scope and design minimize work in close proximity to resource areas;

As stated above, the retaining wall design minimizes work and disturbance within the 35' buffer zone and eliminates need for additional disturbance within Riverfront Area and BLSF.

(3) site conditions (including but not limited to slope, soil type and hydrology) will allow prevention of wetland damage from such work; and

The retaining wall is being proposed to allow for building construction, which warrants slope stabilization through the retaining of soils or grading due to site topography and existing conditions. Grading would cause more disturbance in close proximity to the resource area. The retaining wall will allow for building construction, stabilize the slope and preventing slope failure, while further protecting the site resource areas. Sediment and erosion controls will be placed at the limit of work.

(4) such work will not lead to encroachment on the resource area after completion of the project.

Building the retaining wall will not lead to encroachment on the resource area during and after completion of the project. The retaining wall would limit construction and grading activities

within the buffer zone and move the limit of work further away from the resource area compared to the grading of the slope. The limit of work will be demarcated prior to the commencement of work and once completed, the retaining wall would serve as a permanent physical barrier between the project and the resource area.

3.0 Conclusions

According to Section 3.9 of the Northborough Wetland Protection Bylaw (***Waivers***) the Commission may, *in any particular case, where such action is in the public interest and not inconsistent with the intent and purpose of the Wetlands Bylaw, waive strict compliance with those portions of the Regulations which are not required by the Wetlands Bylaw.*

Norse Environmental Services, Inc believes that the project qualifies for a Waiver for the 35' no structure and 25' no disturb accordance with Section 3.9 of Northborough Wetland Protection Bylaw. The 35' no structure and 25' no disturb provisions of the Wetlands Bylaw is not required by the Bylaw given that certain provisions are met. As stated in the Section 4.2.3 of the local Wetland Protection Bylaw, *the Commission may allow work closer to a resource area if the applicant demonstrates compliance with Section 4.2.3(1) through (4).* As demonstrated above, the project meets the provisions under Section 4.2.3(1) through (4). As previously stated, the retaining wall will minimize disturbance within Riverfront Area and BLSF in accord with the intent and purpose of the Wetlands Bylaw. Furthermore, the retaining wall minimizes disturbance within the resource areas on site, helping protect the wetland resource areas which are in public interest. The applicant's proposal to remove 24,125 SF of invasive species and restore and enhance the BLSF by invasive species management is a significant improvement to the resource areas on site.

Please feel free to contact us if you have any questions.



Steve Eriksen
Norse Environmental Services, Inc