



STRATEGIC LAND VENTURES

<i>By-Law or Regulations Section</i>	<i>Requirement</i>	<i>Explanation</i>
Wetlands Bylaw Section 1.1: Resource area values	<i>protection of wildlife habitat and rare species habitat</i>	There is no rare species mapped under the State's MESA priority habit mapping. We are not subject to do this additional review under Chapter 40B as it's not required under State regulations.
Wetlands Bylaw Section 1.2.2: Use of Home Rule Authority	<i>protect vernal pools as an additional resource area recognized by the Town as significant, but not included in the Act;</i>	DEP does not regulate vernal pools, only vernal pool habitat. Vernal Pool habitat does not extend into uplands under DEP regulations which is in contrast to the local bylaw. The Applicant cannot adhere to this local bylaw. This would effectively make a 130' no disturb area around any vernal pool, which would require a major redesign and a substantial loss of units.
Wetlands Bylaw Section 1.2.3: Use of Home Rule Authority	<i>protect all resource areas for their additional values beyond those recognized in the Act;</i>	This waiver relates to a procedural process. To the extent it requires additional burden beyond what is required in the Wetlands Protection Act, we would be asking for a waiver. There are specific values identified in the local bylaw more restrictive than the Act, we will be requesting a waiver from those provisions.
Wetlands Bylaw Section 1.2.4: Use of Home Rule Authority	<i>impose, through local regulations and permits, additional standards and procedures stricter than those of the Act and its implementing regulations, 310 C.M.R. 10.00, et.seq. ("Regulations")</i>	This waiver relates to a procedural process. To the extent it requires additional burden beyond what is required in the Wetlands Protection Act, we would be asking for a waiver. As customary in the 40B process, we will be requesting waivers as part of the Comprehensive Permit application which are necessary to build the project as represented. We will adhere to SOME local regulations that are stricter than the ACT, but not in other areas. So we believe we need this waiver, but would defer until we enter the discussion with the Zoning Board of Appeals.
Wetlands Bylaw Section 2.2.13: Definitions	<i>Any incremental activities, changes or work which have, or may have, a cumulative adverse impact on the Resource Areas protected by this By-Law.</i>	This local requirement goes beyond what is required in the Wetlands Protection Act. The terms "cumulative" and "incremental"



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		are not defined. Thus, it is open to subjective interpretation and could require a major redesign and a substantial loss of units depending on the local Commission's interpretation.
Wetlands Bylaw Section 2.9.5: Definitions	<i>The boundary of the Resource Area for vernal pools shall be the 100 feet perpendicular to the mean annual high-water line defining the depression.</i>	This bylaw would extend the resource area boundary 100 feet into the uplands, which greatly exceeds the Wetlands Protection Act definition which has the boundary ending at the edge of the resource area. Adherence to this bylaw would effectively create a 130-foot no disturbance zone around any vernal pools which would require a major redesign and a substantial loss of units.
Wetlands Bylaw Section 4.1.1: Jurisdiction	<i>any freshwater or coastal wetland; salt marsh; wet meadow; bog; swamp; vernal pool; spring; bank; reservoir; lake; pond; river or stream; beach; dune; estuary; coastal bank; lands under any water body; land subject to flooding or inundation by groundwater or surface water; land subject to tidal action; coastal storm flowage or flooding; and</i>	The Applicant is requesting a waiver from this section as the Department of Environmental Protection shall have jurisdiction over vernal pool habitat areas. Wetlands Protection Act also does not protect Isolated wetlands.
Wetlands Bylaw Section 4.3: Jurisdiction and Presumption	<i>A Resource Area, where isolated and of a size of 5,000 square feet or greater, shall be protected whether or not it borders surface waters.</i>	The Applicant is waiting for the ORAD to be completed. If the ORAD confirms that there are no isolated wetlands, then this waiver will not be required. But the ORAD has not yet been completed.
Wetlands Bylaw Section 4.4: Jurisdiction and Presumption	<i>Unless the applicant demonstrates by clear and convincing evidence that a significant adverse effect will not occur, it shall be presumed that significant adverse effects will result from any alteration within: 4.4.1 - a Resource Area, other than land subject to flooding or inundation by groundwater, or surface water or coastal storm flowage or flooding; 4.4.2 - 30 feet of the edge of any salt marsh, freshwater wetland or vernal pool; or 4.4.3 - 30 feet of the top of any coastal or inland bank.</i>	4.4.1 – The Applicant requires this waiver to allow for a sewer pipe to cross the resource area to provide access to the rear leaching field. The Applicant will NOT need this waiver if the Town allows the Applicant to connect to municipal sewer. 4.4.2 – The Applicant requires this waiver to allow for work to occur within 30 feet for sewer pipe crossing mentioned above. The Applicant will NOT need this waiver if the Town allows the Applicant to connect to municipal sewer. 4.4.3 – only applicable if there is a section of intermittent stream flowing through the wetland to be altered, in which case the Bank would need to be delineated
Wetlands Bylaw Section	<i>Except as provided in Section 5 hereof, a written NOI</i>	This waiver relates to a procedural process.



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<p>6.1: Applications and Fees</p>	<p><i>application shall be filed with the ConCom to prior to performing any activity affecting a Resource Area. The NOI shall include such information and plans as are deemed necessary by the ConCom to describe proposed activities and their effects on the Resource Area or Resource Area Buffer Zone. No activities shall commence without receiving and complying with a permit issued pursuant to this By-Law.</i></p>	<p>To the extent it requires additional burden beyond what is required in the Wetlands Protection Act, we would be asking for a waiver.</p>
<p>Wetlands Bylaw Section 9: Permits and Conditions</p>	<p>This entire section grants the Commission authority to discretionarily deny the project.</p>	<p>This waiver relates to a procedural process. This section requires additional burden and higher a standard beyond what is required in the Wetlands Protection Act, we would be asking for a waiver. For example, an Alternative Analysis is required (among many other things) under the local bylaw and not required under the WPA.</p>
<p>Wetlands Regulations Section 2.17: Definitions</p>	<p><i>“No Build Zone” means the fifty (50) feet horizontally landward of those Resource Areas included in Sections 2.17.1 and 2.17.2 in which there shall be no construction or installation of any Structures. The No Build Zone includes the area fifty (50) feet horizontally landward of: 2.17.1 - the edge of any salt marsh, freshwater wetland or vernal pool; or 2.17.2 - the top of coastal bank, or the top of the bank of any stream or river</i></p>	<p>The Applicant is waiting for the ORAD to be completed. Once the ORAD is finalized, the Applicant would be better able to determine if this waiver is necessary. This waiver may or may not be necessary.</p>
<p>Wetlands Regulations Section 2.18: Definitions</p>	<p><i>“No Disturb Zone” means the thirty (30) feet horizontally landward of those Resource Areas included in Sections 2.18.1 and 2.18.2 in which there shall be no Alteration. The No Disturb Zone includes the area thirty (30) feet horizontally landward of: 2.18.1 - the edge of any salt marsh, freshwater wetland or vernal pool; or 2.18.2 - the top of coastal bank, or the top of the bank of any stream or river</i></p>	<p>The Applicant requires this waiver to allow for a sewer pipe to cross the resource area to provide access to the rear leaching field. The Applicant will NOT need this waiver if the Town allows the Applicant to connect to municipal sewer.</p>
<p>Wetlands Regulations Section 2.28: Definitions</p>	<p><i>“Significant Immediate or Cumulative Adverse Effect” means an impact that would under reasonable assumptions result in a measurable decrease in the function of a Resource Area protected by the By-Law at the site or proximal to the site, taking into consideration past losses, current conditions and the projected impacts of reasonably foreseeable future work resulting in similar, comparable, or other discernible impact and disturbance, as determined by the Commission. When an activity that may not be significant in and of itself, or incremental activities that may not be significant in isolation, but cumulatively have an</i></p>	<p>This local requirement goes beyond what is required in the Wetlands Protection Act.</p> <p>The terms “significant immediate” and “cumulative adverse” are not defined. Thus, it is open to subjective interpretation and could require a major redesign and a substantial loss of units depending on the Local Commission’s interpretation.</p>



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	<p><i>adverse impact, that activity may have a Significant Immediate or Cumulative Adverse Effect. Determination of Significant Immediate or Cumulative Adverse Effect shall be made on case by case basis, considering all relevant evidence presented and which shall include but not be limited to attritional loss and history of activities within Resource Areas.</i></p>	
<p>Wetlands Regulations Section 2.32: Definitions</p>	<p><i>“Vernal Pool” means that as defined in Section 2.9 of the By-Law.</i></p>	<p>This bylaw would extend the resource area boundary into the uplands, which greatly exceeds the requirements under the Wetlands Protection Act definition which has the boundary ending at the edge of the resource area. Adherence to this bylaw would require a major redesign and a substantial loss of units</p> <p>The Applicant will adhere to all State requirements as it relates to Vernal Pool habitat and boundaries.</p>
<p>Wetlands Regulations Section 8: Burden of Proof</p>	<p>8.1 General Standard. <i>Except as set forth in Section 8.2 of these Regulations, an Applicant shall have the burden of proving by a Preponderance of the Credible Evidence that any work or activity proposed in an Application will not have a Significant Immediate or Cumulative Adverse Effect upon the wetland values protected by the By-Law.</i></p> <p>8.2 Specific Standard. <i>An Applicant shall have the burden of proving by a Clear and Convincing Evidence that any work or activity proposed in a Resource Area (other than land subject to flooding or inundation by groundwater, or surface water or coastal storm flowage or flooding) or a No Disturb Zone, will not have a Significant Immediate or Cumulative Adverse Effect upon the wetlands values protected by the By-Law.</i></p>	<p>This burden of proof is more rigorous and stringent than the burdens and requirements under the Wetlands Protection Act.</p> <p>For example, “Wetland Values” are different than the WPA, “protection of wildlife habitat and rare species habitat” are also different, among many others.</p> <p>Adherence to these regulations would require a major redesign and a substantial loss of units.</p>
<p>Wetlands Regulations Section 9: Performance Standards</p>	<p>9.2 Additional Performance Standards. <i>In addition to the performance standards contained in the MA Regulations, and all presumptions of significance contained therein, the performance Standards set forth for the Resource Areas referenced in Sections 9.3 through 9.7 shall be Additionally applied, and shall also carry a presumption that any proposed Alteration shall have a Significant Immediate or Cumulative Adverse Effect.</i></p>	<p>The Applicant is requesting a waiver from this section as the Department of Environmental Protection shall have jurisdiction over vernal pool habitat areas.</p>



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	<p>9.7 Vernal Pool. <i>Prior to the issuance of a permit for work or activity which Alters a Vernal Pool, the Applicant shall demonstrate by Clear and Convincing Evidence as set forth in an Alternatives Analysis that there is no Practicable Alternative to the work or activity proposed. Any Alteration which impacts the topography, soil structure, plant community composition, Vegetation canopy or understory, hydrologic regime, drainage patterns, migratory paths of Vernal Pool species and/or water quality of a Vernal Pool shall be presumed to have a Significant Immediate and Cumulative Adverse Effect to the Vernal Pool and the wetlands values protected By the By-Law.</i></p>	
<p>Wetlands Regulations Section 10: Establishment of the No Build Zone and the No Disturb Zone within the Resource Area Buffer Zone.</p>	<p>10.1 Resource Area Buffer Zones. <i>Resource Area Buffer Zones are essential for protection of Resource Areas in that they reduce adverse impacts to the wetland functions and values from nearby activities and a naturally vegetated Resource Area Buffer Zone functions to protect the wetland values included in the By-Law. In order to protect the Buffer Zone and its adjacent Resource Area(s), a 30 (thirty) foot No Disturb Zone and a 50 (fifty) foot No Build Zone have been established to limit the types of activities that are permitted in the first 50 feet of the Buffer Zone to the edge of any saltmarsh, freshwater wetland, vernal pool, the top of a coastal bank or the top of any bank of any stream or river.</i></p>	<p>The Applicant is waiting for the ORAD to be completed. Once the ORAD is finalized, the Applicant would be better able to determine if this waiver is necessary.</p> <p>This bylaw most likely extend the resource area boundary into the uplands, which greatly exceeds the requirements under the Wetlands Protection Act definition Adherence to this bylaw would likely require a major redesign and a substantial loss of units</p>