



Memo

To: Zoning Board of Appeals via Krystal Dos Santos, ZBA Clerk
From: Conservation Commission via Jennifer Miller, Conservation Agent
Date: April 20, 2021
Re: Comprehensive Permit Application for #2021-07 RI Seekonk Holdings LLC

It is the understanding of the Conservation Commission that the Zoning Board of Appeals has received a Comprehensive Permit application for #2021-07 RI Seekonk Holdings, LLC to allow for the construction of (7) seven buildings with a total of (240) two-hundred forty multi-family residential units, which will include (60) affordable units, to be located at 800 Fall River Avenue., Plat 8, Lot 3 in a R-3 Zoning District containing 16.687 acres +/- . Furthermore, we understand that the permit application includes several waiver requests that directly relate to Seekonk's local wetlands protection bylaw and/or the wetlands on or abutting this parcel. Given this, the Conservation Commission offers the following for consideration as it relates to the permit application and the requested waivers.

WAIVERS:

- 1. Seekonk Wetlands Protection Bylaw:** The applicant is requesting the local wetlands protection bylaw, in its entirety be waived, and the project only be held to the state Wetlands Protection Act (Act). The state Act does NOT protect these isolated lands subject to flooding (ILSF) or isolated vegetated wetlands (IVW) located on or abutting this parcel because they do not meet the size requirements. So, in essence, the applicant is asking the ZBA to waive all protection afforded to these wetland resources because they are only protected under our local bylaw and is proposing development right up to the edge of these important resource areas. All other development projects, from commercial to single family houses, are held to abiding by the Town's local wetlands protection bylaws and this project should be no different. **Therefore, the Conservation Commission does NOT support issuing this waiver.**
- 2. Section 9, Vernal Pool definition:** The applicant is requesting a waiver to the inclusion of the 100' surrounding the vernal pool being included as part of the vernal pool "habitat area". In deciding whether to grant this requested waiver, it is important to understand that a vernal pools are a very unique habitat type. In very basic terms, they are ponds that dry up in late summer and early fall and therefore cannot support an adult fish population. As such, they are vital to the reproductive cycle of many rare and endangered amphibian and reptile species, since there are no fish present to eat their vulnerable eggs and growing offspring. Additionally, while the eggs and young of many reptiles and amphibians live exclusively in the water, they eventually transition to away from gills to lungs and live both in the water and on land as adults. Therefore, removing the 100' vernal pool "habitat area" from the vernal pool definition would leave these rare and endangered species without the land they require for their full lifecycle. In fact, the submitted plan proposes development right up to the edge of these potential vernal pools with a playground and stormwater structures within what would otherwise be protected vernal pool habitat. It's also important to note that there is a certified vernal pool on an abutting parcel in Greenbrier I, which means that rare and endangered species were documented in that vernal pool and verified through Massachusetts' Natural Heritage and Endangered Species Program (NHESP). Currently there is undeveloped, woodland habitat between the certified vernal pool and the potential vernal pools, which increases the likelihood that animals are able to travel between these interconnected wetland areas. Lastly, this inclusion of the 100' of "habitat area" is the same or similar in language to many other municipalities in Massachusetts with a local wetland

protection bylaw. **Therefore, the Conservation Commission does NOT support issuing this waiver.**

3. **Seekonk Conservation Commission Regulations:** The applicant is requesting a waiver from the regulations as a whole and from several specific regulations and that the project only be held to the state Act. As stated previously, the ISLF and IVW wetland resources impacted by this project are only protected by the local bylaw and its associated regulations and are NOT protected under the state Act. Granting these waivers would allow the project to proceed without oversight from the Conservation Commission with regard to these highly sensitive resource areas that have already been impacted by Greenbrier I. The Conservation Commission is charged with protecting Seekonk's wetland resource values, including, among others, the groundwater that the residents of Seekonk rely upon for their drinking water. All projects, including this one, should be held to meeting the Seekonk Conservation Commission Regulations without exception. **Therefore, the Conservation Commission does NOT support issuing these waivers.**

OTHER PROJECT CONSIDERATIONS:

1. **Outstanding Orders of Conditions:** The applicant is proposing adding to current development of Greenbrier I under this 40B Comprehensive Permit application for Greenbrier II. The Orders of Conditions issued for Greenbrier I, #SE69-0660, expired in June 2018 and were not extended. To date, the applicant has not filed for a permit for this existing, incomplete multi-family project. Some of the incomplete items include amenities promised to the Town and the Greenbrier I residents, including a community /common use building and walking trails along the wetland edge as shown on the approved plans. Additionally, under the approved plans, the applicant was allowed a "take" of wetland resource area with replication of wetlands elsewhere on site. Part of that replication process includes providing regular reports to the Commission and meeting certain success criteria, neither of which has occurred. Furthermore, the stormwater structures have not been evaluated or shown to be in substantial compliance with the approved plans, nor have as-built plans been submitted. These are very important aspects of the Greenbrier I development and the applicant should be held to completing the Greenbrier I project before being allowed to start site work for another similar project (i.e. Greenbrier II). As such, the Conservation Commission would ask that the MassHousing take this into consideration in evaluating the project submittal.

In closing, the Seekonk Conservation Commission is not opposed to the overall project. However, the Commission is opposed to the ZBA granting the requested waivers for the reasons outlined above and desires for the applicant to complete the Greenbrier I project as approved.

Respectfully,

Seekonk Conservation Commission