



February 4, 2020

Wellesley Wetlands Protection Committee
Attn: Julie Meyer, Wetland Administrator
525 Washington Street
Wellesley, MA 02482

Wellesley Zoning Board of Appeals
Attn: J. Randolph Becker, Chairman
525 Washington Street, Lower Level
Wellesley, MA 02482

Re: Notice of Intent Review #2
130, 136, 140, 140R & 142 Worcester Street
Wellesley, Massachusetts
MassDEP File No. 324-0933

Dear Members of the Wellesley Wetlands Protection Committee and Zoning Board of Appeals,

On behalf of Miyares and Harrington, LLP, Lucas Environmental, LLC (LE) has completed a review of the supplemental and revised materials submitted in support of the Notice of Intent (NOI) submitted for 130, 136, 140, 140R & 142 Worcester Street in Wellesley, Massachusetts. As with the original review, this review does not include an analysis of the project engineering design, proposed stormwater management system, drainage report, or compliance with the MassDEP Stormwater Management Regulations.

The NOI materials, wetland resource areas and wetland delineation were reviewed in accordance with the Massachusetts Wetlands Protection Act (M.G.L. Chapter 131, Section 40), and its implementing regulations (310 CMR 10.00 et seq.) and the Wellesley Wetlands Protection Bylaw (Article 44) and Regulations. LE understands the project is being submitted under the Massachusetts Comprehensive Permit process (Chapter 40B); therefore, the Wellesley Wetlands Protection Bylaw is applicable although the Zoning Board of Appeals (ZBA) can waive its provisions.

1.0 Supplemental and Revised Documents Reviewed

The revised information reviewed included the following documents:

- EcoTec, Inc. letter report dated January 23, 2020, in response to LE review letter dated December 19, 2019;
- Revised WPA Form 3 – NOI Form with attachments;
- A copy of the Wellesley Wetlands Protection Committee NOI checklist;
- Revised Wetland Resource Evaluation, 136-140 Worcester Street, Wellesley, MA, prepared by EcoTec, Inc., dated revised December 19, 2019;
- Revised Restoration and Replication Protocols with Invasive Species Management Plan, prepared by EcoTec, Inc., dated revised January 21, 2020;
- Revised Compliance Assessment under the Massachusetts Wetlands Protection Act, prepared by EcoTec, Inc., dated revised January 23, 2020;

- Revised Site Plans titled “#136 & #140 Worcester Street, Wellesley, Mass.”, prepared by Hayes Engineering, Inc., dated April 26, 2019 and last revised January 20, 2020. The plan set included the following 14 sheets:
 - Survey Plan (sheet C1),
 - Existing Conditions Plan (sheet C2),
 - Grading Plan (sheet C3),
 - Utility Plan (sheet C4),
 - Erosion Control Plan (sheet C5),
 - Layout Plan (sheet C6),
 - Photometrics Plan (sheet C7),
 - Fire Access Plan (sheet C8),
 - Garage Access Plan (sheet C8A),
 - Moving Van Access Plan (sheet C8B),
 - Detail Sheets (sheets C9 & C10),
 - Erosion Detail Sheets (sheets C11 & C12).
- Revised Site Plan titled “Existing Riverfront Disturbance #136 & #140 Worcester Street, Wellesley, Mass.”, prepared by Hayes Engineering, Inc., dated April 1, 2019 and last revised January 21, 2020.
- Revised Site Plan titled “Proposed Riverfront Disturbance #136 & #140 Worcester Street, Wellesley, Mass.”, prepared by Hayes Engineering, Inc., dated April 1, 2019 and last revised January 20, 2020.
- Proposed Landscape Map, 136 & 140 Worcester Street, Wellesley, Mass., prepared by Hayes Engineering (Landscape Architect: Bohler Engineering), dated November 1, 2019. Sheet L-1 revised January 30, 2020 and sheet L-2 revised January 23, 2020.

2.0 Revised Project Summary

As presented in the revised NOI, the proposed project is located at 130, 136, 140, 140R and 142 Worcester Street in Wellesley, Massachusetts. Because the project is being submitted under Chapter 40B, the Wellesley Wetlands Protection Bylaw is applicable although the Zoning Board of Appeals can waive its provisions. As described in the revised NOI application documents, the site is previously developed and contains 3,701 square feet of existing degraded area (i.e., 42% of the 8,900 square feet of Riverfront Area on the site). The revised project design includes 3,701 square feet of Riverfront Area redevelopment and 2,399 square feet of Riverfront Area new development, for a total of 6,100 square feet of Riverfront Area development. The project also proposes 557 square feet of direct impacts (fill) to a non WPA jurisdictional Isolated Vegetated Wetland (IVW). As mitigation, the project proposes on-site replication of 707 square feet of IVW and restoration of 145 square feet of IVW. In addition to the IVW mitigation within the Riverfront Area, the project proposes on-site restoration of 1,055 square feet of Riverfront Area.

3.0 Comments and Requests for Additional Information

LE has reviewed the additional materials submitted and updated our comments below, with the original comment presented in standard font, the Applicant’s verbatim response in **bold** and the current LE response underlined. Previous comments that required no further information have been excluded; however, the numbering of the original comments has been retained to avoid confusion where original numbers are referenced in the responses.

Site Inspection/Wetland Delineation Review

2. LE is in agreement with the types of wetland resource areas described to be present at or near the site in the NOI. In addition, Land Under Water Bodies and Waterways is present within the off-site perennial stream. **EcoTec Response: The Findings section of the site Wetland Resource Area Evaluation report, appended to the NOI, does include a description of the wetland resource areas associated with the A-series flagging that borders the off-site perennial stream. The report states that: “This vegetated wetland borders a perennial stream, accordingly, the vegetated wetlands would be regulated as Bordering Vegetated Wetlands, and the perennial stream would be regulated as Bank and Land Under Water Bodies and Waterways under the Act and Bylaw.”** No further comment.
4. LE is in substantial agreement with the BVW delineation as depicted on the site plans by the A-series flagging. However, one revision is recommended to the BVW delineation, which is the addition of wetland flag A-10A at a location between and upgradient of flags A-10 and A-11. Flag A-10A is located 14 feet at a bearing of 310° from flag A-10, and 16 feet at a bearing of 010° from flag A-11. The site plan should be revised to show the BVW line connecting from flag A-10, to additional flag A-10A, to flag A-11. **EcoTec Response: The additional flag A-10A has been plotted on the revised site plans. The plotted location appears correct. LE has no further comment.**
5. LE is in substantial agreement with the IVW delineation as depicted on the site plans by the I-series flagging. However, one revision is recommended to the IVW delineation, which is the replacement of wetland flag I-13 with flag I-13R. Flag I-13R is located 31 feet upgradient at a bearing of 305° from flag I-13. The site plan should be revised to show the IVW line connecting from flag I-12 to revised flag I-13R, to flag I-14. **EcoTec Response: Revised wetland flag I-13R is plotted on the revised site plans. The plotted location appears correct. LE has no further comment.**
6. The IVW appears to be isolated. The area between the IVW and BVW did show evidence of a buried A-horizon in some spots, indicating the presence of fill; however, the soils below did not indicate a presence of hydric soils which would suggest wetland fill. A clear connection consisting of wetland vegetation, hydric soils, or other indicators of hydrology was not observed. If the WPC has concerns regarding the fill in this area, the fill piles could be removed and a test pit can be completed to further evaluate the soils, if necessary. The Wellesley Wetlands Protection Committee (WPC) and ZBA to discuss.
7. LE understands that the WPC has concerns over prior alteration between the IVW and BVW and what the implications may be if a current or previous owner filled between the IVW and the BVW. Unauthorized fill requires restoration if it occurred after the Wetlands Protection Act went into law in 1972, regardless of when the impact is observed. Based upon LE’s site observations, there are some large upland trees consisting of black locust (*Robinia pseudoacacia*) growing between the IVW and BVW, estimated at approximately 70 to 80 years old; therefore, it appears that the separation predates the Wetlands Protection Act and would not be considered unauthorized. However, some fill piles present near the edge of the IVW and at the rear (south end) of the site appear to be much more recent. LE understands that the WPC would like confirmation of the age of the trees in this area. Tree borings or possibly measuring dbh and reviewing the literature to get an approximate age would be potential options to confirm the age. The WPC and ZBA to discuss.

8. The IVW may be federally regulated under Section 404 of the Clean Water Act, and would require the Applicant to verify that it meets the Self-Verification requirements under the Massachusetts General Permits with the U.S. Army Corps of Engineers. **EcoTec Response: The applicant will file a Self-Verification Notification with the Army Corps of Engineers, as required, upon completion of the Notice of Intent and Comprehensive Permit review processes. No further comment.**
9. MassDEP Wetland Delineation Data Forms were submitted for the BVW delineation (A-series flags) but not for the IVW (I-series flags) with the initial application. The site plans indicate that upland and wetland soil test pits (plots) were conducted for the IVW and LE is in receipt of the data forms for the IVW. **EcoTec Response: The requested Wetland Determination Field Data Forms for the test plots at wetland flag I-3 have been provided to LE and attached to the Wetland Resource Evaluation report. The report is appended to the Notice of Intent application. No further comment.**
10. The MassDEP Wetland Delineation Data Forms submitted for the BVW indicate the same soil profile at both the upland and wetland plots. This was not observed in the field. LE recommends that the Applicant verify whether this is a typographical error and if so correct the soil data. **EcoTec Response: The typographical error has been corrected and the revised soil profile information has been attached to the Wetland Resource Evaluation report for the site and appended to the Notice of Intent application. The soil profile information for both the upland and wetland plots was revised and is similar to LE field observations. LE has no further comment.**

NOI Documents Review

11. WPA Form 3 and other documentation refer to four parcels/lots at the site, 130, 136, 140 and 142 Worcester Street. The survey plan (sheet C1) indicates that there is another lot, 140R Worcester Street (Lot 3, Block 13) included in the site. LE recommends the status of this lot be described and included in the documentation if necessary. The Applicant should confirm this does not affect the abutter notifications. **EcoTec Response: The proposed project does include parcel 140R and this parcel has been included within the revised Notice of Intent form for submittal to the WWPC and ZBA. The inclusion of this parcel does not affect the abutter notifications. No further comment.**
12. Box C.7 on WPA Form 3 should be checked, indicating that the project is subject to MassDEP Stormwater Management Standards. Also, the date of the NHESP Map (at C.1.b.) should be revised to indicate the date of the map, not the date viewed. **EcoTec Response: Box C.7a. was inadvertently left unchecked and has been checked on the revised Notice of Intent WPA Form 3. The project is subject to MassDEP Stormwater Standards and the Stormwater Management Report was submitted with the original application. As requested, the date of the NHESP Map, August 1, 2017, has been revised on the NOI form at C.1.b. No further comment.**
13. Under section 1.6(8)(b)(4)(d) of the Bylaw Regulations, a statement from the delineator certifying that the delineation flags shown on the site plans appear to be accurate is to be submitted with the NOI. This statement was not observed in the documents reviewed. **EcoTec Response: It is EcoTec's opinion that the delineation flags shown on the revised site plans, dated 1/20/20 and 1/21/20, appear to be accurate. Agreed, LE has no further comment.**

14. Under Bylaw Regulation 1.6(8)(b)(4)(i)(2), site plans are to include all trees 5” dbh and greater within the limit of work as well as the species and whether the tree will be lost. Trees are shown on the site plan but do not include the additional information. **EcoTec Response: The requested additional tree information, including trees within the limit of work which shall be removed, has been provided on the revised Proposed Landscape Map plan sheet prepared by Bohler Engineering, dated revised 1/23/20, and appended to the revised Notice of Intent application. Based on the revised Landscape Plan, it appears that 30 trees 5” dbh and greater will be removed at the site, and of these 13 are invasive Norway maple trees. Within the 100-Foot WPA Buffer Zone there will be 13 trees removed (8 Norway maple) and within the 100-Foot Bylaw Buffer Zone to the IVW an additional 2 Norway maples. It appears that no trees of this size are indicated to be removed from the Riverfront Area.**
15. Under Bylaw regulation 1.6(8)(b)(4)(i)(3), site plans are to include the 25-foot No Disturbance Zone line and the 100-foot Buffer Zone line to all applicable wetlands. The 100-Foot Buffer Zone line to the IVW is not provided on the site plan. **EcoTec Response: The Notice of Intent has been filed with the WWPC under the Wetlands Protection Act and not the Wellesley Wetlands Protection Bylaw. The requested Local Bylaw 100-foot Buffer Zone line and the 25-foot No Disturbance Line for the IVW has been included on the Proposed Riverfront Disturbance site plan dated 1/20/20. No further comment.**
16. Under Bylaw regulation 1.6(8)(b)(4)(j), an NOI checklist is to be submitted if available. No checklist was observed in the documents reviewed. **EcoTec Response: A copy of the NOI checklist has been included within the revised NOI. No further comment.**
17. LE is in general agreement with the proposed Restoration and Replication Protocols with the following comments:
 - a. The plant numbers for the IVW restoration should be updated due to the recommended revised IVW flag which will increase the IVW area. **EcoTec Response: The off-site IVW restoration has been withdrawn from the proposed project and therefore the planting plan is not required to be revised. On the Proposed Riverfront Disturbance Plan, off-site IVW restoration is indicated “if permitted by the town”. The Applicant should clarify if the off-site mitigation is still proposed if permitted by the town or revise the plans.**
 - b. The sapling numbers for the proposed Riverfront Area restoration should be reviewed to confirm the proposed spacing is in agreement with the number proposed. **EcoTec Response: A total of six (6) native saplings are now proposed within the Riverfront Area restoration area at 15-foot on-center spacing. The new planting numbers are included within the Restoration and Replication Protocols narrative appended to the revised Notice of Intent application. The revised plant numbers appear appropriate.**
 - c. LE recommends that an invasive species management program be included in the Restoration and Replication Protocols. **EcoTec Response: An invasive species management plan has been included within the revised Restoration and Replication Protocols narrative appended to the revised Notice of Intent application. The Invasive Species Management Plan includes management of Oriental bittersweet (*Celastrus orbiculatus*), glossy buckthorn (*Frangula alnus*) and Japanese knotweed (*Polygonum cuspidatum*). Herbicide use is not proposed; however, the Committee may want to consider allowing the use of herbicides, approved for use in wetlands and applied only by a licensed herbicide applicator, in instances where shrubs too large to be hand removed may be encountered.**

- d. LE recommends the use of downed woody material be considered within the restoration areas in addition to proposed placement of boulders. **EcoTec Response: The use of downed woody material has been included within the revised Restoration and Replication Protocols narrative appended to the revised Notice of Intent application. No further comment.**
- e. LE recommends that the existing fill piles (soil, rocks, and asphalt) along the upland edges of the IVW be removed as part of the IVW restoration and that these areas also be restored. **EcoTec Response: The subject soil, rocks and asphalt is located off-site, on the parcel located at 150 Worcester Street. The applicant has withdrawn the off-site restoration work from the proposed project. The applicant would be willing to remove the subject material upon receiving written permission to access the property and conduct the work. No further comment.**
- f. The WPC may request a separate planting plan for the restoration areas showing proposed plantings. **EcoTec Response: The proposed planting plans are included on the revised Proposed Riverfront Disturbance site plan, dated 1/20/20. No further comment.**
- g. LE recommends that the Applicant consider including the area identified for the proposed New England Conservation/Wildlife Seed Mix on the Landscape Plan in the on-site Riverfront Restoration. The WPC and ZBA to discuss.
18. As defined under 301 CMR 10.58(5), “*Redevelopment means replacement, rehabilitation, or expansion of existing structures, improvement of existing roads, or reuse of degraded or previously developed areas. A previously developed riverfront area contains areas degraded prior to August 7, 1996 by impervious surfaces from existing structures or pavement, absence of topsoil, junkyards, or abandoned dumping grounds.*” The site contains previously developed areas, and within the Riverfront Area there are degraded areas (i.e., areas containing impervious surfaces, structures, pavement or absence of topsoil) as well as areas that are previously disturbed but that contain topsoil and vegetation. Although much of the Riverfront Area at the site is previously disturbed, these areas do not all meet the definition of being previously degraded, and therefore should not be considered as previously developed areas. This is consistent with MassDEP’s review of the Riverfront Area on other projects (See Superseding Order of Conditions, MassDEP File #002-1015 as an example). It is unclear exactly what areas were considered previously developed and/or degraded at the site; therefore, to provide clarification, LE recommends the site plans be revised to clearly differentiate the boundaries and type of all previously degraded areas within the Riverfront Area subject to 310 CMR 10.58(5) of the WPA and undisturbed/disturbed areas subject to 310 CMR 10.58(4). In addition, LE recommends that the Applicant submit a stand-alone table which identifies and quantifies all existing degraded areas within the Riverfront Area, impacts within non-degraded Riverfront Area, as well as proposed impacts to regulated wetland resource areas and proposed restoration. **EcoTec Response: Those areas which qualify as degraded Riverfront Area on the site have been clearly depicted on the revised site plans. Degraded areas include paved parking, existing garage and gravel driveway. The boundary of gravel driveway lacking topsoil has been field delineated with flags G1 to G7 by Arthur Allen, CPSS, consistent with MassDEP’s Superseding Order of Conditions, MassDEP File #002-1015. Under existing conditions, the site contains 2,629 square feet of degraded Riverfront Area and approximately 3,251 square feet of impervious surfaces are proposed within the Riverfront Area. This portion of the work has been evaluated under the redevelopment regulations at 310 CMR 10.58(5)(e)(f) and (g) within the *Compliance Assessment & Alternatives Analysis Under the Wetlands Protection***

Act which is appended to the revised Notice of Intent application. The total allowable RFA alteration under the above redevelopment provisions at 310 CMR 10.58(e),(f) and (g) is 3,701 square feet (2,629 sf degraded + 238 sf degraded restoration + 834 sf mitigation = 3,701 sf). A detailed list which identifies and quantifies existing degraded areas, impacts within non-degraded Riverfront Area, and proposed impacts to the IVW and proposed mitigation on the site is included within the *Compliance Assessment & Alternatives Analysis Under the Wetlands Protection Act*. The delineation of degraded Riverfront Area indicated on the site plans appears appropriate based on conditions observed during LE's initial site visit and aerial photographs. However, LE has not verified this delineation in the field. Based on the delineated degraded area, the calculated square footage of redevelopment and new development appears to meet the regulatory requirements.

19. The Applicant should provide documentation of the project's compliance with the Riverfront Area performance standards under 310 CMR 10.58(4) of the WPA. **EcoTec Response: An assessment of the project's compliance with the performance standards under 310 CMR 10.58(4) is provided in the revised *Compliance Assessment & Alternatives Analysis Under the Wetlands Protection Act* which is appended to the revised Notice of Intent application. After review of the revised documents and Compliance Assessment, it is LE's opinion that the revised project is in compliance with the Riverfront Area performance standards.**
20. Work subject to 310 CMR 10.58(4) requires an Alternatives Analysis and must meet the performance standards for work within Riverfront Area. An Alternatives Analysis was not included in the materials reviewed. **EcoTec Response: An Alternatives Analysis has been prepared for the proposed 2,399 square feet of "new" work; including landscaping and grading work within the previously developed/disturbed, but non-degraded Riverfront Area. The Alternatives Analysis is included within the *Compliance Assessment & Alternatives Analysis Under the Wetlands Protection Act* which is appended to the revised Notice of Intent application. After review of the Alternatives Analysis in the Compliance Assessment, it is LE's opinion that the revised project is in compliance with this Riverfront Area performance standard.**
21. Although structures at the site were clearly present prior to August 1, 1996, based on review of historic aerial photographs it appears that disturbance on the eastern portion of the site was limited as of that date, and that much of the disturbance occurred after August 1, 1996. Therefore, areas that may appear degraded today would not meet the definition of 'degraded' if the degradation occurred after August 1, 1996, and therefore should not be considered as redevelopment. These areas should be quantified and reviewed under 310 CMR 10.58(4) unless previously authorized by the WPC. **EcoTec Response: LE has based their opinion of the lack of an existing paved and gravel driveway within the Riverfront Area prior to the promulgation of the Rivers Protection Act (August 7, 1996) on a 2001 aerial photograph. This photograph, available via Google Earth and MassGIS Oliver Data Viewer, shows the subject site in a light grayish-green shade, which LE has interpreted to represent a lack of existing driveway and the presence of vegetation. However, if one expands the view of this image outward (see below), it is clear that all impervious driveways and parking areas within this image are shown in the grayish-green coloration, and the distinction of these areas is not discernible. Therefore, this 2001 image does not accurately depict the presence or absence of the existing driveway on the site. Furthermore, the property owner has indicated that the driveway was in existence since about 1989 or 1990. The WPC stated in the December 19, 2019 hearing that they issued a 1990 Determination to allow for the construction of the barn in the southern portion of the site. It is reasonable to**

assume that the driveway to access the barn was constructed at the time that the barn was constructed, around 1990. Based on aerial photographs, it is unclear when additional disturbance (i.e., tree removal) occurred in the eastern end of the site. However, the delineated degraded area is associated with the edge of the existing driveway and appears to pre-date 1996. Therefore the area delineated as degraded on the site plans would predate the promulgation of the Rivers Protection Act in August 7, 1996 to be considered degraded.

22. The Applicant is proposing to conduct IVW restoration work on abutting town land. Owner authorization is required for any proposed work on a subject property. LE recommends the Applicant obtain the required signature from the town (i.e., landowner) to allow this restoration work on town property. Town Counsel should be consulted for the proper mechanism for the authorization of work on town owned land, and if the Order should be recorded on that land. If the town does not grant said authorization, an alternative mitigation location would be required. **EcoTec Response: The applicant has withdrawn the off-site restoration work from the proposed project. The Proposed Riverfront Disturbance site plan labels the offsite IVW as “Local IVW offsite restoration if permitted by the town”. However, the NOI documentation no longer includes this area for mitigation, and the Applicant should clarify if the off-site mitigation is still proposed if permitted by the town or revise the plans.**
23. LE understands that the WPC has inquired if MassDEP has been provided enough information to review performance standards for stormwater under 310 CMR 10.05(6)(k-q). LE did not review the stormwater analysis per the contract and would defer to the town engineer. **EcoTec Response: The Mitigative Drainage Study for #136 & #140 Worcester Street, Wellesley Massachusetts dated April 29, 2019 by Hayes Engineering, Inc. provided the Stormwater Standards Form and all information needed to allow review of the performance of the stormwater management provided. This Study has been reviewed and accepted by the Wellesley Town Engineer. No further comment.**
24. LE understands that the WPC has inquired if MassDEP received the same information related to the HydroCAD calculations. MassDEP should receive a copy of all materials submitted to the WPC by the Applicant, including supplements and any new information, prior to the close of the public hearing. **EcoTec Response: The Storm Water Management Report and supporting materials were submitted to the DEP Northeast Regional Office via certified mail/return receipt requested upon submittal of the Notice of Intent. No further comment.**
25. LE understands that the WPC has inquired if 310 CMR 10.05(6)(q) requires a Finding that the project complies with the NPDES GP permit for MS4 in the Order of Conditions. Compliance with the MassDEP Stormwater Regulations does not relieve the Applicant from the obligation to obtain other required permits. **EcoTec Response: The proposed site disturbance will be less than 1 acre so a NPDES Construction General Permit is not required. The proposed stormwater management design is all private on site and does not connect to any public drainage system therefore no MS4 permit is required. Agreed. No further comment.**

Waiver Requests from Town of Wellesley Wetland Protection Regulations**26. REQUIRED: Regulation(s) section 2.4(4)(a): no-touch requirement:**

The Applicant has requested a Waiver from requirements under local regulations for 557 square feet of work (fill) proposed within the IVW. The Waiver request does not follow the two-step procedure and requirements under Bylaw section 1.6(9)(b). LE is in agreement with the Applicant that the IVW does not qualify as a state wetland resource area and that replication is not required under state wetlands regulations. The Applicant is proposing 558 square feet of replication to be provided at a 1:1 ratio in the southern portion of the site. This does not meet the Bylaw requirement under 2.4(4)(b)(2)(a) for the replacement area to be at least 1.5 times the lost area; however, additional off-site IVW restoration on town land is proposed in excess of this amount. In addition, no documentation was reviewed regarding the Bylaw requirement for a wildlife habitat assessment for IVW alteration. LE is in agreement that the replicated wetland can provide for enhanced values and functions on the site upon completion due to the disturbed condition of the existing IVW. **EcoTec Response: Pursuant to Bylaw section 1.6(9)(b), a waiver has been sought to allow for the alteration of 558 square feet of the northern portion of the IVW, located in the eastern portion of the site. Under the revised project, a total of 707 square feet, or a ratio of 1:1.26, of IVW replication shall be provided in the southern portion of the site. The proposed activity is necessary because strict compliance with the regulations would result in a hardship greater in magnitude than the Bylaw Interests and Values to be preserved or protected. Due to site constraints, including the presence of Riverfront Area, there is no practicable and substantially equivalent economic alternative with less harmful effects to the Bylaw Interests and Values. The proposed work and its natural, consequential, and cumulative effects on the Bylaw Interests and Values have been minimized, and mitigation measures designed to functionally improve or enhance the natural capacity of the affected Bylaw IVW Resource Area to preserve or protect the Bylaw Interests and Values are provided as part of the Notice of Intent submittal. The proposed IVW filling is within an altered, sparsely vegetated, low-lying area that was delineated based upon the presence of hydric soils as vegetation is sparse and contains mixed invasive species. The replication area shall provide for an enhanced wetland area containing an organically rich soil substrate with native plantings and an invasive species management plan. The replication area shall be constructed so that the groundwater and surface water elevations are similar to the are to be lost; and is in the same general area on the site.**

As part of the Comprehensive Permit Application, the Applicant has requested that the ZBA grant a waiver to the bylaw section 1.6(9)(b). The Applicant has demonstrated a need for this waiver over the last 8 months of public hearings as the Applicant's consultants, Town peer review consultants, and the Town's own Engineering and Fire Departments have confirmed that the project meets or exceeds all applicable 40B design and site planning requirements and standards. Moreover, the 40B statute was enacted in part as the need for affordable housing was determined to be greater than adherence to local conservation and zoning bylaws. As such, the Applicant requests a waiver to specify compliance or lack thereof with performance standards to local bylaws. Put simply, the project cannot be built consistent with the plans that have been reviewed and approved by the Town and its consultants without the approval of this waiver. We note, however, that project design and mitigation measures result in protection and enhancement of the Bylaw Interests and Values. No further comment.

27. *REQUIRED: Regulation(s) section 2.5(4)(a)1: 25-foot no-touch zone:*

The Applicant has requested a Waiver from requirements under local regulations for work within the 25-foot No Disturbance Zone of the IVW associated with building structures, stormwater management, grading, porous paver walkway, transformer, and a portion of the Riverfront Area restoration. The Waiver request does not follow the two-step procedure and requirements under Bylaw section 1.6(9)(b). LE is in agreement with the Applicant that the IVW does not qualify as a state wetland resource area and based on LE's site inspection, much of the 25-foot No Disturbance Zone is currently disturbed. **EcoTec Response: As part of the Comprehensive Permit Application, the Applicant has requested that the ZBA grant a waiver to the bylaw section 1.6(9)(b). The Applicant has demonstrated a need for this waiver over the last 8 months of public hearings as the Applicant's consultants, Town peer review consultants, and the Town's own Engineering and Fire Departments have confirmed that the project meets or exceeds all applicable 40B design and site planning requirements and standards. Moreover, the 40B statute was enacted in part as the need for affordable housing was determined to be greater than adherence to local conservative and zoning bylaws. As such, the Applicant requests a waiver to specify compliance or lack thereof with performance standards to local bylaws. Put simply, the project cannot be built consistent with the plans that have been reviewed and approved by the Town and its consultants without the approval of this waiver. As noted above, Bylaw Interests and Values shall be protected. No further comment.**

28. *REQUIRED: Regulation(s) section 2.5(4)(a)2: limit of 10% or 5,000 sf (whichever is less) of the 100-foot Buffer Zone important to wildlife habitat:*

The Applicant has requested a Waiver from requirements under local regulations limiting alteration of buffer zone important to wildlife habitat to 10% or 5,000 square feet (whichever is less). The Waiver request does not follow the two-step procedure and requirements under Bylaw section 1.6(9)(b). Based on LE's site inspection, much of the 100-Footer Buffer Zone is currently disturbed or degraded and LE is in agreement with the Applicant that these areas would provide limited, at best, important wildlife habitat. No request for a Waiver regarding wildlife habitat assessment within the Riverfront Area was reviewed. As noted previously, LE recommends the site plans be revised to clearly indicate the existing limits of degraded areas. **EcoTec Response: As part of the Comprehensive Permit Application, the Applicant has requested that the ZBA grant a waiver to the bylaw section 1.6(9)(b). The Applicant has demonstrated a need for this waiver over the last 8 months of public hearings as the Applicant's consultants, Town peer review consultants, and the Town's own Engineering and Fire Departments have confirmed that the project meets or exceeds all applicable 40B design and site planning requirements and standards. Moreover, the 40B statute was enacted in part as the need for affordable housing was determined to be greater than adherence to local conservative and zoning bylaws. As such, the Applicant requests a waiver to specify compliance or lack thereof with performance standards to local bylaws. Put simply, the project cannot be built consistent with the plans that have been reviewed and approved by the Town and its consultants without the approval of this waiver. As noted above, Bylaw Interests and Values shall be protected. No further comment.**

29. *REQUIRED: Notification of Abutters within 300 feet of the property:*

The Applicant has requested a Waiver from requirements under local regulations requiring notification of abutters within 300 feet of the property. The Waiver request does not follow the two-step procedure and requirements under Bylaw section 1.6(9)(b). LE is in agreement with the

Applicant that under the Wetlands Protection Act, only abutters within 100 feet of the site are required to be notified; however, notifying abutters within 300 feet is not an impediment to development/redevelopment of the site. **EcoTec Response: As part of the Comprehensive Permit Application, the Applicant has requested that the ZBA grant a waiver to the bylaw section 1.6(9)(b). The Applicant has demonstrated a need for this waiver over the last 8 months of public hearings as the Applicant's consultants, Town peer review consultants, and the Town's own Engineering and Fire Departments have confirmed that the project meets or exceeds all applicable 40B design and site planning requirements and standards. Moreover, the 40B statute was enacted in part as the need for affordable housing was determined to be greater than adherence to local conservative and zoning bylaws. As such, the Applicant requests a waiver to specify compliance or lack thereof with performance standards to local bylaws. Put simply, the project cannot be built consistent with the plans that have been reviewed and approved by the Town and its consultants without the approval of this waiver. As noted above, Bylaw Interests and Values shall be protected. The WPC and ZBA to discuss.**

30. **REQUIRED: Regulation(s) section 2.5(4)(a)3: replacement of 5" dbh trees with 1.5" dbh trees, where 2.5(4)(a)2 (above) is triggered:**

The Applicant has requested a Waiver from requirements under local regulations for replacement of 5" dbh trees with 1.5" dbh trees where work occurs within Buffer Zone important to wildlife habitat. The Waiver request does not follow the two-step procedure and requirements under Bylaw section 1.6(9)(b). As indicated in the Applicant's Waiver request, an estimated 29 trees of this size within the Buffer Zone will be removed and at least 13 of these are Norway maples (*Acer platanoides*), an invasive species. Because much of the existing Buffer Zone is disturbed or degraded and contains invasive species, wildlife habitat value is limited and the Applicant is proposing well over 29 trees to be planted within the Buffer Zone. LE recommends that an invasive species management plan for controlling invasive vegetation within the 100-Foot Buffer Zone be considered by the WPC. No request for a Waiver regarding tree replacement within the Riverfront Area was reviewed. **EcoTec Response: Under the proposed Landscaping Plan and mitigation plans, a total of 19 native trees shall be planted. A detailed invasive species management plan has been included within the Replication and Restoration Protocols attached to the revised NOI package.**

As part of the Comprehensive Permit Application, the Applicant has requested that the ZBA grant a waiver to the bylaw section 1.6(9)(b). The Applicant has demonstrated a need for this waiver over the last 8 months of public hearings as the Applicant's consultants, Town peer review consultants, and the Town's own Engineering and Fire Departments have confirmed that the project meets or exceeds all applicable 40B design and site planning requirements and standards. Moreover, the 40B statute was enacted in part as the need for affordable housing was determined to be greater than adherence to local conservative and zoning bylaws. As such, the Applicant requests a waiver to specify compliance or lack thereof with performance standards to local bylaws. Put simply, the project cannot be built consistent with the plans that have been reviewed and approved by the Town and its consultants without the approval of this waiver. As discussed above, proposed planting and restoration measures will result in protection of Bylaw Interests and Values. No further comment.

31. *REQUIRED: Regulation(s) section 2.5(4)(a)4: stormwater is managed according to Section 1.6(8)(b)4.g. in addition to DEP Stormwater Standards:*

The Applicant has requested a Waiver from requirements under local regulations requiring stormwater management in addition to MassDEP Stormwater Standards. The Waiver request does not follow the two-step procedure and requirements under Bylaw section 1.6(9)(b). LE has not conducted a review of the proposed stormwater management design and has no comments regarding this waiver. **EcoTec Response: The stormwater on the site shall be managed in accordance with the MassDEP Stormwater Standards and exceeds the requirements of section 1.6(8)(b)4.g. of the Bylaw Regulations. See attached letter from Hayes Engineering, Inc., dated November 20, 2019. No comment.**

32. It does not appear that the Waiver request fee of \$500 was submitted as required under 1.6(5)(e)(4). **EcoTec Response: The applicant will provide the \$500 waiver request fee prior to the scheduled January 30, 2020 hearing. No further comment.**

4.0 Findings & Recommendations Summary

The following comments and responses were included in the Findings & Recommendations Summary of the original report. Based on the information provided above, it is recommended that the remaining comments above be addressed and the site plans be revised as noted.

- Clarification of the status of the lot at 140R Worcester Street. **EcoTec Response: As described above at Item #11, the proposed project does include parcel 140R, and this parcel has been included within the revised Notice of Intent form for submittal to the WWPC and ZBA. The inclusion of this parcel does not affect the abutter notifications. Parcel 140R is now listed on NOI Form 3. The parcel is not included on the list of property owners accompanying the NOI, although the owner is apparently the same owner as parcel 140.**
- Obtaining land owner approval for restoration work proposed on town of Wellesley land. **EcoTec Response: The applicant has withdrawn the proposed off-site work on the Town of Wellesley land from the proposal. No further comment.**
- Clarification on exactly which areas of the site were considered “previously degraded”. **EcoTec Response: Those areas which qualify as degraded Riverfront Area on the site have been clearly depicted on the revised site plans. Degraded areas include paved parking, existing garage and gravel driveway. The boundary of gravel driveway lacking topsoil has been field delineated with flags G1 to G7 by Arthur Allen, CPSS, consistent with MassDEP’s Superseding Order of Conditions, MassDEP File #002-1015. Under existing conditions, the site contains 2,629 square feet of degraded Riverfront Area. No further comment.**
- Alternatives analysis. It is now included in the revised Compliance Assessment. No further comment.
- Compliance with the Riverfront Area performance standards for new development. Based on review of the revised documents, it is LE’s opinion that the project is in compliance with the Riverfront Area performance standards.
- An invasive species management protocol for the proposed restoration and replication areas. This has been included. LE has no further comment.



- The WPC would like a Licensed Site Professional (LSP) to confirm no groundwater contamination is present and confirmation of the age of the large trees on the berms.

LE has based this assessment on review of the submitted documents and thorough field reconnaissance. If you have any questions, please do not hesitate to contact me at 617.405.4118 or jho@lucasenvironmental.net or Christopher Lucas at 617.405.4140 or cml@lucasenvironmental.net. Thank you for your consideration in this matter.

Sincerely,

LUCAS ENVIRONMENTAL, LLC

A handwritten signature in blue ink that reads 'Joseph H. Orzel'.

Joseph H. Orzel
Project Manager/Wetland Scientist

A handwritten signature in blue ink that reads 'Christopher M. Lucas'.

Christopher M. Lucas, Manager, PWS, CWS
Environmental Consultant/Soil Scientist

cc: Miyares and Harrington LLP, Christopher Heep