



April 26, 2023

Robert Rosa, Chairman
Town of Rockland Zoning Board of Appeals
242 Union Street
Rockland, MA 02370

**RE: Response to Nover November 11, 2022 Comments on the
Shinglemill Apartments – September 2022 Submission
75-79 Pond Street, Rockland, MA
DEP File No. 273-0408**

Dear Mr. Rosa and Members of the Board

On behalf of our clients, Shinglemill, LLC, Coneco Engineers & Scientists, Inc. (Coneco) is pleased to submit revised Comprehensive Permit Plans (Plans) and supporting documentation for the proposed development located at 75-79 Pond Street Rockland, Massachusetts. These documents address the comments contained within the peer review letter from Henry T. Nover, P.E. and Marta J. Nover, to the Town of Rockland Zoning Board of Appeals (ZBA), dated November 11, 2022.

As an aid to the reader the comments are included in *italicized* text followed by Coneco responses in plain text.

General Comments and Summary of Findings

Nover Comment

The September 2022 project plans are not sufficiently detailed for the Commission to reliably predict impacts to wetlands. In past peer review comment letters, BETA Group, Inc. has repeatedly requested details related to the access road including existing culvert structural competence, constructability of the retaining walls directly alongside the vegetated wetland boundary and how the retaining wall will be built with the existing culverts to remain in place.

Coneco Response

Additional detail has been added throughout the plans more clearly to the constructability of the project. This includes additional information added to the typical retaining wall detail and adding dimensions at critical points between the sediment control line and the face of the retaining wall. Three-sided box culverts have now been proposed over the existing reinforced concrete pipe culverts to ensure access mitigate any concerns of structural competence. The

applicant will continue to work with the associated Boards and reviewing parties to clarify and ensure impacts are limited to the upland areas.

Nover Comment

This is not a Buffer Zone only filing as claimed by the Applicant. Although not depicted on the project plans, in their March 14, 2021, Response Letter to the Commission, Coneco stated that there will be 2,815 square feet of temporary alteration to BVW from construction of the access road's retaining walls. From experience, we have found that construction of retaining walls at the proposed height as high as 13 feet typically use a 5 to 10-foot work zone for the clearing, grubbing of tree / root systems, excavation of the wall's footing and construction of the wall. The project plans therefore will need to detail and quantify the locations of anticipated BVW alteration.

Coneco Response

The construction of the retaining wall footings will occur outside wetland resource areas. There will be no filling or grubbing within BVW. The trimming of wetland vegetation will be required for equipment to install erosion and sedimentation controls and for equipment to access the wetland side of the wall during construction. At the locations closest to the wetlands, an offset of 5' from the face of the retaining wall will be applied to account for the anticipated trimming of vegetation. An impact plan showing the revised wetland line and the extent and square footage of resource impacts will be supplied if the peer reviewer and Board are amendable to the site changes. Additional information has been added to the Typical Retaining Wall detail. The applicant has inquired with the anticipated block retaining wall manufacturer, Versa-Lok, and only 6 inches of space is required beyond the face of the retaining wall for the placement of 6 inch depth of granular fill for the leveling pad. This will be installed at a depth of 1 to 2 feet below grad which will not require any backslope or shoring. Adequate space has been provided along all "pinch points" between the retaining wall and the wetland for the installation of the perimeter sediment control barrier and retaining wall leveling pad.

The existing Notice of Intent was withdrawn from the Rockland Conservation Commission's review on March 20, 2023. A new Notice of Intent will be filed after the ZBA has ruled on the applicability of the Rockland Wetland Protection Bylaw to this 40B project. The new Notice of Intent will quantify any permanent or temporary impacts to wetland resource areas as applicable. The existing ORAD expired on January 28, 2023 and the Conservation Commission denied an extension of the ORAD on January 10, 2023. The wetlands have since been re-delineated and the revised wetland delineation is included in this revised plan set. A new Abbreviated Notice of Resource Area Determination will be filed in the near future as deemed necessary.

Nover Comment

Since the vegetated wetland and streams on this Project site are classified as Outstanding Resource Waters (ORW)¹, a 401 Water Quality Certification is required. Per the Water Quality Regulations, any fill in ORW requires a 401 Water Quality Certification regardless of whether the total alteration is less than 5,000 square feet.² Since a MA state permit is required, there is MEPA jurisdiction. Alteration of ORW is a MEPA threshold that triggers the requirement for the issuance of a MEPA Certificate.

¹ Outstanding Resource Waters in Massachusetts include public water supply reservoirs, their tributaries, and associated wetlands.

² Any activity in an area not subject to jurisdiction of the Wetlands Protection Act which is subject to 33 U.S.C. 1251 (i.e., isolated vegetated wetlands) which will result in the loss of up to 5000 square feet cumulatively of bordering and isolated vegetated wetlands and land under water, provided there is no discharge Effective 10/24/2014 314 CMR: DIVISION OF WATER POLLUTION CONTROL of dredged or fill material to any Rare Species Habitat or to any Outstanding Resource Water.

Coneco Response

The project does not involve dredging or filling of Land Under Water or filling of Bordering Vegetated Wetland therefore an Individual Water Quality Certificate is not required. The cutting and trimming of vegetation is not considered an impact to federal wetlands or waterways and therefore this work is not subject to Water Quality Certification.

Nover Comment

The Commission should require that a structural engineer provide a statement regarding the competency of the existing culverts and a professional opinion that the culverts will support over 10 feet of fill. Once the road is constructed, the replacement of any of the three culverts due to partial or full collapse is not feasible. Elimination of any hydraulic connection between the upgradient and downgradient wetlands would likely cause further flooding in the wetlands and potentially to adjacent properties.

Coneco Response

Three-sided box culverts have now been proposed over the top of each of the existing concrete pipe culverts. Please see sheets 15 to 17 of the Comprehensive Permit Plans for details of these three-sided box culverts. The proposed culverts will eliminate any concerns associated with the structural integrity of the existing concrete pipe, allow access to the concrete pipe for future maintenance if necessary, and provide wildlife passage. The proposed construction of the three-sided box culverts over the existing concrete pipe culverts will not impact wetland resource areas.

Nover Comment

Based on this review, the project as proposed does not comply with MA DEP Stormwater Regulations and Standards. Full compliance with the Standards is required to presume that the work will protect the interests of the Massachusetts Wetlands Protection Act. We are coordinating our review with the ZBA's consultant, Amory Engineers, who have provided preliminary comments via email to Coneco. Based on communications with Amory, it is our understanding that Coneco will respond to their comments once they have received additional comment from the Conservation Commission. We concur with Amory's comments.

Coneco Response

The Stormwater Management Report and design calculations have been revised per the peer review comments made by Patrick Brennon of Amory Engineers, now with PGB Engineering, and Henry Nover. The project has been designed to comply with all of the MA DEP Stormwater Standards as required to protect the interests of the Massachusetts Wetlands Protection Act. The applicant will continue to coordinate with both peer review engineers.

Resource Area General Performance Standards

Nover Comment

It can not be determined whether the Project meets the General Performance Standards listed in the Wetland Regulations, 310 CMR 10.00. The expected resource area impacts have not been qualified or quantified by the Applicant.

Coneco Response

The impacts to resource areas and setbacks have been qualified and quantified. A figure has been added to the plans showing all impact areas for the proposed site.

Nover Comment

RA1. Bordering Vegetated Wetlands.

Coneco states in their March 13, 2021, response letter that construction of the retaining wall will cause impacts to BVW. The current Project plans should clearly depict a reasonable limit of work associated with the construction of the retaining wall and footings and quantify BVW impacts in the proposed locations. The Project plans currently do not show any BVW impacts.

We recommend that the Commission require the Applicant to provide construction details prepared by a structural engineer for the retaining wall along the road and project development limits. Currently, the wall details are “Not-to-Scale” and do not show the dimensions of the footings or the footing’s excavation limits. The Commission has the authority to require supporting materials when in its judgement the complexity of the proposed work warrants specialized expertise. 310 CMR 10.05(4)(h).

Coneco Response

Additional information has been added to the Typical Retaining Wall detail. The applicant has inquired with the anticipated block retaining wall manufacturer, Versa-Lok, and only 6 inches of space is required beyond the face of the retaining wall for the placement of 6-inch depth of granular fill for the leveling pad. This will be installed at a depth of 1 to 2 feet below grad which will not require any backslope or shoring. Adequate space has been provided along all “pinch points” between the retaining wall and the wetland for the installation of the perimeter sediment control barrier and retaining wall leveling pad.

The Rockland Conservation voted not to extend the ORAD and the ORAD has expired. This winter, Coneco met with Ms. Nover to review the original wetland line and has since re-flagged the wetland lines based on that meeting with Ms. Nover. The revised wetland line is shown on the revised plan now before ZBA. An impact plan showing the revised wetland line and the extent and square footage of resource impacts will be supplied if the peer reviewer and Board are amendable to the site changes. Discussions are underway with Ms. Nover as to whether a new ANRAD filing with the Rockland Conservation Commission is warranted. At this time it is likely that an ARAD will be filed with the Conservation Commission.

Nover Comment

RA2. Bank and Land Under Water associated with on-site Stream.

Impacts to stream bank and stream bed in the location where one of the culverts will be extended needs to be qualified and quantified on the Project plans and in a revised NOI WPA form. The Applicant should present credible evidence that such impacts to a Zone A stream (Bank and Land Under Water) won't adversely affect its ability to protect the interests of the Act – specifically, protection of surface water quality. The banks of the stream also need to be identified in the field and shown on the Project plans so that the Commission can evaluate the proposed work and its potential effect on them.

Coneco Response

Three-sided box culverts have now been proposed over the top of each of the existing concrete pipe culverts. Please see sheets 15 to 17 of the Comprehensive Permit Plans for details of these three-sided box culverts. The proposed culverts will eliminate any concerns associated with the structural integrity of the existing concrete pipe, allow access to the concrete pipe for future maintenance if necessary, and provide wildlife passage. The proposed construction of the three-sided box culverts over the existing concrete pipe culverts will not impact wetland resource areas. The Banks of the intermittent stream have been identified in the field at the ends of the cross-culvert in question.

Nover Comment

*RA3. The Applicant is required to evaluate the feasibility to meet the Stream Crossing Standards when a culvert is going to be replaced and/or repaired. Note 1 found on Sheet 13 of 28, Grading and Drainage Plan Sheet 1 of 2, states that the culverts beneath proposed access road will be assessed on site for structural integrity and function. It further states that the Contractor will coordinate with retaining wall designer to confirm that the pipes can be left in place, or they should be removed and replaced. A determination that the culvert needs to be removed and replaced after the Order of Conditions is issued **would require the filing of a new Notice of Intent** as it would result in additional impacts to resource area and therefore, would not qualify for an Amended Order of Conditions. Therefore, it is strongly advisable that a credible determination whether the culvert(s) need replacing be performed now.*

Coneco Response

Three-sided box crossing culverts have now been proposed over the top of each of the existing concrete pipe culverts. Please see sheets 15 to 17 of the Comprehensive Permit Plans for details of these three-sided box culverts. The proposed culverts will eliminate any concerns associated with the structural integrity of the existing concrete pipe, allow access to the concrete pipe for future maintenance if necessary, and provide a location for wildlife passage.

The stream crossing standards do not apply because the culvert is not proposed to be replaced or repaired. The existing culverts will be bridged. The project will not impact Inland Bank.

Wildlife will be allowed to pass from one side of the access road to the other using the 3-sided box culverts that will be installed over the existing concrete pipe cross-culverts.

Landscaping Comments

Nover Comment

LA1. The Applicant should provide specific details for type and quantity of fertilizer to be used in the mapped Zone A.

Coneco Response

A slow-release organic fertilizer will be used during the initial planting of trees and shrubs. Only organic fertilizers will be used on site. Any fertilizers with urea or chicken manure will not be allowed on site. A note has been added to the O&M plan.

Nover Comment

LA2. The proposed location of the erosion controls associated with the Open Space area proposed at the end of Wilson Street (existing house lot to be acquired) should be adjusted to reflect the limit of clearing and grubbing. The limit of clearing and grubbing should also be adjusted to avoid work within 100 feet of the vernal pool depression boundary.

Coneco Response

The perimeter sediment control line (erosion control) has been adjusted in the plans to reflect the limit of all work including the limits of clearing and grubbing. The limits have also been adjusted to avoid and minimize any work done within 100' of the vernal pool depression boundary.

Nover Comment

LA3. We recommend that a fence to keep dogs away from the vernal pool be installed along the limit of the cleared open space area.

Coneco Response

A post and rail fence that has been added to the extents of the landscaped amenity area for dog walking.

Nover Comment

LA4. If work is allowed in the 25-foot NDZ, those areas should be planted with woody shrubs and trees vs loam and seed. The 25-foot buffer zone is critically important to wildlife's ability to migrate, nest and find native food sources.

Coneco Response

All applicable areas disturbed outside of the proposed development area and within the 25' wetland buffer will be replanted with native vegetation and/or restored to their original condition where practicable.

Nover Comment

LA5. The Applicant should describe the lighting proposed on the areas near the vernal pools. Manufacturers cut sheet for each type of lighting proposed would be helpful.

Coneco Response

Manufacturer's cut sheets for each type of lighting proposed will be supplied with the revised Landscaping Plans.

Chapter 407 Wetlands Protection By-Law

Nover Comment

The Rockland Zoning Board of Appeals has not issued a 40B Comprehensive Permit and has not voted to waive the Town of Rockland's Chapter 407 Wetlands Protection Bylaw at this time. The Applicant has requested that the Commission review the Project under the WPA only. We recommend that the Public Notice be reviewed to confirm that the hearing was opened under the WPA only.

Coneco Response

The NOI has been withdrawn without prejudice and will be refiled upon the Comprehensive Permit approval from the Zoning Board of Appeals and waiving of the Rockland Wetland Bylaws.

We offer the following comments relative to the Project's compliance with the Bylaw Permit Conditions in the event the ZBA does not waive the Bylaw or Bylaw Section 407-5 Permit and Conditions.

Nover Comment

BL1. There is a substantial amount of work proposed in the Bylaw's 25-foot No Disturb Zone (NDZ).³ At this time, the project does not comply with the Bylaw's Permit Conditions and therefore, is not permissible under the Bylaw.

Coneco Response

The NOI has been withdrawn without prejudice and will be refiled upon the Comprehensive Permit approval from the Zoning Board of Appeals and waiving of the Rockland Wetland Bylaws.

Nover Comment

BL2. There is work proposed within the Bylaw's Vernal Pool resource area and within its 25' NDZ. Currently, the project does not comply with the Bylaw's Permit Conditions and therefore, is not permissible under the Bylaw.

Coneco Response

The NOI has been withdrawn without prejudice and will be refiled upon the Comprehensive Permit approval from the Zoning Board of Appeals and waiving of the Rockland Wetland Bylaws.

DEP Stormwater Regulations & Standards

Nover Comment

Correspondence between Amory Engineers and Coneco indicates that in order to demonstrate compliance with the Massachusetts Stormwater Standards adjustments to some of the stormwater proposed stormwater facilities will be necessary. Coneco revised their hydrologic model of the project and submitted by email a revised Hydrologic Report to Amory along with a mounding analysis. The Commission has not received these submissions.

While recognizing and fully supporting the ongoing stormwater management review by Amory we are providing related comments. It is our opinion that the Coneco's hydrologic model is under estimating the Project's stormwater impacts. To facilitate our continued collaborative review, we request that Coneco copy us on any future stormwater related correspondence with Amory and the ZBA.

Before we can confirm compliance with the Standards, we need a resolution to Amory's comments and the following comments satisfactorily addressed:

Coneco Response

Coneco will continue to include both review engineers in all stormwater modeling and narratives. The stormwater management design and calculations have been revised per the requests of both peer review engineers and the applicant will continue to coordinate with the reviewers to ensure compliance with the DEP Stormwater Standards.

Nover Comment

SW1. The small portion of the Site to be developed should have been modeled as a separate subcatchment area for both the pre and post developed conditions. A composite area understates the Project impact.

Coneco Response

The subcatchment boundary used in the hydrologic model has been adjusted to only include the upland areas on site. The model no longer includes the composite area of both the upland and wetland areas throughout the property limits.

Nover Comment

SW2. Multiple design points at the edge of the Bordering Vegetated Wetlands adjacent to the proposed developed area should be evaluated instead of the single point at the edge of the property. The single design point estimates the peak flow rate in the stream leaving the Project property, but it does not address potential runoff impacts at the individual discharge points from the Project's stormwater management systems.

Coneco Response

The subcatchment boundary used in the hydrologic model has been adjusted to only include the upland areas on site. The model no longer includes the composite area of both the upland and wetland areas throughout the property limits.

Nover Comment

SW3. Overland flow paths should be perpendicular to the contours and follow the streams identified during the evaluation of the limits of the Zone A.

Coneco Response

The subcatchment boundary used in the hydrologic model has been adjusted to only include the upland areas on site. The Time of Concentration flow path now ends at the wetlands for the hydrologic model.

Nover Comment

SW4. The estimated Time of Concentration(s) incorrectly uses “dense brush” for wooded sheet flow and uses “shallow concentrated flow” for long sections of the existing streams that should be modelled as channels.

Coneco Response

The Time of Concentration in both Existing and Proposed HydroCAD models was revised to use “light underbrush” for locations of wooded sheet flow. The limits of the analysis were revised to the edge of the wetland thus removing any areas that would need to be modeled as channels.

Nover Comment

SW5. The mounding estimates submitted by Coneco indicate that the proposed stormwater infiltration systems will not be able to infiltrate the amount of runoff estimated by their hydrologic model. Bypass of the systems will occur with potential increases in the peak rate of runoff.

Coneco Response

A mounding analysis is no longer proposed to reduce the separation from groundwater as required for compliance with the MassDEP Stormwater Standards. The 4 feet of separation to groundwater is proposed for all infiltration BMPs as required per Volume 3 Chapter 1 “Mounding Analysis”.

Nover Comment

SW6. No additional TSS removal credit should be given to the required pretreatment BMPs. The proprietary BMP high TSS removal rate is questionable. No pretreatment credit should be given to the Infiltration System Isolation Rows.

Coneco Response

No additional TSS removal credit is given to the required pretreatment BMPs per the Stormwater Management Report calculations. Filter fabric is given a TSS removal credit by the EPA. This project had conservatively used a 50% TSS removal credit for the use of filter fabric wrapping a singular row of chambers in filter fabric. This was considered an isolation row, which was used as pretreatment for the infiltration chamber systems. Per the request of the peer reviewer, the additional TSS removal credit of the isolation rows has been removed from the final TSS removal calculations. The isolation row will remain as a portion of the design to further aid in the treatment of stormwater flows. Proprietary separators have been proposed to meet the required pretreatment requirements for the infiltration chamber systems.

Nover Comment

SW7. Additional pretreatment is required for the stormwater captured by the catch basins that connect to Infiltration Chamber System C.

Coneco Response

The impervious area draining to some catch basins inlets for Infiltration Chamber System C is greater than 0.25 acres. Therefore, no TSS removal credit was given to catch basins for this system, and the pretreatment requirements for this treatment train are met by the use of a proprietary water quality unit. Note that the catch basins will still include deep sumps and oil hoods and the chamber system will have isolation rows. These systems will in certainty contribute to the removal of TSS but are not given credit in the calculation for compliance with Massachusetts stormwater standards.

Nover Comment

SW8. De Minimus calculation needs to be based on the peak rate from a 2 year -24 hour storm event.

Coneco Response

De Minimus calculations are no longer required as all proposed impervious areas will be treated for the WQV.

Nover Comment

SW9. Use of Soil Group D in areas mapped as A/D soils is limited to areas where the groundwater is less than 2.0 feet in depth. Use of D versus A soils incorrectly estimates the amount of runoff.

Coneco Response

The revised hydrologic model includes the division of NRCS hydrologic soil group designations A/D & B/D based on the observed groundwater conditions. HSG D is only used for locations where a depth of less than 2' was observed for Estimated Seasonal High Ground Water (ESHGW) during a subsurface investigation.

Nover Comment

SW10. We recommend witnessing soil observation holes to confirm soil texture and depth to groundwater.

Coneco Response

Witnessed soil observations holes were performed on February 1, 2023 with the review engineer to confirm both soil textures and depths to GW. Are included with the previous test results in the stormwater management report.

Sewer Connection / Mapped Zone A

Nover Comment

The current Project propose the sewer connection from Wilson Street. The location of the connection and portion of the new sewer line is within the mapped Zone A. According to the MA Surface Water Protection Regulations, 310 CMR 22.00, within the Zone A of all surface water supplies and tributaries as defined in 310 CMR 22.02, all sewer lines and appurtenances are prohibited, except as required to eliminate existing or potential pollution to the water supply, or where the crossing of tributaries is necessary to construct a public sewer system. The Applicant needs to address this regulatory condition prior to approving the sewer line proposed in the mapped Zone A in Wilson Street and on the project site. Both areas are within an area Subject to Jurisdiction.

Coneco Response

310 CMR 22.20 (3) (b) says “Within the Zone A of all surface water supplies and tributaries as defined in 310 CMR 22.02, all sewer lines and appurtenances are prohibited, except as required to eliminate existing or potential pollution to the water supply, or where the crossing of tributaries is necessary to construct a public sewer system. Where the exception is met, watertight construction of sewer lines and manholes shall be used.”

The proposed development will connect to the Rockland Sewer System via the existing sewer main in Wilson Road. The existing sewer main in Wilson Road is a public sewer main located within the limits of the Zone A. This sewer main ends at the western limits of Wilson Road, just west of the proposed development. The existing Wilson Road public sewer main will be extended to the proposed development. Approximately 50 feet of the extension will be within the limits of the Zone A. The section of the proposed sewer main extension within the Zone A will be encased in concrete as conditioned in 310 CMR 22.00

The sewer line connection is permissible. By connecting into the municipal sewer, the construction of an onsite disposal system, a potential pollution source to the water supply, is avoided.

Nover Comment

Additionally, no generators are allowed in a mapped Zone A. Therefore, the proposed generator will need to be relocated to an area not mapped Zone A on the project site.

Coneco Response

Generators as referred to in 313 CMR 11.00 (Watershed Protection) and 310 CMR 22.00 (Drinking Water) does not refer to electrical generators being prohibited in a Zone A. The term means “Generate or Generation of Pollutants means the origination, creation or production of Pollutants” (313 CMR 11.03). Further 310 CMR 22 specifically says that emergency electrical generators are allowed in a Zone A but that “facilities that, through their acts or processes, generate, treat, store or dispose of hazardous waste that are subject to M.G.L. c. 21C and 310 CMR 30.000: Hazardous Waste” are not allowed except for “very small quantity generators, as defined by 310 CMR 30.000: Hazardous Waste”..

If there are any additional questions or comments or should the Zoning Board of Appeals require any additional information please do not hesitate to contact me at 508-697-3191 extension 108 or at ddmitruk@coneco.com.

Best Regards,
Coneco Engineers & Scientists

A handwritten signature in blue ink that reads "Damien Dmitruk". The signature is fluid and cursive, with the first name "Damien" and the last name "Dmitruk" clearly legible.

Damien J. Dmitruk, P.E.
Project Engineer