

Avoidance and Minimization Requirement under the Sutton Wetlands Protection Bylaw

Pursuant to Section 12-5(B) of the Sutton Wetlands Protection Bylaw (Bylaw), applicants must satisfactorily demonstrate to the Commission in the form of a written narrative that all probable impacts to Wetland Resource Area's (WRA), their Adjacent Upland Resource Area's (AURA), and stated Public Interests have been avoided to the maximum extent possible. The written narrative must describe what steps were taken to avoid impacts to WRA's and their AURA's. Narratives should be comprised of three parts: 1) Existing Conditions; 2) Proposed Conditions with description of specific Impacts to WRA's; and 3) Mitigation to comply with the Bylaw if impacts cannot be avoided. At a minimum, applicants must consider and address the following:

1) Impact Avoidance

a) Whether the primary proposed activity is water-dependent or whether it requires access to wetland WRA's and/or their AURA's as a central element of its primary purpose (e.g., a dock or pier);

b) Whether any areas within the same property or other properties owned or controlled by the applicant could be used to achieve the project purpose without altering the natural character of any WRA's or their AURA's;

c) Whether any other properties reasonably available to, but not currently owned or controlled by the applicant could be used to achieve the project purpose while avoiding WRA and/or AURA alterations. A property is reasonably available if, in whole or in part, it can be acquired without excessive cost, taking individual circumstances into account, or, in the case of property owned or controlled by the same entity, group of affiliated entities, or local, state or federal government, may be obtained without excessive hardship;

d) Whether alternative designs, layouts or technologies could be used to avoid WRA's or their AURA's, or impacts to the stated Public Interests on subject property or whether the project purpose could be achieved on other property that is reasonably available and would avoid WRA's or their AURA's;

e) Whether the applicant has made any attempts (and if so what they were) to avoid alterations to WRA's and their AURA's by overcoming or removing constraints imposed by zoning, infrastructure, parcel size or the like; and

f) Whether the feasible alternatives that would not alter the natural character of any WRA or AURA on the subject property or on property that is reasonably available, if incorporated into the proposed project, would adversely affect the stated Public Interests of the Bylaw

2) Impact Minimization: For any impact to WRA's or their AURA's that cannot be avoided, the applicant must satisfactorily demonstrate to the Commission in the written narrative that the impacts to any WRA or AURA's functions and values have been reduced to the maximum extent possible. At a minimum, applicants must consider and address the following issues:

a) Whether the proposed project is necessary at the proposed scale or whether the scale of the activity or alteration could be reduced and still achieve the project purpose;

b) Whether the proposed project is necessary at the proposed location or whether another location within the site could achieve the project purpose while resulting in less impact to the WRA's and their AURA's;

c) Whether there are feasible alternative designs, layouts, densities or technologies, that would result in less impact to the WRA's and their AURA's while still achieving the project purpose; and

d) Whether reduction in the scale or relocation of the proposed project to minimize impact, along with appropriate mitigation, will keep the proposed project in compliance with the Bylaw

3) Mitigation for Unavoidable Impacts: For impacts to WRA's that cannot be avoided, mitigation is required to offset impacts that may be deemed as Adverse per Section 12-3 of the Bylaw. The term Adverse is defined as: "In the context of Impact: in the opinion of the Conservation Commission, an Activity or Alteration to a Resource Area which, by its area, scope, or duration appears to represent more than a minimal change (i.e. Significant) to the characteristics, Functions or Values to the stated Public Interests." The Conservation Commission does not dictate the extent or form mitigation must be. It is up to the applicant to propose in what form and extent mitigation will be. The Commission will review each proposal on a site-specific, case-by-case basis. Notwithstanding the above, and as a general guide, the following forms of mitigation have been accepted by the Commission in the past:

- Invasive species eradication (requires a general mapping of invasives on-site);
- Cleanup of junk (requires a general mapping);
- Permanent Conservation Restriction(s);
- Creation of permanent, vegetated buffers where lawn exists, especially next to waterbodies & waterways;
- Infiltration of stormwater before reaching a WRA or AURA (infiltrate all stormwater within LOD);
- General water quality improvement projects;
- Wildlife Habitat preservation and/or enhancements;
- Combination of the above

The above is a sampling of forms of mitigation accepted by the Commission in the past, and is not intended to be an all-inclusive list. It is important to note that all forms of mitigation must occur on-site and within jurisdictional areas. Mitigation for unavoidable impacts will not be accepted if they are proposed outside of jurisdictional areas.

4) Requirements at Limit of Disturbance: Mostly referring to the permanent Limit of Disturbance (LOD), the Conservation Commission requires some form of permanent marker to memorialize, on-site, what has been approved on the plan-of-record. The following is *required* in every instance:

- Conservation signage $\pm 50'$ *and* where there is a turn in the LOD;