

TOFINO ASSOCIATES, INC.
NORTHERN AVENUE HOMES, INC.

■ ■ ■ ■ ■ (413) 256-0321

31 Campus Plaza Road, Hadley, MA 01035

March 9, 2009

Northampton Conservation Commission
City Hall
212 Main Street
Northampton, MA 01060

RE: No Disturb Zone
Notice of Intent
North Street Condominiums
Map 25C, Parcels 12 & 17

Dear Members of the Conservation Commission,

There has been much discussion regarding impacts and/or potential degradation of the 35-foot No Disturb Zone by human activity over time. A row of boulders with 2-foot gaps between them is a solution that has been proposed.

We ask the Commission not to choose that solution because it is generally an aesthetically unappealing approach to the problem, without offering a comprehensive solution. The boulders will not keep people out of the No Disturb Zone. It is still possible to dump trash and yard waste or take down trees, for example, behind the boulders if someone were so inclined. It is of limited effect, but maximum visual impact.

On this site, all of the 35-foot wetland buffer No Disturb Zone will be owned and administered by the Condominium Association. The likelihood of individual unit owners extending their yards into the No Disturb Zone is much less likely than would be the case with a single family home where residents would own the No Disturb Zone property. Individual residents do not own the property, nor do they have any right to take personal control over it in any way. The Condominium Association will be contracting with a landscape service to do all the lawn mowing and maintain all the plantings that are on common land and abut the 35-foot No Disturb Zone. The Condominium Association is responsible for the property and can be held accountable by the Conservation Commission for any and all impacts as outlined below.

We would like to propose the following measures to mark and maintain the integrity of the 35-foot No Disturb Zone:

- A portion of the 35-foot No Disturb Zone will be marked by a retaining wall. This wall will be the limit of activity and use behind units 11-14 and the edge of the common open space between these units and units 15-19.
- The rest of the 35-foot No Disturb Zone, with the exception of the area around the detention basin, will be permanently marked by concrete bounds, set 2 feet above ground

and spaced no more than 25 feet apart. Each bound will be clearly labeled “Wetland Buffer – Do Not Disturb.”

- The topography of the detention basin itself provides a clear edge to the 35-foot No Disturb Zone. The basin provides a physical barrier that goes further from the wetland than the 35-foot No Disturb Zone, and it is not an area that will ever be used by people or potentially expanded. Nevertheless, if the Commission feels it is necessary to install bollards along the outer edge of the detention basin along the 35-foot No Disturb Zone, we will do so.
- A buffer of native trees and understory shrubs will be planted by hand along the entire 35-foot wetland buffer, including behind the retaining wall and on the outside slope of the detention basin. This will provide a visual edge that demarcates the No Disturb Zone.

We are also proposing a comprehensive Declaration of Covenants and Restrictions in order to relieve the Conservation Commission of responsibility for inspecting and enforcing the integrity of the 35-foot No Disturb Zone to the maximum extent practicable. We are proposing that the Condominium Association hire a professional acceptable to the Conservation Commission to inspect the No Disturb Zone annually and issue a report to the Commission in conjunction with the annual report on the condition of the storm water system and its maintenance.

An escrow account will be established with signatory powers given to the City of Northampton that will make funds available for either inspections not performed or remedial measures if needed, in the event the Condominium Association fails to comply with requirements for continued monitoring and any necessary maintenance or restoration of the 35-foot No Disturb Zone, or with requirements of the Stormwater Management Plan. We have attached to this letter a draft of the sections of the Declaration of Covenants and Restrictions that are pertinent to the Conservation Commission and its jurisdiction, specifically sections titled “Storm Water Management,” “Snow Removal and Management Plan,” “35-Foot Wetland Buffer No Disturb Zone,” “Common Open Space,” and “Escrow Account.” We expect that the Declaration of Covenants and Restrictions will be finalized with the assistance of Planning and Conservation Staff, and will incorporate all conditions of permit approval.

We look forward to continuing our discussion on the plans and our proposals for mitigating the impacts of development at our hearing this Thursday.

Sincerely,

Douglas A. Kohl, President
Tofino Associates, Inc.
Northern Avenue Homes, Inc.