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October 5, 2007

Via E mail & Postal Priority  
Scituate Zoning Board of Appeals  
Scituate Town Hall  
600 Chief Justice Highway  
Scituate, MA 02066

Re: 126 & 132 Chief Justice Highway  
DEP # SE 068-1988

Dear Board Members:

My name is Mario DiGregorio. I am a professional wetland scientist with 25 years field experience in southeastern Massachusetts, Cape Cod and the Islands. I submit this report on behalf of Citizens for the Preservation of First Herring Brook ("Citizens") regarding the proposed development of a sixty-unit housing complex at the above property.

The site comprises approximately 16 acres of salt marsh (310 CMR 10.32), Bordering Vegetated Wetland (310 CMR 10.55), Bordering Land Subject to Flooding (310 CMR 10.57), Land Subject to Coastal Storm Flowage (310 CMR 10.02), Riverfront Area (310 CMR 10.58), 100 foot buffer zone and, under the Scituate wetland protection by-law, Vegetative Wetland.

After review of the subject site and contiguous properties to the east on October 4, 2007 (and based on several previous site visits, including with DEP and members of the ZBA and the Conservation Commission), I present to the ZBA the following observations:

1. SITEC has characterized the on-site wetland as Isolated Land Subject to Flooding (310 CMR 10.57), despite the fact that contiguous land on the Hollstein and Kingsland properties evidence key indicators of wetland vegetation and wetland hydrology. My fieldwork revealed more than 50% wetland plant indicators both within and outside of the so-called ILSF to the southeast ultimately east into the area designated as salt marsh and BVW by the project proponents.
2. The majority of the wetland plant indicators in the 'connector' area include purple loosestrife (*Lythrum salicaria*-Fac. Wet), New York aster (*Aster novae-belgii*-Fac. Wet), tall reed (*Phragmites australis*-Fac.Wet), broad cattail (*Typha latifolia*-

Obligate), red maple (*Acer rubrum*-Fac.), elderberry (*Sambucus canadensis*-Fac.Wet), switch grass (*Panicum virgatum*-Fac.), freshwater cordgrass (*Spartina pectinata*-Fac.Wet), and jointweed (*Polygonum* spp.-Fac.Wet). The U.S. Fish and Wildlife Service's **List of Plants that Occur in Wetlands: Northeast Region** (1986), categorizes plants classified as Fac.Wet as occurring in wetlands 66-99% of the time, Obligate more than 98% and Facultative 33-66%. As you can see, most of the above plants observed at the property fall into the Fac.Wet category (one in Obligate), making it substantially more likely than not that those areas qualify as wetlands.

3. There were also important indicators of wetland hydrology in this connector area, including stained leaves, drainage patterns in the soil and fluted trunks with buttressed roots.
4. In my professional opinion, *the eastern connector to the marsh renders the claimed ILSF a Bordering Vegetated Wetland ("BVW") (310 CMR 10.55)*, a designation with dramatic ramifications to the project in question or any project. Performance standards require that any fill in BVW be replicated out of the resource area in the site's upland. The replication must restore lost wildlife habitat, not just lost volumetric flooding. Replication under State standards must be a minimum of 1:1; under the stricter Scituate wetlands by-law, replication must be no less than 2:1.
5. The eastern wetland connection was pointed out to members of the Conservation Commission and ZBA on October 8. At that time, there appeared consensus that the connector exists and that the resource area is contiguous with the previously designated ILSF.
6. Due to this new wetland designation, a new or at least revised ANRAD-ORAD application and process should incorporate the change from ILSF to BVW for appropriate review.
7. The BVW designation establishes important thresholds under 310 CMR 10.00. 401 Water Quality Certification (314 CMR 9.00) and a Programmatic General Permit (PGP) from the army Corps of Engineers will be required. SITEC has previously claimed that the project had been changed to avoid the 5000 square foot threshold. However, there is no doubt that the project in its current configuration calls for greater than 5000 square feet of fill.

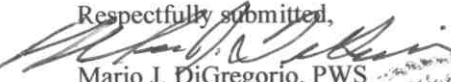
In conclusion, in my professional opinion the following issues must be addressed and satisfied in order to meet local, State and federal regulations due to environmental impacts:

- Due to the complexity and ambiguity of a large site almost completely altered by extensive disking, mowing, harrowing and ploughing, determining the extent of the vegetative wetlands in the open field has not been accurately portrayed by the

applicant in their submitted documents. Wetlands currently extend to the east and southeast of the project site, rendering the correct designation of the wetlands as BVW, not ILSF.

- A new or revised ANRAD should be required to incorporate this new wetland designation. A maximum of 5000 square feet of BVW fill is allowed under 310 CMR 10.55, with a minimum of 1:1 restoration. The Scituate by-law requires 2:1.
- In a letter dated March 14, 2007, DEP mandated that the applicant obtain approval under Section 401 for a Water Quality Certification (314 CMR 9.00), a PGP 2 permit under the Clean Water Act administered by the Army Corps of Engineers and MEPA. To my knowledge, the applicant has obtained none of those approvals.

Respectfully submitted,

  
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