

CONSERVATION COMMISSION MINUTES

Date: May 14, 2020

Time: 7:00pm

Place: This meeting was held as a virtual meeting via Zoom

<https://zoom.us/j/390740999>

With a quorum present, the meeting opened at 7:01 with Dan Green presiding as Chair.

Members Present: Leigh Gilligan, Kathy Cade, Jeff Zabel, Judy Hepburn, Ellen Katz, and Susan Lunin

Members Absent: none

Staff Present: Jennifer Steel and Claire Rundelli

Members of the Public: not known due to remote nature of the meeting

DECISIONS

I. WETLANDS DECISIONS

1. 116 Upland Ave – compliance question – DEP File #239-824

- **Owner:** Ilya Zvenigorodskiy
- **Request:** Determine compliance re enclosing area under the house with “lath”.
- **Documents Presented:** Site photos, excerpts of OOC
- **Jurisdiction:** Flood zone
- **Staff Notes:**
 - The OOC stated:
 - “To maintain the flood storage capacity of the site, no net fill may be brought onto the site within the floodplain elevation.”
 - “To maintain the flood storage capacity of the site, the crawl space under the house may not be filled or enclosed or its grading altered.”
 - Owner added “deck skirting” of “lath” boards (~1” x 4”) with minimal gaps between them
Fill volume of lath: ~6 cy
 - The question for the Commission is does the lath violate the terms of the OOC by restricting hydraulic connection and bringing in net fill?
- **Discussion:**
 - Owner raised parity concerns: neighbor’s crawl space is covered with vertical boards and the neighbor installed a solid panel fence along their back yard.
 - The Commission noted the need to develop guidance for deck skirting to ensure consistency and to ensure that water, mud, sticks, etc. can pass freely from more than one or all directions.
 - The Commission also note the need to develop guidance for solid panel fences that could also block the free flow of water.
 - The Commission asked Jennifer Steel to seek science-based guidance on what openings would be most appropriate.
 - Owner asked that the Commission find some way to allow the lath to remain.
- **Consensus:** Commission will work to develop guidance and respond to owner of 116 Upland as soon as possible.

2. 6 Vaughn Ave – NOI – teardown/rebuild single-family home – DEP File #239-865

- **Owner:** 6 Vaughn Avenue, LLC **Applicant:** Merek Franklin, Copley Design, LLC
Representative: Daniel C Orwig, Orwig Associates
- **Request:** Issue OOC.
- **Documents Presented:** Colored plans, site photos, draft OOC
- **Jurisdiction:** Buffer Zone
- **Project Summary**
 - Demolition of an existing single-family home with associated driveway.
 - Removal of trees within the outer 50’ of the buffer zone.
 - 8 trees over 8” and 8 additional smaller trees are due to be removed.
 - Within the Buffer Zone, construction of portions of a new single-family home with associated driveway, front walkway, front porch, back patio, ~2’ retaining wall, and stormwater management systems.
 - A rain garden is proposed outside of the Buffer Zone.



Mayor
Ruthanne Fuller

**Director
Planning &
Development**
Barney Heath

**Senior
Environmental
Planner**
Jennifer Steel

**Assistant
Environmental
Planner**
Claire Rundelli

**Conservation
Commission
Members**
Kathy Cade
Dan Green
Judy Hepburn
Ellen Katz
Susan Lunin
Jeff Zabel
Leigh Gilligan

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- Applicant is proposing to provide a 700 s.f. easement along the northern property boundary to accommodate the existing Life Course Trail that crosses onto the subject property from the adjacent City-owned Cold Spring Park.
- Presentation and Discussion
 - The latest design reflects improvements: site access has been clarified, tree protection has been added, the large tree at the rear of the property will be saved, and erosion controls have been improved.
 - Site will take a lot of stormwater from off-site as well as on-site.
 - Planting is a mixture of natives and non-natives – no new canopy trees are proposed, but there are lots of mid-sized trees shrubs that will be installed.
 - One commissioner noted that the “wall” of arbor vitae misses an opportunity to improve habitat. Spruce and fir should be considered. The applicant agreed to do so.
 - Neighbor J Shugarman asked about the scale and location of the house; he was told that was outside the purview of this Commission.
- Vote to close the hearing and issue an OOC with the following special conditions. [Motion: Lunin; Second: Gilligan; Roll-call vote: Cade (aye), Gilligan (aye), Green (aye), Hepburn (abstained), Katz (aye) Lunin (aye), Zabel (aye); Vote 6:0:1]
 - A dewatering plan designed to limit and control any adverse impact on the wetlands resource area(s) must be presented, if necessary, to the Conservation Commission for review and approval.
 - A concrete washout plan designed to limit and control any adverse on the wetlands resource area(s) must be presented, if necessary, to the Conservation Commission for review and approval.
 - Landscape plantings within Commission jurisdiction.
 - Must stabilize all exposed areas.
 - Be installed in compliance with the approved plans (desired changes must be approved by the Conservation office in advance).
 - The applicant shall enhance the evergreen species diversity of the northern screening plantings (proposed to be Arborvitae) to increase habitat value.
 - Must have a survival rate of 100 % of total number of trees and shrubs(after 2 growing seasons).
 - Must have a survival rate of 75 % aerial coverage of all other plants (after 2 growing seasons).
 - Mulch applications shall diminish over time and eventually cease as ground cover species and shrubs spread.
 - If, within 2 years of the start of construction , any trees within the wetland or buffer die as a result of or have been demonstrably harmed by construction activities, they shall be replaced at a ratio of 2:1 with native canopy saplings of roughly 2 caliper inches.
 - The stormwater infiltration system must be installed as per the approved plans.
 - The City Engineer must inspect the infiltration system. The applicant must submit proof of inspection to the Cons. Office.
 - The approved Operations and Maintenance Plan is appended hereto and must be adhered to.
 - The use of fertilizers shall be limited to slow-release organic fertilizers to improve water quality in the adjacent wetlands and waterways.
 - To protect wildlife and/or vernal pool species, artificial lighting shall be designed to prevent lighting of the wetlands.

3. 15 Riverdale Avenue – NOI (continued) – multi-use 40B development – DEP File #239-860

- Owner: Michael Price, Legacy the River, LLC Applicant: Jack Englert, CPC Land Acquisition Company, LLC
- Representative: Timothy Williams, Allen & Major Associates, Inc., Melissa Mintz, CPC Land Acquisition Company, LLC, Ian Ramey, Copley Wolf, Landscape Architect
- Request: Issue OOC.
- Documents Presented: Colored plans, site photos, draft OOC
- Jurisdiction: Buffer Zone, Riverfront Area, BLSF, City Floodplain
- Project Summary
 - The project, a 40B, is before the ZBA.
 - Demolish existing large commercial building and remove much of the existing pavement.
 - Construct one large building (with a central open-air concourse) within Riverfront Area -- 166 units, ~57,819 sf, and 5 stories with ground-level covered parking, and associated outdoor amenities.

The location of this meeting is wheelchair accessible and reasonable accommodations will be provided to persons with disabilities who require assistance. If you need a reasonable accommodation, please contact the city of Newton's ADA/Sec. 504 Coordinator, Jini Fairley, at least two business days in advance of the meeting: jfairley@newtonma.gov or (617) 796-1253. The city's TTY/TDD direct line is: 617-796-1089. For the Telecommunications Relay Service (TRS), please dial 711.

- Undertake associated site grading, install drainage and stormwater management systems, create bioretention area, and landscape the site.
- N.B. The project includes the construction of another smaller building, roadway, and parking outside of RFA.
- Regulatory framework
 - Riverfront Area alteration – some reduction in impervious area, significant plantings, significant improvement in stormwater, improvement in public access
 - Flood zone – net gain of 5,309 c.f. storage
- Presentation (Tim Williams) and Discussion
 - Overall, this seems to represent an improvement to the existing Riverfront Area by pulling the proposed building back 30-35’ feet from the river and pulling the hardscape back 7’ from the river in most areas. The bioretention area could provide greater habitat value than the existing lawn it will be replacing.
 - The Fire Department wanted wider fire access lane and the wetland lines changed a bit, so impervious area calculations changed a bit, but overall, impervious area within Riverfront Area will be reduced by ~13,000 sf.
 - Flood storage will be increased on the site by 15% or 5,309 c.f.
 - The retrofitted catchbasins, water quality structure, and subsurface detention structure will hold and treat runoff from the entire site and nearby streets and reduce the site’s phosphorus load in compliance with the City’s TMDL.
 - Runoff from the covered parking area will go through oil/water separators and into the City’s sewer.
 - Snow storage areas have been more appropriately designated. Excess snow will be trucked off-site.
 - Public access to the DCR Blue Heron Pathway and to the City’s adjacent Forte Park will be enhanced.
 - Many changes have been made to the plans in response to staff comments/concerns.
 - The MAHW flags and BVW flags at the western end of the project have been revised in response to staff’s request. The resulting change in jurisdictional area is, however, minimal.
 - Erosion control will be entrenched silt fence and 12” staked compost sock because of the duration and scale of the project.
 - Tree protection was moved to protect the roots of the trees immediately adjacent to the rain garden. Excavation that could affect the tree roots will be by hand.
 - Tree protection details have been changed.
 - Details of the SWPPP, on-site stormwater management, vehicular access, stockpiles, laydown, etc. (i.e., “methods and means”) will be submitted by the contractor to the Conservation Office for review and approval.
 - Plans are currently under final review by Fire, Engineering, and ZBA. A number of revisions will be included in new plans. Items that remain to be addressed include:
 - Construction sequence on C-001 doesn’t adequately describe how materials, excavation, snow storage, temporary detention, etc. will all work. Also, #17 (SWPPP) should be #1.
 - Erosion control note #6 needs editing.
 - Sheet L-000 notes 11 and 12 don’t seem pertinent to this site.
 - Consider whether permanent bounds would be appropriate for plantings in the Riverfront Area.
 - Staff recommend having a professional on site to address potential issues of contamination when excavation is underway.
- Note: Due to a Zoom-bombing event, this hearing was interrupted, and Commissioner Judy Hepburn was unable to rejoin the meeting until later in the agenda.
- Vote to continue the hearing to June 4, 2020. [Motion: Lunin; Second: Gilligan; Roll-call vote: Cade (aye), Gilligan (aye), Green (aye), Katz (aye) Lunin (aye), Zabel (aye); Vote 6:0:0]

4. Dunstan St/Washington St/Kempton Place – NOI – Dunstan East Mixed-Use 40B Development – DEP File #239-867

- Owner/Applicant: Robert Korff, Mark Development, LLC Representative: Christopher Wagner, VHB, Inc., Katherine Adams and Damien Chaviano, Mark Development, Rich Hollworth, VHB
- Request: Issue OOC.
- Documents Presented: Colored plans, site photos, draft OOC
- Jurisdiction: Buffer Zone, Riverfront Area, BLSF, Land Under Waterways, City Floodplain, Bank
- Project Summary
 - Demolish existing large commercial buildings and remove existing pavement.
 - Remove the majority of the southern stream wall, regrade the bank, and plant the slope to create a more natural stream channel. Culvert headwalls will also be reconstructed
 - Construct 3 mixed use buildings (with parking under buildings) totaling roughly 426,000 s.f. and one central roadway, resulting in a proposed reduction of 13,691 s.f. of impervious area.

- Stormwater management changes include a new sand filter and changes to the existing outfall.
- Create flood storage area/green space/public space resulting in an increase in flood storage capacity of 1320.8 cubic yards.
- Construct a boardwalk along the newly naturalized Cheesecake Brook.
- Presentation (Rich Hollworth) and Discussion:
 - Regulatory framework summary
 - Bank alteration -- 402' – significant improvement in functions and values
 - Riverfront Area alteration – 87,407 sf – significant improvement in stormwater, improvement in habitat, reduction in impervious area, etc.
 - Flood zone – net gain of 1,320 cf of storage
 - Land Under Water – stream channel will be renaturalized where grading changes occur and land under water will be expanded.
 - Project will result in a number of improvements to current conditions
 - The applicant team coordinated with Conservation staff and Charles River Watershed Association.
 - Cheesecake Brook is currently channelized and will be renaturalized.
 - The (dilapidated) southern wall of Cheesecake Brook will be removed and a sloped, vegetated embankment will be created.
 - Stream carrying capacity/conveyance will be significantly increased with new cross-section.
 - Almost the entire site is impervious now; there will be lots more green space created.
 - Stormwater is currently mostly untreated. It will be better treated prior to discharge to Cheesecake Brk.
 - The current MassDOT culvert (carrying stormwater from the Pike and Washington Street) connection to Cheesecake Brook will be converted -- with a plunge pool, to an angled, sinuous, vegetated channel.
 - 150% of current flood storage capacity (and public greenspace) will be created contiguous to stream.
 - Peak runoff will be attenuated
 - Parking is being placed under buildings, so runoff will be minimized and will be directed to City sewer.
 - Applicant team noted that there is a plume of contamination from across the street that will be monitored and addressed during construction.
 - Applicant team noted that Brook Drive will be a minor road, with most traffic entering and exiting to Washington Street.
 - Staff submitted to the applicant a number of requested plan changes/clarifications.
 - Show flood zone on grading plan. Show areas of cut and areas of fill.
 - Show temporary detention basins.
 - Show dewatering sites.
 - Show process and mechanisms for bypass pumping/ dewatering/ESC for stream realignment work.
 - Clarify the intended character of the stream bottom after realignment occurs.
 - Show details of headwalls (velocity dissipation, trash collection, scour prevention) and stream channel bottom.
 - Show location of proprietary water quality inlet.
 - Clarify how sand filter will not be short circuited.
 - Clarify where the two sand filters are located.
 - Clarify which catch-basins have sumps and which do not.
 - Clarify what is under the decking.
 - Clarify what is under the “Z-shaped” ramp (does water flow under it or is it solid?).
 - Clarify how the proposed flood zone line works around the ramp and around and under Building 3.
 - Do cut and fill calcs take into consideration 6 inches of loam?
 - Clarify planting intentions: numbers and species of trees (trees are listed in G3); why a seed mix is proposed in the public access area?
 - Clarify location of guardrail along boardwalk (and viewing platforms).
 - Clarify stairs off boardwalk.
 - Add entrenched silt fence all around site.
 - Add erosion controls for wall/bank work.

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- Clarify depth to groundwater.
- Clarify depth of the garages.
- The Environmental Monitor should also review installation of the sand filter, headwalls, etc.
- Restoration area should be bounded, per 310 CMR 10.58(5)(h).
- Resident Comments
 - Tim Marks, 904 Watertown St., has concerns about the project, but first asked to clarify what is the purview of the Commission in order to avoid raising concerns outside of jurisdiction. Requested clarification on a design change regarding the sidewalk/boardwalk along the brook, asked about the flood water and ensuring that it would never negatively impact the neighbors, and had concerns about pollution from the new traffic on the new road entering the brook.
 - Thor Helgason, 872 Watertown St., asked about the effect of the 284-car garage on groundwater, asked how the sand filter would not short circuit, and asked that the operation and maintenance plan be conditioned as required.
- Commissioner and staff comments
 - The importance of conditioning exterior lighting was noted.
 - It was noted that a wildlife habitat analysis will need to be conducted because of bank alteration.
 - It was noted that 21E contamination concerns would need to be addressed by an LSP
 - Further information on foundation drains and the flow of groundwater around the garages was sought.
- Vote to accept the request to continue to 6/25/20 to allow the applicant team to address staff notes and concerns. [Motion: Lunin; Second: Zabel; Roll-call vote: Cade (aye), Gilligan (aye), Green (aye), Katz (aye) Lunin (aye), Zabel (aye); Vote 6:0:0]

5. Generic DPW Roadwork – OOC Extension – Newton-wide – DEP File #239-787

- Owner: City of Newton Applicant: Theodore Jerdee, Newton DPW Representative: none
- Request: Issue 3-year OOC extension.
- Documents Presented: 2019-2020 Roadworks Report
- Jurisdiction: Buffer Zone, Riverfront Area, BLSF, City Floodplain
- Staff Notes: Staff feel it fully appropriate to extend the generic roadworks OOC for the Department of Public Works, including the condition requiring annual reports.
- Vote to issue a 3-year extension to Order of Conditions #239-787. [Motion: Gilligan; Second: Zabel; Roll-call vote: Cade (aye), Gilligan (aye), Green (aye), Katz (aye) Lunin (aye), Zabel (aye); Vote 6:0:0]

6. 55 Grace Road – COC – major landscaping – DEP File #239-767

- Owner/Applicant: Joel Sable Representative: none
- Request: Issue COC.
- Jurisdiction: Buffer Zone, Riverfront Area
- Staff Notes: Staff site visit on 5/2/20 confirmed compliance.
- Vote to issue a Certificate of Compliance for approved work under Order of Conditions #239-767. [Motion: Lunin; Second: Zabel; Roll-call vote: Cade (aye), Gilligan (aye), Green (aye), Hepburn (aye), Katz (aye) Lunin (aye), Zabel (aye); Vote 7:0:0]

II. CONSERVATION AREA DECISIONS

7. Hydro-raking Houghton Pond

- Documents Presented: Spreadsheet of capital improvement projects and budget, aerial of work areas
- Staff Notes:
 - Houghton Pond has been filling in with leaves and organic debris since its creation at the turn of the century. Now weeds encroach close to the center of the pond during dry periods.
 - Trails are suffering extreme damage from frequent flooding
 - Hydroraking could increase flood storage and alleviate some of the flood damage.
 - Estimates:
 - Solitude 10 days hydroraking = \$27,000
 - Bob Hanss support for hydroraking, disposal and seeding, and trail restoration = \$26,885
 - Bob Hanss stream cleaning and new trail surface = \$28,150
 - Any City-sponsored work would need to be bid out and the lowest qualified bid accepted.
 - Any privately funded work on City land would need to be licensed by the ConCom. Work done by a private contractor on City land would need to be approved by the City prior to final payment.
 - Private donations could be collected by a 501(c)3 and used to pay a licensed contractor.

- All work within wetland jurisdiction would need to be permitted under and Order of Conditions.
- Project Proposal:
 - A1. Hydrorake the pond.
 - A2. Dispose of raked material at the corner of Suffolk/Lowell, loaming, and seeding with woody/vegetative mix.
 - A2. Dispose of some raked material in swimming pool in Old Deer Park.
 - A2. Restore the main entrance's accessible stonedust trail and the western wood chip trail to the weir/outlet.
 - B. Hand rake the two inflowing streams.
 - C. Use a mini-excavator to hydrorake the larger inflowing streams and outfall plunge pools.
 - D. Create a new accessible trail surface along the inflowing stream to fix damage from mini-excavator
- Proposed division of project: ConCom would bid, pay for and oversee hydroraking (A1); community contributions would support the remainder of A2 and possibly B, C, and D.
- Presentation by Ken Lyons, President of the Chestnut Hill Association: Houghton Garden is in real need of restorative work. The Community was asked to contribute half of the cost of the hydro-raking project. They did so (see A2, above), and exceeded expectations, allowing the opportunity to do more stream restoration (see B and C, above) and extend the accessible trail (see D, above).
- Councilor Lisle Baker: noted his support for the project.
- Ted Kuklinski (President of the Newton Conservators): noted that he will ask the Board of the Conservators if they would agree to accept community donations and oversee the contract with the local landscaper.
- Commission Discussion: This work is really needed and since the community match is 2:1, the Commission feels it is appropriate to support the project.
- Vote [Motion: Lunin; Second: Zabel; Roll-call vote: Cade (aye), Gilligan (aye), Hepburn (aye) Green (aye), Katz (aye) Lunin (aye), Zabel (aye); Vote 7:0:0] to:
 1. Approve in concept all of the proposed work described in A1, A2, B, C, and D, above.
 2. Direct staff to proceed with putting out a bid for the hydroraking project (A1), conditional on receiving the community contribution of the services outlined in the Chestnut Hill Association's letter of 5/13/20.
 3. Direct staff to seek a detailed scope of work for A2, B, C, and D from the community.
 4. Direct staff to craft an NOI that would permit all work described in A-D.

III. ADMINISTRATIVE DECISIONS

8. Minutes of 4/23/20 to be approved

- Documents Presented: draft minutes
- Vote to approve the 4/23/20 minutes. [Motion: Lunin; Second: Gilligan; Roll-call vote: Cade (aye), Gilligan (aye), Green (aye), Katz (aye) Lunin (aye), Zabel (aye), Hepburn (aye); Vote 6:0:0

IV. ISSUES AROUND TOWN DECISIONS

9. City of Newton 2020-2027 Open Space and Recreation Plan

- Staff Notes: The first draft of the OSRP was released for public review (and review by P&D and ZAP on 4/30. Susan Lunin and Jeff Zabel have been involved members of the OSRP Advisory Committee, but all members of the ConCom should review the draft plan. The state requires a letter of support from the Conservation Commission. Individual members of the ConCom may submit any comments to Conservation staff for consideration in the final draft
- Staff Request: Identify any short comings of the OSRP and let Claire and Jennifer know so that they may be addressed in the final draft.

UPDATES

V. WETLANDS UPDATES

VI. CONSERVATION AREA UPDATES

- Old Deer Park: Staff met with the annual maintenance contractors on site and discussed site management and trail creation. Conservation land maintenance contractors will cut the trail (see revised trail map), cut invasives twice annually to maintain progress, continue to cut more invasives from the knolls, and re-clear path along green line. We anticipate the first pass coming in the next couple of weeks prior to full leaf out.
- Pending projects:
 - CRP stairs -- hoping to get bid out soon
 - Kessler boardwalk and bridge -- hoping to get bid out soon

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- Webster stairs -- awaiting DCR
- Houghton hydroraking and trail rehabilitation
- Dolan crusher-run on trail

VII. ISSUES AROUND TOWN UPDATES

- Invasive pulls are being coordinated.

VIII. ADMINISTRATIVE MATTER UPDATES

- ConCom 101 and Social Evening: Indefinitely postponed.
- EnviSci Summer Program may be affected by COVID-19, no update at this time.

OTHER TOPICS NOT REASONABLY ANTICIPATED BY THE CHAIR 48 HOURS BEFORE THE MEETING

10. **Conservation Commission standard perpetual fertilizer, herbicide, and pesticide restriction** is a problem for the City's athletic fields (e.g, Zervas and Albemarle). The Commission asked staff to recommend a new set of standard conditions. Leigh Gilligan will look into ways to remove perpetual conditions after a complete COC noting the perpetual conditions has been granted and recorded.

ADJOURN

- Vote to adjourn at 10:35PM. [Motion: Lunin; Second: katz; Roll-call vote: Cade (aye), Gilligan (aye), Green (aye), Katz (aye) Lunin (aye), Zabel (aye), Hepburn (aye); Vote 6:0:0