

# CONSERVATION COMMISSION MINUTES

Date: March 7, 2019

Time: 7:02 pm

Place: City Hall, Room 204

**With a quorum present**, the meeting opened with Susan Lunin presiding as Chair

**Members Present:** Judy Hepburn, Ellen Katz, Norm Richardson, Jeff Zabel, Dan Green, Kathy Cade  
(Associate)

**Staff Present:** Jennifer Steel

**Members Absent:**

**Members of the Public:** See sign-in sheet

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## DECISIONS

### I. WETLANDS DECISIONS

#### 1. NOI (cont'd) – 170 Upland Ave – teardown/rebuild single family home – DEP File #239-826

- Request: Order of Conditions for the teardown/rebuild of a single-family home
- Owner/Applicant: Daniel Wilson Representative: Joe Porter, VTP Associates
- Documents Presented: colored plans plans, photos, draft OOC
- Jurisdiction: Bordering Land Subject to Flooding (112.2' NAVD88) and City Floodplain
- Presentation (Dan Wilson) and Discussion:
  - **Project Summary:** Demolish the existing single-family home and detached garage and rebuild a new modular single-family home with attached carport, porch, and expanded driveway.
  - **Impact Summary** – the project is now fully compliant with the performance standards
    - DEP determined that any new footprint within BLSF must be built on pilings to provide “unrestricted hydraulic connectivity”, so the applicants have eliminated the garage and have instead designed an open carport. That will provide enough excess flood storage capacity to allow the applicant to install a vinyl fence around the property.
    - Engineering approved the revised infiltration and cut and fill calculations.
    - The wildlife habitat value on the site is limited. Three mature trees exist and are proposed to be saved.
    - Loam will represent fill, so removal of soil will be required.
    - One of the three trees is very close to demolition and construction activities and will have to be carefully protected during demolition and construction.
- Vote: to close the hearing and issue an Order of Conditions with the following special conditions. [Motion: Norm Richardson; Second: Jeff Zabel; Vote: 6:0:0].
  - The three mature trees must be protected with snow fencing installed at the drip lines.
  - Existing Trees: The Applicant shall protect the mature trees on the site as shown on the plan. Trunks, branches and roots shall be protected during the construction of the new single-family home.
  - Loam will represent fill, so documentation of the removal of an equivalent amount of soil will be required.
  - Provide compensatory flood storage as per the plans.
  - 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 Conservation Office.
  - The open carport must remain open in perpetuity and cannot be enclosed in order to maintain the flood storage capacity of the site.

#### 2. NOI – 204 Dedham Street – ex-post facto for renovations of a single-family home - DEP File



**Mayor**  
Ruthanne Fuller

**Director  
Planning &  
Development**  
Barney Heath

**Senior  
Environmental  
Planner**  
Jennifer Steel

**Assistant  
Environmental  
Planner**  
Claire Rundelli

**Conservation  
Commission  
Members**  
Dan Green  
Judy Hepburn  
Susan Lunin  
Norm Richardson  
Ira Wallach  
Jeff Zabel  
Ellen Katz

**Conservation  
Commission  
Alternates**  
Kathy Cade

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## #239-829

- Request: Order of Conditions to permit the already initiated work in floodplain to meet the requirements of the Enforcement Order.
- Owner/Applicant: Alex Kane, Kane Innovations LLC Representative: Michael Quinn
- Documents Presented: colored plans plans, photos, draft OOC
- Jurisdiction: Bordering Land Subject to Flooding (113.8' NAVD88) and City Floodplain
- Presentation and Discussion:
  - **Project Summary**: Unpermitted work was conducted on the site: (1) earth moving (including the removal of existing retaining walls on either side of the driveway, grading of the lawn area, etc.) without any erosion or site control measures; (2) placement of fill (sand) in flood zone, and (3) removal of all mature foundation plantings in front of the house. The applicant is requesting an OOC to permit the completion of the renovations on site in order to bring the site into compliance with the state Wetlands Protection Act. Plans have been received that indicate the full extent of all proposed activities on the site and indicate that finished conditions will match prior conditions.
  - **Impact Summary** – the project is now fully compliant with the performance standards
    - Work in Flood Zone is mostly replacing in-place and in-kind stairs, walkway, and driveway retaining walls.
    - All grading will be returned to it preconstruction state.
    - The foundation plantings were not “significant to the protection of wildlife habitat” but were large and extensive, so they should be replaced with native plantings of significant size.
- Vote: to close the hearing and issue an Order of Conditions with the following special conditions [Motion: Norm Richardson; Second: Jeff Zabel; Vote: 6:0:0].
  - An as-built plan signed by the engineer certifying compliance with the approved plans and order must be submitted.
  - The equivalent of 3-4” of soil from the front yard must be removed to allow for the installation of loam and/or sod without having net fill within flood zone.
  - 12 foundation plantings in the front of the house are required and must be combination of native evergreen and deciduous shrubs; at least two must be at least 3-4 feet in height at the time of installation.

### 3. NOI – 1114 Beacon Street – construction of 25-unit residential condominiums – DEP file # 239-827

- Request: Tear-down existing building and remove existing parking lot, construct 3 town houses and 22 condominium units (with underground parking) and dredge and landscape.
- Owner: Ronald Simons, 1114 Beacon Street LLC Applicant/Representative: Kevin Riopelle, DGT Associates
- Documents Presented: colored plans, response memo plans, photos, response memo
- Jurisdiction: ILSF – Please note that jurisdiction is limited to the ILSF, but because all of the site’s stormwater will drain to ILSF, the whole project is being considered.
- Presentation and Discussion:
  - **Project**:
    - Tear down of old, fully paved, zero stormwater treatment site
    - Construction minimizes driveways, puts parking underground, reduces impervious area
    - Dredging of ~250 cubic yards of material might be appropriate.
  - **Anticipated positive impacts**:
    - Impervious area reductions are significant (69% -> 49%)
    - Stormwater improvements are significant (parking lot -> roof), Project will also pick up and treat runoff from the neighboring parcel to the east.
    - Restoration dredging and planting improvements to the ILSF are significant (restore junky pond)
  - **Questions/concerns to be addressed by the applicant**:
    - Is the ILSF a Vernal pool? An assessment must be been conducted by a qualified ecologist (very shortly) to determine whether obligate VP species are present.
    - Groundwater
      - The applicant must determine and illustrate how groundwater currently flows across the site.

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- The applicant must determine and illustrate how groundwater will flow across the site once the garage and foundation drains are constructed and must assess whether the foundation drain will be adequate to handle the groundwater flow, whether any groundwater will be “deflected” to other sites, and whether flow to the ILSF will be increased.
- The applicant will be doing survey on abutting properties starting tomorrow.
- Contamination
  - The applicant must determine whether the soils on the site are contaminated. Because of the history of surrounding sites, MCP Phase I must be conducted (this will likely be required by the bank, anyway). A “contamination map” and should be presented to the Con Com.
  - The applicant must determine whether the anticipated disturbance of (potentially) contaminated soils might cause migration of contamination off the site or to the ILSF?
- Dredging of ILSF
  - The applicant must clarify what amount of dredging will be proposed in light of the degraded nature of the ILSF and the potential VP habitat.
  - Preliminary tests of sediment quality should be conducted to inform plans for dewatering, removal, and capping of the dredged ILSF. (Any dredged sediments will have to be tested anyway).
  - A dredging plan will be needed (storage, dewatering, final grades, etc.); the applicant will supply one.
- Dewatering: A dewatering plan will be part of the SWPPP, but the Commission wants to review a draft as part of this filing.
- Concrete washout: A concrete washout plan will be part of the SWPPP, but the Commission wants to review a draft as part of this filing.
- Phasing: A phasing plan will be part of the SWPPP, but the ConCom wants review a draft as part of this filing.
- Stormwater
  - To infiltrate more stormwater runoff prior to discharge into the ILSF you will consider a leaching catch-basin and perforated pipe to the south of the building.
  - Should something akin to a grassy “level spreader settling basin” be installed up-gradient of the ILSF to dissipate flow velocity and allow for easier maintenance?
- Landscaping: The number and inches of trees to be cut and planted in the ILSF will be provided.
- Peer Review
  - The Commission discussed the possibility of hiring a peer reviewer to assess the 21E and hydrology materials presented by the applicant
- Note proof of abutter notification must be submitted to the Conservation Office.
- Vote to accept the applicant’s request to continue to the 4/18/19 meeting, with materials due to the Conservation Office by 4/4/19 [Motion: Dan Green; Second: Norm Richardson; Vote: 6:0:0].

#### 4. RDA – 210 Upland Avenue – teardown/rebuild single family home

- Request: Applicant is requesting that the Commission review their wetland line and conclude that their proposed tear-down/re-build of a single-family home is outside the 200’ Riverfront Area and 100’ Buffer Zone.
- Owner/Applicant: Paulo Cordeiro, 210 Upland Ave LLC Representatives: Karon Skinner Catrone (wetland scientist), Sam Sokol (developer)
- Documents Presented: colored plans plans, photos, draft DOA
- Jurisdiction: just outside Riverfront Area and Buffer Zone
- Presentation and Discussion
  - Dan Green noted for the record that he has a filing in the town of Westborough where Karon Catrone is the Conservation Agent.
  - Owners demolished house without prior approval from the ConCom.
  - Construction fence is erected just outside the presumed RFA line.
  - Staff site visit determined that the wetland delineations are accurate and that the construction fence is erected just outside the RFA and buffer zone.

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- Vote: to issue a positive 2a determination (delineation is accurate) and negative 4 determination (work is outside jurisdictional areas), i.e., the applicants may continue work as it is all outside ConCom jurisdiction [Motion: Jeff Zabel; Second: Norm Richardson; Vote: 6:0:0].

#### 5. NOI – 11 David Road – teardown/rebuild single family home – DEP File #239-XXX

- Request: Order of Conditions for the teardown/rebuild of a single-family home.
- Owner/Applicant: Nataniel Ustayev Representative: Michael Kosmo, Everett M. Brooks Co.
- Documents Presented: colored plans plans, photos, draft OOC
- Jurisdiction: Riverfront Area, Bordering Land Subject to Flooding (121.52' CNVD), and City Floodplain
- Presentation and Discussion:
  - **Note**: no DEP file number received to date
  - **Project Summary**: Demolish the existing single-family home and driveway and rebuild a new single-family home with driveway and porch.
  - **Impact Summary**
    - Jennifer Steel clarified that the Riverfront Area was drawn incorrectly on the plans due to the culvert. The Applicant will fix the plans.
    - Proposed house & driveway represent a significant expansion of impervious area & alteration in the RFA. The applicant team is planning to provide revised plans showing a reduced footprint of the house, deck, and driveway.
    - The applicant will craft new plans, new calculations, and new presentation of how the project meets all the pertinent performance standards under Flood Zone and Riverfront Area.
    - One large (30") deciduous tree appears to be due to be removed (it is within the limit of work) but the mitigation planting area is shown as a 6' border along the sidewalk. The applicant team will consider saving as many trees as possible and will provide a more robust planting plan.
    - Test pits for the proposed infiltration system will be conducted after the utilities have been cut and capped.
    - The proposed swale along a very narrow side yard will be "softened".
- Vote: to accept the applicant's request to continue to the 3/28/19 meeting (with a filing deadline of 3/15/19) [Motion: Dan Green; Second: Jeff Zabel; Vote: 6:0:0]

#### 6. NOI – 195 Islington Rd – replace retaining wall – DEP file # 239-828

- Request: Remove and replace in-place and in-kind an existing dry-stone retaining wall.
- Owner: Kathy Cade Applicant/Representative: Kathy Cade
- Documents Presented: colored plans plans, photos, draft OOC
- Jurisdiction: Riverfront Area, Bordering Land Subject to Flooding (121.52' CNVD), and City Floodplain
- Presentation and Discussion:
  - **Disclosures**: Kathy Cade is an associate member of the Conservation Commission and recused herself.
  - **Impacts**: The wall is being replaced in-place and in-kind (116' square feet), so the only impacts will be those associated with the construction period itself. Erosion controls will protect the cove and serve as a limit of work. No shrubs will be removed.
- Vote to issue an Order of Conditions with the following special conditions [Motion: Dan Green; Second: Jeff Zabel; Vote: 6:0:0].
  - The applicant must schedule and attend a pre-construction site visit.
  - Existing shrubs may be pruned to facilitate access, but may not be removed or damaged.
  - An as-built plan signed by the mason certifying compliance with the approved plans and order must be submitted.

#### 7. Informal discussion – Ryan Cook (Paramount Television) – filming in Cold Spring Park

- Request: A Paramount Television film crew is asking to use Cold Spring Park as a filming location this spring for an upcoming movie based on a book set Newton. One of the locations is within wetlands jurisdiction.
- Owner: Newton Parks and Recreation Applicant/Representative: none
- Jurisdiction: Riverfront Area, BVW, City Floodplain

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- Documents Presented: maps and photos maps and photos, Presentation by Ryan Cook
- Presentation and Discussion:
  - Ryan Cook indicated that there would be roughly 25 extras and 20 crew in the area in question, a BVW along Cold Spring Brook.
  - Primary access would be along the improved path from the parking lot, but extras and film crews would access the southerly side of the stream from a spur trail off the main Winslow Road trail.
  - Filming is due to take place ~April 5<sup>th</sup>.
  - The concepts of “avoid, minimize, mitigate” were emphasized and Ryan Cook assured the Commission that they would be followed.
    - Avoid -- by getting ahead of leaf-out, thereby reducing the need to cut, staying at least 3 feet from the bank, prohibiting access to the stream itself, and establishing “no touch” zones around particularly sensitive areas ahead of time with professional assistance.
    - Minimize – by having established points of access, having an on-site environmental monitor, and banning cutting
    - Mitigate – by ensuring that any damage to the paths or natural areas will be repaired (or allowed to regenerate) as appropriate. This will need to be spelled out concretely in the Order so that the Paramount legal team will be able to approve it in advance and so that all required remediation can be conducted promptly after the filming ends. Possible terms include: # of shrubs total, square feet to be restored, or a set restoration fee.
  - Alan Noguee noted that the area in question is likely to either still have snow or be very very wet at that time.
  - Consensus: The Commission agreed that a NOI and OOC should be required (with Parks and Rec as co-signators) due to the possibility of damage to a wetland resource area as a result of cutting or trampling.
    - Ryan Cook will reach out to Bruce Wenning (local ecologist) to see if he would be willing to flag no touch areas and serve as an on-site environmental monitor.
    - Ryan Cook will work with Jennifer Steel to craft the application, so that it can be heard on 3/28/19 so a permit can be issued on 3/29/19.

#### 8. OOC extension – Lakes District – water chestnut management – DEP File #239-692

- Request: The OOC allowing for the management of the invasive water chestnut in the Charles River Lakes District is going to expire soon. DCR would like a 3-year extension for the OOC.
- Owner: Department of Conservation and Recreation Applicant/Representative: none
- Documents Presented: maps and summary of activity previous OOC
- Jurisdiction: Land Underwater
- Staff Notes: Annual reports have been filed by SOLitude as required. See the summaries below.
  - **2014:** The combined T Natans removal methods by harvester, hydro-rake and hand, cleared 82.56 acres and reharvesting of an additional 7.5 acres of regrowth, approximately 350 tons of plant material during the 2014 season. Charles River Canoe and Kayak estimated that volunteer hand harvesting efforts, over 300 volunteers, throughout the season removed an additional 30 tons of T. natans plant material.
  - **2015:** All together 205 tons of T. natans were removed from the Charles River Lakes District, compared to 350 tons last year. This amount includes all efforts from Aquatic Control and CRR, along with the 400 volunteers that hand-picked from the Charles River Watershed Association (CRWA).
  - **2016:** All together 236.6 tons of T. natans were removed from the Charles River Lakes District, compared to 205 tons last year and 350 tons in 2014. It was anticipated that the 2016 management period would show an overall reduction in T. natans tonnage however, delayed germination of T. natans and drought conditions contributed to total tonnage collected.
  - **2017:** All together SOLitude collected 104 tons of T. natans from the Charles River Lakes District, however; 44 of these tons were taken from Purgatory Cove which was an additional management area this year. Excluding the new area, 163 tons were collected from the original management area compared to 236.6 tons last year and 205 tons in 2015. As anticipated, an overall reduction in T. natans tonnage was realized for the 2017 management period. The 2017 management program proved very successful, with significant reductions in water chestnut density observed.

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- **2018:** All together SOLitude collected 75 tons of T. natans from the Charles River Lakes District, however; 25 of these tons were taken from Purgatory Cove which had a dense infestation again this year.
- Vote to approve a 3-year extension on OOC 239-692 [Motion: Judy Hepburn; Second: Ellen Katz; Vote: 6:0:0].

**9. OOC extension– ConCom/Parks and Rec Land – trail and land maintenance– DEP File #239-708**

- Request: The OOC allowing for standard trails work on Conservation Commission owned parcels is set to expire 9/26/19. City staff are requesting a 3-year extension.
- Owner: Conservation Commission Applicant/Representative: none
- Documents Presented: [previous OOC](#)
- Jurisdiction: multiple
- Staff Notes: This OOC allows for ongoing maintenance and trail work on Conservation and Parks and Rec parcels and has worked well to-date.
- Vote to approve a 3-year extension on OOC 239-708 [Motion: Dan Green; Second: Jeff Zabel; Vote: 6:0:0].

**CONSERVATION AREA DECISIONS**

**10. Presentation – Marc Levin, Chestnut Hill Realty – fence on Hancock Estates Conservation Restriction**

- Request: Chestnut Hill Realty would like to discuss the placement of a fence along the edge of Lagrange Street on the portion of their land (Hancock Estates) encumbered by a Conservation Restriction.
- Owner: Chestnut Hill Realty Representative: Marc Levin, President of Development and Construction, Frank Stearns (attorney)
- Documents Presented: [photos, map](#) [photos, map, Conservation Restriction language](#)
- Presentation:
  - Chestnut Hill Realty (CHR) would like to clean up the right-of-way along Lagrange Street, install a 4’ wide stone dust path, and install a decorative fence. CHR has the right to install a fence on their property along Lagrange from the entry drive to the CR boundary. CHR would like to continue the fence on the remaining 240’ of their property to the boundary with Con Com land.
  - But there is a CR on that 240 feet that prohibits the use of “fences”.
  - If CHR wishes to modify the CR, the City (ConCom) who “holds” the CR as the Grantee would have to determine whether they would support such a modification.
  - Under the CR the owner is obligated to “establish a series of visible permanent bounds and markers so as to mark the CR area.”
  - CHR, the CR grantor, may seek clarification from the state (EOEEA) that an open-design fence would be allowed as a “visible permanent marker” of the CR OR the grantor may seek approval from the state to modify the CR to allow the installation of fences OR the grantor may seek approval to replace the existing fence along Lagrange.
  - CHR has noted their willingness to grant the City a public access easement for an improved trail head and trail on Lagrange Street to provide access to the upland portion of the CR/CE.
- Commission Discussion:
  - Commissioners were generally favorably inclined toward: (1) Connectivity and public access (provision of clear and focused public access points where appropriate, provision of signage clarifying the area as open to the public, construction of the trail connection from Lagrange Street to the upland trail, and maintaining DPW access to the sewer and stream), (2) aesthetics (a cleanup of the invasive overgrowth, removal of the old fencing, attractive new fencing), and (3) safety (good trail heads, appropriate access paths, safe street crossings nearby).
- Hynrich Weischoff (neighbor and volunteer steward) noted his concerns:
  - Fences appear to discourage public access, imply private ownership, and are incongruous with conservation land.
  - The existing fence is a guardrail, a safety feature, and may be required by highway code.
  - A trail from Vine Street and a bridge across the stream would preclude ????
  - The location of the proposed access off Lagrange was questioned as unsafe crossing
- Consensus: Marc Levin and Frank Stearns will return on 4/18/19 to discuss the matter further
  - Jennifer Steel will send Marc Levin a summary of the Commission’s interests.

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- Marc Levin will survey the site to determine ownership of the existing fence and where a new fence might be able to be placed on CHR land.
- Marc Levin will research the possibilities for bridging all interests noted above and for working with the language of the CR.

### III. ADMINISTRATIVE DECISIONS

#### 11. ConCom Roles – issues to consider issues to consider

- The Commission will discuss the details of leadership at the next meeting.
- Vote to appoint Dan Green as Chair for a 2-year term, Susan Lunin as Vice Chair for a 2-year term, and Judy Hepburn as Clerk for a 2-year term [Motion: Judy Hepburn; Second: Jeff Zabel; Vote: 5:0:1].

#### 12. Minutes of 2/14/19 to be approved.

- Documents Presented: draft minutes draft minutes
- Vote to approve the 2/14/19 minutes [Motion: Dan Green; Second: Ellen Katz; Vote: 6:0:0].

### IV. ISSUES AROUND TOWN DECISIONS – none at this time

## UPDATES

### V. WETLANDS UPDATES

- 22 Hollywood: No word yet
- Hammond Brook Culvert Project: Scaled back so limited tree removal.

### VI. CONSERVATION AREA UPDATES

- Land Management: Bid for Annual contract due out soon.
- Norumbega slope restoration: Staff received \$47,000 estimate from potential contractor. Await Purchasing feedback.
- Kessler Woods Wetland Trail: Staff received a \$76,761 estimate from a potential contractor.
- Kennard invasives corner: Meeting with two contractors to get estimates for conversion to meadow.
- Old Deer Park: Meeting with contractors to get estimates for invasive control.
- Charles River Pathway stairs: Will seek permission from land owners and go out to bid without grant support.
- Summer help: We will seek intern for 10-15 hours this summer.
- 300 Hammond Pond Parkway: Tree cutting has begun for rear parking lot work.

### VII. ISSUES AROUND TOWN UPDATES

- Open Space and Recreation Plan: Jennifer Steel met with Parks and Rec on 2/15/19 to begin planning.
- Climate Action Plan: Public workshop #2 set for 3/21/19.
- Webster Woods Protection: Executive Committee met on 3/4/19. Full advisory panel will meet mid-March.

### VIII. ADMINISTRATIVE MATTER UPDATES

- ConCom Membership: Kathy sought appointment to full member.

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

**ADJOURN** Vote to adjourn at 11:07 [Motion: Dan Green; Second: Ellen Katz; Vote: 6:0:0].

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