

# CONSERVATION COMMISSION MINUTES

Date: June 20, 2019

Time: 7:00 pm

Place: City Hall, Room 204

**With a quorum present**, the meeting opened with Dan Green presiding as Chair

**Members Present:** Ellen Katz, Judy Hepburn, Jeff Zabel, Norm Richardson, Susan Lunin

**Staff Present:** Jennifer Steel

**Members Absent:** Kathy Cade

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

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## DECISIONS

### I. WETLANDS DECISIONS

#### 1. 2391-2401 Commonwealth Avenue – RDA – landscaping, mitigation plantings, and mechanical invasive species removal

- **Owner:** Dept. of Conservation and Recreation **Applicant/Representative:** Larry Smith, Charles River Recreation
- **Request:** Issue a negative DOA for the requested invasive control and site improvement efforts
- **Documents Presented:** aerials of work areas aerials of work areas, draft DOA
- **Jurisdiction:** RFA, Flood Zone (City and FEMA)
- **Project Summary:**
  - Remove overgrown shrubs along the street side of one building (this has been done) to allow for maintenance of the historic building. Plant more appropriate native shrubs and perennials.
  - Trim pine branch that extends over roof of other building.
  - Cut invasive vines and saplings under 4" dbh along the sidewalk.
  - Hand pull water chestnuts from Lakes District and dispose of them in Weston.
- **Presentation (Larry Smith) and Discussion (Impact Analysis)**
  - All work is to remove invasive species or overgrown plants and restore with natives.
  - Replacing foundation plantings with natives seems appropriate
  - Cutting small Norway maple saplings and bittersweet to allow oaks and elms to survive seems appropriate.
  - Work is routine maintenance and will result in ecological improvement.
  - Dan Driscoll, DCR, noted his support for the project as appropriate maintenance.
- **Vote:** to approve the requested site improvements through a negative 2 DOA with the following conditions. [Motion: Judy Hepburn; Second: Susan Lunin; Vote: 6:0:0]
  - All proposed plantings on plan sheet 1a must be installed this summer and must survive 2 growing seasons,
  - No trees (even invasive species) over 4" dbh may be cut in the area shown on plan sheet 1b,
  - All tree cutting and removal of the cut brush in the areas shown on plan sheet 1b must be done with hand-held tools,
  - Disposal of the collected water chestnuts (see plan sheet 1c) shall not occur in Newton.
  - The breached wall to the west of 2401 Comm Ave. may be patched with wood (not concrete) and the eroded area may be filled with loam and seeded.

#### 2. 1 Nonantum Road – NOI – 9-foot wide pedestrian footpath -- DEP File #239-840

- **Owner/Applicant:** Dan Driscoll, Dept of Conservation and Recreation **Representative:** Ann Marton, LEC Environmental
- **Request:** Issue an OOC for the construction of the trail
- **Documents Presented:** colored plans colored plans, photos, draft OOC
- **Jurisdiction:** Riverfront Area
- **Project Summary:**



**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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- DCR will create an extension of the 9' wide (7' tread with 1' shoulders) ADA-compliant stabilized stone dust pedestrian footpath that goes along the River behind the Daly Rink, to create a connection to the bike path along Nonantum Road near the entrance to the Newton Yacht Club.
- The project will create 238 lf (2142 sf) of stonedust pathway with temporary disturbance of an additional 1383 sf.
- This project will create a public amenity long sought by the community.
- Presentation (Dan Driscoll and Ann Marton) and Discussion (Impact Analysis)
  - The proposed path will alleviate the need for pedestrians and cyclists to cross dangerous curb cuts on Nonantum Road and will follow the alignment of an existing dirt path worn by use, so no mature trees will be cut, grading changes will be minimal, and stabilization will be easy.
  - A full alternatives analysis was not submitted, because the entire lease lot portion of this parcel is within RFA and the proposal is to enhance an existing trail.
  - The applicant will not stockpile materials on site.
  - The applicant, as property owner, will address the outstanding issues on and near the Yacht Club lease (the required installation of a vegetated swale where the pine trees were removed and the unpermitted storage of docks beyond the lease line). Dan Driscoll will return to the Conservation Commission in August to report on progress.
  - Work will begin right away and will be completed by June 30, 2019.
- Vote: to close the hearing and issue an Order of Conditions with the following conditions. [Motion: Susan Lunin; Second: Ellen Katz; Vote: 6:0:0]
  - Prior to the start of construction, schedule a pre-construction site visit to review, e.g., erosion controls, the DEP file-number sign, and the proposed alignment to ensure minimal grading and vegetation removal.

**3. 401 Albemarle – cont'd NOI – teardown existing single-family and construct duplex -- DEP File #239-835**

- Owner/Applicant: John Umina, 401 Albemarle LLC Representative: Robert Bibbo, Bibbo Brothers & Associates; John Rockwood, EcoTec
- Request: an Order of Conditions.
- Documents Presented: colored plans colored plans, photos, draft OOC
- Jurisdiction: Riverfront Area
- Project Summary: The demolition of an existing single-family home and the construction of a new two-family home with associated site features and mitigation.
- Presentation (John Rockwood) and Discussion (Impact Analysis)
  - Impervious area is due to increase 1174 sf. (house will go from 1520 sf to 2180 sf, one driveway will become two)
  - This proposal accurately addresses both 10.58(4) and 10.58(5)
  - The reason there is so much expansion is that a SFH is due to become a duplex.
  - The enhancement planting area provides limited access around the house and constrains the yard space but will be marked with raised Feno survey markers and protected in perpetuity. 10 trees and 65 shrubs will be mulched with leaf litter.
  - Engineering has given preliminary approval.
  - The Commission approved in advance, the removal and replacement of the street tree that is causing the southern driveway to be canted on the plans.
- Vote: to close the hearing and issue an Order of Conditions with the following conditions. [Motion: Jeff Zabel; Second: Susan Lunin; Vote: 6:0:0]
  - A dewatering plan designed to limit and control any adverse on the wetlands resource area(s) must be presented to the Conservation Commission for review and approval.
  - Proof of Engineering approval of the drainage system must be supplied.
  - The street tree near the southerly proposed driveway must either:
    - be protected with boards around its trunk, orange snow fence to protect its roots, and plywood sheeting to protect its roots during construction OR
    - IF the City Forester approves the removal of Norway maple it may be removed and replaced with 2 native shade trees (at least 2 inches in diameter) planted in the right of way. Newly planted trees must survive for the life of this permit.

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- 4. 188-192 & 210 Needham Street – NOI – 36 stall expansion of parking and restoration of RFA -- DEP File #239-841**
- Owner/Applicant: Kerry McCormack, Crosspoint Associates Representative: Brandon Li, Kelly Engineering
  - Request: Issue an OOC
  - Documents Presented: colored plans colored plans, photos, draft OOC
  - Jurisdiction: Riverfront Area, BLSF
  - Project Summary:
    - Add 36 parking stalls (4800 sf of new pavement) in what is currently lawn and woods.
    - Excavate to provide required compensatory flood storage
    - Install deep sump catch-basins and a water quality structure
    - Undertake restoration and mitigation planting and stormwater improvements to compensate for the work in RFA
  - Presentation (Brandon Li and John Rockwood) and Discussion (Impact Analysis):
    - The project must be filed/described under both 10.58(5) and 10.58(4) based on the northeast region’s policy and therefore, an Alternatives Analysis must be completed.
    - The “project purpose” is somewhat speculative (to satisfy potential tenants) and the Commission asked for more concrete documentation of need, since work in riverfront area is discretionary.
    - Two lots were combined in the application, despite work being performed on only one lot. The reason given was that there is shared parking between the lots.
    - The degraded parts of the rail alignment were described as “contaminated” but there is no documentation or 21E follow-up provided.
    - There are 65 caliper inches proposed to be removed and 42 trees and 89 shrubs proposed to be planted.
    - Mitigation for the work in the BZ should be proposed.
    - The area that was planted with maple trees cannot be counted as restoration area.
    - The removal of ballast may damage the roots of established or recently planted trees. The applicant felt that the recently planted maples could be dug up and replanted after the ties, ballast and “contaminated” soil were removed.
    - Engineering has not yet reviewed the drainage and flood storage information.
    - The applicant must provide clearer plans of existing and proposed topography.
    - It was noted that the rain garden was not in good condition and should be restored.
    - The O&M plan must be improved.
    - The site qualifies as a “LUHPPL” so the stormwater review must take that into consideration
  - Vote: to accept the applicant’s request to continue the hearing to July 11 (with materials due 6/27/19 at noon) [Motion: Susan Lunin; Second: Judy Hepburn; Vote: 6:0:0]
- 5. 212 Kenrick Street – continued NOI (DEP File #239-834) – vegetation management in golf course ponds**
- Owner: City of Newton “Owner’s Rep.”: Steven Meyer, Newton Commonwealth Foundation Applicant: David Stowe, Newton Comm. Golf Course Representative: Matthew Salem, SOLitude Lake Management
  - Request: Continue the hearing to July 11
  - Documents Presented: colored plans colored plans, photos, draft OOC
  - Jurisdiction: Bank, Land Under Waterbodies and Waterways (LUWW), City Floodplain
  - Project Summary: Five ponds (three connected by an intermittent stream, 2 isolated) are contained within the played portion of the golf course. All are suffering overgrowth of weeds and algae. Management of nuisance and non-native species by chemical and mechanical control is proposed.
  - Vote: to accept the applicant’s request to continue the hearing to July 11 [Motion: Judy Hepburn; Second: Ellen Katz; Vote: 6:0:0]
- 6. 62 Carlton Road – cont’d NOI – construction of new single-family home over existing tennis court -- DEP File #239-836**
- Owner: Jim Miller Applicant: Mikhail Deychman Representative: Karen Skinner Catrone
  - Request: Approval for the construction of a new single-family home with associated site features on site with an existing tennis court.
  - Documents Presented: colored plans colored plans, photos, draft OOC
  - Jurisdiction: Buffer Zone to Bank
  - Project Summary
    - Proposed construction includes a ~3800 s.f. single-family home with associated patio, driveway, stormwater management infrastructure, retaining walls, and elevated deck.
    - ~390 s.f. of the proposed house falls within BZ.

- The majority of the work in BZ is retaining walls, lawn, stairs, patio, and deck.
- Applicant is proposing to install stormwater management on site, including trench drains and 2 sets of infiltration chambers (one in BZ, one outside BZ) to collect roof runoff.
- 4 red maples are proposed to be planted as mitigation for the removal of a number of tress
- Bittersweet, Japanese barberry, burning bush, and garlic mustard are proposed to be removed as mitigation.
- Presentation (Mikhail Deychman) and Discussion (Impact Analysis):
  - Revised plans were submitted earlier in the day, so have not been reviewed with any real care.
    - Plans do now include a datum.
    - City flood plain elevation appears to have been corrected
    - Determine whether the applicant has received a tree removal permit for the removal of trees inside and outside wetland jurisdictional areas.
    - The originally proposed monolithic retaining wall has been “terraced”, but grading and elevations throughout are still not clear or executable as drawn.
    - The free-standing deck near the water has been removed
  - There is still no clear proof of the lot being recorded.
  - The terraced walls provided no less disruption of wildlife movement and resource protection. The Commission asked for naturally graded corridors of at least 15 feet on either side of the walls.
  - The applicant noted that he planned to plant shrubs in the terraces. Staff indicated that that should be on the plans.
  - There must be an appropriate long-term invasive species management plan.
  - Details of the stone steps are needed.
  - The fire pit should be removed.
  - The scale of the project still seems inappropriate for the nature of the site.
  - Engineering has not yet provided a review of the revised plans.
  - The applicant will identify tree species and size so that staff can field-verify the proposed tree removal.
  - The proposed planting will be enhanced and placed appropriately (i.e., not under the Norway maple canopy)
  - Neighbors noted their concerns:
    - Jack Fabiano noted concerns about the scale and stability of the walls.
    - Marlene Yudelman noted the numbers and diversity of wildlife that use the area
    - Lori vanDam noted her appreciation for Commission’s careful review & interest in resource protection
- Vote: to accept the applicant’s request to continue the hearing to August 1 with materials due July 8 at noon [Motion: Jeff Zabel; Second: Ellen Katz; Vote: 6:0:0]

**7. MBTA Green D Line – cont’d RDA – confirmation of delineations for vegetation management plan**

- Owner: Mass. Bay Transit Authority (MBTA) Applic.: Holly Palmgren, MBTA Representatives: Calvin Layton, C.W. Layton Consulting
- Request: Continue public meeting until 7/11/19 Conservation Commission meeting to allow MBTA representatives and Conservation staff time to meet and discuss the necessary materials for the RDA filing.
- Documents Presented: **annotated maps**
- Jurisdiction: RFA, Buffer Zone, Flood Zone (City and FEMA)
- Staff Notes (Impact Analysis):
  - MBTA representatives had a conference call with Conservation staff on 6/12/19 to discuss the filing.
- Vote: to accept the applicant’s request to continue the hearing to the 7/11/19 meeting with any necessary revised materials due to the Conservation Office by 6/27/19 at noon. [Motion: Ellen Katz; Second: Susan Lunin; Vote: 6:0:0]

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

- Request: Continue hearing to 8/22/19.
- Owner: Ronald Simons, 1114 Beacon Street LLC Applicant/Representative: Kevin Riopelle, DGT Associates
- Documents Presented: **none**
- 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.
- Staff Notes (Impact Analysis): The development team is considering alternative uses for the site.

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- Vote: to accept the applicant’s request to continue the hearing to the 9/12/19 Commission meeting because of the Commission’s plan to cancel the 8/22/19 meeting. [Motion: Susan Lunin; Second: Jeff Zabel; Vote: 5:0:1]
- 9. 189 Wells Ave – Potential Violation – unpermitted tree cutting and disposal of woodchips**
- Owner: WRP Realty Inc Trust Representative: Tony Gilberti, Wingate Property Management
  - Documents Presented: photos
  - Jurisdiction: Buffer Zone, Bordering Vegetative Wetlands, and City Flood Zone
  - Project Summary: Unpermitted tree work and disposal of woodchips in Bordering Vegetative Wetland.
  - Presentation (Tony Gilberti) and Discussion:
    - Conservation staff received a phone call from a Newton resident reporting tree work potentially within wetlands jurisdiction. Conservation staff conducted a site visit and saw clear evidence of branch removal from a white pine and a large volume of woodchips blown into and near a wetland. Staff could not determine how much of the woodchips came from already downed materials and how many trees (if any) had been removed.
    - Staff contacted Michael Cope, the site operations manager. Tony Gilberti, the property manager for the parcel apologized profusely, clarified that the only tree work done was pruning trees around the entire site and explained that contractors had performed the tree work over the weekend and had, in error, blown them into the wetland. Dave Snyder, site arborist, instructed his crew to remove by hand the woodchips and agreed to come before the Commission to discuss any other required corrections.
    - Dave Snyder noted the long history of dressing the area in question with woodchips to enhance its appearance. He took full responsibility for the actions of his crew and provided pictures of their diligent chip removal efforts.
    - Dave Snyder and staff showed photographs of the current conditions, illustrating some remaining woodchips in the flood zone area and wetlands.
    - Dave agreed to remove more of the accumulated chips that constitute recent intrusions into the flood zone and to suggest to the property owners that they install a fence to preclude illegal dumping (an on-going problem).
  - Consensus: Agree to allow clean-up to proceed under the notification letter (i.e., not an Enforcement Order) for now.
- 10. 6 Oldham Road – COC Request (DEP File #239-425) – construction of deck and pool**
- Owner/Applicant: Michael Zack Representative: none
  - Request: Close out Order of Conditions 239-425 permitting the construction of a deck and a pool at a single-family home as work was never initiated.
  - Documents Presented: photos, draft COC
  - Jurisdiction: Buffer Zone and City Floodzone
  - Staff Notes: A site visit on 6/5/19 confirmed that the site is in substantial compliance with the state regulations and that the work approved under Order 239-425 was never initiated.
  - Vote: to issue a Certificate of Compliance for the “work never initiated” under OOC 239-425. [Motion: Susan Lunin; Second: Jeff Zabel; Vote: 6:0:0]
- 11. Waban Kettle Pond (60 Carlton Road) – COC Request (DEP File #239-404) – Chemical invasives management**
- Applicant: Jim Miller Representative: none
  - Request: Close out Order of Conditions 239-404 permitting the chemical treatment of invasive species, specifically purple loosestrife, in the Waban Kettle.
  - Documents Presented: draft COC
  - Project Summary: Treat purple loosestrife with the appropriate chemical herbicides.
  - Jurisdiction: Bank; Land Under Waterways
  - Staff Notes: Conservation staff did receive the letter from Pamela Hart (Pamela Hart Landscape Architect) certifying that the work approved under Order #239-404 was done in substantial compliance with the conditions.
  - Vote: to issue a Certificate of Compliance for the approved work under OOC 239-404. [Motion: Susan Lunin; Second: Jeff Zabel; Vote: 6:0:0]
- 12. 31 Harwich Road – COC Request (DEP File #239-771) – teardown/rebuild single-family home with associated mitigation**
- Owner: Hisham Kader Applicant: Mikhail Deychman Representative: none
  - Request: Issue a COC
  - Documents Presented: photos, draft COC
  - Jurisdiction: Buffer Zone, RFA
  - Staff Notes: This project (the demolition of an existing single-family home and the construction of a new single-family home) had applied for a Certificate of Compliance in September of last year but were told by Conservation staff that the site was not in compliance as the homeowners had continued mowing behind the bounded mitigation area. A staff site visit on 6/3/19 confirmed that the mowing activities have ceased and that the site is now in full compliance with Order 239-771.

- Vote: to issue a Certificate of Compliance for the approved work under OOC 239-771. [Motion: Judy Hepburn; Second: Susan Lunin; Vote: 5:0:1]

## II. CONSERVATION AREA DECISIONS

### 13. Kessler Woods Conservation Restriction – informal review

- Owner: City of Newton/ConCom
- Request: Approve draft CR for submission to the state (EOEEA)
- Documents Presented: draft CR draft policy
- Discussion: Commissioners suggested adding to B4 allowances for the cultivation of and support for bees, other pollinators, and declining native species. Jennifer Steel will provide those suggestions to the CR team.

## III. ADMINISTRATIVE DECISIONS

### 14. 25' Naturally Vegetated Buffer Policy

- Request: Formalize a policy requiring the protection or reestablishment of a 25' naturally vegetated buffer.
- Documents Presented: draft policy draft policy
- Discussion: The Commission's suggested edits were made to the original draft. Ellen Katz provided suggested revisions and clarifications to the purpose section. With those edits accepted, the new draft was approved.
- Vote: to adopt the policy as edited. [Motion: Susan Lunin; Second: Jeff Zabel; Vote: 6:0:0]

### 15. Minutes of 5/30/19 to be approved

- Documents Presented: draft minutes draft minutes
- Vote: to adopt the 5/30/19 minutes as edited to correct typos. [Motion: Susan Lunin; Second: Jeff Zabel; Vote: 6:0:0]

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

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## UPDATES

### V. WETLANDS UPDATES

- 56 Farwell St. – pre-construction site visit on 6/12/19 with DEP, applicant team, and Conservation staff
- 73 Beaconwood Road – teardown single-family/rebuild duplex – DEP File #239-791 held up b/c two plans submitted

### VI. CONSERVATION AREA UPDATES

- Land Management. Bid for annual contract will go to a new contractor (Mark Neves).
- Norumbega vandalism. Fires and smashed liquor bottles, a rope swing and a destroyed fence. Police, Fire, have caught two groups and are working them through appropriate systems. Staff were asked to seek required community service.
- Norumbega slope restoration. Work under “emergency” purchasing provisions is due to begin later this summer.
- Encroachments 261 Parker St: due to be addressed. 70 Wayne Road encroachment to the bounded only.
- Summer help: Have 2 summer interns for 10-15 hr/wk through Mayor's program starting on July 8.

### VII. ISSUES AROUND TOWN UPDATES

- Webster Woods Protection: Full panel meeting on June 19 was cancelled to allow the Mayor time to engage with BC.
- Open Space and Recreation Plan: Susan Lunin would be happy to assist if the time commitment is not significant.

### VIII. ADMINISTRATIVE MATTER UPDATES

- Leigh Gilligan was appointed as an Alternate Member of the Conservation Commission. She will join us next time.
- Norm Richardson will be stepping down after the next meeting, so there will be an opening for a full member.
- Earth Moving Ordinance models from other municipalities will be investigated by the staff.

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

### 16. Vote to cancel the 8/22/19 meeting.

- Proposal: Dan Green made a proposal to cancel the 8/22/19 meeting
- Discussion: Several Commissioners noted their desire to have a vacation. Jennifer Steel noted her strong opposition citing adequate staff coverage now that Claire Rundelli is on-board, noted her interests in serving the public by providing prompt responses to new applicants and continuations; and noted her concerns about inconveniencing staff and Commissioners by clogging up the September agenda with delayed business.
- Vote: to cancel the 8/22/19. [Motion: Susan Lunin; Second: Jeff Zabel; Vote: 4:1:1]

### 17. 230 Dudley Road MOU re restoration of historic encroachment

- A consensus document was reviewed. The Commission voted to allow Jennifer Steel to sign on behalf of the Commission. Jennifer will sign it and send it to the Bennetts for their signature.

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**ADJOURN** Vote: to adjourn at 10:46. [Motion: Susan Lunin; Second: Jeff Zabel; Vote: 6:0:0]

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