

CONSERVATION COMMISSION MINUTES

Date: April 5, 2018
Time: 7:03 pm
Place: City Hall, Room 211



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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With a quorum present, the meeting opened with Ira Wallach, Chair, presiding
Members Present: Susan Lunin, Ellen Katz, Jeff Zabel, Norm Richardson, Dan Green (7:17), Kathy Cade (Associate, 7:24)

Staff Present: Claire Rundelli

Members Absent: Judy Hepburn

Members of the Public: See sign-in sheet

DECISIONS

I. WETLANDS

1. RDA – 326 Fuller St (Brae Burn Country Club) – irrigation pipe replacement

- **Request:** Replace irrigation pipes on country club grounds.
- **Owner/Applicant:** Brae Burn Country Club **Representative:** Sarah Stearns, PWS (Beals and Thomas, Inc.)
- **Documents Presented:** colored plans aerial photos, draft OOC
- **Jurisdiction:** Buffer Zone and City Flood Zone
- **Performance Standards:**
 - **10.53(1): General Provisions:** “For work in the Buffer Zone subject to review under 310 CMR 10.02(2)(b)3., the Issuing Authority shall impose conditions to protect the interests of the Act identified for the adjacent Resource Area. ... The purpose of preconstruction review of work in the Buffer Zone is to ensure that adjacent Resource Areas are not adversely affected during or after completion of the work.”
 - **City Floodplain:** “no building or other structure shall be erected, constructed, altered, enlarged or otherwise created for any residence or other purpose ... which will restrict floodwater flow or reduce floodwater storage capacity ...”
- **Presentation (Sarah Stearns) and Discussion**
 - **Project Summary:** Applicant proposes using a trenching machine to remove sections of irrigation pipe underneath turf and replace them. The project will be phased to leave no trenches open overnight. A total of 27 holes will be covered by this project.
 - **Impact Summary:** The impact of this project is minimal with most work occurring in established turf. Where irrigation lines cross streams, “directional drilling” will be undertaken to avoid impacts to the wetland resources. The phasing of the project aims to minimize impact; there will be no more than 250’ of trench open at a time. Portions of the existing system are 50 years old, so the replacement system will be more efficient in water use.
 - **Discussion**
 - Representative confirms that there will be no cutting of trees during the project.
 - Representative confirms that there will be no dewatering activities.
 - Applicant provided revised plans showing the directional drilling call-out at hole 14, received 4/5/18.
 - Straw wattles will be used for erosion controls along the trenches because they are easy to move as work progresses over the large project area.
 - The intake pipe at the irrigation pond is set in the stone lining of the pond. No pipe replacement will be happening at the intake, only pipe on the backside of the stone will be replaced.
 - No new intakes being installed during this project.

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- There was concern about the amount of water being used by the system, the representative stated that the Country Club’s water usage (for irrigation and all other uses) is controlled by the MassDEP Water Management Act. They receive strict usage limits through a license given by the state that is highly regulated and must be renewed every year.
- The representative stated that the new system is “state of the art” and would hopefully decrease the overall usage of water for irrigation of the 27 holes.
- Applicant hopes to begin work in late July, 2018 and be done with the work by Dec. 31, 2018, but understands they will likely be doing work in spring 2019.
- Crews will be working 6 days a week to get the work done.
- Vote: Issue a Negative 3 Determination with the following special conditions:
 - Pre-construction site visit to ensure adequacy of sedimentation controls
 - There shall be no cutting of trees.
 - If any shrubs are disturbed by trenching or directional drilling (e.g., in the new restoration area near hole 1), they shall be replaced at a ratio of 2:1.
 - [Motion: Susan Lunin; Second: Dan Green; Vote: 6:0:0]

2. NOI – 21 Renee Terrace – DEP File #239-802

- Request: Demolition of a single-family home with removal associated accessory uses and utilities and construction of a new single-family home with bulkhead and associated grading, drainage, utilities, driveway, stormwater, and landscaping.
- Owner/Applicant: Aurel Garban (Sunshine Development, LLC) Representative: John Rockwood (EcoTec, Inc.)
- Documents Presented: colored plans photos, draft OOC
- Jurisdiction: Buffer Zone to an intermittent stream and City Floodplain
- Performance Standards
 - **10.53(1): General Provisions:** “For work in the Buffer Zone subject to review under 310 CMR 10.02(2)(b)3., the Issuing Authority shall impose conditions to protect the interests of the Act identified for the adjacent Resource Area. ... where prior development is extensive, may consider measures such as the restoration of natural vegetation adjacent to a Resource Area to protect the interest of [the Act]. ... The purpose of preconstruction review of work in the Buffer Zone is to ensure that adjacent Resource Areas are not adversely affected during or after completion of the work.”
 - **City Floodplain:** “no building or other structure shall be erected, constructed, altered, enlarged or otherwise created for any residence or other purpose ... which will restrict floodwater flow or reduce floodwater storage capacity ...”
- Presentation (John Rockwood) and Discussion
 - **Project Summary:** The proposed project calls for the demolition of an existing single-family home, driveway, walkway, and utilities and the construction of a larger new single-family home, driveway, and landscaping.
 - **Impact Summary:** Proposed work involves the removal of 4 of 6 trees on the property and almost doubling the amount of impervious area. Proposed plantings are 4 2.5” caliper red maple saplings and 16 native shrubs in an 8’ wide planting area at the rear fence line.
 - **Discussion**
 - Revised materials provided on 4/4/18 show:
 - Removal of all plantings from the 15’ wide drain easement.
 - 8’ wide planting bed along the rear property line with 4 2.5” caliper red maple saplings and 16 native shrubs
 - Slightly shortened retaining wall with the correct proposed grading shown in the rear yard
 - The size of the trees proposed to be removed. The large tree in the middle of the rear yard is measured at 36” and the large tree on the southern side yard is measured at 30”.
 - The Engineering Department is requiring that the drain easement be CCTV’d before work begin.
 - The proposed retaining wall along the north property line is necessary to meeting zoning requirements. The wall is fairly short (between 1’-2’) and has been shortened slightly on the revised plan along with the correct proposed grading.

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- The swale is proposed to direct water to the street, as this matches the sites existing stormwater patterns. The depth of the swale is very shallow and simply meant to help provide excess infiltration of stormwater.
 - The representative does not believe that bounds are necessary since the proposed project is in Buffer Zone only and no permanent mitigation area is required. However, he is willing to accept the Commission's request of having some form of permanent demarcation of the natural planting bed.
 - Public Comment
 - Daniel Dern – had concerns about the amount of stormwater run-off that would be generated with the new, larger footprint. The representative stated that all stormwater management meets the Mass Stormwater Standards and City of Newton requirements.
 - May Ling Tong – had some concerns about how the grass swale would work. The representative assured her that all the overall stormwater run-off on site will, at a minimum, remain the same as existing, or improve.
 - Vote: Issue an Order of Conditions with the following special conditions:
 - An 8-foot wide natural planted bed (4 large canopy trees, 16 native shrubs) along rear property line.
 - 2 Permanent bounds where the front of the required planting bed intersects with the side yard fence to provide demarcation of the planting bed but not be a safety hazard.
 - 2-year plant survival requirements
 - [Motion: Dan Green; Second: Susan Lunin; Vote 6:0:0]
- 3. NOI – 777 Dedham Street Lot H1 – DEP File #239-803**
N.B. It is recommended by staff that this hearing and the hearing for 777 Dedham Street Lot H2 be opened at the same time as they are so closely related. There should be separate votes on each Order of Conditions.
- Request: Construction of a single-family home with associated grading, utility, drainage, driveway, and landscaping.
 - Owner: Barry Brown (Mt. Ida College) Applicant: Brendon Giblin (Brendon Homes) Representative: Michael Dryden (Bohler Engineering)
- 4. NOI – 777 Dedham Street Lot H2 – DEP File #239-804**
- Request: Construction of a single-family home with associated grading, utility, drainage, driveway, and landscaping.
 - Owner: Barry Brown (Mt. Ida College) Applicant: Brendon Giblin (Bredon Homes) Representative: Michael Dryden (Bohler Engineering)
 - Documents Presented: colored plans photos, aerial mark-up, draft OOC
 - Jurisdiction: Buffer Zone and City Floodplain
 - Performance Standards:
 - **10.53(1): General Provisions:** “For work in the Buffer Zone subject to review under 310 CMR 10.02(2)(b)3., the Issuing Authority shall impose conditions to protect the interests of the Act identified for the adjacent Resource Area. ... where prior development is extensive, may consider measures such as the restoration of natural vegetation adjacent to a Resource Area to protect the interest of [the Act]. ... The purpose of preconstruction review of work in the Buffer Zone is to ensure that adjacent Resource Areas are not adversely affected during or after completion of the work.”
 - **City Flood Zone:** No work is proposed in the City Flood Zone
 - Presentation and Discussion
 - Applicant requested a continuation for both #239-803 and #239-804 to the 4/26/18 Conservation Commission meeting.
 - Consensus: Continue the hearing to 4/26/18 to allow applicant to submit:
 - Tree cutting and planting plan
 - Bounds plan
 - Respond to interests in permanent protection of Longfellow Pond
- 5. Ex post facto NOI (cont'd) – 4 Bryon Road – DEP File #239-798**
- Request: An ex post facto filing for the expansion of the driveway.
 - Owner: Dino Rossi Applicant: Dino Rossi Rep.: Jamie Walker (wetland scientist)
 - Documents Presented: colored plans photos, draft OOC
 - Jurisdiction: Buffer Zone
 - Presentation (Jamie Walker) and Discussion

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- **Project Summary:** Duplex was constructed under an Order of Conditions in 1980 with a small driveway (612 sf). At some point, the driveway was expanded without a wetland permit. In the fall of 2017, the driveway was expanded more (1183 sf) without a wetland permit. Inspectional Services discovered the expansion. The applicant has proposed a large infiltration system and an overflow rain garden to treat driveway runoff. Engineering has approved the revised design. The Commission noted at its previous meeting that it would approve the infiltration system and a small rain garden, if Engineering approved of the design.
- **Impact summary:** Lawn in buffer zone has been replaced with driveway, runoff will be infiltrated, a bit of lawn will be re-naturalized. The health of the intermittent stream will not be adversely impacted. The Commission might have considered a smaller driveway expansion exempt under 10.02 as “conversion of lawn to uses accessory to residential structures”, were it to have been requested through proper review channels, and were mitigation proposed.
- **Discussion**
 - The Engineering Department required that the rain garden be outside of their easement.
 - The applicant is proposing to make the rain garden larger than required by Mass Stormwater Standards
 - Seed mix for rain garden is from New England Wetland Plants and the specs for the system are straight out of the state recommendations.
- **Vote:** Issue an Order of Conditions with the following special conditions:
 - Infiltration system must be inspected by a City Engineer during installation. Proof of inspection must be forwarded to the Conservation Commission office.
 - Installation of the rain garden, as shown on the approve plans, is required. Plants must survive 2 growing seasons for a Certificate of Compliance to be issued.
 - [Motion: Susan Lunin; Second: Jeff Zabel; Vote 6:0:0]

6. NOI – 50 Farwell Street – DEP File #239-797

- **Request:** Conversion of single family home and “commercial” garage into a residential duplex
- **Owner:** KMKC (Ken Cunningham, present) **Applicant:** Kenneth Murphy **Rep.:** Joe Porter (VTP Associates) and Nicole Hayes (Goddard Consulting)
- **Documents Presented:** colored plans photos, aerials, draft OOC
- **Jurisdiction:** Riverfront Area
- **Performance Standards**
 - **10.58(5) RFA: Redevelopment within Previously Developed Riverfront Areas; Restoration & Mitigation**
 - ... work improves existing conditions.
 - Redevelopment means ... reuse of degraded or previously developed areas.
 - A previously developed riverfront area contains areas degraded prior to August 7, 1996....
 - Work to redevelop previously developed riverfront areas shall ...:
 - (a) At a minimum, work shall result in an improvement ...
 - (b) Stormwater management is provided according to standards
 - (c) Proposed work shall not be closer to the river than existing conditions or 100’, whichever is less
 - (d) Proposed work...shall be located... away from the river, except in accordance w/ 10.58(5)(f) or (g).
 - (e) ... proposed work shall not exceed ... degraded area ... except in accordance w/ 10.58(5)(f) or (g).
 - (f) despite what it says in 310 CMR 10.58(5)(c), (d), and (e), more alteration at the RFA outer boundary may be allowed if an applicant proposes restoration ... of at least 1:1 ...
 - (g) despite what it says in 310 CMR 10.58(5)(c), (d), or (e), more alteration at the RFA outer boundary may be allowed if an applicant proposes mitigation ... of at least 2:1
 - (h) ... a continuing condition in the COC ... under 10.58(5)(f) or (g) prohibiting further alteration within the restoration or mitigation area....
 - **10.58(4) Riverfront Area**
 - (c) Practicable and Substantially Equivalent Economic Alternatives.
 - (d) No Significant Adverse Impact.

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1. Within 200-foot riverfront areas, the issuing authority may allow the alteration of up to 5000 square feet or 10% of the riverfront area within the lot, whichever is greater ..., provided that:
 - a. At a minimum, a 100' wide area of undisturbed vegetation is provided... preserved or extended to the max. extent feasible....
 - b. Stormwater is managed ...
 - c. Proposed work does not impair the capacity of the riverfront area to provide important wildlife habitat functions. ...
 - d. ... incorporating erosion and sedimentation controls and other measures to attenuate nonpoint source pollution.
- Presentation (Joe Porter) and Discussion
 - **Project Summary:** This project will remove a commercial garage and parking lot and create unit #2 of a duplex
 - **Impact Summary**
 - An Alternatives Analysis is not explicitly required under 10.58(5). The alternatives analysis provided was two sentences and considered only the no-build alternative. That said, the project does represent a significant improvement over existing conditions.
 - Impervious area will be reduced and pulled back away from the river
 - Commercial operations will be removed from the Riverfront Area
 - Stormwater runoff will be treated
 - DCR land will be returned to its natural condition and open to public access.
 - The river embankment will be improved through plantings, trash removal, and invasive vine treatment.
 - **Discussion**
 - Requested materials (updated greencards and DCR signature) were submitted on 3/27/18 and 4/2/18.
 - Test pits were re-done per Engineering Department requirements, with Jennifer Steel present, on 3/12/18.
 - The slope stabilization that staff had concerns about will be conducted similarly to the slope restoration done at 46 Farwell. The structures on site will be pulled back, the slope will be regraded to a more natural state, and the area will be revegetated and bounded in perpetuity. The area will be stabilized for the proposed "reservation" for a future walkway
 - Commissioners were slightly confused about the timeline/process for the walkway creation. The representative stated that they have no intent to build and maintain a public access path on the property. Their intentions are to reserve the space (through fencing) for DCR if they wish to construct a path in the future.
 - Commissioners stated that coordination with DCR on the path creation is necessary.
 - An Operations and Maintenance plan is still needed (and required) for review by the Conservation Office and the Engineering Department.
 - Vote: Issue an Order of Conditions with the following special conditions:
 - Concrete washout plan shall be provided for review by the Commission
 - Operation & Maintenance Plan for the stormwater systems on site must be provided and approved by the Conservation Commission
 - The applicant shall establish stable grades along the river bank slope and a relatively level area along the pedestrian pathway alignment.
 - The stormwater infiltration systems must be installed as per the plans.
 - The City Engineer must inspect the stormwater infiltration system after installation. The applicant must submit proof of inspection to the Conservation office.
 - Landscape plantings within Commission jurisdiction must:
 - a. Be installed in compliance with the approved plans. Desired deviations from the approved plans must be approved by the Conservation office in advance
 - b. Survive over 75% of the planting area for 2 growing seasons for a Certificate of Compliance to be granted
 - Fencing is required to be installed and maintained in perpetuity near the rear property line to prevent encroachment onto the adjacent DCR land and to delineate the pedestrian pathway as shown on the approved plans.

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- The use of herbicides and other pesticides is prohibited and fertilizers shall be limited to slow-release organic fertilizers to improve water quality in the adjacent wetlands and waterways.
- Required mitigation planting areas shall be maintained in perpetuity in their predominantly natural condition, these planting areas should be bounded.
- Fencing is required and to be maintained in perpetuity near the rear property line to prevent encroachment onto the adjacent DCR land and to delineate the pathway as shown on the approved plans.
- [Motion: Dan Green; Second: Susan Lunin; Vote 6:0:0]

7. NOI (cont'd) – 56 Farwell Street – DEP File #239-793

N.B. Patrick Garner, Peer Reviewer, is due to be present at the public hearing to discuss his comments.

- **Request:** Construct six single-family homes & driveways. Construct private road. Increase flood storage capacity. Implement restoration planting plan along river.
- **Owner:** Turtle Lane, LLC **Applicant:** Stephen Vona (Turtle Lane, LLC) **Rep.:** Corey Van Wyhe (MetroWest Engineering, Inc.) and Joe Porter (VTP Associates)
- **Documents Presented:** revised colored plans, Peer Review comments #2 site photos
- **Jurisdiction:** Riverfront Area, Flood Zone, Bordering Vegetated Wetlands
- **Performance Standards:**

- **10.58(5) RFA: Redevelopment within Previously Developed Riverfront Areas; Restoration & Mitigation**

- ... work improves existing conditions.
- Redevelopment means ... reuse of degraded or previously developed areas.
- A previously developed riverfront area contains areas degraded prior to August 7, 1996....
- Work to redevelop previously developed riverfront areas shall ...:
 - (a) At a minimum, work shall result in an improvement ...
 - (b) Stormwater management is provided according to standards
 - (c) Proposed work shall not be closer to the river than existing conditions or 100', whichever is less
 - (d) Proposed work...shall be located... away from the river, except in accordance w/ 10.58(5)(f) or (g).
 - (e) ... proposed work shall not exceed ... degraded area ... except in accordance w/ 10.58(5)(f) or (g).
 - (f) despite what it says in 310 CMR 10.58(5)(c), (d), and (e), more alteration at the RFA outer boundary may be allowed if an applicant proposes restoration ... of at least 1:1 ...
 - (g) despite what it says in 310 CMR 10.58(5)(c), (d), or (e), more alteration at the RFA outer boundary may be allowed if an applicant proposes mitigation ... of at least 2:1
 - (h) ... a continuing condition in the COC ... under 10.58(5)(f) or (g) prohibiting further alteration within the restoration or mitigation area....

- **10.58(4) Riverfront Area**

- (c) Practicable and Substantially Equivalent Economic Alternatives.
- (d) No Significant Adverse Impact.

1. Within 200-foot riverfront areas, the issuing authority may allow the alteration of up to 5000 square feet or 10% of the riverfront area within the lot, whichever is greater ..., provided that:
 - a. At a minimum, a 100' wide area of undisturbed vegetation is provided... preserved or extended to the max. extent feasible....
 - b. Stormwater is managed ...
 - c. Proposed work does not impair the capacity of the riverfront area to provide important wildlife habitat functions. ...
 - d. ... incorporating erosion and sedimentation controls and other measures to attenuate nonpoint source pollution.

- **Bordering Land Subject to Flooding (10.57)**

1. Compensatory storage shall be provided for all flood storage volume that will be lost ...
2. Work shall not restrict flows so as to cause an increase in flood stage or velocity.
3. Work in those portions of bordering land subject to flooding found to be significant to the protection of wildlife habitat shall not impair its capacity to provide important wildlife habitat functions.

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“Compensatory storage shall mean a volume not previously used for flood storage and shall be incrementally equal to the theoretical volume of flood water at each elevation, up to and including the 100-year flood elevation, which would be displaced by the proposed project. Such compensatory volume shall have an unrestricted hydraulic connection to the same waterway or water body.

- **FEMA Crawlspaces Regulations**
 1. Crawlspace that have their floors below BFE must have openings to allow the equalization of flood forces.
 2. Recent FEMA guidance now allows crawlspaces to have their floors up to two feet below lowest adjacent grade under certain circumstances although this is discouraged. Below-grade crawlspace foundation walls are exposed to increased forces during flood conditions, such as hydrostatic and saturated soil forces. Guidance on the National Flood Insurance Program (NFIP) minimum requirements for crawlspace construction in the SFHA is given in FIA-TB-11.
 3. Buildings that have below-grade crawlspaces will have higher flood insurance premiums than buildings that have the interior elevation of the crawlspace at or above the lowest adjacent exterior grade.”
- **FEMA Basement and Newton Floodplain Regulations**
 - The NFIP Floodplain Management Requirements and the Newton Floodplain Ordinance state that basements must be above the BFE (see below) or flood-proofed.
- **Stormwater Standards 10.05 (6)**
- Presentation (Stephen Vona, Corey Van Wyhe, Joe Porter) and Discussion
 - **Project Summary:** This project involves the demolition of a SFH and accessory structures and the construction of a new roadway, partially crossing an MWRA sewer easement, to provide frontage for a 6-lot subdivision and the construction of 6 single family homes with associated grading, driveways, utilities, stormwater management, and landscaping. The applicant is also proposing a permanently bounded 10,000 sf mitigation area along the Charles River and a public pathway along the Charles.
 - **Impact Summary**
 - RFA numbers:
 - Lot area = 102,726
 - Total RFA = 96,871
 - 10% of RFA = 9,687
 - Already legally degraded = 22,181
 - Proposed total degraded = 26,360
 - Proposed new degraded = 4,179
 - Minimum required mitigation = 8,358
 - Proposed permanently protected mitigation = 10,700 sf native plantings along the Charles River.
 - RFA plant plan:
 - Removing: 433” of (13) healthy trees and 124” of (3) “unhealthy” trees.
 - Planting: 400” of (160) canopy trees and (320) shrubs and understory trees.
 - Flood Zone: Proposed alteration within the flood zone is now limited to permissible activities:
 - Tree removal
 - Grading (provision of compensatory storage)
 - Crawl spaces beneath three of the six houses and a retaining wall
 - Mitigation planting
 - **Discussion**
 - Revised materials were received on 4/5/18 before the meeting but these materials were not reviewed by staff or the peer reviewer. They included:
 - Revised materials with dates
 - Revised Alternatives Analysis
 - Revised plans showing a shortened retaining wall on Lot 1
 - Revised planting plans showing additional species and materials
 - Revised narrative with the appropriate changes to the questioned tables and timelines

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- The project still has no MWRA approval, but the applicant stated that in a meeting with MWRA on 4/3/18, they seemed confident about receiving approval the week of 4/9/18.
- The additional test pits requested by the peer reviewer in his second memo were conducted by the project engineer and witnessed by a member of the city Engineering Department. Jennifer Steel had requested to be at the digging but was not informed until after they occurred.
- These pits initially revealed no continuing fly ash layer in the proposed Riverfront Mitigation area.
- John Daghlian did sign off on the proposed infiltration system based on the observed test pits.
- On the topic of specimen tree loss, applicant's representative Corey Van Wyhe stated that unfortunately 15 of the 17 specimen red oaks are located in areas proposed to be house, driveway, or stormwater infiltration or are within 15' of the proposed foundations and cannot be saved.
- The peer reviewer, in conversations with MassDEP, recommends that 21E soil testing continue throughout the mitigation area as construction begins. Applicant agreed that this would be the course of action.
- Public Comment:
 - Paul Malloy pointed out the uselessness of the pedestrian pathway if there is no continuing access along the Charles River.
 - An abutting neighbor is concerned about the maintenance of the shared trees along her property line and the property line of 56 Farwell. Applicant reassured her that all trees will be maintained on the property.
- Consensus: Continue the hearing in order to receive:
 - An alternatives analysis and plan that satisfies 10.58(4)c: "There must be no practicable and substantially equivalent economic alternative to the proposed project with less adverse effects on the interests identified in M.G.L. c. 131 § 40."
 - MWRA approval

8. NOI (cont'd)– 156 Otis Street – DEP File #239-801

- Request: Construction of one single-family home and associated activities on the rear lot of a two-lot subdivision (the front lot is outside wetlands jurisdiction).
- Owner/Applicant: Brian Hickey Representative: John Rockwood, EcoTec Inc.
- Documents Presented: colored plans aerials, photos, draft OOC
- Jurisdiction: 100' Buffer Zone to Bank
- Performance Standards:
 - **10.53(1): General Provisions:** "For work in the Buffer Zone subject to review under 310 CMR 10.02(2)(b)3., the Issuing Authority shall impose conditions to protect the interests of the Act identified for the adjacent Resource Area. ... where prior development is extensive, may consider measures such as the restoration of natural vegetation adjacent to a Resource Area to protect the interest of [the Act]. ... The purpose of preconstruction review of work in the Buffer Zone is to ensure that adjacent Resource Areas are not adversely affected during or after completion of the work."
 - **Bank 310 CMR 10.54:** Work on a Bank shall not impair the following:
 1. The physical stability of the Bank;
 2. The water carrying capacity of the existing channel within the Bank;
 3. Ground water and surface water quality;
 4. The capacity of the Bank to provide breeding habitat, escape cover and food for fisheries;
 5. The capacity of the Bank to provide important wildlife habitat functions.
 6. Work on a stream crossing
- Presentation (John Rockwood, Joe Porter) and Discussion
 - **Project Summary:** Proposed project involves the demolition of the existing single-family home to allow for the creation of a two-lot subdivision and subsequent construction of two single family homes with associated grading, tree clearing, and stormwater management. Proposed invasive work includes cutting vines, removal of Norway maples and winged euonymus through cut and blot methods. All invasive work is proposed to be done by hand outside of the proposed limit of work for construction of the house on Lot 1B.
 - **Impact Summary**

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- Construction of the house and deck on Lot 1B is within 28 ft of the flagged wetland.
- Proposed plan calls for clearing and grading 78% of the buffer zone on the north side of the stream.
- Proposed bank impacts would be minimal and temporary (construction of a 4' wide bridge over the intermittent stream to allow access for invasive control work).
- Woods on the property are dominated by Norway Maple; there is significant ground cover of myrtle and pachysandra.
- **Site Notes:** The stream was flowing on the 3/6/18 site visit, but apparently the stream runs due to a failure in the drain pipe within the drainage easement. Utilities Division intends to CCTV the pipe. The applicant and the Utilities Division will determine how to solve any problems discovered.
- **Discussion**
 - Revised materials submitted on 4/4/18 include:
 - Updated site report with an updated planting schedule
 - Revised planting plans (on the proper base map) and tree culling plan with note about Norway Maple trunks
 - Timeline of enhancement work area
 - Revised construction sequence
 - The proposed snow storage will not be revised, most of the snow will be piled into berms on the driveway with the area marked on the plans being only a small portion of the plowed snow.
 - According to the representative, Marc Welch has walked the site and confirmed with their tree survey. A tree permit will be submitted before work begins.
 - The representative agrees to the recommended staff wording with two small changes:
 - “The Approved Limit of Work is demarcated in the field with six (6) stone bounds. No **unauthorized** work or alteration (which includes, but is not limited to, building; grading; clearing; dumping of leaves, grass-clippings, or other vegetation; and mowing) beyond this point other than the approved invasive **species** control plan is allowed without the permission of the Newton Conservation Commission or its staff. This condition shall survive the issuance of a Certificate of Compliance. “
 - Staff had suggested plaques to mark the bounded enhancement area, but the representative feels they are unnecessary with the bounds. Commissioners agree that the plaques are unnecessary.
 - The representative feels that the recommended 5-year Order of Conditions is too much. Since the project is buffer zone only and they are proposing to permanently bound the enhancement areas, the Commissioners agreed to a standard 3-year order of conditions.
- Vote: Issue an Order of Conditions including, but not limited to, the following special conditions:
 - A Tree Permit, issued by the Newton Tree Warden, must be submitted to the Newton Conservation Commission.
 - The applicant must schedule and attend a pre-construction site visit to review construction activities with the Conservation office with:
 - An Environmental Monitor, paid for by the Applicant, shall report to the Commission, to assist the Commission in its overall oversight of the invasive control and restoration planting activities approved by this Order. The name, e-mail address and cell phone number of the Environmental Monitor will be provided to the Commission.
 - If dewatering on the project site is required, the Applicant shall provide to the Conservation Commission for review and approval prior to a dewatering plan designed to limit and control any effects of dewatering on the wetlands resource area adjacent to the project site.
 - Tree Protection: The Applicant shall protect the trees shown on the plan as “to be protected” during construction with orange snow fence at or near the drip line of each tree.
 - Enhancement area plantings within Commission jurisdiction must:
 - c. Be installed in compliance with the approved plans. Desired deviations from the approved plans must be approved by the Conservation office in advance
 - d. Survive over 75% of the planting area for 2 growing seasons for a Certificate of Compliance to be granted
 - The stormwater infiltration system must be installed as per the plans.
 - The City Engineer must inspect the stormwater infiltration system. The applicant must submit proof of inspection to the Conservation Commission.

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- The use of herbicides and other pesticides is prohibited and fertilizers shall be limited to slow-release organic fertilizers to improve water quality in the adjacent wetlands and waterways.
- Operation and Maintenance: The approved Operations and Maintenance Plan is appended hereto and must be adhered to.
- The Approved Limit of Work is demarcated in the field with six (6) stone bounds. No unauthorized work or alteration (which includes, but is not limited to, building; grading; clearing; dumping of leaves, grass-clippings, or other vegetation; and mowing) beyond this point other than the approved invasive species control plan is allowed without the permission of the Newton Conservation Commission or its staff. This condition shall survive the issuance of a Certificate of Compliance.
- [Motion: Susan Lunin; Second: Ellen Katz; Vote: 6:0:0]

9. NOI (cont'd) – 73 Beaconwood Rd – DEP File #239-791 – teardown SFH/ rebuild duplex

- Request: Demolition of existing SFH to construct duplex with drainage, landscaping, grading, and 12” culvert to create hydraulic connection between “mitigation storage area” and Cold Spring Park wetland complex
- Owner: William Haney (PZ Realty Trust) Applicant: Desheng Wang (Creative Land & Water Engineering LLC) and PZ Realty Rep.: Desheng Wang
- Documents Presented: revised colored plans site photos, draft OOC
- Jurisdiction: Buffer Zone
- Performance Standards:
 - **10.53(1): General Provisions**: “For work in the Buffer Zone subject to review under 310 CMR 10.02(2)(b)3., the Issuing Authority shall impose conditions to protect the interests of the Act identified for the adjacent Resource Area. ... where prior development is extensive, may consider measures such as the restoration of natural vegetation adjacent to a Resource Area to protect the interest of [the Act]. ... The purpose of preconstruction review of work in the Buffer Zone is to ensure that adjacent Resource Areas are not adversely affected during or after completion of the work.”
- Presentation (Desheng Wang) and Discussion
 - **Project Summary**: Demolition of a single-family home to be replaced with a duplex with a stone dust parking area in the buffer zone. Fill is proposed to be placed within buffer zone on the property. Applicant proposes a replication area on the adjacent lot (signed off by owner) to replace the filled area and has proposed the installation of a 12” culvert, connecting the bordering vegetative wetland on the other side of Beaconwood to the replication area on the property.
 - **Impact Summary**
 - There is no jurisdictional wetland on the property, as determined by a previously conducted peer review ordered by the Commission. The only jurisdiction on the property is buffer zone, so performance standard evaluation must focus on the effects of the proposed project on the Cold Spring Park wetland.
 - Additional flood storage capacity is being provided at or below flood elevation. Net fill is proposed above the flood elevation.
 - The proposed culvert (12” HDPE pipe) will make the replicated wetland jurisdictional BVW.
 - 9 live trees (roughly 132”) are due to be cut (along with 3 (76”) that are dead. 11 canopy trees and 5 understory trees are due to be planted, along with 22 shrubs. Salvaged plant material from the wetland will be installed in the mitigation wetland area.
 - **Discussion** (representative provided responses to these questions which have been added in italics)
 - The concrete pour detail for the wingwalls/headwall of the new culvert says that it requires a 28-day cure time. Will the site need to be dewatered for 28 days? *The DSW box will be pre-cast so the 28-day cure will happen off-site.*
 - The height of the DSW headwall is unclear and no wing walls are shown on the plans, though wing walls are shown in the details as potentially being required. *The headwall will be 5’ tall and the wingwalls are the same structure.*
 - DSW outlet box detail needs clarification. It is not clear how to construct it. *Representative provided photos and will clarify detail.*

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- Staff have concerns about the landscaped/planted strip immediately behind the parking area being marked as snow storage. Snow storage could damage or kill the plantings. *Representative agreed to a fence being conditioned in the Order.*
- The representative presented an argument against the need for a frac tank, as recommended by staff, and Commissioners and staff agreed that a sediment basin would be acceptable.
- Vote: Issue an Order of Conditions including, but not limited to, the following special conditions:
 - The applicant must schedule and attend a pre-construction site visit to review construction activities with the Conservation office with the parties listed in the special conditions (page 10-A et seq. in the Order of Conditions)
 - Applicant must submit an Operation and Maintenance Plan to be approved by Conservation Commission and Engineering Department.
 - Protection of tree: The one tree marked for protection on the approved plans must be protected before and during construction activities with orange snow fence installed at the dripline of the canopy. If it dies within 2 years of the start of construction or has been demonstrably harmed by construction activities, it shall be replaced with 2 native canopy saplings (of roughly 2 caliper inches).
 - The dewatering set-up must be reviewed by an agent of the Conservation Commission prior to pumping to limit any effects of dewatering on the wetlands resource area adjacent to the project site.
 - The proposed culvert must be maintained as blocked during excavation of constructed wetland and during the excavation of the foundation of the house to ensure that no sediment is transported to the Cold Spring Park wetland.
 - The wetland mitigation area must be completely fenced with sediment fence or orange snow fencing immediately following installation to ensure its protection throughout the construction process. The fence shall remain in place until removal is approved by an agent of the Commission.
 - Side slopes in the wetland replication area must not exceed 3:1 to ensure stability of the slope.
 - Concrete washout must be conducted in a manner that precludes any effects of concrete washout on the wetlands resource area adjacent to the project site. No concrete washout station for the Project shall be located in the Wetlands Resource Area or the Buffer Zone.
 - Landscape plantings within Commission jurisdiction must:
 - e. Be installed in compliance with the approved plans. Desired deviations from the approved plans must be approved by the Conservation office in advance
 - f. Seed mixes marked on planting plan must be installed over the full extent of each mitigation area, not just the small green rectangles shown on plans.
 - g. Survive over 75% of the planting area for 2 growing seasons for a Certificate of Compliance to be granted
 - Applicant must provide the full amount of flood storage shown on the approved plans.
 - The equalizing culvert system must be installed as per the plans
 - The City Engineer must inspect the equalizing culvert for approval once installed. The applicant must submit to the Conservation Commission proof of inspection
 - The applicant shall install a fence at the back edge of the parking area to ensure protection of the planted strip just beyond the parking area.
 - The Operation and Maintenance Plan must be adhered to. All stormwater infrastructure must be properly maintained.
 - Snow Management. The owner shall ensure that snow does not damage the vegetated buffer strip at the back edge of the parking area.
 - The use of herbicides and other pesticides is prohibited and fertilizers shall be limited to slow-release organic fertilizers to improve water quality in the adjacent wetlands and waterways.
 - In order to protect wildlife, artificial lighting shall be designed to prevent lighting of the wetlands. Any outdoor lights within 200 feet of the wetland shall be directed so as not to radiate light towards those areas. Any such lights shall be limited to no more than 1,800 lumens per fixture and the fixture shall not illuminate any part of the wetland more than 0.2 footcandles. Exterior lights shall not be mounted higher than 25 feet above the ground.
 - The mitigation planting areas shall be maintained in perpetuity in its predominantly natural condition.
 - [Motion: Jeff Zabel; Second: Susan Lunin; Vote 5:1:0] Norm Richardson voted against.

10. Order of Conditions RESIGN – 1 Wells Ave – DEP File #239-757

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- Request: Re-sign Order of Conditions issued to Daniel Brent in 2016 and the original, signed copy was lost before it could be recorded.
- Owner: Daniel Brent (William James College) Applicant: Daniel Brent (William James College)
- Consensus: Re-sign Order of Conditions for recording at the Registry.

11. Certificate of Compliance – 1 Wells Ave – DEP File #239-757

- Request: COC.
- Owner: Daniel Brent (William James College) Applicant: Daniel Brent (William James College)
- Vote: Sign COC for recording at the Registry. [Motion: Dan Green; Second: Jeff Zabel; Vote 6:0:0]

12. Certificate of Compliance RESIGN – 69 Kingswood Rd – DEP File #239-482

- Request: Re-sign Certificate of Compliance again due to mailing issues on the first re-sign.
- Owner: Janet Freeman Applicant: Janet Freeman
- Consensus: Re-sign Certificate of Compliance for recording at the Registry.

II. CONSERVATION AREAS

13. Old Deer Park Improvements

- Request: Vote to approve the creation of an improvement plan for the Old Deer Park, potentially including:
 - Routine mowing of invasive vines as possible
 - Removal of portions of the fence around the Old Deer Park (with the major exception of along the rail lines) to allow access by natural grazers (deer).
 - Pursuing a metal salvage company to look at the value of the fence (if it were to be removed).
- Consensus: Staff should create a plan for the site and bring it before the Conservation Commission for review.

14. Webster Woods Advisory Panel

- Panel met 4/2/18. The panel/process will require Con Com involvement as process unfolds. Would anyone like to volunteer?
 - Kathy Cade has volunteered and been introduced to Beth Wilkinson, who is chairing the Advisory Panel.

III. ADMINISTRATIVE

15. Discussion of Commission Roles.

- Commissioners decided to pass this decision to the 4/26/18 meeting.
- Staff Notes:
 - There is an interest in codifying roles based on discussion at prior Commission meetings.
 - Staff asked several colleagues and were provided with this information:
 - Newton Historic Committee (NHC): Elections occur for a new Chair every January with no term limits. There is no Vice Chair position for this Commission.
 - Newton Community Preservation Committee (CPC): Newton Ordinance requires officers to be elected annually and imposes a limit of two consecutive 3-year terms for all (not just officers) CPC members. Early fall the Vice Chair takes the place of the Chair and the Committee elects a new Vice Chair. Most members only serve as an officer after being on the Committee for a full 3-year term.
- Staff Recommendations:
 - Ira Wallach's proposal (emphasis added):
 - "Members shall, at the first meeting in June of each year, elect a Chair, a Vice-Chair and a Clerk, from among those members whose terms expire on or after July 1st of the year following the election, to serve a one-year term beginning on July 1st immediately following the election. No member may be elected to serve as Chair for more than two (2) full consecutive terms, within any three year period. It shall be the responsibility of the Chair to ensure that the annual election appears on the agenda of the first meeting in June of each year, and that the annual election of officers is timely conducted."
 - Staff proposal (in rough form):
 - Elect a Chair for a 3-year term. A Chair may not serve more than 2 consecutive 3-year terms). Terms shall be initiated on (or about) July 1.
 - Elect a Vice Chair for a 3-year term. Terms shall be initiated on (or about) July 1.

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- Elect Clerk annually.
- Liaisons to other Commissions (NCGC, Farm, CPC) represent obligations over and above those of membership on the Conservation Commission. Commission members should volunteer based on personal interest and availability. The minimum commitment should be 2 years, but engagement could be indefinite. Annually, all members should be asked to help fill these positions as interest or need dictate.
- Commission should discuss both proposals and plan to vote when more commissioners are in attendance.

16. Hebrew College Conservation Restriction: Consider granting Jennifer Steel authority to execute an Estoppel Certificate

- Request: In exchange for abutters waiving their rights to claims of adverse possession*, allow Jennifer to sign an estoppel certificate on behalf of the Commission that:
 - a) Requires the land owner to install permanent bounds every 75’ or at property corners (whichever is less) along the northern and eastern boundaries of the CR (and along the “interior boundary” of the CR more widely spaced).
 - b) Requires the land owner to send notice to all Langley Road and Ripley Street abutters noting:
 - (1) the ownership and natural character of the CR that must be protected, i.e., the prohibition of new structures, mowing, landscaping, vegetation cutting, dumping, composting, etc.
 - (2) the City’s rights and intentions to monitor and enforce against active new structures, mowing, landscaping, vegetation cutting, dumping, composting, etc.
 - (3) the land owner’s intention to leave the fire pit and retaining walls.
 - (4) the land owner’s retained rights to remove structures deemed hazardous or detrimental to the health of the CR.

*N.B.: the fire pit, retaining walls, and lawns may well have existed when CR was granted in 2000 and so claims of adverse possession are possible and the new owner-to-be wants assurances about those claims.

- Conclusion: No decision was made on this issue.

17. Minutes of 3/15/18 to be approved.

- Documents Presented: draft minutes draft minutes
- Vote: 3/15/18 minutes approved [Motion: Susan Lunin; Second: Ellen Katz; Vote: 4:0:2]

IV. ISSUES AROUND TOWN – nothing to vote on

UPDATES

V. WETLANDS

- 20 Charles River Terrace – Agents assume that the modified driveway was approved when DEP file #239-521 OOC was issued. Please confirm. The infiltration system needs to be rebuilt, so new owners will be filing a new NOI for said system and to allow old OOCs to be closed out.

VI. CONSERVATION AREAS – no updates

VII. ISSUES AROUND TOWN

- Two Bridges Project (recipient of the 2017 RTP Grant) had its kick-off meeting, with several municipal departments represented, on 3/15/18. Staff are waiting to hear more about City staff involvement from the Executive Office.
- The Webster Woods Advisory Committee members have been chosen. Their first meeting is 4/2/18.
- Mass. Land Conservation Conference is 3/24/18 in Worcester.
- Charles River Watershed Association is having their annual Charles River Earth Day clean-up on 4/28/18 from 9-12.
- Newton Serves will be on 4/29/18.

VIII. ADMINISTRATIVE MATTERS

- Climate Action Plan being developed by Energy Committee representatives, Sustainability Office, and Planning Department.

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

ADJOURN [Motion: Dan Green, Second: Jeff Zabel; Vote: 6:0:0]

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