

# CONSERVATION COMMISSION MINUTES

Date: June 4, 2020

Time: 7:00pm

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

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

**With a quorum present**, the meeting opened at 7:00 with Susan Lunin, Vice-Chair presiding as Chair. Dan Green, Chair took over Chair responsibilities when he joined the meeting at 7:05

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

**Members Absent:** none

**Staff Present:** Jennifer Steel and Claire Rundelli

**Members of the Public:** not recorded due to remote nature of the meeting

## DECISIONS

### I. WETLANDS DECISIONS

#### 1. 138 Lake Ave. – Proposed Tree Removal – Informal Discussion

- Owner/Applicant: Anthony Deighton
- Request: What filing should be made and what replacement will likely be required if the owners wish to remove the 55" silver maple that is close to the shore of Crystal Lake.
- Documents Presented: Site photos
- Jurisdiction: Buffer Zone
- Staff Notes
  - The tree in question was saved during the recent construction of the Deighton's house.
  - The tree is a huge old silver maple that has been dropping limbs.
  - The owners are concerned someone or something will be damaged.
  - Because of the size of the tree and the recent permitting of site alterations, staff were not comfortable using their administrative approval authority.
  - The Commission's tree replacement guidelines state:
    - For each inch of tree over 8" dbh removed, ½ caliper inch (measured 6 inches off the ground) must be planted. Replacement trees must be at least 1-2 caliper inches.
    - If the trees or shrubs being replaced are hazards, mitigation requirements may be reduced.
- Discussion and Consensus
  - Commissioners agreed that the tree was near the end of its life and poses a hazard.
  - Commissioners agreed that the trees roots were important in maintaining bank stability.
  - Commissioners agreed that the owners should submit an application for review in an advertised public forum, agreed that an RDA would suffice, and agreed that the owners should propose at least one native tree for the silver maple location and one elsewhere on the lot in or near the 100' buffer.

#### 2. Northland Mixed-Use Development – Preliminary Discussion

- Owner/Applicant: Northland Investment Corp. Representative: Curtis Quitzau, VHB, Inc., Keith O'Connor, SOM
- Request: Applicant would like preliminary feedback from Commission before submitting NOI.
- Documents Presented: Applicant presentation
- Jurisdiction: Buffer Zone, Riverfront Area, City Floodplain
- Disclosures: Dan Green noted that he works with VHB, Leigh Gilligan noted that she represented Northland years ago.
- Presentation (Curtis Quitzau and Keith O'Connor) and Discussion
  - Project has secured a Special Permit/Board Order and approved Design Guidelines and so is now in final design.
  - Goals are to restore natural hydrologic function, provide natural open space, and provide educational and historically engaging open space. 10.5 acres of the total 22 acres will be open space or landscaping of some sort.
  - The ConCom will have direct involvement with the 2.5 ac South Meadow Brook Park and the 1.1 acre Mill Park.



**Mayor**  
Ruthanne Fuller

**Director  
Planning &  
Development**  
Barney Heath

**Chief  
Environmental  
Planner**  
Jennifer Steel

**Assistant  
Environmental  
Planner**  
Claire Rundelli

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

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- South Meadow Brook Park will be natural space with path and gathering/viewing amenities. Mill Park will allow people to see the water within the culverted “waterfall”.
- The applicant is now doing preliminary demolition and borings to determine extent of contamination on site.
- Commissioners noted their interest in having the applicant use native plants throughout the site to help educate others and to help drive the market.
- One Commissioner noted her concerns about construction period site controls to protect South Meadow Brook from sediment, trash, spills, etc. The applicant noted that a SWPPP would be provided to EPA and the ConCom.
- Commissioners questioned the location of the dog parks being close to the stream.
- Staff noted (and Commissioners echoed) concerns about the density of amenities, the likely intensity of use of, and the resulting problems of maintenance of the intended plantings at South Meadow Brook Park.

**3. 24 Village Road – NOI – construction of new detached garage and new driveway – DEP File #239-866**

- Owner/Applicant: Hisham Salem Representative: Anthony Stella, Site Engineering Consultants, Inc.
- Request: Continue hearing.
- Documents Presented: Colored plans, site photos, draft OOC
- Jurisdiction: Riverfront Area
- Project Summary
  - Construction of a 24’x26’ detached, 2-car garage. Existing garage will be converted to storage.
  - Pouring of a new 22’ wide asphalt driveway.
  - Installation of underground infiltration chambers and trench drain to collect runoff from driveway and new roof.
- Vote to continue hearing to July 16, 2020. [Motion: Zabel; Second: Lunin; Roll-call vote: Cade (aye), Gilligan (aye), Green (aye), Hepburn (aye), Katz (aye), Lunin (aye), Zabel (aye); Vote 7:0:0]

**4. 15 Riverdale Avenue – NOI (continued) – multi-use 40B development – DEP File #239-860**

- Owner: Michael Price, Legacy the River, LLC Applicant: Jack Englert, CPC Land Acquisition Company, LLC Representative: Timothy Williams, Allen & Major Associates, Inc.
- Request: Issue OOC.
- Documents Presented: Colored plans, draft OOC
- Jurisdiction: Buffer Zone, Riverfront Area, BLSF, City Floodplain
- Project Summary
  - Demolish existing large commercial building and remove much of the existing pavement.
  - Construct one large building (with a central open-air concourse) within Riverfront Area -- 166 units, ~57,819 sf, and 5 stories with ground-level covered parking, and associated outdoor amenities.
  - Undertake associated site grading, install drainage and stormwater management systems, and landscape the site.
  - 5,309 c.f. of additional flood storage is proposed to be constructed on site.
  - Impervious area on the entire project site (including areas outside Riverfront Area) will be reduced by 10,218 s.f.
  - N.B. The project includes the construction of another smaller building, roadway, and parking outside of RFA.
- Regulatory framework
  - Riverfront Area
    - Overall, this seems to represent a small improvement to the existing Riverfront Area by pulling the proposed building back 30-35 feet from the river and pulling the hardscape back 7 feet from the river in most areas.
    - Degraded Riverfront Area will be reduced by 2,051 s.f.
    - Impervious Riverfront Area will be reduced by 10,590 s.f.
    - The retrofitted catch basins, water quality structure, and subsurface detention structure will hold and treat runoff from the entire site and nearby streets. Over 68% phosphorus reduction is anticipated due to storm filter system and porous pavement.
    - Infiltration will be enhanced by the porous pavers and pavement and the bioretention area.
    - Runoff from the covered parking area will go through oil/water separators and into the City’s sewer.
    - The bioretention area plantings could provide greater habitat value than the lawn it will be replacing.
    - Public access to the DCR Blue Heron Pathway will be enhanced.

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- The City's adjacent Forte Park will be enhanced.
- Flood zone
  - Flood storage at every elevation is being increased (because of the bioretention area and the building being "pushed back from the river").
  - Total flood storage will be increased on the site by 15% or 5,309 c.f.
- Presentation (Jack Englert) and Discussion
  - As discussed at the last hearing, the applicant has addressed all of the concerns that staff raised. These changes have been appropriately incorporated in the revised plans.
  - Applicant clarified that Estimated Seasonal High Groundwater was roughly 1 foot below the bottom of the bioretention area, and because that area was not being "claimed" for stormwater treatment, limited separation was fine.
  - Stockpiling may take place off site (in Forte Park) under agreement with the City (in exchange for improvements to the Park), but any off site stockpiling will be outside Commission jurisdiction.
  - Special conditions were reviewed and edited
- Vote to close the hearing, issue an OOC with the following special conditions, and allow the vote be an electronic signature on the OOC. [Motion: Green; Second: Hepburn; Roll-call vote: Cade (aye), Gilligan (aye), Green (aye), Hepburn (aye), Katz (aye), Lunin (aye), Zabel (aye); Vote 7:0:0]
  - The SWPPP must be submitted by the contractor to the Conservation Office for review and approval.
  - A phasing/construction management plan must be submitted by the contractor to the Conservation Office for review and approval. It must clearly illustrate, all aspects of site management, including, for example:
    - The locations of stockpiles
    - Vehicular access and parking
    - Material laydown and storage
    - Temporary sediment basins,
    - Construction-phase stormwater controls
    - A dewatering plan designed to limit and control any adverse impact on the wetlands resource area(s) must be presented to the Conservation Commission for review and approval prior to any dewatering, if dewatering proves necessary.
    - A concrete washout plan designed to limit and control any adverse impact on the wetlands resource area(s) must be presented to the Conservation Commission for review and approval
    - Construction period snow management
  - An LSP shall be retained by the applicant to ensure that should contamination be encountered on site, appropriate remedial actions in compliance with the MCP will undertaken timely. The ConCom shall be notified immediately of such a finding.
  - The contractor must take all measures necessary to protect all trees that are shown on the plan as to be protected. This could include, for example, fencing, trunk protection, root protection, and methods such as air-spading and hand digging to ensure long-term health of the trees.
  - Landscape plantings within Commission jurisdiction must:
    - Stabilize all exposed areas
    - Be installed in compliance with the approved plans (desired changes must be approved by the Conservation office in advance)
    - Throughout Conservation Commission jurisdiction, have a survival rate of 100 % of total number of trees (after 2 growing seasons)
    - In the bio-retention area, have 100 % aerial coverage of seeded areas and 90% survival of shrubs (after 2 growing seasons)
    - Elsewhere within Conservation Commission jurisdiction, have a survival rate of 80 % of total number of shrubs (after 2 growing seasons)
    - Elsewhere within Conservation Commission jurisdiction, have a survival rate of 80 % aerial coverage of all other plants (after 2 growing seasons)
  - Compensatory flood storage must be provided in its entirety as per the plans and must be clearly documented on the as-built plans.
  - The stormwater treatment systems must be installed in their entirety as per the approved plans and clearly documented on the as-built plans.
  - Runoff from the covered parking area must go through oil/water separators and into the City's sewer.

- Applicant shall document and submit to the Conservation Office proof of inspection by and approval by the Engineering Department of:
  - detention system when open,
  - porous pavement and paver areas during construction of the sub-base layers -- appropriate preparation for infiltration/compaction remediation and layers of construction, and
  - construction of the bio-swale bedding and medium.
- No damage to trees beyond property boundary is permitted. If any trees in that area die within 2 years of the start of construction or have been demonstrably harmed by construction activities, they shall be replaced at a ratio of 2:1 with native canopy saplings of roughly 2 caliper inches.
- As per the approved plans, snow shall not be stored on or riverward of the emergency access road to the north of the Building 1.
- To protect the full suite of benefits of the bioretention area in the landscaped area north of Building 1, fertilizers shall be of low-nitrogen content and be used in moderation and herbicides and pesticides shall not be used.
- To protect wetland wildlife, exterior lighting shall:
  - be shielded to prevent any “up lighting” and “backlighting” (i.e., no emissions above 90 degrees or behind the fixture if that creates spill closer to the wetland resource area),
  - be focused to prevent any spill beyond hardscape or edge of maintained lawn or play areas,
  - have limited blue content to decrease skyglow and disruption of diurnal animals,
  - be switched off when not in active use for safety, and
  - not exceed the illumination shown on the approved photometric plan sheet.

**5. 791 Walnut Street – NOI (continued) – ecological restoration – DEP File #239-864**

- Owner: Newton Cemetery Corporation (NCC) Applicant: Mary Ann Buras, NCC Representative: Michael DeRosa, DeRosa Environmental Consulting, Inc., Kara Sliwoski, Solitude Lake Management
- Request: Issue OOC.
- Documents Presented: Plans, site photos
- Jurisdiction: Bank, Bordering Vegetative Wetlands (BVW), City Floodplain, Land Under Wetlands and Waterways (LUWW), Riverfront Area, Buffer Zone
- Performance Standards – Ecological Restoration Limited Project
- Disclosures: Dan Green noted that his family has plots within the cemetery.
- Staff Notes:
  - The applicant is requesting a 5-year Order of Conditions to implement an ecological restoration plan.
  - Staff had an extensive site visit with members from the cemetery management and the applicant team. Based on that site visit, the proposed work has been simplified to focus on hydro-raking and tree planting, the most urgent and time-sensitive work.
  - The applicant has provided details regarding their turf management and it seems as though all best management practices are being followed in terms of reducing nutrient run-off from turf.
  - Applicant must still address unpermitted tree and shrub cutting and unpermitted stream bank restoration.
- Presentation (Mary Ann Buras, Mike DeRosa, Kara Sliwoski) and Discussion
  - The applicant has reduced the scale of their proposed work since submitting application materials. Their interest now is in only the following: ecological restoration of Ponds 1-4 to reduce organic accumulation, reduce nutrient loading, increase water holding capacity, manage invasive aquatic plant species, improve overall water quality, and improve wildlife habitat. Withdrawn for the time being are the proposals to:
    - Use of chemicals to treat water chestnuts
    - Tree removal
    - Planting trees
    - Restoring the “pool and riffle area”
    - Restoring pond buffers
  - Proposed activities are:
    - Hydro-raking of the 4 ponds (2.7 acres). Pond 1 and 2 will be done this spring, Ponds 3 and 4 will be done later. The objective of the hydro-raking portion of the project is to remove the roots and tubers of

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nuisance vegetation within the ponds. All equipment for hydro-raking is proposed to be positioned on existing paved pathways within the cemetery, with other work being done by hand. Cemetery staff and hydro-raking crew will separate out any turtles, fish, and macro-invertebrates that can be easily collected from the harvested material and place them back in a previously selected refuge pond (typically the upgradient pond from where the work is being conducted). The raked material will be temporarily deposited on accessible shoreline within erosion controls to dewater, then trucked to an upland, on-site composting location. Increases in turbidity typically settle-out to background levels within 24 hours of the completion of hydro-raking. The anticipated hydro-rake launch areas are as follows:

- Pond 1 – the northeast corner of the pond
- Pond 2 – the easternmost point of the pond
- Pond 3 – craned in from a point on the road likely along the northern shoreline where feasible
- Pond 4 – craned in from a point on the road likely along the northern shoreline where feasible
- sediment control barriers, prior to trucking the material to the upland compost facility.
- Monitoring of water quality. Will occur twice every month during the growing season. Monitoring will be done by Solitude. Visual assessments will be conducted for algal growth
- PAC. Will be applied in the spring at a low dose (1pmm) to strip phosphorus from the water column.
- Copper-based algaecide applications. Will be applied at a threshold of 30% cover of algae or “noticeably reduced water clarity” resulting from microalgae blooms.
- Hand-pulling of water chestnut.
- The proposals will likely result in function and habitat improvements
  - Hydroraking can be effective in restoring open water habitat
  - PAC can be effective at reducing nutrient re-cycling. The proposed PAC phosphorus treatment is very similar to what the Commission recently approved to occur at Crystal Lake.
- Staff noted plan/application deficiencies:
  - All plans should have titles, dates, legends, north arrows, authors, and scales.
  - The wetland resource area depictions (i.e., ConCom jurisdiction) are imprecise and inaccurate.
  - Areas of proposed water chestnut removal have not been provided.
  - Plans should clearly show locations of launching and spoil stockpiling.
- Applicant will rectify plan/application deficiencies
- Vote to continue hearing to June 25, 2020. [Motion: Lunin; Second: Hepburn; Roll-call vote: Cade (aye), Gilligan (aye), Green (aye), Hepburn (aye), Katz (aye), Lunin (aye), Zabel (aye); Vote 7:0:0]

#### **6. Houghton Garden Conservation Area – NOI – hydro-raking and associated site work – DEP File #239-868**

- Owner/Applicant: City of Newton Conservation Commission Representative: none
- Request: Continue to 6/25/20.
- Documents Presented: Plan
- Jurisdiction: Bank, City Floodplain, Land Under Wetlands and Waterways (LUWW), Riverfront Area, Buffer Zone
- Performance Standards – this project is filed as a Limited Project for the hydro-raking operations, essentially seeking waivers from the standard performance standards for Bank and Land Under Wetlands and Waterbodies because of the project’s anticipated overall ecological improvement. The trail work should be reviewed as work in Riverfront Area and City Flood Zone
- Staff Note: Because of the speed of the project development, staff did not get the required notice to the Environmental Monitor 14 days prior to filing. Staff contacted DEP and were advised to postpone the hearing until after the Environmental Monitor was published on June 10. Because the legal ad was posted, staff suggested that the hearing be opened and continued without deliberation. At the next public hearing the matter can be discussed in detail, the scope for hydroraking can be finalized, the scope of the landscaper can be finalized, conditions can be finalized, and the contract for the hydroraker and license for the landscaper can be reviewed.
- Updates:
  - Staff noted that the required solicitations for hydroraking contractors have been issued. The deadline for quotes is COB June 5.
  - Lisle Baker, Ward Councilor, noted that the Conservators have agreed to hold the community donations and oversee the contract with the landscaper, Robert Hanss.
  - Ken Lyons, Chestnut Hill Association, noted that donations have begun to be received (\$9000) and ~\$60,000 is anticipated.

- Ted Kuklinski, Newton Conservators, noted his enthusiasm for the project and his pleasure that accessibility will be increased.
- Commissioners noted their interest in getting work underway while the water level was still high.
- Vote to continue hearing to June 11, 2020, at 6:00pm. [Motion: Gilligan; Second: Lunin; Roll-call vote: Cade (aye), Gilligan (aye), Green (aye), Hepburn (aye), Katz (aye), Lunin (aye), Zabel (aye); Vote 7:0:0]

**7. 62 Carlton Road – OOC Amendment Request – lawn extension with associated grading, retaining walls, and plantings – DEP File #239-836**

- Owner/Applicant: Hillcrest Development Representative: John Rockwood, EcoTec, Inc.
- Request: continue hearing.
- Documents Presented: none
- Jurisdiction: Buffer Zone, City Floodplain (proposed work outside floodplain)
- Vote to continue hearing to June 25, 2020. [Motion: Zabel; Second: Gilligan; Roll-call vote: Cade (aye), Gilligan (aye), Green (aye), Hepburn (aye), Katz (aye), Lunin (aye), Zabel (aye); Vote 7:0:0]

**II. CONSERVATION AREA DECISIONS -- None at this point in time**

**III. ADMINISTRATIVE DECISIONS**

**8. Unrestricted Hydraulic Flow – Discussion**

- Staff Notes:
  - The goal is to develop a guidance that can be reflected in proposed plans, OOC conditions, and administrative approvals.
  - The regulations and DEP offer minimal guidance (see guidance document)
  - The concern is ensuring that floodwaters can remain on-site.
- Staff Recommendation: Characteristics to consider:
  - Foundations
    - Foundation walls with openings (size required? covers allowed?) vs piers
  - Deck/house skirting
    - Required elevation from the ground
    - Required/allowed scale and orientation of openings in lattice, screen, or slats
  - Fences
    - Solid panel vs slat
    - Vertical slat vs horizontal slat
    - Elevated vs in the ground
    - parallel/perpendicular to stream flow
- Discussion: Commissioners noted methods to increase free flow, such as banning coverage near the ground, requiring apertures of at least 1 inch, requiring 50% of the area to be openings, etc. But ultimately Commissioners felt that more input was needed from others with more experience or scientific background. Jennifer Steel will ask colleagues and the MACC hotline network for insights and suggestions.

**9. Review of Standard Conditions**

- Staff Notes:
  - The goal is to reconsider the Commission’s standard perpetual conditions to ensure their appropriateness.
  - The three that should be reviewed and possibly revised are:
    - Enclosure of structures in flood zone
    - Lighting
    - Fertilizers, herbicides, pesticides
  - The concern is ensuring that floodwaters can remain on-site.
- Discussion: Commissioners worked to wordsmith the draft document to address concerns about light spill and fertilizer use.
- Consensus: The following language was agreed to

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- To protect the water quality of the adjacent wetland resource area fertilizers shall be of low-nitrogen content and be used in moderation, and to protect the full suite of benefits of the [wetland resource area and pollinators], in the [landscaped area north of Building 1] herbicides and pesticides shall not be used.
- To protect wetland wildlife, exterior lighting shall:
  - Lights shall be no more than 1,800 lumens per fixture and the fixture shall not illuminate any part of the wetland more than 0.2 footcandles.
  - be shielded to prevent any “up lighting” and “backlighting” (i.e., no emissions above 90 degrees or behind the fixture if that creates spill closer to the wetland resource area),
  - be focused to prevent any spill beyond hardscape or edge of maintained lawn or play areas,
  - have limited blue content to decrease skyglow and disruption of diurnal animals
  - be switched off when not in active use for safety
  - not exceed the illumination shown on the approved photometric plan sheet

**10. Minutes of 5/14/20 to be approved**

- Documents Presented: draft minutes
- Staff Recommendations: Vote to accept the 5/14/20 minutes.
- Vote to approve the 5/14/20 minutes. [Motion: Katz; Second: Lunin; Roll-call vote: Cade (aye), Gilligan (aye), Green (aye), Hepburn (aye), Katz (aye), Lunin (aye), Zabel (aye); Vote 7:0:0]

**IV. ISSUES AROUND TOWN DECISIONS**

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

- Request: Sign a letter of support for the 2020-2027 Open Space and Recreation Plan.
- Staff Notes: The first draft of the OSRP was released for public review (and review by P&D and ZAP on 4/30. Susan Lunin and Jeff Zabel have been involved members of the OSRP Advisory Committee, but all members of the ConCom should review the draft plan. The state requires a letter of support from the Conservation Commission. Individual members of the ConCom may submit any comments to Conservation staff for consideration in the final draft.
- Discussion: One Commissioner noted concern that new trail connections not be held up by accessibility requirements that cannot be met (such as the stairs required to connecting the Upper Falls Greenway and the Charles River Pathway). Jennifer Steel will speak with the City’s ADA Coordinator to ensure that the requirements and allowances for trail construction are understood by all.
- Vote to sign a letter of support for the 2020-2027 Open Space and Recreation Plan. [Motion: Katz; Second: Lunin; Roll-call vote: Cade (aye), Gilligan (aye), Green (aye), Hepburn (aye), Katz (aye), Lunin (aye), Zabel (aye); Vote 7:0:0]

**UPDATES**

**V. WETLANDS UPDATES**

**VI. CONSERVATION AREA UPDATES**

- COVID-19 heavy use: Trail repairs will be needed after use returns to more normal levels
- Old Deer Park: Maintenance contractors did their first pass of the season two weeks ago.
- Pending projects:
  - CRP stairs – hoping to get bid out as soon as the ADA variance is secured
  - Kessler boardwalk and bridge – bid language has been submitted to Purchasing
  - Webster stairs – temporary construction permit application has been submitted
  - Dolan crusher-run – waiting on materials estimate
  - Houghton Garden – hydroraking and trail work soon to be initiated
  - Old Deer Park – Dan Green asked that Jennifer Steel contact Dan Driscoll about improved pedestrian crossings on Hammond Pond Parkway.

**VII. ISSUES AROUND TOWN UPDATES**

- Invasive pulls are being coordinated.

**VIII. ADMINISTRATIVE MATTER UPDATES**

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

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