

CONSERVATION COMMISSION MINUTES

Date: October 29, 2020

Time: 7:01pm – 9:50pm

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

<https://us02web.zoom.us/j/86198364948>

With a quorum present, the meeting opened at 7:01 Susan Lunin presiding as Chair.

Members Present: Susan Lunin, Leigh Gilligan, Kathy Cade, Jeff Zabel, Judy Hepburn, Ellen Katz (7:22), Dan Green (7:52)

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. 50 Industrial Place – RDA – electrical switch gear replacement w/ minor hardscaping

- Owner/Applicant: Jack Crocker, HC Starck Representative: Sean Barry, STV Incorporated
- Request: Issue DOA.
- Documents Presented: Colored plans, site photos, draft DOA
- Jurisdiction: Buffer Zone, BLSF, City Floodplain
- Performance Standards
- Project Summary
 - Install a new concrete pad for electrical switch gear. Install new gravel pathway section to connect new pad to existing gravel path. Install new chain link fence to protect new pad.
 - Remove some existing asphalt and replace with gravel/crushed stone.
 - Demolish an existing wall and replace with a temporary wooden wall for future tank replacement. After tank is replaced, a brick wall will be reconstructed.
 - Plant 2 raspberry bushes and 1 pagoda dogwood.
- Presentation (Sean Barry) and Discussion:
 - The applicant's representative clarified that the new plans, submitted 10/29, show a reduced area of disturbance of 200 s.f. and show a revised erosion control line.
 - This also resulted in a reduction of the asphalt being transitioned to gravel to 200 s.f.
 - A response to staff comments clarifying the size of the new equipment (1 cubic yard) and that all equipment will be in compliance with building code was submitted .
 - The applicant's representative clarified that the fence line needs to be extended to prevent anyone from reaching in the fence and touching the equipment.
 - Commissioners did point out that the proposed dogwood is not native but recognized that this area is very disturbed, and that the potential habitat value is very limited.
 - Staff confirmed that a planting detail had been provided showing proper soil amendment to ensure planting success.
- Vote: To issue a negative 3 determination with the following conditions. [Motion: Kathy Cade; Second: Judy Hepburn; Roll-call vote: Gilligan (aye), Lunin (aye); Zabel (aye), Hepburn (aye), Cade (aye), Katz (abstain). Vote 5:0:1]
 - The site must be left stable, appropriately vegetated, and clean. Post construction photos must be sent to the Conservation Office when construction is complete.
 - Plantings must occur within 8 months of the infrastructure improvements, must be photo-documented (with photos sent to the Conservation Office at the time of installation), and must survive two growing seasons.

2. 41 Concord Street (Leo J Martin Golf Course) – OOC – irrigation and snowmaking upgrades – DEP File #239-877

- Owner: Massachusetts Department of Conservation and Recreation Applicant: Raul Silva, DCR Representative: Jay Viamari, Tighe and Bond
- Request: Issue OOC.
- Documents Presented: Colored plans, site photos, draft OOC
- Jurisdiction: Buffer Zone, Riverfront Area, Bank, LUWW, BLSF, City Floodplain
- Project Summary



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

1000 Comm. Ave.
Newton, MA 02459
T 617/796-1120
F 617/796-1142

www.newtonma.gov

- Project goals: install new snow making and irrigation infrastructure.
- Project activities include:
 - demolition/removal of a masonry irrigation pump house and intake structure,
 - dredging of the manmade lagoon,
 - installation of a new pump house building,
 - installation of new water lines and electrical conduit, and
 - associated tree and understory vegetation removal.
- Presentation (April Doroski and Matt Wzorek) and Discussion:
 - The applicant's representatives provided some background of the site and that the proposed changes are needed as existing systems are failing or are undersized.
 - It was clarified that the existing pump house system is split between Newton (irrigation) and Weston (snow making) and a main goal of the project is to combine the two existing pump houses into one for both systems.
 - The revised plans are going to focus on saving trees that were originally proposed to be removed.
 - Rough updated numbers for plantings were provided of 25 saplings and 30 shrubs.
 - The applicant emphasized that the existing systems are not working for the golf course both from a maintenance perspective and in meeting the need.
 - Staff stated that points of access for dredging the lagoon in the field that will be on the revised plan, and that access from this side does provide the best option in terms of wetland disturbance and the number of mature trees.
- Staff Notes:
 - **Overall**
 - The applicant claims that this is "water-dependent project" and so could qualify for Limited Project status. Staff feel that irrigation is not "water-dependent" as intended by DEP.
 - Staff recommended using erosion controls only where erosion control is necessary, not to define limits of work areas.
 - Staff asked that all infrastructure be shown on one page (i.e., that proposed electrical infrastructure be overlaid with the proposed water infrastructure to ensure that there won't be conflicts with one another, with existing trees, or with proposed trees).
 - Staff asked that all potentially impacted trees be survey located and identified (species and size) on the plans to clarify potential conflicts and necessary protection.
 - The applicant must clarify what lighting changes are being proposed in (or affecting) Newton and they should demonstrate minimal spill of light into natural wetland areas.
 - Top of Bank and BVW flags must be refreshed to allow staff to confirm the wetland boundaries.
 - Locations of the proposed pump house and irrigation lines should be flagged in the field to allow staff to assess the practicality of the application. (Note: Work in Riverfront must be executed in the least damaging manner, so if less intrusive alternatives exist, they must be considered or adopted.)
 - Individual trees should be shown on the plan in the area of proposed work and planting to ensure that disturbance to trunks and roots will be minimized and to ensure that plantings will be appropriately placed.
 - The applicant must provide a more complete stormwater checklist and report to satisfy DEP requirements.
 - The applicant must insert the appropriate Turf Reinforcement Mat detail and delete the erroneous Erosion Control Blanket detail.
 - The mitigation planting plan of 2 saplings for each 1 mature tree cut is very weak. The proposed cutting is of 234 caliper inches.
 - **BLSF**
 - The applicant indicates that the 100-year flood elevation is at 42' NAVD88. The FEMA Flood Profiles, however, indicate that it is at 39.5'. Plans should be clarified with the addition of a datum (is it NAVD88?) and the BLSF line should be adjusted if appropriate.
 - Cut and fill numbers will need to be entirely reworked.
 - Cut and fill numbers must be balanced (and overcompensated for, according to the ConCom's policy) at every foot of elevation.
 - Clarity must be given on whether the storage shed near the weir and bridge is going to be removed as part of this project.
 - The applicant asked whether excess compensatory storage volume could be "banked" for future projects. Staff indicated that she felt that would not be appropriate because of each project needing to be

considered on its own merits, the City's policy requiring excess capacity be generated, and the need to increase flood storage as much as possible in the face of climate change.

o **Land Under Water**

- The applicant should clarify the total area of the lagoon and the total area of dredging. Both 2900 sf and 4530 sf are used in the application.

o **Bank**

- Currently the banks of the lagoon are fully vegetated and stable. The applicant should clarify whether (and how) every effort will be made to protect the banks of the lagoon during dredging. The details indicate bank restoration with fill and willow whips in the event of disturbance.

o **Riverfront Area**

- The applicants claim that the wildlife habitat value in the proposed work areas is limited because of the golf course features, was refuted by staff, since most of the work is proposed within mature tree canopy and fully vegetated areas.
 - Staff questioned the stated reason for such extensive tree removal (protection of the pump house). Proactive cutting of huge native trees because of their proximity to a pump house is not warranted under the Act.
 - The proposal calls for 234 caliper inches of mature oaks and maples to be removed and only 20 4-6 foot tall saplings to be planted. That seemed to staff wholly inadequate.
 - On the site visit, staff noted several areas where enhanced mitigation planting of trees and shrubs could occur. The applicant agreed to enhance the mitigation planting plan.
 - It appeared to staff, that the location of the proposed pump house and new irrigation lines could be modified to reduce the proposed removal of mature trees. Staff asked the applicant to revise the plans.
 - It appeared to staff that access for dredging the lagoon could be better achieved from the western side of the lagoon, with less damage to trees along the bank. Staff asked the applicant to revise the plans showing the new access routes and appropriate protections (such as plywood to protect tree roots).
- o Vote: To continue the hearing to 11/19/20 allow the applicant time to submit revised plans, due by 11/5/20 and to schedule another site visit with Conservation staff. [Motion: Leigh Gilligan; Second: Ellen Katz; Roll-call vote: Gilligan (aye), Lunin (aye); Green (abstain), Zabel (aye), Hepburn (aye), Cade (aye), Katz (aye). Vote 6:0:1]

3. 93 Andrew Street – COC – addition to SFH – DEP File #239-546

- o Owner/Applicant: Karim Favakeh Representative: none
- o Request: Issue COC.
- o Jurisdiction: Buffer Zone, Riverfront Area, BLSF, City Floodplain
- o Discussion: Staff site visit on 10/14/20 confirmed compliance; all required paperwork has been received.
- o Vote: To issue a complete Certificate of Compliance. [Motion: Dan Green; Second: Leigh Gilligan; Roll-call vote: Gilligan (aye), Lunin (aye); Green (aye), Zabel (aye), Hepburn (aye), Cade (aye), Katz (aye). Vote 7:0:0]

4. Discussion of Unrestricted Flow in Flood Zone

- o Issue: Continued consideration of regulating construction in flood zone, using recent examples in the Upland Ave area.
- o Discussion:
 - After the last meeting, staff did some more research and spoke at length with the owner of 116 Upland Ave.
 - In the cut and fill calculations, the plans for 116 Upland showed “deck screening” of 7.6 cubic feet. The architectural plans presented to ISD showed horizontal skirting. It was always anticipated by the owner. Staff did not take note of that component of the plan (and its potential conflict with unrestricted flow) and so did not bring the issue up as a concern. The issue was never directly discussed or addressed by the applicant, staff, or the Commission, except in the condition of “shall not enclose”.
 - o Consensus: Commissioners agreed that the condition was clear and that a plan revising the existing skirting to meet the current guidelines must be proposed, per the decision at the 10/8/20 meeting, to the Commission no later than the 12/8/20 meeting.
 - The replacement fence at 29 Brierfield was approved administratively with the condition that it be elevated 4-6 inches from the ground. A staff site visit verified that the fence was installed appropriately above the owners’ ground level as, per the condition in the Admin Approval. The land surface, however, appears to be a bit elevated on the 116 Upland Ave side of the fence (due to mulch and soil associated with the row of Arborvitaes), so the flow of flood water may be somewhat restricted.
 - o Consensus: Commissioners agreed that this fence is in compliance with the approval.
 - The approved plans for 170 Upland indicated that the new house foundation and its deck pillars would not exceed the prior existing fill in floodplain. The decks, however, have been enclosed with solid skirting, effectively adding to

the volume of the house in flood zone. The approved plans do not appear to show skirting on the plans or in the cut and fill calculations. The conditions did not directly prohibit deck skirting. The fence that was shown on the approved plans is a solid panel fence that contacts the ground in many places. There were no conditions requiring elevation of the fence. The Commission's flood zone construction guidelines were not in place at the time.

- Consensus: Commissioners agreed that staff should reach out to make the homeowner aware that the skirting on the all three porches must be removed or revised to fit the guidelines prior to the issuance of a Certificate of Compliance.

5. Consideration of a New Standard "Finding" in the Commission's OOC Template

○ Discussion:

- Staff were interest was in addressing Commission concerns about applicants seeking modifications to recent/current projects that increase impacts to wetlands or buffer zones, also referred to as "creep," through better documentation of the reasoning behind its decisions.
- Leigh Gilligan researched DEP's OOC amendment policy and considered the matter.
- Gilligan recommends forgoing the use of a standard finding in favor of a case-by-case approach and, when necessary, use of DEP's policy language.
- Gilligan notes that "an applicant can always ask us to amend an OOC under the DEP policy and our response is completely within our discretion." And "we should not be allowing increase to impacts via amendment in any event."

- Consensus: A new finding is not appropriate at this time.

II. CONSERVATION AREA DECISIONS

6. Posting Land Use Regulations at Trail Heads

○ Discussion:

- 6 years ago Jennifer Steel redesigned and replaced all ConCom trail head signs, removing the signs that recited all of the land use regulations, instead installing welcoming signs with: (1) trail maps, (2) "enjoy this nature reserve from dawn to dusk", (2) "leave no trace of your visit", (3) "dogs must be on leashes", & (4) "dog waste must be carried out".
- The uptick in use of Conservation parcels has brought more foot traffic and more bicycle traffic.
- Staff have installed temporary signs reminding people of the prohibition of bicycles on Conservation land, but since all the regulations are not posted, many residents have been surprised by the notion that bicycles are not allowed on Conservation land.
- Commissioners agreed that the old signs were far too wordy, but that adding regulations may be a good idea.

- Consensus: Staff will send along the old signs, the current signs, and a draft language for new signs and continue the discussion to a future Commission meeting.

7. Clarification of Prior Orienteering Discussion

- Staff notes: Confirm that it is ok with the ConCom to have the trails of Flowed Meadow displayed on an Auburndale Park orienteering course map. All orienteering markers will be located within Auburndale Park. Note: PRC staff will be coming to the 12/10/20 ConCom meeting with draft map of a proposed orienteering course at Kennard Park and Kennard Conservation Area.

- Consensus: Commission confirmed that the trails at Flowed Meadow may be shown on the orienteering map for Auburndale Park, but no markers may be placed within Flowed Meadow.

III. ADMINISTRATIVE DECISIONS

8. Recruitment for Alternates

○ Staff Notes:

- The Commission does not currently have an alternate member. Alternate is the customary pathway for a new person to "learn the ropes" prior to being appointed as a full voting member. Application to the ConCom is always available on-line to residents, but we haven't had any applications in quite some time. At Steel's request, the Mayor's office will advertise the opening to a variety of community organizations that represent diverse demographics. Commissioners should also suggest names of possible candidates.
- The current ordinance defining the Conservation Commission states that: "(b) There shall also be four (4) alternate members appointed by the mayor with approval by the board of Aldermen". Staff wonder whether the Commission would like to submit a proposed Ordinance change to: "(b) There may also be up to four (4) alternate members appointed by the mayor with approval by the City Council", or "There shall also be one (1) alternate member ..." A Commission of 11 could be unwieldy.

- Vote: To change the ordinance language to “There may also be up to two (2) alternate members ...” [Motion: Judy Hepburn; Second: Jeff Zabel; Roll-call vote: Gilligan (aye), Lunin (aye); Green (aye), Zabel (aye), Hepburn (aye), Cade (aye), Katz (aye). Vote 7:0:0]

9. Minutes of 10/8/20 to be approved

- Documents Presented: Draft minutes
- Vote: To accept the 10/8/20 minutes as edited. [Motion: Dan Green; Second: Susan Lunin; Roll-call vote: Gilligan (aye), Lunin (aye); Green (aye), Zabel (aye), Hepburn (aye), Cade (aye), Katz (aye). Vote 7:0:0]

IV. ISSUES AROUND TOWN DECISIONS – None at this point in time.

UPDATES

V. WETLANDS UPDATES

- Bullough’s Pond Skating Shed Violation: PRC staff are due to provide the Conservation Office with a revised restoration planting plan for the area around the unpermitted wall by 10/22/20.

VI. CONSERVATION AREA UPDATES

- Houghton Garden – Phragmites: Solitude treated the patch last week.
- Dolan Pond: The trail from Cumberland Road to the boardwalk has been regraded and resurfaced to increase accessibility.

VII. ISSUES AROUND TOWN UPDATES

- OSRP approval: Staff still await final state approval. DCS said that our submittal coincided with their busy season, so responses have been delayed.
- Christina Street Bridge Feasibility Study: Staff are working with DCR to finalize all requisite paperwork and with City staff to finalize the scope of services. Once all DCR permits have been received the scope will be sent out for estimates. The next step will be to secure the required MBTA access license.
- DCR Lower Falls shared-use trail vision plan: Staff submitted comments on behalf of the City.
- DCR Quinobequin road and trail improvement alternatives analysis: Staff submitted comments on behalf of the City.
- Climate Action rolls along! Website coordination with Green Newton is active, the Energy Coach position has been posted, solar installations continue, BlueBikes are here, EV chargers are being installed, zoning changes are under discussion, etc.!
- Stormwater Ordinance: A new draft is being developed for internal review.

VIII. ADMINISTRATIVE UPDATES

- Office Move: The Conservation Office (and the rest of the Planning Department) has moved to the second floor of City Hall. Staff can now be found within the Inspectional Services Department and our assistance can be requested by the public at the Inspectional Services counter.
 - Interns: Staff working to advertise for a part-time college co-op position to assist with office and field work.
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OTHER TOPICS NOT REASONABLY ANTICIPATED BY THE CHAIR 48 HOURS BEFORE THE MEETING

10. Naming of the Old Deer Park Trail

- Discussion: Staff wanted to be sure that a trail name was voted on in open session. Commissioners felt that the “Ira Wallach Trail” was the most appropriate. Dan will look at metal plaque marker options for the trail and will reach out to the Mayor about the Certificate of Service.
 - Consensus: To name the newly created trail within the Old Deer Park, the “Ira Wallach Trail.”
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ADJOURN

- 9:50pm [Motion: Dan Green; Second: Susan Lunin; Roll-call vote: Gilligan (aye), Lunin (aye); Green (aye), Zabel (aye), Hepburn (aye), Cade (aye), Katz (aye). Vote 7:0:0]
-