

# CONSERVATION COMMISSION MINUTES

Date: April 1, 2021

Time: 7:00pm – 10:49pm

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

<https://us02web.zoom.us/j/83200507162>

**With a quorum present**, the meeting opened at 7:00pm with Dan Green presiding as Chair.

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

**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. Marty Sender Path in Auburndale Park - presentation

- **Owner/Presenter:** Luis Perez Demorizi, Newton Parks, Recreation and Culture (PRC)
- **Request:** Determine if work as proposed falls under Generic OOC.
- **Documents Presented:** Aerial Overview
- **Project Summary**
  - ~1250' of pathway improvements trail to comply with ADA requirements.
    - Remove existing surface (~3" of stone dust and fill) and resurface ~1185' of existing with ~3" of stabilized stone dust (863' in RFA only; 322' is in RFA and FZ)
    - Construct 65' new path to connect trails near bathroom building (RFA and FZ).
    - Surface 4 overlook trails with stabilized stone dust to allow for accessibility (RFA only)
    - Install 1 new donated bench
  - Applicant is proposing to remove an excess of existing trail material to ensure that there will be no net fill in Flood Zone.
  - Applicant is proposing to install staked straw wattles between the Charles River and the path alignment/overlooks for erosion control.
- **Jurisdiction:**
  - All work is within RFA.
  - Some work is also within Buffer Zone to Bank and Flood Zone
- **NOTE: relevant Generic Trails OOC thresholds**
  - SECTION I. Work to be allowed under a generic Order of Conditions without further notification to the Commission
    - Routine maintenance of existing trails and access roads. Routine maintenance of trails and access roads is defined as work on the existing treadway/surface, the airspace above the treadway/surface, and vegetation control within 2 feet of the treadway/surface. Routine maintenance includes:
      - Improving (with woodchips, stone dust, or gravel) or widening the treadway/surface of an existing trail/access road
  - SECTION II. Work which requires notification to and Administrative Approval by the Commission or Conservation Office, but which may not require a separate new Notice of Intent filing.
    - Creating or re-routing a trail
- **Presentation (Luis Perez Demorizi) and Discussion:**
  - PRC staff provided an overview of the area and of the multiphase improvement project for both Auburndale Park and Lyons Field trails. The overall goal of Phase I of this work, which is being discussed tonight, is to create an accessible path and overlooks from the "bath house" south to "the main intersection". The main goals of Phase II will be to create an accessible path and address drainage issues closer to Lyons Field.
  - Conservation staff stated that with the project as described and with the proper documentation of the cut/fill work



**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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in the flood zone, the project does uphold the interests of the Act and fall within the thresholds of the Generic Trails OOC.

- Commissioners asked for clarification on where the new bench is being proposed. PRC staff stated that the new bench will go in the longest of the 4 overlook loops.
- Commissioners asked about how the trail work will impact tree roots, as they are quite dense in this area. PRC staff stated that they have been and will be working very closely with the Newton City Forester to ensure that there is minimal impact to the surrounding trees. Conservation staff added that the work may actually serve to better protect the tree roots by providing further cover on top of the root systems.
- Commissioners asked if there was a preferred time of year for the work to occur to ensure limited impact on wildlife. Conservation staff stated that due to the high foot traffic and the compact trails, there will be little added impact. PRC staff stated that the preferred temperatures for setting the stabilized stone dust and the cessation of summer camps would require work to occur in late August/early September, and that work would take 1-2 weeks.
- Commissioners asked how the stabilized stone dust would hold up in the flood zone. PRC staff clarified that there are additives to bind the stone dust into an erosion-resistant surface. The trail on the adjacent DCR parcel closer to Waltham is surfaced with the same material. Commissioners who live in the area stated that they have never actually seen flooding in this section of trails.
- Vote: That the proposed work qualifies under Generic Trails OOC for approval without a Notice of Intent. Staff will issue a project memo to PRC staff. [Motion: Kathy Cade; Second: Leigh Gilligan; Roll-call vote: Green (aye), Lunin (aye), Hepburn (aye), Zabel (aye), Cade (aye), Katz (aye), Gilligan (aye); Vote 7:0:0]

**2. 28-30 Riverdale Avenue – cont'd NOI – renovate existing structure, construct new building and centralized parking – DEP File #239-887**

- Owner/Applicant: 28-30 Riverdale Ave LLC Representatives: Lar Greene, McCarty Engineering, Brian Marchetti McCarty Engineering, Teresa Jones, Owner Representative, and Miriam Tuckman, Owner's Project Manager
- Request: Issue OOC.
- Documents Presented: Colored plans, site photos, draft OOC
- Jurisdiction: Buffer Zone, Riverfront Area, BLSF, City Floodplain
- Project Summary
  - Demolish existing house and detached garage. Remove storage bins and covered stockpile areas. Existing commercial building to remain.
  - Renovate existing commercial building, construct new contractor building along northerly property line, create centralized parking area, install stormwater management, install plantings.
  - Proposed stormwater management system is designed to capture both roof runoff and parking lot runoff through direct connections to underground infiltration chambers and through a foundation drain (around the new building) that overflows into the chambers.
  - Remove 4 trees along the eastern property boundary.
  - Plant within wetland jurisdiction: 10 saplings, 20 shrubs, and 3 perennial grasses.
- Presentation (Lar Greene, Brian Marchetti, Teresa Jones, Miriam Tuckman) and Discussion:
  - The applicant's representatives provided an overview of the site, currently used as a contractor yard, and the proposed redevelopment work.
  - Staff raised concerns about the limited location of the erosion controls in the northeast corner of the site. The applicant's representative stated that they would be happy to extend the ESC and would send revised plans showing that.
  - Commissioners asked if the proposed pea stone trench was to be mounded. The applicant's representative stated that it will be level with or slightly depressed from the parking lot level to accept surface runoff. The applicant's representative clarified for the Commission that almost all drainage will be entering the infiltration chambers below the parking lot. Only a small triangle of the lot, in the northeast corner, will sheet flow off the site towards the planting area, but will hit the pea stone trench before exiting the site. Commissioners asked why that corner of lot could not be pitched to drain into the catch basins, to protect the resource area from vehicle fluid leakages. The applicant's representative stated that because of how shallow the chamber system is and how close that area is to the flood elevation, it was not possible to pitch the drainage that way. This area does drain to the pea stone trench prior to leaving the site.

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- Commissioners and staff asked if a 21E evaluations has been done on this site. The owner’s representative stated that when the owner purchased the property, they did a full Phase I evaluation of the site, that nothing reportable was found, and no remediation was required. Staff suggested that a condition should be included to detail how contaminated soil will be dealt with should it be found during work or during the test pit work required by Engineering to determine Estimated Seasonal High Groundwater (ESHGW).
- Staff are concerned that the proposed snow storage areas are not large enough and so snow is likely to be pushed onto the plantings along the northern property boundary and outside the illustrated snow storage strip to the west. The applicant’s representative stated that they would be willing to incorporate a clause into the site’s operation and maintenance plan to ensure that any volume of snow that exceeds the storage areas must be trucked off-site. Commissioner’s stated their concern about pushing snow onto the DCR land. Staff and the applicant’s representative clarified that there is a fence along the property line there and that the vegetated area is intended to serve as a buffer. Staff also stated that they had drafted a condition requiring signage along the various snow storage areas.
- There was some discussion about the ownership of the undeveloped portion of Riverdale Ave, and whether there is any planned use by the owners of 15 Riverdale for their 40B development. The owner’s representative stated that there was not shared ownership, as far as they were aware, and that they had offered to “open” the street to allow public access to the river. [Note: After the meeting, staff verified that there is 15 feet of proposed parking and snow storage for the 40B development into the 40-foot right-of-way.]
- A Commissioner noted that one of the proposed plant species was “*Spirea japonica*.” The applicant’s representative thought it may be a native cultivar, but will check when they are revising the plans and will swap the species out for a native spirea if it is not.
- Commissioners asked if the owner is planning to landscape any of the paper street, but the applicant’s representative confirmed that they are planning no landscaping work outside their property boundaries.
- Commissioners agreed with staff’s suggestion for an additional tree in the northeast planting area. The applicant’s representative stated that they want to ensure that a tree would not impact the pea stone trench, but they would put an additional tree back from the edge of the parking lot. This will be included on the revised plan.
- Vote: To close the hearing and issue an Order of Conditions with following special conditions once revised plans and a revised O&M plan.[Motion: Jeff Zabel; Second: Susan Lunin; Roll-call vote: Green (aye), Lunin (aye), Hepburn (aye), Zabel (aye), Cade (aye), Katz (aye), Gilligan (aye); Vote 7:0:0]
  - A concrete washout plan designed to limit and control any adverse on the wetlands resource area(s) must be presented to the Conservation Commission for review and approval.
  - Engineering comment: Additional test pits should be dug or a monitoring well should be placed in the area of the recharge system to determine if the water level rises during the wet season. The Conservation Commission must be given the results of the test pit and Engineering’s review to ensure that the drainage system has adequate separation from the estimated seasonal high groundwater (ESHGW).
  - Erosion controls must installed along the full extent of the western, northern, and eastern property boundaries.
  - Since the site is tight and construction is due to take place so close to the property boundaries, during construction erosion control shall be entrenched reinforced Super SiltFence or the equivalent. Since much of the site is paved, if at the beginning of the project, Super SiltFence cannot be entrenched, 12” compost sock may be installed as temporary erosion control.
  - If excavation proves necessary and dewatering is required, a dewatering plan designed to limit and control any adverse impacts on wetlands resource area(s) must be presented to the Conservation Commission for review and approval.
  - Prohibitions include:
    - Damage to the two trees in the northeastern corner of the property.
    - Stockpiling outside the property limits.
    - Dewatering directly to a wetland resource area
    - Allowing concrete washout to flow into a storm drain.
  - If contamination is discovered in the course of demolition, site work, or construction, contractors shall ensure compliance with the Massachusetts Contingency Plan including notification and remediation as necessary. The owner or the owner’s representatives shall immediately notify the Conservation Commission so that it may impose conditions necessary to protect the wetland resource area.

- 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)
  - Have a survival rate of 100 % of total number of trees (after 2 growing seasons)
  - Have a survival rate of 75 % of total number of shrubs (after 2 growing seasons)
  - Have a survival rate of 75 % aerial coverage of all other plants (after 2 growing seasons)
- If either of the two trees due to be protected 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).
- Compensatory flood storage must be provided in its entirety as per the approved plans and must be reflected in the as-built plans.
- The stormwater infiltration system must be installed as per the approved plans and must be reflected in the as-built plans.
- The City Engineer must inspect the infiltration system. The applicant must submit proof of inspection to the Cons. Office.
- Snow may not be stored within the planted bed along the northern property boundary or the central planted island. All snow removal contractors must be apprised of this condition and permanent signs so indicating shall be placed in each of these locations and reflected on the as-built plans.
- The approved Operations and Maintenance Plan (including snow management) is appended hereto and must be adhered to.
- Snow may not be stored within the planted bed along the northern property boundary or the central planted island.
- To protect wetland wildlife, exterior lighting 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

**3. 192 Concord Street – NOI – addition on a single-family home – DEP File #239-886**

- Owner/Applicant: Haim Senior and Nir Mamion, Concord Street Investments LLC Representative: John Rockwood, EcoTec, Inc.
- Request: Issue OOC.
- Documents Presented: Colored plans, site photos, draft OOC
- Jurisdiction: Riverfront Area
- Project Summary
  - Partial demolition of existing single-family home and 1-car garage.
  - Construction of additions onto single-family home (second story and horizontal expansion) to create a two-car garage and additional living space. The proposed increase in impervious area is 170 s.f.
  - Reconstruction of existing driveway and front walk.
  - Installation of stormwater management including a trench drain, manhole sump, and infiltration chambers.
  - Install tree protection for 2 trees
  - Install and bound a 450 s.f. mitigation area to include the existing 3 hemlocks and 28 shrubs.
  - No new tree removal is proposed, however, a 43” deciduous tree that was close to the property line (species unknown) was removed by neighbors a few months ago, prior to this application.
- Presentation (John Rockwood and Nir Mamion) and Discussion:

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- The applicant’s representative provided an overview of the site and the proposed work. Revised plans had been submitted that addressed staff comments about driveway expansion clarity and expanding the mitigation planting area.
  - The applicant and their representative stated that they did not intend or desire to remove the tree. The Commission determined that while the owner may have rights to pursue legal action against his neighbor for removal of the 43” tree with shared ownership, the Commission should not seek mitigation for the removal from the owner of this site, who did not have a say in the removal.
  - Staff suggested sending a letter to the neighbor who removed the 43” tree, but, since the neighbor is 80 years old, the tree was 172 feet from the River, and the tree was believed to be owned by the violator, the Commission decided the issue was moot.
  - The applicant’s representative clarified that the large yew in the proposed mitigation area will be removed, making room for the proposed native plantings.
  - The applicant’s representative stated that the orange snow fencing to be used for the protection of the two trees in the front lawn will also protect the hemlocks in the mitigation planting area.
  - Conservation staff stated that a sapling could be added to the planting plan to provide some variety and help make up for the loss of the 43” tree. The Commissioners agreed and the applicant’s representative stated that they would add a 2” sapling to the planting schedule of 28 shrubs.
  - The applicant’s representative clarified that stone bounds are proposed on the inner corners of planting area, since the outer corners are defined by the (marked) property boundary.
- Vote: To close the hearing and issue an Order of Conditions with the following special conditions. [Motion: Susan Lunin; Second: Judy Hepburn; Roll-call vote: Green (aye), Lunin (aye), Hepburn (aye), Zabel (aye), Cade (aye), Katz (aye), Gilligan (aye); Vote 7:0:0]
- A concrete washout plan designed to limit and control any adverse on the wetlands resource area(s) must be presented to the Conservation Commission for review and approval.
  - The applicant must schedule and attend a pre-construction site visit with the applicant, construction supervisor and Conservation agent.
  - One additional native sapling of 2 caliper inches shall be installed in or near the bounded mitigation area.
  - Landscape plantings within Commission jurisdiction must:
    - a. Stabilize all exposed areas
    - b. Be installed in compliance with the approved plans (desired changes must be approved in advance)
    - c. Have a survival rate of 100 % of total number of trees (after 2 growing seasons)
    - d. Have a survival rate of 75 % of total number of shrubs (after 2 growing seasons)
    - e. Mulch applications, if any, shall diminish over time and eventually cease as ground cover species and shrubs spread.
  - If either of the trees in the front yard shown as to be protected 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).
  - The required Riverfront restoration and/or mitigation area shall remain bounded and be maintained in perpetuity in its predominantly natural condition.
  - The approved Operations and Maintenance Plan is appended hereto and must be adhered to in perpetuity.

**4. 33 Staniford Street – Amendment Request – DEP File #239-876**

- Owner/Applicant: Zaid Ashai      Representatives: Andrew Gorman and Regan Andreola Beals and Thomas, Inc.
- Request: Issue an Amended OOC.
- Documents Presented: Colored plans, photos, draft AOO
- Jurisdiction: Buffer Zone
- Summary of Requested Changes:
  - The applicant is requesting a revised deck location, projecting further into the buffer zone, but with no change to the overall footprint of the deck (600s.f.). Two alternate deck locations have been proposed for the Commission to consider.
  - The applicant is requesting permission to use helical piles for the footings rather than sonotubes.
  - The applicant is requesting the addition of stone stairs from the lawn edge down the slope to the restored area below.

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- The applicant is requesting the installation of a concrete block seat wall, on a base of crushed stone, within existing lawn, to match the existing patio area.
- The applicant is proposing additional plantings to mitigate for changed location, stairs, and wall. The total planting plan now includes: 4 trees, 9 small trees/large shrubs, 41 shrubs, 150 ferns, and seed mix. (originally approved were 4 trees, 4 small trees/large shrubs, 4 shrubs, and seed mix).
- All invasive species removal approved is still proposed.
- Presentation (Andrew Gorman and Regan Andreola) and Discussion:
  - The applicant’s representatives provided a summary of the requested amendment, explaining that the originally approved deck location did not meet the intent of the owners to have an observation deck that extended out over the slope.
  - The applicant’s representative stated that they are intending to switch from sonotube footings to helical piers, for less disturbance and quicker installation.
  - The applicant’s representative detailed that the stone steppers are due to be installed to allow the owners access to the planting area for maintenance. As there is a moderate amount of debris to be removed from the area where the stone steppers fall, and the steppers will provide some measure of stabilization.
  - Staff provided some background on the previous restoration plantings that were required under the enforcement action in 2002 and that were approved under the original OOC in 2020.
  - Staff asked for clarification on how the Norway maple saplings are proposed to be removed and if grubbing is proposed. The applicant’s representative stated that they were not planning on grubbing and had not yet considered chemical removal tactics. The Commission stated that they would be open to a cut and paint method for removal to address potential stump sprout. The applicant will explore this option. All herbicide work would be performed by a licensed applicator.
- Vote: To close the hearing and issue an Amended Order of Conditions with the following additional special conditions. [Motion: Jeff Zabel; Second: Susan Lunin; Roll-call vote: Green (aye), Lunin (aye), Hepburn (aye), Zabel (aye), Cade (aye), Katz (aye), Gilligan (aye); Vote 7:0:0]
  - Removal of invasive saplings may be undertaken as part of the slope re-naturalization and planting effort. A “cut and paint” with herbicide technique may be employed.
  - Slope restoration must be executed as per the approved plans.
    - a. Soil amendments may be necessary and are encouraged and approved.
    - b. Loam shall be protected with appropriately pinned jute matting as detailed in the plans.
    - c. If necessary/desired, organic leaf litter mulch may be applied around approved plantings to minimize competition from weed and invasive species.
  - Landscape plantings within Commission jurisdiction must:
    - a. Be installed in compliance with the revised approved plans (desired changes must be approved by the Conservation office in advance).
    - b. Have a survival rate of 100% of total number of trees (after 2 growing seasons).
    - c. Have a survival rate of 75% of total number of shrubs (after 2 growing seasons).
    - d. Have 75% survival/aerial coverage of the fern area.
    - e. Have 75% survival/aerial coverage of the fescue area.

**5. 73 Beaconwood Road – Enforcement – removal of trees without appropriate pre-construction requirements met – DEP File #239-791**

- Owner/Applicant: Matthew Haney, PZ Realty Second Owner: Dante Capasso for Capasso Realty Trust  
Representative: none
- Request: Ratify Enforcement Order issued by staff on 3/25/21
- Documents Presented: Site plans, site photos, EO for ratification
- Jurisdiction: Buffer Zone
- Violation Summary
  - Removal of 4 trees (cutting 3 and clean-up of 1 fallen tree) totaling 84 caliper inches prior to: the required pre-construction site visit, proper demarcation of property lines between 77 and 73 Beaconwood, and proper erosion control installation. (see Condition 21)
  - Failure to install tree protections around the 1 street tree within jurisdiction. (Condition 23)

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- Presentation (Conservation Staff, Dante Capasso, and Matthew Haney) and Discussion:
  - Conservation staff summarized the events that lead to the issuance of the Enforcement Order.
    - On March 16, 2021, the Conservation Office received a phone call about grading work occurring on 73 Beaconwood Road. This was in advance of any pre-construction site visit, but all work was determined to be outside the 100-foot buffer zone line and within the bounds of 73 Beaconwood Road, so no Enforcement action was taken.
    - Stern admonitions were given to Mr. Haney that prior to any further activity on 73 Beaconwood Road or 77 Beaconwood Road, the 100-foot buffer zone line was to be demarcated with silt fence and the buffer zone and 77 Beaconwood Road were to remain untouched until the OOC conditions had been met.
      - Note: A stop work order was issued for this lot by the Inspectional Services Department at this time as well.
    - On March 24, 2021, the Conservation Office received a phone call about tree cutting on site. A site visit revealed that tree cutting had occurred and clean-up was continuing. Said tree cutting was within the 100-foot buffer zone, said work was predominantly on 77 Beaconwood Road, and the street tree shown on the approved plans as to be protected lacked any protection. At this time:
      - no preconstruction site visit had occurred,
      - there was no indication that permission had been granted by Mr. Capasso for tree removal on his property,
      - there was no demarcation of property lines in the field,
      - there was no erosion control along the 100-foot buffer zone line,
      - there was no tree protection in place, and
      - ISD had not lifted the stop work order.
    - Staff issued an Enforcement Order to cease and desist all work on both properties on 3/25/21. This EO required the applicant, Matthew Haney, to:
      - Demarcate property lines of 73 Beaconwood Road.
      - Install erosion controls along the 100-foot buffer zone line to protect wetland jurisdiction until work within wetland jurisdiction has been authorized to begin.
      - Install tree protection on the street tree.
      - Request permission in writing of Mr. Capasso to install restoration plantings in the area of the violation (which falls on 77 Beaconwood), as shown on the approved plans, on or before June 15, 2021, with the Conservation Commission cc'd on said request. Said restoration shall be installed on or before June 15, 2021 if Mr. Capasso grants permission to do so, otherwise, said restoration shall occur prior to the expiration of the OOC.
  - Dante Capasso stated that he was not aware of the tree cutting and did not issue permission for the removal of trees on Capasso property. He is fine with the culvert being removed from the plans/project as long as such removal does not negatively affect Capasso property. Dante Capasso stated that he has no vested interest in being a part of a project with Mr. Haney and would be happy to remove himself from the OOC if that were possible. Staff noted that since work has begun, the project (with Mr. Capasso as co-petitioner) can't be closed out as "never initiated" or as "complete".
  - Matthew Haney provided his summary of the events that lead up to the Enforcement Order. He stated that he dumped 30 cubic yards of gravel on his property outside the Buffer Zone. He stated that he had a tree permit. He stated that he just had the property surveyed and that survey indicated that 3 of the 4 cut trees were on 73 Beaconwood and not 77 Beaconwood; the only tree on 77 Beaconwood was the dead 18" tree, shown on the plans. He said that approved survey plans only showed the canopies, not the trunks. Matthew Haney stated that the trees that were removed were all dead or hazards and therefore cutting them should not be a problem.
  - The Commissioners asked that the property boundary issue regarding the trees be resolved by a licensed surveyor re-staking the lines and providing a stamped plan showing the tree trunk/stump locations. Matthew Haney stated that as soon as the surveyor returns, he will perform a new site survey and create a stamped plan. Dante Capasso requested that all shared property boundaries be confirmed.
  - The Commissioners stated that what is needed to move forward (and what will be required by an amended ratified Enforcement Order. is:
    - a stamped survey plan of the project site that confirms property boundaries,
    - staking of property lines and the 100-foot buffer zone in the field,

- installation of proper erosion controls along the 100-foot buffer zone line,
- determination of whether trees were cut on 77 Beaconwood Road, and a mutually agreed upon for a mitigation planting plan if they were, and
- a pre-construction site visit with all parties present.
- Staff expressed a concern that Matthew Haney does not intend to move forward with the project as it is currently designed, approved, and conditioned. The Commissioners asked for clarification on why the culvert was proposed and staff provided background on why the culvert was conditioned in the original project.
- The Commissioners stated that removing the culvert from the project, therefore removing the involvement from the 77 Beaconwood owner, would require either an amendment or a new filing.
- Matthew Haney stated that he would like the OOC to be voided, but staff stated that because work has been initiated (demo and tree cutting), it cannot be closed out as “work never initiated” or as “complete”.
- The Commissioners stated that it seems that this project is not going to move forward in as originally approved and that the onus is on Mr. Haney to determine how he wants to move forward.
- The Commissioners asked staff if the tree cutting could be addressed purely through the Enforcement Order, allowing them to close out the old OOC as “never initiated” and wait for a new RDA or NOI application for work in the Commission’s jurisdiction.
- The Commission and staff discussed how, if 77 Beaconwood land were no longer available for mitigation, a project on 73 Beaconwood would be received. It was determined that no such a determination (and no work) can occur until the Commission receives a new application.
- Staff feel that it is unfair to allow the drive at 77 Beaconwood to remain in its current denuded state. The Commission agreed that remediation of this area is necessary and, if the survey indicates that tree cutting occurred on 77 Beaconwood, mitigation plantings will be required promptly.
- The Commission stated that the Enforcement Order will remain in effect until the property(ies) on which tree cutting occurred can be clarified and appropriate mitigation can be determined.
- Staff commented that, to ensure no adverse impact on their property and that any tree cutting on their property is mitigated, the Capasso team should remain involved in all discussions until the EO has been lifted and a new project has been approved by the Commission.
- Matthew Haney stated that he is happy to submit a new filing and is anticipating submitting an RDA as the new filing. The Commission stated that he is welcome to file what he wishes, but the old Order will remain in effect until a new filing is received and that the Commission may require an NOI.
- Staff expressed concerns about accepting an application with an open Enforcement Order and an open OOC, and the Commissioners stated that we cannot prevent the submission of an application but that no application will be accepted until the EO has been closed out and a path to a solution identified.
- The Commission and the applicant determined that the stamped surveyed plans (confirming the tree cutting locations, showing the edge of the gravel line, and showing topography to determine if any of the dumped gravel is in the buffer zone), must be submitted for the 5/13/21 meeting, the materials deadline for which is 4/27/21.
- Matthew Haney stated that the Commission could not require things be surveyed outside of the Commission’s jurisdiction. Staff asked for clarification from Commissioner Gilligan. She stated that unless the Commission has reason to believe the fill had an impact on the wetland resource area, it cannot require survey beyond the bounds of wetland jurisdiction.
- Matthew Haney stated that 30 cubic yards of gravel were brought in; the Commissioners stated that they would like to see invoicing to confirm that.
- Staff summarized the requirements of the Commission:
  - A new stamped, dated, surveyed plan must be submitted by noon on 4/27/21 for the 5/13/21 meeting. That plan must show the following items.
    - Property lines
    - Tree locations – trunk or stump
    - Edge of gravel
    - Topography of any graveled area within the buffer zone
    - A mitigation planting plan for the tree removal, should it be determined the cutting occurred on 77 Beaconwood



- Erosion controls must be installed along the 100-foot buffer zone line
- Permission from the owners of 77 Beaconwood must be received for any work on 77 Beaconwood and will need to be submitted with required materials
- The Commissioners asked for clarification about the noted street tree protection.
- Public Comment
  - Alan Nogee, President of Friends of Cold Spring Park, noted concerns raised by neighbors about the placement of the fill in potential turtle nesting area. He also mentioned how the City's lining of the sewers impacted the groundwater level in the area and asked whether wetland lines may have changed as a result. The Chair clarified that the applicant must provide delineation information and that the Commission must ensure that proposed work will not adversely impact the adjacent resource area.
- Vote: To ratify and amend the Enforcement Order issued by Conservation staff on 3/25/21 with the following requirements. [Motion: Susan Lunin; Second: Judith Hepburn; Roll-call vote: Green (aye), Lunin (aye), Hepburn (aye), Zabel (aye), Cade (aye), Katz (aye), Gilligan (aye); Vote 7:0:0]
  - All work must remain stopped.
  - A stamped surveyed plan arranged and paid for Mr. Haney shall be submitted to the Newton Conservation Commission by both applicants on or before noon on April 27, 2021. The following information must be clearly illustrated:
    - Property lines and current ownership
    - Trees and tree stumps
    - Topography and the line of recently installed gravel within the Buffer Zone
    - The Buffer Zone line
  - Additionally:
    - Sediment fence must be installed (and entrenched) along the Buffer Zone line in 73 Beaconwood Rd.
    - If any of the cut trees originated outside the 73 Beaconwood Road property, a mitigation planting plan must be submitted.

**6. 10 Cumberland Road – cont'd NOI – reconstruction of sunroom and garage with new deck on a single-family home – DEP File #239-884**

- Owner/Applicant: David Chao Representative: Scott Goddard, Goddard Consulting, LLC
- Request: Continue hearing to 4/22/21.
- Documents Presented: Colored plans, site photos, draft OOC
- Jurisdiction: Buffer Zone, City Floodplain (~45' NAVD88 or 52' CNVD)
- Project Summary
  - Reconstruct existing detached garage and sunroom on existing foundation/piers. No expansion of footprint.
  - Construct new screened-in porch at surface grade with a deck on top, accessible from the first floor, connected to the rear yard by a set of stairs.
- Discussion: Applicant has requested a continuation to the 4/22/21 meeting to finish plan revisions.
- Vote: To continue the hearing to the 4/22/21 Conservation Commission meeting. [Motion: Ellen Katz; Second: Jeff Zabel; Roll-call vote: Green (aye), Lunin (aye), Hepburn (aye), Zabel (aye), Cade (aye), Katz (aye), Gilligan (aye); Vote 7:0:0]

**II. CONSERVATION AREA DECISIONS**

**7. Beekeeping on Conservation Land – Discussion with Current Beekeepers**

- Landowner: Conservation Commission
- Documents Presented: memo from Mark Lewis, Mark Lewis's license, David Reilly's license, photos.
- Presentation (Mark Lewis) and Discussion:
  - Staff provided some brief background on the current situation, noting that we provided licenses to two beekeepers, Mark Lewis at the Old Deer Park, and David Reilly at Norumbega. David Reilly recently moved to Cape Cod and transferred his hives to Alla and Vasyl Ohorilko. Jennifer Steel failed to remember to ask the Ohorilkos to secure a new license.
  - Alla and Vasyl Ohorilko, beekeepers at Norumbega (residents of Needham) were not in attendance at this meeting.
    - Took over hives from David Reilly one year ago.
    - Currently have 4 surviving hives.
    - Need a new license under their names.

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The location of this meeting/event is wheelchair accessible and Reasonable Accommodations will be provided to persons with disabilities who require assistance. If you need a Reasonable Accommodation, please contact the city of Newton's ADA/Section 504 Coordinator, Jini Fairley, at least two business days in advance (2 weeks for ASL or CART) of the meeting/event: [ifairley@newtonma.gov](mailto:ifairley@newtonma.gov) or (617) 796-1253. The city's TTY/TDD direct line is: 617-796-1089. For the Telecommunications Relay Service (TRS), please dial 711.

- Mark Lewis, beekeeper at Old Deer Park (resident of Brookline) summarized his operations at the Old Deer Park
  - He had 2 hives that successfully overwintered.
  - The primary mission of the honeybee colonies at the Deer Park Apiary is to serve as nurse colonies for Classroom Hives, a non-profit dedicated to helping schools install and maintain observation hives, and develop related curriculum.
  - Schools Mark is currently supplying: Boston Green Academy (BPS), Fenway High (BPS), Mission Hill (BPS), Hingham High, Boston Nature Center (Mass Audubon), Emmanuel College.
  - Interested schools: Lee Academy Pilot School (BPS), Blackstone Elementary (BPS), Mozart Elementary (BPS), British International School (Brookline).
  - He provides hives for a school year: September 2 - November 30 and April 10 - June 30.
  - Another reason Mark wanted to place the hives in this location was to deter further graffiti and vandalism.
- The Commission asked for clarification on the number of outyards Mark has. Mark stated that is his only set of hives but that he does take care of some other hives for clients.
- Mark Lewis is requesting to be allowed to maintain 8 colonies at the current location. He needs to supply schools with hive, and he needs to temporarily store hives for schools over the summer. Commissioners asked if 6 colonies would be enough, and Mark stated that he would be willing to work with whatever the Commission would allow and that he could make 6 work for his program. He said that 2 would not be enough because there he needs redundancy in hive populations to be able to repopulate the observational hives for the schools. Mark guarantees the schools that they will have bees at certain times of the year. Commissioners stated that they would not be comfortable with more than 6.
- Commissioner Katz offered to speak off-line with Mark regarding possible bee donors (to allow Mark to continue his school program with fewer hives at Old Deer Park).
- Mark stated that he would like to renew his license to allow 6 hives, which the Commission feels is appropriate. The Commissioners feel that fewer nucleus bee colonies is better, and Mark stated that his nucs would be temporary (only a few weeks). He stated that he could feed the nucs so that there would be limited foraging. He has been trying to keep his hive numbers down and even refused an additional hive last season during the drought. He also noted that he is willing and eager to assist in other ways (research, installing native plants, etc.)
- Commissioners agreed that a license renewal would be for 6 hives for this “season” (April – August 2021), 6 hives will be maintained until July 2021.
- Staff will create a form to be used for a formal license request over the next few months for Mark and any other interested parties.
- Staff will reach out to the Ohorilkos and ask them to come to the next meeting.
- Public Comment:
  - Jay Werb stated that he feels, after hearing more about the proposal, that over the course of this coming year, a solution can be determined. He is concerned about a large number of hives. While the educational purpose may justify a larger number of hives, there is a concern about competition with native pollinators.
  - Alan Nogee referenced his 2-page summary and 8 pages of notes that he submitted to the Commission. He supports native planting but feels it won’t address the problem of competition (he stated that 1 acre of planting supports 1 hive or 100,000 native bees). He would like to see fewer hives on conservation land next spring (not next July). Ultimately, he would like to see zero hives on conservation land because of competition with native bees. Dr. Gegegar notes the ripple effect of the loss of native bees.
- Consensus: 6 hives can be maintained in the Old Deer Park, at their current location for the coming school season (i.e., through July 2021). A license renewal request must be submitted prior to July 2021. At that time, the Commission will ensure consistency with the new policy and will take a formal vote to determine the number of hives allowed under a new license agreement (starting July 2021).

## 8. Trailhead Signs

- Landowner: Conservation Commission
- Request: Vote on sample sign color palette.
- Documents Presented: Sample signs for Dolan Pond and Webster (east and west) Conservation Area
- Discussion: Commissioners felt that the sign colors were appropriate. They noted that the label at 300 Hammond Pond Park was incorrect and that the trails line type should be changed to look less crowded.

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- Consensus: To approve the proposed sign characteristics. [Motion: Susan Lunin; Second: Judith Hepburn; Roll-call vote: Green (aye), Lunin (aye), Hepburn (aye), Zabel (aye), Cade (aye), Katz (aye), Gilligan (aye); Vote 7:0:0]

### III. ADMINISTRATIVE DECISIONS

#### 9. Minutes of 3/11/21 to be approved

- Documents Presented: Draft 3/11/21 minutes
- Vote: To accept the 3/11/21 minutes. [Motion: Ellen Katz; Second: Kathy Cade; Roll-call vote: Green (aye), Lunin (aye), Hepburn (aye), Zabel (abstain), Cade (aye), Katz (aye), Gilligan (abstain); Vote 5:0:2]

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

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## UPDATES

### V. WETLANDS UPDATES

- 942-944 Watertown Street – Compliance Discussion -- DEP File #239-427. The owner's representative did not provide revised plans in time for this agenda. The matter should be continued to the April 22, 2021 agenda.
- Saco Street Condos: Staff met with condo trustees regarding the unpermitted tree cutting in Riverfront Area. Tree cutting within Riverfront Area was very limited. Trustees are aware of the boundaries and regulations. One tree that was considered a threat may have been cut without a permit. Jennifer will make a second site visit shortly.
- DCR will be submitting an aquatic weed control NOI for the Lower Charles River shortly

### VI. CONSERVATION AREA UPDATES

- Houghton tree cutting: Tree Tech will conduct the work when weather and ground conditions allow.
- Orienteering on Conservation land: Staff will provide an update from Channon Ames at the meeting once the event has happened.
- Upper Falls Riverwalk Stairs: Contract was never properly executed and so discussions with the anticipated contractor have ceased. We will be going back out to bid. Commissioner Katz noted that there may be an opportunity to raise funds for the project through the Friends of the Greenway.

### VII. ISSUES AROUND TOWN UPDATES

- Christina Street Bridge Feasibility Study: VHB will perform the feasibility study.
- Beekeeping in Newton: The Commission's (draft) beekeeping policy may help inform larger discussions about regulating beekeeping on private property in Newton.
- ACROSS trails ground-truthing effort update.

### VIII. ADMINISTRATIVE UPDATES

- MACC: The Annual Environmental Conference is coming April 6-17 in a similar virtual format to the Fall Conference.
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## OTHER TOPICS NOT REASONABLY ANTICIPATED BY THE CHAIR 48 HOURS BEFORE THE MEETING

### 10. PLPA

- Request: The Chair signs a letter in support of the new PLPA bill.
  - Discussion: This is an updated bill after the previous bill did not pass. The Commission voted to support the previous bill in 2019.
  - Consensus: The Chair has permission to sign a letter of support for the bill on behalf of the Commission.
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**ADJOURN** at 10:49pm [Motion: Judith Hepburn; Second: Ellen Katz; Roll-call vote: Green (aye), Lunin (aye), Hepburn (aye), Zabel (aye), Cade (aye), Katz (aye), Gilligan (aye); Vote 7:0:0]