

CONSERVATION COMMISSION MINUTES

Date: May 13, 2021

Time: 7:00pm – 10:39pm

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 Susan Lunin presiding as Chair, with Dan Green arriving at 7:01pm.

Members Present: Susan Lunin, Leigh Gilligan, Jeff Zabel, Judy Hepburn, Ellen Katz, and Kathy Cade (7:03).

Members Absent: none

Staff Present: Jennifer Steel and Claire Rundelli

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

1. (7:00) Congratulations – Ellen Katz has completed her Fundamentals Training for Conservation Commissioners through MACC!

DECISIONS

I. WETLANDS DECISIONS

2. (7:05) DRAFT Mitigation Planting Guidelines – initial review by the Commission

- Request: Staff ask that the Commission to consider guidelines to streamline discussions and ensure mitigation requirements are consistent and ecologically valuable.
- Documents Presented: DRAFT Mitigation Planting Guidelines
- Discussion
 - Staff presented the draft document and explained their intention is to: (1) provide guidance for applicants, some of whom do not have professional consultants, (2) reduce time spent during meetings discussing mitigation planting area details, (3) ensure that mitigation planting areas provide the most value for their size, (4) ensure predictability and consistency.
 - Commissioners asked if there were any examples of this in other communities. Staff said that they were not aware of similar documents in other municipalities.
 - There was some concern about labelling any aspect as a “requirement”; Commissioners preferred language such as “suggestion” or “recommendation.”
 - There was some concern about the term “equivalent” scenarios and that applicants may interpret such as chart as condoning limited tree replacement. Commissioners noted that certain removal scenarios may dictate certain replacement scenarios.
 - Commissioners stated that they would like to see this type of document as a starting point, recognizing that every site and every situation is unique and that some applicants might exceed a minimum threshold.
 - Commissioners requested a change to the use of the work “skinnier”, to be clearer.
 - Staff stated that Commission’s send edits to staff for compilation for the next meeting.
- Consensus: Staff will send out to the Commission the word version of the draft document for editing.

3. (7:15) Presentation – Connector Stairs at Norumbega – Eagle Scout Project

- Owners: City of Newton Applicant: Alex Morefield
- Request: Eagle Scout candidate Alex Morefield has completed his work at Norumbega Conservation Area and is looking for sign-off on his project.
- Documents Presented: PowerPoint presentation by Alex Morefield
- Jurisdiction: Buffer Zone, RFA
- Presentation (Alex Morefield) and Discussion:
 - The scout walked the Commission through the project and the challenges he faced in building the stairs.
 - Overall, the stairs provide a much-needed connection from the riverbank trail to the new trail along the restored slope (which is growing in nicely!).



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
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- The Commission congratulated the scout on his work and stated that it was a laudable effort.
- Some large tree roots prevented the Scout from installing steps at the very top and the very bottom, so he installed temporary stone dust connections and the Commission's annual maintenance contractor will construct stairs to connect at the top and bottom of the Scout's stairs.
- Vote: To allow Conservation staff sign-off on Alex Morefield's Eagle Scout Project. [Motion: Susan Lunin; Second: Jeff Zabel; Roll-call vote: Green (aye), Lunin (aye), Hepburn (aye), Zabel (aye), Cade (aye), Gilligan (aye), Katz (aye); Vote 7:0:0]

4. (7:30) 1897 Washington Street (Woodland Golf Club) – RDA – irrigation system replacement

- Owner/Applicant: Steve Kohr, Woodland Golf Club Representative: Brian Vinchesi, Irrigation Consulting, Inc.
- Request: Issue a negative DOA.
- Documents Presented: Colored plans, site photos, draft DOA
- Jurisdiction: Buffer Zone, City flood zone (but note, there are no changes to land cover or grade involved with this project).
- Project Summary
 - Installation of a replacement irrigation system for the entire golf course. All work within Commission jurisdiction will take place within maintained turf and all impacts will be short-term/temporary.
 - Three methods will be employed.
 - Directional drilling will be used to install a pipe under Runaway Brook. The boring machine will be set up away from the bank of the brook and the drilling will occur 3-5' below the bottom of Runaway Brook.
 - Main line pipe will be laid in cut trenches (remove sod, trench soil, install pipe, replace soil and sod)
 - Lateral lines will be pulled (via a small cut in sod to place pipe, and then the pipe is pulled through).
- Presentation (Brian Vinchesi and Steve Kohr) and Discussion:
 - The Applicant's representative provided an outline of the proposed work and anticipated impact on the buffer zone.
 - Commissioners asked about the potential for instituting low-mow or no-mow areas around the ponds or streams to better protect the wetland resource areas with a naturally vegetated buffer. The applicant had some concerns about changing the historic manicured look of the golf-course, but committed to reaching out to their site architect to see how some areas could be maintained with low-mow or no-mow routines.
 - Commissioners asked about the grass within the stream shown in the site photos. The applicant's representative stated that grass seed has taken within the stream.
 - Commissioners determined that they could issue a Determination with the condition that the applicant must coordinate with City staff to determine appropriate areas of low-mow/no-mow.
 - Commissioners assured the applicant that they are not looking to change the golf course dramatically, just to improve the health of the wetlands in any way possible. Commissioners agreed that initially focusing on one wetland resource area would be appropriate. The applicant stated that they would likely focus on the stream where the mainline boring is due to occur.
- Vote: To issue a negative 3 and a positive 6 determination with the following conditions. [Motion: Jeff Zabel; Second: Judy Hepburn; Roll-call vote: Green (aye), Lunin (aye), Hepburn (aye), Zabel (aye), Cade (aye), Gilligan (aye), Katz (aye); Vote 7:0:0]
 - Prior to the commencement of work, the applicant shall file with the Conservation Office a proposal that includes low-mow or no-mow areas, enhanced shrub plantings, and/or tree plantings to improve the ecological condition of one or more of the wetland resource areas and its/their buffer zones.
 - Notice shall be given to the Conservation Office 48 hours prior to the intent to initiate installation of the irrigation system.

5. (7:45) 330 Homer Street – NOI – Library parking lot improvements – DEP File #239-889

- Owner/Applicant: Lou Taverna, City of Newton Representative: Scott Turner, Environmental Partners
- Request: Issue an OOC.
- Documents Presented: Colored plans, site photos, draft OOC
- Jurisdiction: Buffer Zone to an intermittent stream
- Project Summary

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- Reconstruct parking lot to (accommodate solar canopies) add 21 new parking stalls for a total of 206 stalls and improve stormwater management. Significant enhancements are proposed for the site's stormwater management. There will be 0.25 acres of porous pavement. All proposed drainage connections are of perforated pipe to allow for some infiltration prior to discharge at a flared end pipe stabilized with rip rap directly adjacent to the stream/pool.
 - The overall project will result in a conversion of 0.25 acres of existing landscaped islands to asphalt, but much of that conversion is outside Commission jurisdiction and much of it is proposed to be mitigated by enhanced landscaping around the stream/pool.
 - Presentation (Lou Taverna and Scott Turner) and Discussion:
 - The applicant team presented a summary of the proposed work. Staff reminded the Commission that this application addresses only the parking lot redesign, stormwater improvements, and landscaping plans. The tree removal and replacement associated with the new solar canopies was addressed under OOC #239-870.
 - The applicant's representative described the stormwater system improvements proposed and the high number of proposed native enhancement plantings around the stream/pool area, which will increase slope stability and ecological diversity.
 - Earlier this week, staff had spoken with the project team about the posted staff comments. All comments were addressed.
 - Commissioners asked how run-off from the solar canopies would be handled by the stormwater systems. The applicant's representative stated that the water will run off the canopies into the parking lot and enter the stormwater system through the catch basins.
 - Commissioners asked about snow storage. The applicant team clarified that snow will be plowed to the western and southern edges of the lot. Excess snow will be trucked off-site to an approved snow storage facility.
 - The applicant team noted that the City's Public Works Commissioner is in the process of purchasing a vacuum sweeper to maintain the porous pavement. Commissioners asked if City of Newton staff have experience with this type of installation. There are a few other installations of porous pavement in the City and the acquisition of the sweeper will allow appropriate maintenance of all such facilities.
 - Staff asked the applicant team whether they had received DEP's comments on the filing.
 - “For Standard 5 (LUHPPL), the treatment train shall provide for at least 44% TSS removal prior to discharge to the infiltration BMP. In addition, when the LUHPPL has the potential to generate runoff with moderate to higher concentrations of oil and grease (e.g. all parking lots with >1000 vehicle trips per day) the treatment train should include an oil grit separator, a filtering bioretention area, a sand filter or equivalent. This should be met to the maximum extent practicable (MEP). Section 5.5 of the Stormwater Report for the project does not provide enough detail to determine if this checklist item was met to the MEP. The TSS Removal Calculation Worksheet shows total TSS removal as 85%, however, the infiltration trench receives 80% TSS removal when combined with pretreatment. The TSS Removal Calculation worksheet should be revised accordingly.”
- The applicant team confirmed that they had received the comments and gave the following responses.
- They feel they are meeting the standards to the maximum extent practicable (MEP).
 - The Library lot is a LUHPPL, but is not an industrial site.
 - Since no sand (only brine) is used for snow/ice management, there is little sediment to get in the system.
 - The applicant team feels that the proposed system in place is a big improvement and meets the letter and intent of the regulations, but they are willing to install Fabco filters on the catch basins to increase treatment. Taller hooded outlets could also be employed.
 - City staff agreed with the applicant team that this project meets the letter and intent of the law and felt that DEP comments reflected their desire for more detailed information regarding the MEP standard.
 - The applicant team will submit further information to DEP.
 - The applicant team noted that standard Stormceptor units could not be used because of high groundwater and the low profile of the drainage system.
 - Commissioners asked whether an OOC could be issued and these comments addressed after the fact. Staff had concerns about issuing this permit prior to the comments being addressed (since DEP could appeal such a decision). The applicant requested that these issues be addressed through conditions. Commissioners agreed that they feel the project does meet the standards but will condition that DEP comments must be addressed and if any plan changes are needed, they can be approved through a minor plan change or amendment
- Commissioners and staff felt that this project will provide a great improvement over existing conditions.

- Commissioners agreed with staff comments that some of the planting plans for the parking lot islands could be simplified to ease maintenance requirements. However, staff clarified that the project team, in a meeting with staff, stated that the planting plan is desired as this project is designed to be a **demonstration** project.
- Public Comment
 - Sonya McKnight – how will the brine solution affect the water entering the rain gardens?
 - The applicant team replied that the brine will not affect the rain gardens as the plant species chosen are salt tolerant
 - Joseph Porter – provided a suggestion to the applicant team that they include taller hood structures on the catch basins to allow for the oil and grease to be caught in a similar manner to the oil/grit separator.
- Vote: To close the hearing and issue an Order of Conditions with the following special conditions. [Motion: Jeff Zabel; Second: Susan Lunin; Roll-call vote: Green (aye), Lunin (aye), Hepburn (aye), Zabel (aye), Cade (aye), Gilligan (aye), Katz (aye); Vote 7:0:0]
 - The applicant shall work with Conservation staff (through an administratively approved Minor Plan Change, if appropriate) to ensure that any revisions to the Stormwater Checklist required by DEP are met. If more significant changes are required, the applicant shall come before the Conservation Commission for a Minor Plan Change or amended OOC.
 - A Stormwater Pollution Prevention Plan SWPPP must be submitted for review and approval by the Conservation Office at least 2 weeks prior to the start of work.
 - Appropriate dewatering protocols must be included in the SWPPP.
 - The applicant must schedule and attend a pre-construction site visit with the applicant, construction supervisor and Conservation agent.
 - Prohibitions include: damage to any of the mature trees around the stream/ponding area.
 - Stabilized driveway construction entrance(s) must be installed, maintained, and utilized when the site is unpaved. The applicant shall prevent tracking of mud and silt onto City streets.
 - The stormwater infiltration system must be installed as per the approved plans.
 - The City Engineer must inspect the porous pavement system, including inspection of the excavated area prior to installation. The applicant must submit proof of inspection to the Cons. Office.
 - 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 by the Conservation office in advance)
 - c. Have a survival rate of 75 % of total number of shrubs (after 2 growing seasons)
 - d. Have a survival rate of 75 % aerial coverage of all other plants (after 2 growing seasons)
 - e. Mulch applications, if any, shall diminish over time and eventually cease as ground cover species and shrubs spread.
 - If any trees within the wetland or buffer within the project 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).
 - The approved Operations and Maintenance Plan is appended hereto and must be adhered to and shall note that sand should not be used in areas surrounding and on the porous pavement.
 - The owner shall ensure that snow is not plowed into the vegetated islands or area surrounding stream/pool. Snow is to be stored to the south and west edges of the parking lot and any snow exceeding the volume of these areas will be removed from site.

6. (8:00) 17 Wayne Road – NOI – teardown/rebuild single-family home – DEP File #239-892

- Owner/Applicant: Jamie Ovadia Representative: Joyce Hastings, GLM Engineering Consultants, Inc.
- Request: Issue an OOC.
- Documents Presented: Colored plans, site photos, draft OOC
- Jurisdiction: Buffer Zone, Riverfront Area
- Project Summary
 - Demolish existing single-family home and associated site features.
 - Construct new single-family home, driveway, patios and stormwater management.

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- Total increase of impervious area within jurisdiction is 2,069 s.f.
- 2 trees will be removed from within RFA. (15" oak and multi-stem 15" cedar) due to conflict with the house.
- Proposed mitigation planting of 2075 s.f. includes 3 saplings, 35 shrubs, and 51 groundcover/perennial plantings. These are divided among 4 small, un-bounded planting areas.
- Discussion: The applicant team requested a continuation to the 6/3/21 Conservation Commission meeting to address staff comments.
- Vote: To continue the hearing to the 6/3/21 Conservation Commission. [Motion: Susan Lunin; Second: Leigh Gilligan; Roll-call vote: Green (aye), Lunin (aye), Hepburn (aye), Zabel (aye), Cade (aye), Gilligan (aye), Katz (aye); Vote 7:0:0]

7. (8:20) 58 Everett Street – NOI – teardown/rebuild single-family home – DEP File #239-891

- Owner/Applicant: Stefanos Efstratoudakis, Drachma Realty Trust Representatives: Joseph Porter, VTP Associates; John Rockwood, EcoTec, Inc.
- Request: Issue an OOC.
- Documents Presented: Colored plans, site photos, draft OOC
- Jurisdiction: Buffer Zone, Riverfront Area
- Project Summary
 - Demolish existing 1246 s.f. single-family home with associated site features and a 328 s.f. detached garage.
 - Construct new 2151 s.f. single-family home with associated site features, including an attached garage, driveway, grading, pool, patio, landscaping, and drainage.
 - Net increase in impervious area within jurisdiction is 171 s.f.
 - Install mitigation plantings within a 1200 s.f. area -- plantings include 6 saplings, 34 shrubs, 34 perennial/groundcover species.
- Presentation (John Rockwood, Joseph Porter (VTP Associates), and Stefanos Efstratoudakis) and Discussion:
 - The Chair noted that he lives in the same neighborhood as this property and knows the applicant through the Home Developers Association. He did not, however, feel that such connections warranted recusal. Others agreed.
 - The applicant's representative provided an overview of the site and the proposed work.
 - Staff asked if the representative and owner, of 1 year, knew when the driveway the driveway had been converted and expanded from California pavers (two strips of paving with gravel in between) to fully paved. The applicant's representative and owner did not know. Abutters could also not recall when the work had been done.
 - Staff provided a virtual site visit and noted the saplings on site and the mature trees on abutting properties, one of which would be at risk from the proposed retaining wall. The applicant's representative stated that that wall is due to be short and so have shallow footings (14-18"). The owner stated that that wall was proposed to preclude failure of the existing wooden retaining wall which was constructed to hold the neighbor's swimming pool, but noted that if the Commission wishes, the wall can stop short of the neighbor's tree so as to not threaten its health.
 - Commissioners brought up concerns about the larger curved retaining wall proposed to run through the rear yard and how it may impact wildlife access to Hammond Brook. The project engineer stated that the wall is a maximum of 3' tall and meets the grades naturally. John Rockwood noted that Hammond Brook is walled.
 - Staff expressed their concerns about the steep grading at the end of the larger curved retaining wall. The project engineer stated that they can revised the grading lines to soften the slope in that location.
 - The applicant's representative provided further detail about the mitigation area and how the vegetation along the property lines would need to be altered a bit; the three Norway maples in the rear corner are proposed to be limbed up to allow for more light into the planting area and the small trees along the west property line are due to be removed.
 - Staff and Commissioners requested to see a proposed layout planting plan. The applicant team said they would provide this.
 - Staff wanted to go on record and say that they questioned the completeness of the alternatives analysis given the expansion in hardscape. Commission asked if staff were referring to the patio and pool, which are technically exempt, and staff stated they were referring to the overall assessment, not its final conclusion. Staff clarified that they just wanted to have it on record that they felt the presentation of information was insufficient.
 - There was a great deal of discussion (see Public Comment section below) about stormwater and possible adverse effects on nearby properties.
 - Commissioners asked staff if the hearing should be continued to allow for revised plans to be submitted. The owner stated that he is prepared to send the planting layout plan and revised grading, but did not have clear direction

about how to address the concerns of runoff and flooding in the area. Staff and the project engineer clarified that the Commission would like the applicant to consider grading changes that would retain surface runoff. Staff suggested installing some kind of raised bed or swale along the front property boundary to reduce runoff leaving the lawn and entering Everett Street. The project engineer stated that this would be possible.

- Public Comment
 - Julian Goldman: Raised concerns about the impact of the development on the drainage and historic flooding issues in this area. They experienced significant flooding of their basement in 2010 and regularly experience street flooding with any heavy rainfall.
 - Commissioners clarified that City requires that there be no increase in runoff leaving the site.
 - The project engineer stated that there is currently no stormwater management on site and so the proposed development may actually improve the street flooding situation. They have graded the site to drain towards the brook/mitigation area and a driveway trench drain.
 - They clarified that they cannot do anything about the maintenance of the City's catch basins and stormwater pipes; and that 311 reports can be filed regarding the basins.
 - Julian clarified that he also has concerns about groundwater movement being disrupted. Staff clarified that the Wetlands Protection Act does not directly regulate groundwater.
 - The abutter asked that the Commission make an effort to follow up on the catch basin cleaning issue. Staff said they would.
 - Junko Ogawa: Stated that she lives at the lowest point in this neighborhood and has concerns about the street flooding and how in winter it freezes into dangerous conditions. She asked if the site is proposed to be "filled" to an elevation higher than the existing sidewalk. The applicant team stated that some of the front yard runoff and driveway runoff will be captured by the trench drain at the end of the driveway, and only minimal lawn runoff will enter the sidewalk and Everett Street. Staff and Commissioners noted that further efforts could be made to retain overland flow on site with, for example, berms, swales, or rain gardens.
 - Rick Kovalcik: Voiced concerns that stormwater water bypasses the catch basins since the repaving of Everett Street. He appreciates the improvements the project proposes.
 - Julian Goldman: Asked for further details about what will drain into the stream and whether infiltrating more water on site will exacerbate off-site groundwater problems (and the need for sump-pumps). Staff clarified that generally groundwater moves toward existing water bodies (in this case Hammond Brook) and so infiltration is not likely to significantly adversely impact groundwater on abutting lots.
- Vote: To continue the hearing to the 6/3/21 Conservation Commission to allow the applicant team to revise the grading around the retaining wall, shorten the retaining wall along the eastern property boundary to avoid tree conflicts, present a layout planting plan, complete revised stormwater calcs showing the runoff onto the street currently versus proposed, and to address concerns about yard runoff entering the sidewalk e.g., with a berm, swale, or rain garden. [Motion: Leigh Gilligan; Second: Jeff Zabel; Roll-call vote: Green (aye), Lunin (aye), Hepburn (aye), Zabel (aye), Cade (aye), Gilligan (aye), Katz (aye); Vote 7:0:0]

8. (8:50) 453-455 Albemarle Road – NOI – teardown/rebuild duplex – DEP File #239-890

- Owner/Applicant: Michael Saris, Albemarle Road Realty LLC Representative: John Rockwood, EcoTec, Inc.
- Request: Issue an OOC.
- Documents Presented: Colored plans, site photos, draft OOC
- Jurisdiction: Buffer Zone, Riverfront Area
- Project Summary
 - Demolish existing 1,417 s.f. two-family home and associated site features, including a 1,421 s.f. driveway.
 - Construct new 2,308 s.f. two-family home with associated site features, grading, drainage, and landscaping.
 - Net reduction in impervious area on the site is 209 s.f.
 - Remove 3 trees totaling 57 caliper inches. Relocate one street tree will be relocated to accommodate the new driveways.
 - Install 10 White Pine saplings and 2 River Birch saplings as mitigation for the tree removal; plant a new street tree.
 - Because this project results in a net reduction in impervious area on site, no bounded mitigation area is proposed.
- Presentation (John Rockwood) and Discussion:
 - Applicant's representative provided an overview of the site and proposed work.

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- Staff showed the Commission on a virtual site visit and pointed out the trees that they believe need protection during construction.
 - The applicant’s representative clarified that there is no “bounded Riverfront Area Mitigation Planting Area” required for this project, simply planting to mitigate for the removal of three mature trees. Staff noted that work in Riverfront Area is permitted at the discretion of the Conservation Commission, and that mitigation planting should be addressed by the Commission.
 - Staff brought up concerns about the proposed locations for the new saplings and asked if the applicant team would pull them forward to ensure survival/success. The applicant’s representative stated that they may be pulled forward during field placement. The owner stated that he would be very willing to work with staff to place the trees in appropriate locations. Commissioners stated they trusted the applicant’s representative and their team to do so and that they felt it would represent an overall improvement.
 - Staff noted their concerns that the proposed new street tree may be in conflict with the large tree at the corner of the abutting property. The applicant’s representative stated that the tree in potential conflict with the new street tree is on its last leg (due to the ivy growth) and that the location of the street tree is up to the Tree Warden. The applicant team stated that this proposed street tree is not intended to be considered part of the replacement for the removed trees, but simply as a design aspect for the site.
- Vote: To close the hearing and issue an Order of Conditions with the following special conditions. [Motion: Ellen Katz; Second: Leigh Gilligan; Roll-call vote: Green (aye), Lunin (aye), Hepburn (aye), Zabel (aye), Cade (aye), Gilligan (aye), Katz (aye); Vote 7:0:0]
- If dewatering proves necessary, a dewatering plan designed to limit and control any adverse impact on the wetlands resource area(s) must be presented to the Conservation Office for review and approval prior to implementation of dewatering activities.
 - If concrete washout will take place within Conservation Commission jurisdiction, a concrete washout plan designed to limit and control any adverse on the wetlands resource area(s) must be presented to the Conservation Office for review and approval prior to implementation of washout activities.
 - The applicant must schedule and attend a pre-construction site visit with the applicant, construction supervisor and Conservation agent.
 - Prohibition: Damage to trees shown on the plan as to remain and all trees on abutting properties.
 - Stabilized driveway construction entrance(s) will be required for the duration of the construction and they shall provide a truck wash and prevent tracking of mud and silt onto City streets.
 - Trees along the eastern property line shall be protected with wood chips and plywood or steel plates to protect the root zone.
 - Proposed tree plantings shall and must:
 - a. Be installed in general compliance with the approved plans (desired changes must be approved by the Conservation office in advance)
 - b. Be located roughly as shown on the plan, but in concert with and approval by Conservation staff
 - c. Have a survival rate of 100% of the total number of trees (after 2 growing seasons)
 - If any trees within the wetland or buffer within the project 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).
 - The approved Operations and Maintenance Plan is appended hereto and must be adhered to.

9. (9:20) 10 Gambier Rd – minor plan change request– shed location – DEP File #239-608

- Owner/Applicant: Owen Hughes Representative: self
- Request: Determine if minor plan change request is approvable.
- Documents Presented: Annotated plan, site photos, draft MOU
- Jurisdiction: Buffer Zone
- Presentation (Staff) and Discussion:
 - Staff presented the proposed knotweed management plan. Commissioners felt it was very appropriate.
 - Staff drafted a Memorandum of Understanding (MOU), to be signed by the owner and the Commission (or its agents), that would require removal and maintenance of two patches of knotweed for 2 years.

- The development of an MOU detailing the requirements of removal allows the Commission to close out the open Order of Conditions prior to the completion of 2 years of management under the MOU.

- Vote:

- To approve the minor plan change allowing the shed to remain documented with a staff note to file. [Motion: Susan Lunin; Second: Judith Hepburn Roll-call vote: Green (aye), Lunin (aye), Hepburn (aye), Zabel (aye), Cade (aye), Gilligan (aye), Katz (aye); Vote 7:0:0]
- To sign the Memorandum of Understanding requiring 2 years of knotweed management. [Motion: Jeff Zabel; Second: Leigh Gilligan; Roll-call vote: Green (aye), Lunin (aye), Hepburn (aye), Zabel (aye), Cade (aye), Gilligan (aye), Katz (aye); Vote 7:0:0]

10. (9:30) 190 Sumner Street – OOC Extension Request – addition onto duplex – DEP File #239-806

- Owner/Applicant: Samuel Roth Representative: none

- Request: Issue an extension for the 6 months.

- Documents Presented: Site photos

- Jurisdiction: Buffer Zone, Riverfront Area

- Discussion

- This was a partial ex post facto project to approve the reconstruction of a detached garage and construction of new living space to augment the existing duplex. There was some work in the 100' buffer zone; minor grading in preparation for driveway expansion occurred in RFA.
- The remaining project work – driveway paving and plantings – occurred appropriately and the plants are growing in well.
- The applicant is requesting a 6-month extension to allow for the final as-built to be completed. There has been a back-up of survey work due to the pandemic and the applicant does not feel that all the paperwork will be ready by the time the OOC expires on 5/17/21.

- Vote: To issue an Order of Conditions extension for 6-months. [Motion: Leigh Gilligan; Second: Ellen Katz; Roll-call vote: Green (aye), Lunin (aye), Hepburn (aye), Zabel (aye), Cade (aye), Gilligan (aye), Katz (aye); Vote 7:0:0]

11. (9:35) 73 Beaconwood Road – Enforcement Order – removal of trees without appropriate pre-construction requirements met – DEP File #239-791

- Owner/Applicant: Matthew Haney, PZ Realty Second Owner: Capasso Realty Trust Representative: none

- Request: Ratify Enforcement Order issued by staff on 3/25/21

- Documents Presented:

- Jurisdiction: Buffer Zone

- Violation Summary

- Removal of 4 trees (cutting 3 and clean-up of 1 fallen tree) totaling 84 caliper inches prior to: any 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)

- Discussion

- Owner, Matthew Haney, did not submit materials by the required date due to ill-health of his surveyor. Mr. Haney has stated that materials are in the works and will be submitted as soon as possible. Staff would like the Commission to formally approve such a delay, with a new due date, since the Enforcement Order had required that by noon on April 27, 2021 Mr. Haney submit:

- stamped surveyed plan arranged and paid for Mr. Haney showing 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:

- Mr. Haney was due to ensure that sediment fence was 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 was be submitted.

- Staff noted on a 5/12/21 site visit that the requested erosion controls have not been installed. Staff noted that they would follow up with the owner and involve the building inspector if necessary.
 - Staff have received a letter signed by many neighbors asking the City to protect the wetland functions and values currently on the site. Since the ponding area was determined to be non-jurisdictional, the only jurisdiction the Commission has is over buffer zone. The regulations do not provide a regulatory framework to directly protect buffer zone, only in so far as buffer zone provides protection for the adjacent wetland.
- Vote: To issue an extension on the Enforcement Order requirements to 6/24/21, with a materials deadline of 6/10/21. [Motion: Susan Lunin; Second: Jeff Zabel; Roll-call vote: Green (aye), Lunin (aye), Hepburn (aye), Zabel (aye), Cade (aye), Gilligan (aye), Katz (aye); Vote 6:0:1]

12. (9:45) 116 Upland Avenue – Compliance Discussion – enclosure of deck – DEP File #239-824

- Owner/Applicant: Ilya Zvenigorodskiy
- Request: Discuss how sale of home will affect ensuring the site is in compliance.
- Discussion:
 - Staff has been told that 116 Upland Ave has been put on the market and an offer made. Corrections to the siding and closure of the wetland file have not yet occurred. Staff wonder how the Commission would like to proceed, and if an Enforcement Order would be appropriate to ensure that the remedial work get done.
 - Commissioners suggested informing the owner that an Enforcement Order will be issued.
- Vote: To authorize staff to issue an Enforcement Order requiring removal of the enclosures per the agreement set at the 3/11/21 meeting and written out in the notice of violation. [Motion: Leigh Gilligan; Second: Ellen Katz; Roll-call vote: Green (aye), Lunin (aye), Hepburn (aye), Zabel (aye), Cade (aye), Gilligan (aye), Katz (aye); Vote 7:0:0]

13. (10:00) 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 6/3/21.
- Documents Presented: Colored plans, site photos, draft OOC
- Jurisdiction: Buffer Zone, City Floodplain (~45' NAVD88 or 52' CNVD)
- Project Summary
 - Reconstruct existing detached garage on existing foundation with no expansion of footprint.
 - Reconstruct sunroom on existing piers with no expansion of footprint.
 - Construct new deck (~15' x 20') accessible from the first floor and connected to the rear yard by a set of stairs (~4' x 16'). Total new footprint is ~364 s.f. [Note: the new deck is closer than 50' from BVW and so is not exempt.]
 - Regrade the area below the proposed deck to create appropriate compensatory storage.
 - Install 7 shrubs and 3 perennials.
 - Total fill installed = .25 cubic yards; Total compensatory storage provided = 1.3 cubic yards. An excess of 1 cubic yard of compensatory storage is being provided.
- Discussion: The applicant was not able to get revised plans by the required deadline and have requested a continuation to the 6/3/21 Conservation Commission meeting.
- Vote: To continue the hearing to 6/3/21. [Motion: Ellen Katz; Second: Leigh Gilligan; Roll-call vote: Green (aye), Lunin (aye), Hepburn (aye), Zabel (aye), Cade (aye), Gilligan (aye), Katz (aye); Vote 7:0:0]

II. CONSERVATION AREA DECISIONS – None at this point in time.

III. ADMINISTRATIVE DECISIONS

14. (10:05) Minutes of 4/22/21 to be approved

- Documents Presented: Draft 4/22/21 minutes
- Vote: To accept the 4/22/21 minutes. [Motion: Susan Lunin; Second: Leigh Gilligan; Roll-call vote: Green (aye), Lunin (aye), Hepburn (aye), Zabel (aye), Cade (aye), Gilligan (aye), Katz (abstain); Vote 6:0:1]

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

UPDATES

V. WETLANDS UPDATES

- Risk Tree Assessment Protocol: Staff are working to develop a template to make consistent our evaluation of “risk trees.”
- Enforcement follow up needed: Newton Yacht Club, Saco Street Condos, 630 Walnut, CRCK docks.

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: fairley@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.

- Bullough's Pond Dam is due to be rehabilitated to bring it into compliance with state requirements for safety.
- 630 Walnut Street: Builder apparently cut trees on PRC land near Bullough's Pond.

VI. CONSERVATION AREA UPDATES

- Houghton Garden: TreeTech completed hazard tree removal, path reconstruction is under way, planting of the Suffolk Lowell corner will occur soon thanks to generous neighbors, and seeding of ODP swimming pool are due to occur soon.
- Old Deer Park: Wood chips will be spread on the new paths.
- Stairs from the Greenway to the Riverwalk: New contractors are being explored for a summer installation.
- Encroachments: 149 Harwich, 170 Suffolk, and 860 Newton are due to be addressed.
- Stewards: We have a new Webster/Cohen Steward: Steve Heinrichs. Other Webster stewards will be tackling graffiti.
- Mark Neves' crews are starting their first maintenance circuit of all our parcels.

VII. ISSUES AROUND TOWN UPDATES

- Christina Street Bridge Feasibility Study: VHB is working to finish their report on the bridge. There will be a community engagement event on May 26, 5-7:00 pm (via Zoom).
- ACROSS trails ground-truthing effort update due.
 - Commissioners who volunteered stated that they had some concerns about the ability to follow the path without any signage in the field and concerns about winter safety.
 - Staff will review comments with volunteers and clarified that the hope is to have in-the-field wayfinding. Staff will resend the maps to volunteers for those who have not yet had an opportunity to get out.
- Climate Action Plan implementation continues.
- OSRP Implementation Committee: met for the first time and will meet quarterly.
- Flood Ordinance: The Commission will need to update it this year.

VIII. ADMINISTRATIVE UPDATES

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

15. (10:15) 31 Greenwood Street – Violation – limit of work violations and unpermitted work– DEP File #239-849

- Owner/Applicant: Jeronimo Almeida, 31 Greenwood Realty, LLC Representative: David LaPointe, Beals and Thomas
- Staff Request: Determine if notice of violation or enforcement order should be issued to ensure the site is returned to compliance.
- Documents Presented: originally approved plans, site photos, draft EO
- Jurisdiction: Buffer Zone
- Violation Summary
 - Limit of work violations – an unknown amount of vegetation clearing beyond the originally approved limit of work line (the erosion control boundary), apparently for the installation of retaining walls and a gravel patio/seating area.
 - Retaining wall installation – a stone retaining wall, with a stone staircase, was installed on the lot behind the driveway and new house, apparently to create a level lawn area. The area where the wall is installed was to have been a slope covered in mitigation plantings.
 - Gravel patio – an area of gravel was placed at the base of the stone staircase in the rear retaining wall. This “patio” is within 50’ of the wetland line and so is not exempt from the need to be permitted; the patio may encroach upon the Commission’s 25’ Naturally Vegetated Buffer Zone.
 - Driveway expansion – the driveway has apparently been expanded to create a squared off parking area in the western corner of the driveway where it meets the garage.
 - Lack of flared-end overflow – the proposed flared end overflow to a rip rap area for the infiltration system was not installed as per the approved plans. Owner states that Engineering Department approval was issued for the removal of the overflow.
- Discussion (David LaPointe)
 - Staff provided an overview of the site history and current site conditions.
 - Commissioners stated that they want to see the site in compliance.
 - Staff asked if the Commission would like to see an enforcement order.
 - Commissioners asked for clarification on whether the current owner (who acquired the property after permitting) was aware of the Order of Conditions. Staff provided information regarding the history of the Conservation Office’s interactions with the current site owner.

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- The project representative at this time has asked staff for more information regarding what the Commission will require. Staff and Commission stated that they want to see the site returned to compliance; how the owner gets to that point is up to him.
- **Vote:** To issue an Enforcement Order with the following requirements. [Motion: Leigh Gilligan; Second: Kathy Cade; Roll-call vote: Green (aye), Lunin (aye), Hepburn (aye), Zabel (aye), Cade (aye), Gilligan (aye), Katz (aye); Vote 7:0:0]
 - The owner must immediately reestablish the approved limit of work/erosion control line in the field.
 - The owner must immediately cease actions that are not in compliance with this order or the approved plans.
 - The owner must submit to the Conservation Office an “interim stamped surveyed plan” showing all existing site conditions on or before June 10th for the June 24th Conservation Commission meeting.
 - The owner must submit a letter to the Conservation Office his/her intentions about how he/she intends to bring the site into compliance with the approved plans on or before June 10th for the June 24th Conservation Commission meeting.

16. (10:30) Martin Conservation Area – Poetry Path

- **Discussion**
 - In previous discussions the Commission decided to allowed the poems to be installed on temporary posts
 - The project proponent/volunteer steward has received an offer for beveled 4”x4” posts to hold the poems.
 - Staff have concerns about the disturbance associated with installing (and removing) such large posts, especially in such a steep rocky site.
 - Commissioners agreed that 4”x4” posts were excessive for a short-term display of poetry, but wondered if there was a compromise, as overall the project seems like a good idea.
- **Consensus:** Staff will let the volunteer know that this site is not appropriate for large posts, and that staff can meet in the field to discuss.

- **ADJOURN** at 10:39pm. [Motion: Jeff Zabel; Second: Leigh Gilligan; Roll-call vote: Green (aye), Lunin (aye), Hepburn (aye), Zabel (aye), Cade (aye), Gilligan (aye), Katz (aye); Vote 7:0:0]