

# CONSERVATION COMMISSION MINUTES

Date: Thursday, July 21, 2022

Time: 7:00pm

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

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

**Members Present:** Dan Green (Chair), Kathy Cade, Judy Hepburn, Ellen Katz, Jeff Zabel, Leigh Gilligan, Associate Member Sonya McKnight.

**Members Absent:** Susan Lunin (Vice-Chair)

**Staff present:** Jennifer Steel

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

## DECISIONS

### A. WETLANDS DECISIONS

#### 1. 7:00 – NOI – 1 Nonantum Rd – DCR -- Charles R. Vegetation Management Plan -- DEP #239-926

- Owner/Applicant. DCR
- Representative. Naomi Valentine (SWCA Environmental Consultants); Ale Echandi (DCR) Danielle Mellett (DCR)
- Request. Issue 5-year OOC.
- Documents in packets: "Site plan", locus map, "decision tree", management techniques matrix
- Additional documents presented at meeting. Site photos
- Jurisdiction. Riverfront Area, BLSF, City Floodplain, Buffer Zone
- Performance Standards:

#### **SUMMARY of 10.53(4) Ecological Restoration Limited Projects – for vegetation control.**

10.53(4)(e)(5) Other. The project must improve the natural capacity of Resource Areas to protect the interests of the Act

10.53(4)(a)1. It must meet the definition in 10.04 (restore or enhance, defined in 10.53(4))

10.53(4)(a)5. It must comply with 10.53(1), (2), (7), & (8)

10.53(1) = For work in BZ, impose condition to protect the wetland

10.53(4)(c) As per 10.12, there is no need to do a Wildlife Habitat Evaluation (10.60)

10.53(4)(d) Consider: history, benefits, avoid/minimize/mitigate

- Project Summary.
  - DCR will implement its Charles River Vegetation Management Plan (CRVMP) along the riparian zone of the Charles River in Newton. This is part of a greater CRVMP project, which spans various sections of riparian zone and adjacent DCR properties within Boston, Cambridge, Watertown, and Newton.
  - DCR has established the following goals for the CRVMP:
    1. Ensure all routine maintenance is carried out in a manner that has no potential for damage to the environment.
    2. Restore the natural capacity of the existing Wetland Resource Areas to protect and sustain the interests identified in the Wetlands Protection Act and provide for stable and sustainable shorelines; vistas; climate resiliency; and a safe, stable tree canopy.
    3. Protect the properties' ecological, recreational and cultural integrity and consistently implement such strategies across all public/private uses of the property.
    4. Provide public access to passive and active recreation along the riverbank.
    5. Steward parklands.
    6. Engage stakeholders with recreational opportunities and provide volunteer assistance.
    7. Provide a framework to guide future capital restoration projects.
  - The proposed project seeks to manage vegetation within Bordering Land Subject to Flooding; Riverfront Area; and the 100-foot buffer zone to Bank.
  - Two types of vegetation management are proposed within these resource areas: routine and invasive control.
  - All impacts are temporary and no adverse impact will occur to any of the resource areas within or near the project site
  - DCR conducts various types of regular maintenance along the Charles River Reservation.



**Mayor**  
Ruthanne Fuller

**Director  
Planning &  
Development**  
Barney Heath

**Chief  
Environmental  
Planner**  
Jennifer Steel

**Assistant  
Environmental  
Planner**  
Ellen Menounos

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

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- Lawn: Bimonthly mowing to 4 inches. Restored as needed with compost/clean soil and seeding.
- Woodland: Periodic tree pruning and removal are performed following arborist review of trees. Other vegetation management is conducted with mowers, weedwhackers, and chainsaws.
- Circulation: bimonthly maintain a +/- 5-foot lawn buffer on each side of circulation areas. (+/- 10-foot buffer adjacent to bridges and ramps for woody vegetation).
- DCR has identified two focus areas for invasive plant management, prioritized based on their proximity to high-traffic areas, feasibility of management within the next 3-5 years, and presence of high concern plant species.
  - Newton Focus Area 1: directly west of the Daly Field Ice Rink building, extending from the river's edge to the bike path. Square feet of infestation: Asiatic Bittersweet (136), Glossy Buckthorn (31,570), Japanese Knotweed (9), Norway Maple (trace), Purple Loosestrife (10), Shrub Honeysuckle (trace), Swallowwort (400), Tree of Heaven (1,002)
  - Newton Focus Area 2: approximately 200 feet from the entrance to the bike path to the Newton/Boston City line and covers the area between the top of bank to the bike path. Square feet of infestation: Asiatic Bittersweet (8), Glossy Buckthorn (95), Japanese Knotweed (381), Norway Maple (4), Shrub Honeysuckle (105), Swallowwort (trace)
- Treatments will be undertaken based on the "decision tree", e.g.:
  - Tree of heaven will be girdled or treated via cut-stem herbicide application.
  - Woody vines and shrubs will be hand-removed where possible and where not possible, they will be managed through cut-stem herbicide application and other methods.
  - Japanese knotweed will be managed through selective foliar herbicide application.
  - Swallowwort will be treated using a foliar application of the herbicide triclopyr.
- The "Methods of Management" table details nicely appropriate removal and disposal for each invasive species.
- The NOI's 7.2 Invasive Plant Management conditions (pg 12-13 of the NOI) are all appropriate.
- The RFA restoration area associated with expansion of the Daly Rink should probably be bounded.
- As a limited project, it is fully permissible.
- Presentation (N. Valentine, D. Mellett, and A. Echandi) and Discussion
  - N. Valentine apologized for only submitting restoration materials today. Staff have not seen them yet.
  - Treatment areas will vary a great deal in terms of timeframe (some areas might be left for later, some areas might be treated for 2-3 years) and result (some areas might be cleared, others only moderately altered).
  - All removals will be selective.
  - Restoration will be adaptive. The intention is to monitor and use various methods of management and active restoration when needed. Areas with native vegetation will be allowed to grow; areas left mostly devoid of vegetation will be seeded and/or planted. (1) DCR will wait to see what natives survive and thrive post-treatment. (2) DCR will seed any barren areas within 2 weeks of treatment. (3) DCR will augment seeding with shrub and sapling plantings as appropriate.
  - Fencing and signage will be employed to keep humans and geese out of restoration areas, as needed.
  - Conditions were discussed in some detail, but
- Vote: To continue to the hearing to 8/11/22 at 7 pm to allow staff and the Commission time to review the restoration planting material just submitted today. [Motion: Katz; Second: Zabel; Roll-call vote: Cade (aye), Hepburn (aye), Gilligan (aye), Katz (aye), Green (aye), Zabel (aye); Vote: 6:0:0]

## 2. 7:30 – NOI continued -- 1897 Washington Street – Woodland Golf Club – "pond" excavation – DEP #239-925

- Owner/Applicant. Chad Becker, Jon Randall, and Chris Donadio (Woodland Golf Club)
- Representative. Sarah Stearns (Beals & Thomas)
- Request. Issue COC.
- Documents in packets. Highlighted revised plan
- Additional documents presented at meeting. Site photos
- Jurisdiction. Land Under Water, Bank
- Revised Proposed Project Summary:
  1. Plug or divert inlets and outlets, draw down "pond" into basin constructed nearby if necessary.
  2. Install plywood or matting for equipment access
  3. Remove willow and accumulated organic muck (dewatering it as necessary in another basin constructed nearby -- then repurposing it to an upland area).
  4. Improve the banks for stability and wildlife: "In the event of any temporary Bank impacts that may occur by the proposed work, the Applicant will reseed and grade the impacted Bank to a gentler slope than that of pre-project conditions. Any seed mix selected will be of appropriate species that tolerate a range of hydrologic conditions, such as a basin mix. Disturbed bank shall be reseeded with New England Wet mix or equivalent."

- 5. Reset pond overflow and area drain lines.
- 6. Plant 3 swamp white oaks trees, 5 native shrubs, establish a vegetated Bank and a (minimum) 3-foot annual-mow strip just above the Bank.
- Presentation (Sarah Stearns) and Discussion
  - Discussions with DEP helped determine that jurisdiction is different than originally thought.
    - LUWW is not pertinent since the “pond” is less than 10,000 sf.
    - Bank exists all around the “pond” (“waterbody”) and will likely be altered during the sediment removal efforts.
    - BVW is presumed to exist where the fairway floods, but will not be altered under the revised project proposal. Note: BVW has not been delineated on the revised plan and this should be noted in the findings
    - Stormwater standards are not relevant in a fully vegetated setting (per DEP NERO).
  - Staff requests and questions
  - The only 1 of the 4 “invert” pipes in the “pond” is functional; it will be maintained; the others may be disconnected.
  - The applicants agreed to augment their proposed planting of 3 swamp white oaks with 5 native shrubs to be placed near where the willow tree is currently growing and with a no-mow seed mix to stabilize the regraded Bank.
- Vote. To close the hearing and issue an Order of Conditions with the Special Conditions below. [Motion: Gilligan; Second: Hepburn; Roll-call vote: Cade (aye), Hepburn (aye), Gilligan (aye), Katz (aye), Green (aye), Zabel (aye); Vote: 6:0:0]
  - Macro-wildlife shall be flushed out of the “pond” immediately prior to dewatering and excavation operations and transported to an appropriate, protected location/habitat.
  - The intake dewatering pumps must have stone filters and filter screens to control sediment intake and turbidity.
  - The dewatering pumps shall be monitored to ensure that sediment-laden water is appropriately settled prior to discharge back into wetland resource areas. Should sediment-laden water be visible beyond the limit of work within wetland resource areas, steps shall be taken to modify the dewatering protocol.
  - The grade of the Bank of the “pond” may be modified to “soften” grades where they are currently steep. The “pond” may not, however be reshaped or enlarged.
  - Upon completion of the excavation, the Banks of the “pond” shall be seeded with a New England Wetland Seed Mix or an equivalent and all mowing of the Bank shall cease.
  - Upon completion of the excavation, a 3’ (minimum) annual-mow strip shall be reestablished and maintained.
  - Upon completion of the excavation (and at a seasonally appropriate time but before the end of the 2022 planting season) the 3 native trees shall be planted as shown on the approved plans, but at least 20 feet from one another and any existing trees.
  - Upon completion of the excavation (and at a seasonally appropriate time but before the end of the 2022 planting season) 5 native shrubs shall be planted in the general location of the cut willow tree.
  - Landscape plantings within Commission jurisdiction must be installed in compliance with the approved plans (desired changes must be approved by the Conservation office in advance) and must:
    - a. Have a survival rate of 100% of total number of trees (after 2 growing seasons)
    - b. Have a survival rate of 100% of total number of shrubs (after 2 growing seasons)
    - c. Have a survival rate of 100 % aerial coverage of seed mixes (after 2 growing seasons)
    - d. Stabilize all exposed areas

### **3. 8:00 – NOI – 326 Fuller St – Brae Burn Country Club – construction of a permanent restroom -- DEP # 239-927**

- Owner/Applicant. Sean McLaughlin (Brae Burn)
- Representative. Sarah Stearns (Beals & Thomas)
- Request. Issue OOC.
- Documents in packets. Highlighted site plan
- Additional documents presented at meeting. Site photos
- Project Summary.
  - Install a ±220 square foot restroom facility (on a slab) and 44 linear feet of 5-6-foot-wide permeable paver paths.
  - Trench for electricity and water within a paved cart path.
  - Trench for the sewer line close to the stream, but in turfgrass.
  - Install 3 swamp white oaks and 5 native shrubs
  - Install and maintain 5-foot wide strips of no-mow seed mix along both banks of a 130’ stretch of the stream bank.
  - Restore existing bathroom trailer area with turf grass.
- Presentation (S. Stearns) and Discussion.

- The building site is within turf grass between the mature trees (the trees should not be harmed by the construction).
- The trenching for electricity and water will occur within a paved cart path.
- The trenching for the sewer line will be close to the stream, but will be in open turf.
- Staff's concern about trenching near mature trees was allayed by Brae Burn's past experience with similar trenching.
- There was a lot of discussion about the opportunity to create real improvement to the stream corridor (the Club owns ~4500 linear feet of the headwaters of Cheese Cake Brook), by replacing cropped turf grass with no-mow areas and low-growing shrubs. The Club was amenable to restoring the 130-foot section of stream close the proposed bathroom.
- Vote. To close the hearing and issue an Order of Conditions with the Special Conditions below. [Motion: Gilligan; Second: Cade; Roll-call vote: Cade (aye), Hepburn (aye), Gilligan (aye), Katz (aye), Green (aye), Zabel (aye); Vote: 6:0:0]
  - Concrete washout shall not occur on site.
  - Strips, on average 5-feet wide, of New England Wet Mix seed mix or an equivalent, shall be installed on both sides of the stream for the ~130 feet from bridge to bridge and maintained as no-mow areas. The method of seed installation shall be reviewed with the Conservation Agent prior to installation. The new no-mow areas must have 85% aerial coverage after 2 years of growth, must stabilize all exposed areas, and must be maintained unmown.
  - The applicant shall restore the area of the current seasonal restroom by removing the restroom structure, fence, and gravel/cobble/asphalt, and planting turf grass.
  - If any trees intended to be protected within the project area die within 2 years of the start of construction as a result of the 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).
  - To protect wetland wildlife, exterior lighting shall be limited to "dark sky", focused lighting. No spotlights or floodlights shall be directed at Cheesecake Brook.

**4. 8:30 – 275-281 Needham St., 55 Tower Rd., and 156 Oak St. (Northland) – NOI continued – Park Development around South Meadow Brook -- DEP #239--921**

- Owners. Needham Street Associates (Arthur Friedman, Trustee), Northland Tower Investors, Northland Oak Street LLC
- Applicant. Kent Gonzales, Northland Development, LLC
- Representatives. Christopher Wagner and Genevieve Burke (VHB), Leah Grossman (Stantec), Alan Schlessinger (attorney)
- Request. Issue COC.
- Documents in packets: none
- Additional documents presented at meeting. Old site plans
- Jurisdiction. Riverfront Area, Bank, Buffer Zone, City Flood Zone
- Project Summary.
  - This is a portion of the redevelopment of 22.6 acres of vacant industrial land into a large mixed-use development – the Riverfront Area associated with the daylighted portion of South Meadow Brook.
  - Proposed work within wetland jurisdiction includes:
    - Construction of buildings, roadways, bike paths, etc. in the outer RFA within a previously degraded footprint.
    - Installation of bioretention and infiltration areas.
    - Temporary disturbance (tree cutting, grading, native removal, planting/whips/seed mixes) in the BZ and RFA.
- Presentation (A. Schlessinger and G. Burke) and Discussion
  - No new materials have been received to date. The applicant team will provide one comprehensive packet of narratives and plans for Commission review and approval on or before 7/28/22.
  - The applicant will work with staff to ensure that all materials have been received and that draft conditions are complete prior to the posting of the detailed agenda.
  - The stormwater management system was summarized by G. Burke. A. Schlessinger noted that it had been extensively reviewed and approved by Engineering.
  - The applicant described the planting palette for the different areas and the efforts that will be made to ensure the health of the street trees. Staff recommended considering the use of curb scuppers to support street trees. A Commissioner recommended avoiding the installation of elms because of their continued susceptibility to disease and suggested *Tilia* (basswood) instead.
  - Staff noted that they had provided administrative approval to Contractor Crenshaw for the proposed enabling activities (utility work), within the paved roadway. Staff await further discussion about the request for approval for the demolition of the Marshalls building.
  - The applicant will reach out to the recommended Environmental Monitor to try to secure an agreement.
- Vote: To continue to the hearing to 8/11/22 at 7:30 pm to allow for the submission of consolidated materials and staff review. [Motion: Cade; Second: Hepburn; Roll-call vote: Cade (aye), Hepburn (aye), Gilligan (aye), Katz (aye), Green (aye), Zabel (aye); Vote: 6:0:0]

**5. 9:15 – DCR Charles River weed control COC’s – DEP #'s 239-027, 239-255, 239-420, 239-648, 239-692, 239-784**

- Owner/Applicant. DCR
- Representative. Mary Nickerson, Solitude Lake Management
- Request. Issue complete COC’s for:

<u>Issued</u>	<u>DEP #</u>	<u>Location</u>	<u>Target</u>	<u>Activity</u>	<u>COC Recommendation</u>
1980	239-27	Ware’s Cove		dredge	Issue as not initiated
1992	239-255	Wares’ Cove	Fanwort, lily	SONAR	Issue as Complete
2002	239-420	Wares’ Cove	Fanwort, milfoil	SONAR	Issue as Complete
2012	239-648	Purgatory Cove	Fanwort, milfoil	HHH, SONAR	Issue as Complete
2016	239-692	Lakes District	Water chestnuts	HHH	Issue as Complete
2017	239-784	Ware’s Cove	Fanwort	HH, SONAR, Clipper, Reward	Issue as Complete

- Presentation (J. Steel) and Discussion.
  - Staff noted that 1 of the 6 was never initiated and 5 were completed satisfactorily [or have been superseded by the recent aquatic weed control OOCs 239-900 (Lower Basin) and 239-923 (Upper Basin and Lakes District)].
- Vote: To issue a COC for DEP File # 239-27. [Motion: Hepburn; Second: Katz; Roll-call vote: Cade (aye), Hepburn (aye), Gilligan (aye), Katz (aye), Green (aye), Zabel (aye); Vote: 6:0:0]
- Vote: To issue a COC for DEP File # 239-255. [Motion: Hepburn; Second: Katz; Roll-call vote: Cade (aye), Hepburn (aye), Gilligan (aye), Katz (aye), Green (aye), Zabel (aye); Vote: 6:0:0]
- Vote: To issue a COC for DEP File # 239-420. [Motion: Cade; Second: Gilligan; Roll-call vote: Cade (aye), Hepburn (aye), Gilligan (aye), Katz (aye), Green (aye), Zabel (aye); Vote: 6:0:0]
- Vote: To issue a COC for DEP File # 239-648. [Motion: Gilligan; Second: Hepburn; Roll-call vote: Cade (aye), Hepburn (aye), Gilligan (aye), Katz (aye), Green (aye), Zabel (aye); Vote: 6:0:0]
- Vote: To issue a COC for DEP File # 239-692. [Motion: Cade; Second: Gilligan; Roll-call vote: Cade (aye), Hepburn (aye), Gilligan (aye), Katz (aye), Green (aye), Zabel (aye); Vote: 6:0:0]
- Vote: To issue a COC for DEP File # 239-784. [Motion: Cade; Second: Zabel; Roll-call vote: Cade (aye), Hepburn (aye), Gilligan (aye), Katz (aye), Green (aye), Zabel (aye); Vote: 6:0:0]
- Staff found other old files pertaining to MDC/DCR construction and dredging projects on the Charles River and will ask DCR to close out those old files, too.

<u>Issued</u>	<u>DEP #</u>	<u>Location</u>	<u>Activity</u>	<u>COC next steps</u>
1974	239-9	River – Pony Truss Bridge to Lasell Bridge	dredge	??
1996	239-303	Shore - Bridge St to City Line	Charles River Walkway	Ask for COC request
1998	239-339	Shore - Pathway	Riverwalk Observation Deck	Ask for COC request
2001	239-388	Shore - Bridge St	Up Ch R Res. Pathway	Ask for COC request
2013	239-650	River - Lakes District	HH Water chestnuts	Ask for COC request

**6. 9:30 – DCR Violations**

- Presentation (J. Steel) and Discussion.
  - Staff noted many efforts and communications with DCR trying to resolve these following violations, but to no avail.
  - Across from 18 and 25 Parkway Road there has been tree cutting and the creation of parking in outer Riverfront Area and Buffer Zone.
    - A resident took note. Staff contacted DCR (the landowner). DCR contacted their legal department, but no action has been taken to date, despite numerous emails back and forth. The resident continues to complain about inaction.
    - Commissioners feel that resolution (ex post facto filing or restoration) are appropriate.
  - Newton Yacht Club
    - 2011 Club sought permission to cut pine trees and were told a filing would be necessary.
    - 2015 Club sought permission to cut pine trees and were told a filing would be necessary. They promised to do so.
    - 2017 DOA issued for gas tank work in parking lot, tree cutting, and tree planting (all referenced in an MOU).
    - 2017 MOU signed obligating Club to stormwater improvements and shrub planting.
    - 2019 staff first contacted DCR to alert them to the non-compliance.
    - Promises for follow-through have been received from DCR, but nothing has happened to date.
    - Commissioners feel that resolution (planting and stormwater improvement) must be installed.
- Consensus. Staff will send memos to DCR noting the Commission’s intention to issue Enforcement Orders by the end of September 2022 if these issues have not been satisfactorily resolved with the Commission.

**B. 9:45 – CONSERVATION AREA DECISIONS – none at this time**

**C. 9:45 – ADMINISTRATIVE DECISIONS – none at this time**

**7. Minutes to be approved**

- Documents in packets. Draft 6/30/22 minutes as edited by Judy Hepburn.
- Staff Recommendation. Vote to approve the 6/30/22 minutes.
- Vote: To approve the minutes. [Motion: Gilligan; Second: Zabel; Roll-call vote: Cade (aye), Hepburn (aye), Gilligan (aye), Katz (aye), Green (aye), Zabel (aye); Vote: 6:0:0]
- Volunteer. L. Gilligan volunteered to review the 7/21/22 minutes.

**D. 9:50 – ISSUES AROUND TOWN DECISIONS** – none at this time

**UPDATES**

**E. 9:50 – WETLANDS UPDATES** – none at this time

**F. 9:50 – CONSERVATION AREA UPDATES** – none at this time

**G. 9:50 – ADMINISTRATIVE UPDATES** – Remote participation has been allowed through March 31, 2023.

**H. 10:00 – ISSUES AROUND TOWN UPDATES** – none at this time

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

**8. 1114 Beacon Street update** – Staff noted that the project has been proceeding appropriately under the superseding OOC.

**9. Ira Wallach Trail in the Old Deer Park** – The Chair noted that the plaque is due to be complete and installed in a few weeks. He noted his interest in having the plaque installed near Hammond Pond Parkway where a new entrance will likely be installed once the Parkway improvement project is complete. Staff suggested that the Chair flag a location for the plaque, considering current access, future access, and possible special locations with the parcel.

**ADJOURN**

- Vote: To adjourn at 10 10:16. [Motion: Hepburn; Second: Cade; Roll-call vote: Cade (aye), Hepburn (aye), Gilligan (aye), Katz (aye), Green (aye), Zabel (aye); Vote: 6:0:0]