

Department of Planning and Community Development

1 JFK Memorial Dr.
Braintree, MA 02184
781 794-8230



Mayor Joseph C. Sullivan

Braintree Conservation Commission

APPROVED

Heather Charles Lis, Chair
Donald Murphy, Vice-Chair
Alan Weinberg, Clerk
Joyce Albrecht
Diane Francis
Christopher Hayward
Gail Poliner-Feldman

Staff: Kelly Phelan

**CONSERVATION COMMISSION MINUTES
THURSDAY, SEPTEMBER 6, 2018, 7PM
TOWN HALL- JOHNSON CHAMBERS**

Present: Joyce Albrecht, (*left at point indicated) Heather Charles Lis, Gail Feldman, Diane Francis, Christopher Hayward, Gus Murphy, Alan Weinberg & Kelly Phelan, Staff

Absent: none

Public Hearings

Request for Determination of Applicability 218 Alida Rd./Boussy

Scott and Jill Boussy were present. Ms. Boussy said they want to construct an addition, a new deck and in ground pool and move an existing shed further back in the yard.

Ms. Charles Lis asked Ms. Boussy if she had read the staff report and if they had addressed the comment that the shed should not be located in the 25 foot buffer or Bordering Land Subject to Flooding. Ms. Boussy said they had but their neighbors have a shed in the same location. Ms. Charles Lis said the shed should not be in that location. The Boussy's agreed to find another location for it and will confirm with staff.

Mr. Weinberg suggested adding conditions that staff approve dewatering plan if dewatering is necessary and that areas disturbed by excavation be revegetated.

Mr. Hayward asked where the roof runoff goes. Mr. Boussy said it goes to the grass.

Ms. Charles Lis asked if trees or shrubs need to be removed. Ms. Boussy said no; it is all open lawn area.

Motion by Ms. Feldman to issue a negative Determination of Applicability with conditions as amended. Second by Mr. Weinberg. Vote: 7-0-0.

Motion by Ms. Feldman to close the public hearing. Second by Mr. Weinberg. Vote: 7-0-0.

Notice of Intent DEP File # 8-664 2 Garden Park/2 Garden Park Realty Trust

Brad McKenzie, project engineer was present with Brad Holmes, wetland scientist and Brian McGourty, owner of the site.

Mr. McKenzie passed out copies of the latest topographic survey plan which show the boulders which indicate the boundary between restoration areas A and B.

He said the Notice of Intent was an after the fact filing to address unpermitted work which was not proposed to be restored under the restoration plan approved by the Commission. He said the plan indicates the topography has been restored to 2004 conditions. The NOI was filed for a parking area, a storage building and additional impervious area. Staff's April 27th memo raised issues regarding the parking area. In response, the applicant removed the pavement and treated it with wood chips. They also revised the plan since then to use a cultec to mitigate impervious area.

Ms. Charles Lis asked about the status of the restoration area. Mr. Holmes said he had met staff on site and heard the concerns about it and they plan to complete it this fall. Staff clarified that the Buffer Zone A area will be vegetated as proposed in the restoration plan (and not treated with wood chips as Buffer Zone B was). Mr. Holmes said yes.

Ms. Charles Lis asked why the paved area which was converted to wood chips was not going to be vegetated. Mr. McGourty said it had always been gravel. Members agreed that wood chips were better than pavement or gravel.

Staff asked if the vegetable gardens and fence in the Buffer Zone had been removed. Mr. Holmes said they had. Staff asked that they spread out the boulders to continue the demarcation between Buffer Zones A and B. Mr. Holmes said they would.

Ms. Charles Lis said the wetland flags should go back up for the final site visit. Mr. Holmes said that was not a problem.

Motion by Mr. Weinberg that October 15th is the deadline to complete the restoration work. Second by Mr. Murphy. Vote: 7-0-0.

Motion by Mr. Weinberg to proceed to draft conditions for the after the fact work proposed under the Notice of Intent. Second by Mr. Murphy. Vote: 7-0-0/

Notice of Intent DEP File # 8-668 262 Forbes Rd./Massport Authority

Staff said the applicant had requested a continuation to the October 4th meeting.

Motion by Mr. Weinberg to continue the hearing to the October 4th meeting. Second by Mr. Murphy. Vote: 7-0-0.

Request for Determination of Applicability Fore River Area Manholes/Department of Public Works

Kate Perotti, engineer from Weston and Sampson was present with Jim Arsenault from the Braintree Department of Public Works. She said the project is repair of seven deteriorated manholes in the sewer easement along the Fore River. She walked the site with staff to review the work. The manholes are in coastal beach or salt marsh and also Riverfront Area and the buffer zone.

Ms. Perotti said that two of the manholes are in the salt marsh but vehicle access will be from the adjacent Toland Walkway so no vehicles will be in the salt marsh. Salt marsh grass and soil will be stockpiled for replacement after the work is complete.

Ms. Perotti said that excavation 18 inches deep and two feet in diameter around the manholes is needed and it will be done by hand. Dewatering is not expected but if needed they will use a sediment collection bag. Exterior waterproofing materials will be placed on a tarp in case of spills. Each manhole should take approximately three days to repair.

Ms. Feldman asked why the manholes were being replaced in the same place and not moved away from the water. Ms. Perotti said that is the location of the sewer main and moving it in its entirety would be much more disruptive.

Staff recommended adding a condition for a meeting on site with the contractor.

Mr. Weinberg asked about the condition of the sewer pipe. Mr. Arsenault said the pipes are fine. They investigate a length of sewer pipe each year and mitigate as needed.

Mr. Hayward asked about protecting the pipes during construction. Ms. Perotti said they will cover the inverts with boards to prevent any damage.

Ms. Charles Lis asked where the swamp mats were intended to be used. Ms. Perotti said to access the three manholes on the coastal beach near Glenrose Ave.

Ms. Charles Lis asked when the work would be done. Ms. Perotti said they are aiming for November to December. Ms. Charles Lis said it would be advisable to do the work in the salt marsh before winter because ice floes can be a problem and work is also not advisable in early spring to avoid damaging emerging vegetation. Mr. Arsenault said they can include language in the specifications to say the work cannot be done during certain times. Ms. Charles Lis will provide language to staff for inclusion with the conditions.

Motion by Mr. Murphy to issue a negative Determination of Applicability with conditions as amended for time of year restriction. Second by Ms. Francis. Vote: 7-0-0.

Motion by Mr. Weinberg to close the public hearing. Second by Mr. Murphy. Vote: 7-0-0.

Request for Determination of Applicability 70 Oregon Ave./Scott

Chris Scott from 70 Oregon Ave. was present. Mr. Scott said he would like to install an irrigation well and system because he has not been able to establish a lawn without irrigation. The area is within the 100 foot buffer zone. His lot slopes down to the wetland. The well driller advised Mr. Scott to go as far back as possible but staff advised him to stay out of the 25 foot no-disturb buffer. He is proposing to install the well in the 25-50 foot buffer zone. Mr. Scott said it will be done by hand carried tools, no vehicle or heavy equipment access is proposed and disturbance will be limited to moving downed limbs and vines out of way.

Mr. Hayward advised Mr. Scott to check with the Health Department regarding their regulations for well installation.

Ms. Charles Lis said if the well cannot be installed in the 20-50 foot buffer Mr. Scott will need to return to the Commission for approval to work in the 25 foot buffer.

Motion by Mr. Weinberg to issue a negative Determination of Applicability with conditions as drafted. Second by Ms. Feldman. Vote: 7-0-0.

Motion by Mr. Weinberg to close the public hearing. Second by Ms. Feldman. Vote: 7-0-0.

Request for Determination of Applicability 530 West St./Recycleworks, Inc.

Garret Horsfall from Kelly Engineering Group was present with Dan Buonagurio and Moe Banville of Recycleworks, Inc. Mr. Horsfall said the site is 19 acres with an existing warehouse building. Wetlands associated with the Farm River surround the site and were flagged in 2014. The site is also Bordering Land Subject to Flooding. Recycleworks is the first tenant for a new owner of the site. They would like to patch potholes in the parking lot and resurface an area of pavement. They would also like to repair an existing fence which is overgrown with poison ivy and other vines which they will manually remove with advice from John Rockwood, wetland scientist. At some point, the owner will upgrade the existing drainage and install water quality treatment and will be back before the Commission.

Staff noted that the parking lot work is maintenance but because it is within the floodplain it would be consistent with other projects to have grades shot after the work is completed to ensure the elevation is not raised.

Mr. Weinberg noted that there is adjacent parcel of town-owned conservation land. It was located on the site plan.

Mr. Weinberg suggested adding a condition that no herbicide or pesticide be used on the site (exterior of the building) because it is part of the drinking water supply area.

Ms. Charles Lis said she was pleased to hear that the owner will be back with site improvements and noted that the Commission will look for infiltration. Mr. Horsfall said there is an area of pavement that could be removed.

Motion by Ms. Feldman to issue a negative Determination of Applicability with conditions as amended. Second by Mr. Murphy. Vote: 7-0-0.

Motion by Ms. Feldman to close the public hearing. Second by Mr. Weinberg. Vote: 7-0-0.

Abbreviated Notice of Intent DEP File # 8- 20 Jensen Farm Rd/LF Properties, LLC

Rob St. John from LF Properties, LLC was present with Dan Armstrong, project engineer. Mr. St. John noted that this lot is part of the Liberty Farm subdivision and is within the buffer zone to a wetland on an adjacent site. Mr. Armstrong said they are working within the 100 foot buffer zone for a portion of the foundation and grading. He said the lot was previously cleared. Mr. Armstrong said the lot drains toward the subdivision road now (which has a drainage system) and will continue to do so.

Ms. Charles Lis asked when the lot was cleared. Mr. St. John said at the same time they were clearing for the 10 Jensen Farm Rd. They did not know there was a wetland on the adjacent site until the lot was cleared.

Ms. Feldman asked if there was still one lot that could not be developed. Mr. St. John said there was.

Ms. Charles Lis noted that their application stated the project qualified for an exemption to the Wetlands Protection Act but that is not accurate.

Steven Ruse from 10 Jensen Farm Rd. asked which way the lot would drain. Mr. St. John said toward the road and away from the Jensen Farm Rd.

Motion by Ms. Feldman to continue the hearing to the October 4th meeting. Second by Mr. Weinberg. Vote: 7-0-0.

Notice of Intent DEP File # 8- 1177 Washington St./Le

Chi Man from Hardy + Man Group was present with Tuan Le. Mr. Man said the project is to repave the parking lot, relocate dumpster enclosure and redesign the parking layout. They plan to pull back pavement near the river and create a water quality area. They will regrade the site to capture and treat the runoff. They also plan to connect roof drains to a subsurface culvert (in the small southerly paved area) for infiltration and capture the runoff from the paved area but they will not park in this area. They also propose a rip rap slope to the river from the water quality area. Mr. Man said the site is Riverfront Area but they are not proposing any structures, just repaving.

Ms. Charles Lis asked Mr. Man to address the comments raised in the staff report. Is the southerly paved area proposed to drain to the cultec and how will it be pre-treated? Mr. Man said they are not proposing to pre-treat the runoff because there won't be any parking there. As for the Bordering Land Subject to Flooding they are lowering the elevation with the water quality swale.

Ms. Francis asked about snow storage. Mr. Man said it would be against the fence and removed from the site.

Ms. Charles Lis noted that additional information on compliance with Riverfront Area standards and Bordering Land Subject to Flooding had been received but it was not very detailed. Staff noted that because this is primarily a repaving project it is subject to interpretation whether compliance with the Riverfront Redevelopment and Stormwater Standards should be addressed but that Bordering Land Subject to Flooding (BLSF) should definitely be addressed. Staff said they should also address the standards for Bank as they are proposing to alter the Bank to the river.

Ms. Feldman told Mr. Man to go address the comments and come back.

Staff asked for clarification on how the southerly area was proposed to be infiltrated with the cultec. Mr. Man said it would drain to the cultec through a grate. Mr. Hayward said that was not typically done. Ms. Charles Lis said it they should add a catch basin. Mr. Hayward asked that the roof leaders to the cultec be shown.

Other comments from the staff report include request to remove gravel strip at edge of parking lot and seed and update the O&M Plan. As to the question on the test pit in the southerly area Mr. Man said it was done off the edge of the pavement. Staff said there is no indication of disturbance there.

Mr. Murphy asked how much rip rap they are proposing on the Bank. Mr. Man said he did not know but would quantify.

Staff said it is a good project but encouraged Mr. Man to work with staff and the Commission in a more cooperative way.

Ms. Charles Lis said it is a good project but that the application missed the mark as it did not include basic information.

Motion by Ms. Feldman to continue the hearing to October 4th. Second by Mr. Weinberg. Vote: 7-0-0.

Motion by Mr. Weinberg to take a five minute recess before the hunting discussion. Second by Mr. Murphy. Vote: 7-0-0.

OTHER BUSINESS

Hunting Policy

Ms. Charles Lis noted that the Commission had last discussed hunting at the May meeting where they voted to move forward with development of a policy. She noted that the Commission is still in that process. An unusually heavy permitting load over the summer prevented the Commission from discussing hunting at the summer meetings.

She noted two letters received by the Commission on the subject and read both into the record. One is from Mayor Sullivan and dated September 6, 2018. Mayor Sullivan offered his opposition to allowing hunting at Eaton's Pond. The second letter (email) was from Carol Ann Ricardo and dated September 6, 2018. Ms. Ricardo also expressed opposition to allowing hunting at Eaton's Pond due to proximity to Ross School, among other reasons.

Ms. Charles Lis noted that staff had added the 100 foot buffer to trails to the existing hunting setback maps per Ms. Feldman's request. Ms. Charles Lis also asked staff to convey her discussion with the Town Solicitor.

Staff noted that the Town Solicitor had expressed concern with a volunteer administering a proficiency test as the Commission had discussed. He also questioned enforcement capacity.

Mr. Murphy said he supports hunting and the setbacks can be altered with landowner permission. He said there is a lot of misunderstanding; hunters are trained and have taken safety course and in the history of Massachusetts no hunter has shot anyone. He urged the Commission to allow hunting.

Mr. Weinberg said there should be an enforcement official involved but that hunting should be allowed as it is in a number of other communities.

Ms. Feldman said the Commission needs to look at the land. With the 100 foot setback from trails and the 500 foot setback from residences there is not enough land to support hunting. She said she is not against hunting and thinks most hunters are very responsible but it is a question of land and land usage of the trails.

Mr. Hayward said his concern is the health of the environment. There is a large deer population which is not good for the forest or the deer. He suggested that shutting down trails during hunting times would be appropriate. Ms. Feldman said there are not enough trails as it is, it would not be right to shut them down so people can hunt.

Ms. Francis said the Commission should not allow hunting at Eaton's Pond because because it is close to the school and the Mayor doesn't want it.

Staff said the enforcement of a hunting policy was an issue. Given the issues with enforcing "no camping" at Eaton's Pond she is concerned about capacity to enforce the terms of a hunting policy.

Mr. Murphy said the MA Environmental Police are responsible.

Ms. Charles Lis said there is scientific evidence of impacts from deer browse. The botanist who has monitored conservation land noted impacts to forest regeneration at Cranberry Pond and South Street. She said she doesn't support allowing hunting at Eaton's Pond because the deer impacts are the lowest there and it is small area. She asked staff for the areas left once the 100 foot trail setback and 500 foot from residential dwelling was calculated. Staff said 15 acres at South St. 5.6 acres at Eaton's Pond Area and 64.5 at Cranberry Pond Area.

Ms. Charles Lis said the state says that bow-hunting will limit population growth but other data shows it will not make a significant impact.

Jean Guglielmi from Braemore Rd. said she had several concerns about allowing hunting. Abutters had not been notified. The Environmental Police are stretched thin. Many people walk the trails, many with kids and dogs. Signage will be an issue, some people can't read and there are many entrances. There is not enough land and it won't have enough impact to cull the herd. She said wounded deer is a problem. No one wants to see that. Cameras were not appropriate to have in the woods.

Bob Sechetti from Eutaw Ave. said the Commission said the Cranberry Pond neighborhood is private road and he had personally paved Hillsdale and Eutaw at his own expense. He said the Commission has an ethical obligation to notify abutters if not a legal one. He said he sees 60-70 people at Cranberry Pond on a nice weekend. He said he hasn't seen any factual study that there are too many deer.

Cindy Boubain from Tremont St. said she is appalled to hear that hunting is being considered in Braintree. She said the Commission has a duty to let everyone know this is being considered. She said the Humane Society had found that contraceptives work for 3-5 years and encouraged the Commission to consider other options.

Ms. Charles Lis said there is not a policy yet, it is being discussed.

Kevin Cocoron a hunter from Braintree said the Commission has been talking about this for eight years and it is time to do something and allow hunting on conservation land. He said if you see deer that means there are too many.

Ms. Feldman said the eight years hasn't been fair to the hunters. They deserve an answer. She said the limited conservation land with trails is not appropriate. She noted that Braintree hunters already have Braintree land to hunt on in the Blue Hills with rangers to oversee it.

Dan Armstrong, Braintree resident says it sounds like the Commission is trying to make the perfect policy but it may take many revisions. It can be reviewed and modified.

Ms. Guglielmi asked if the Commission had considered immunocontraceptives? Ms. Charles Lis said it is logistically very challenging and difficult to get all the deer.

Mr. Murphy said he hears from the rangers at Pond Meadow that they see 50 deer at a time. That is far too many and it is time to do something.

Ms. Feldman said with setbacks we do not have the land area for a meaningful policy. She said the state guideline is 1 hunter per 15-20 acres and Eaton's Pond has only 5 acres available so that is out. South Street could have one hunter and Cranberry Pond a few more but it is not feasible. The few numbers of hunters that could be allowed will not have any impact on vegetation and it will compromise the dual usage of the land and the trails. Even Blue Hills has limited number of days of hunting, not the whole season. People of Braintree are requesting more trails not less.

Ms. Albrecht noted that she needed to leave but said it seems that it is not feasible to allow hunting at Eaton's Pond. She said Cranberry Pond and South St. are still a possibility but more discussion is needed. * Ms. Albrecht left.

Ms. Francis said she would not be in favor of hunting unless the trails were closed.

Mr. Hayward said his reason for considering allowing hunting is the health of the forest. He suggested closing the trails for a period of time.

Ms. Charles Lis said she wanted to make it clear that while no study to count the deer has been done the state estimates population by region and the estimate is higher than recommended. Additionally, there is data on vegetation impacts. Deer are eating low preference plants which indicates their population is too high.

Ms. Charles Lis said staff and the Town Solicitor's comments are important and it seems the Town does not have the staff to enforce a hunting policy. She also heard that there is more trail use than there used to be. She said she was not in favor of moving forward this fall but would consider options such as closing trails for a few weeks or weekends.

Motion by Mr. Murphy to open South St. and Cranberry Pond Area to hunting by state regulation as of the start of hunting season on October 1st until a policy is developed. Second by Mr. Weinberg. Discussion. Mr. Weinberg stated he would like to amend the motion to have a local policy in place to proceed by October 1st. Ms. Charles Lis noted that the Braintree conservation land rules and regulations required a policy to be adopted only after a posted public hearing. Staff noted that the public forum held in March was educational and there was not a draft policy. A policy would have to be drafted and a hearing held on the draft. Mr. Murphy withdrew his motion.

Motion by Ms. Feldman to not allow hunting on conservation land. Point of Order by Mr. Murphy who stated that Ms. Feldman was not eligible to make that motion since she had voted against the vote to develop a policy in May. Ms. Charles Lis said she did not see that as a reason why Ms. Feldman could not make a motion. Second by Ms. Francis. Vote: 2-4-0 with Ms. Feldman and Ms. Charles Lis in favor and Ms. Francis, Mr. Murphy, Mr. Weinberg and Mr. Hayward opposed.

Motion by Mr. Hayward to ask staff to draft a policy to be discussed at the October 4th meeting and advertised and abutters notified. Second by Mr. Weinberg. Staff clarified that this was direct abutters. Mr. Hayward agreed. Vote: 4-2-0 with Ms. Francis, Mr. Murphy, Mr. Weinberg and Mr. Hayward in favor and Ms. Feldman and Ms. Charles Lis opposed.

Motion by Mr. Hayward to notify direct abutters of the hearing and put ad in newspaper and notice on the Town website. Second by Mr. Weinberg. Vote: 5-1-0 with Ms. Charles Lis, Ms. Francis, Mr. Murphy, Mr. Weinberg and Mr. Hayward in favor and Ms. Feldman opposed.

Approval of Minutes – August 16, 2018

Motion by Mr. Weinberg to approve the August 16th minutes. Second by Ms. Feldman. Vote: 6-0-0.

Other

None

Adjourn Motion by Mr. Weinberg to adjourn the meeting at 11:00 PM. Second by Ms. Feldman. Vote: 6-0-0.