



Arlington Conservation Commission

Date: September 17, 2020

Time: 7:30pm

Location: Conducted through Remote Participation using Zoom

Minutes

Attendance: Commission Members Susan Chapnick (Chair), Pam Heidell, Dave Kaplan, Chuck Tirone (Vice Chair), and David White; Associate Commissioners Cathy Garnett, Mike Gildesgame, and Doug Kilgour; and Conservation Agent Emily Sullivan. Members of the public included Susan Ann Kehler, Mary O'Connor, Dan Wells, Daniel St.Clair, Justin Wiley, Duke Bitsko, Andrew Keel, and Greg Hochmuth. Commissioner Nathaniel Stevens was absent.

08/20/2020 Meeting Minutes

The Commission discussed edits to the draft 08/20/2020 minutes. P. Heidell motioned to approve the minutes as edited, D. White seconded, all were in favor, motion approved.

09/03/2020 Meeting Minutes

The Commission discussed edits to the draft 09/03/2020 minutes. D. White motioned to approve the minutes as edited, P. Heidell seconded, all were in favor, motion approved.

Reimbursement Approval – Mt Gilboa Scout Project

The Commission reviewed the reimbursement request made by Henri Schuette for \$169.19 for his Scout project in Mt Gilboa which included trail restoration along two trails. D. White motioned to approve the reimbursement request using funds from the Conservation Stewardship Fund managed by the Arlington Land Trust, D. Kaplan seconded, all were in favor, motion approved.

D. White stated he would work with the Arlington Land Trust to issue the reimbursement.

Arlington Reservoir Master Plan Site Visit

S. Chapnick, C. Garnett, and M. Gildesgame summarized the site visit they had with the Reservoir Phase II designers and members of the Arlington Park and Recreation Commission, Arlington Recreation Director, and Lexington Conservation Director. The purpose of the site visit was to review the various components of the project prior to permit submittal, including: parking lot renovation, boat ramp construction, playground renovation and relocation, pathway construction through the bathing beach, renovation of the entry plaza, construction of a picnic pavilion, renovation of the perimeter path,

stabilization of the shoreline, and removal of invasive species and installation of native species along the perimeter path.

D. White commended the Park and Recreation Commission on their thorough public engagement process for this project.

D. Kaplan stated that the permit submittal should include winter maintenance for the porous parking lot.

Request for Determination of Applicability: 1165R Massachusetts Avenue

Documents Reviewed:

- 1) *1165R Mass Ave RDA*
- 2) *Letter from Town Counsel regarding Historic Mill Complexes Exemption*

Resource Areas:

- 1) *Mill Brook*
- 2) *100-ft Wetlands Buffer*
- 3) *200-ft Riverfront Area*
- 4) *Floodplain*

This RDA requested that the Commission review the jurisdiction of various resource areas under the Wetlands Protect Act only, within the boundaries of 1165R Mass Ave, also commonly referred to as Mirak 40B. The following three reviews are requested:

- Review the Riverfront Area to determine if the property contains a Historic Mill Complex as defined under the Massachusetts Wetlands Protection Act (WPA) Regulations 310 CMR 10.04.
- Review the Historic Mill Complex exemption request under the Riverfront Area regulations in 310 CMR 10.58(6)(k).
- Review the existing drainage ditch, known locally as Ryder Brook, and determine if it meets the definition of “stream” in 310 CMR 10.04.

This hearing was a continuation hearing from the initial hearing for this RDA at the Commission’s 09/03/2020 meeting.

The Applicant’s consultant, D. Wells stated that the purpose of the RDA was to understand the full extent of jurisdiction to inform the future NOI filing under the Wetlands Protection Act (WPA). D. Wells presented supplemental materials to the Commission that had been requested at the 09/03/2020 meeting, including: more information about the Historic Mill Complexes exemption, more historic information about the site, and additional investigation of potential resource areas upstream of Ryder Brook.

P. Heidell, S. Chapnick, and C. Tirone asked for clarification on the proposed northern boundary of the Historic Mill Complex, in the area of the current site’s parking lot. D. Wells stated that the northern boundary area was used as a driveway and has utility lines running through it. D. Wells referenced the 1945 recorded plan of the site, and stated that although there were substantial changes to the site between the 1920s and

1940s, the 1945 plan shows that this area was driveway. D. Kaplan recommended that the proposed northern boundary should be delineated conservatively because there is some ambiguity regarding the use of that area (e.g. driveway, parking, access). P. Heidell agreed that the northern boundary should be conservative and follow the old property line indicated on the 1945 plan, and that the project should include as much greenspace as possible. M. O'Connor affirmed there would be a significant increase in green space.

S. Chapnick asked the Commission whether it was ready to make a determination on the Historic Mill Complex Exemption. P. Heidell motioned that: 1) the property qualifies as a Historic Mill Complex and is exempt from the WPA's Riverfront Standards, and 2) the extent of the Historic Mill Complex is as described and amended during this meeting, of which the Applicant will provide an updated delineation. All were in favor, motion approved.

D. Wells presented his additional investigation of potential resource areas upstream of Ryder Brook. D. Wells affirmed that there are no resource areas upstream of Ryder Brook.

C. Garnett stated that she lives in that area of town and can affirm that there are no resource areas upstream of Ryder Brook.

C. Tirone stated that he conducted a similar investigation as D. Wells and witnessed the same conditions documented in his report.

D. Wells summarized that stormwater infrastructure drains to Ryder Brook, and so Ryder Brook is a drainage ditch and not a resource area under the WPA.

D. Kaplan questioned this interpretation of WPA jurisdiction, and stated that he interpreted the regulations such that since there is standing water in Ryder Brook near the bikeway and it was once a historic stream, that Ryder Brook is jurisdictional under the WPA.

D. Wells stated that since there is no longer a stream there, it is not jurisdictional under the WPA because jurisdiction is determined by present day conditions and not historic conditions.

D. Kaplan stated that since Ryder Brook flows into Mill Brook, the tributary serves ecological purposes that should be protected.

M. Gildesgame stated that the Commission's 09/02/2020 site visit did not observe any wetland characteristics along Ryder Brook, including soil type and prevalent vegetation.

C. Garnett stated that the Commission has no indication that there is connectivity between Ryder Brook and an upstream bog, there is not bog upstream.

D. Kaplan asked whether the standing water by the bikeway can be considered the source of the stream. C. Garnett stated that there is no hydrologic connection between the standing water and Ryder Brook, and that it is merely overland flow and not a stream.

C. Tirone stated that the WPA's definition of stream includes above or below ground.

D. Wells stated that the current USGS Stream Stats and map do not show a stream upstream of Ryder Brook. Additionally, the Stream Stats show that the watershed area of Ryder Brook is below the area requirement for streams under WPA jurisdiction. D. Wells stated that Ryder Brook is an intermittent stream, and that since it is not connected to any upstream wetland area it is not jurisdiction under the WPA.

S. Chapnick stated that she thought Ryder Brook was a drainage ditch that although is jurisdiction under the Arlington Bylaw for Wetlands Protection, is not jurisdictional under the WPA.

P. Heidell motioned that Ryder Brook is not jurisdiction under the WPA, S. Chapnick seconded, the motion did not pass (P. Heidell voted to approve, S. Chapnick voted to approve, C. Tirone voted to deny, D. White voted to abstain, and D. Kaplan voted to abstain), the motion was not approved.

The Commission requested the following information regarding Ryder Brook:

1. The definition of stream under WPA
2. Clarification of how connections to and from resource areas to Ryder Brook impact its jurisdiction
3. Case law precedence for the Applicant's assertion that Ryder Brook is not jurisdictional

C. Tirone motioned to continue the hearing to the Commission's 10/01/2020 meeting, D. Kaplan seconded, all were in favor, motion approved.

Request for Certificate of Compliance: 12 Clyde Terrace

MassDEP File #091-0274

Documents Reviewed:

- 1) *12 Clyde Terrace NOI*
- 2) *12 Clyde Terrace OOC*
- 3) *12 Clyde Terrace Amended Planting Plan*
- 4) *12 Clyde Terrace Request for Certificate of Compliance*
- 5) *COC Internal Checklist*

Resource Areas:

- 1) *100-ft Wetlands Buffer*
- 2) *Adjacent Upland Resource Area*

The project as approved proposed to raze an existing single family home and replace it with a single-family home in the 100-ft wetlands buffer and AURA of an isolated wetland. The project was approved on 06/19/2017.

G. Hochmuth reviewed the project history of the site, and summarized that the all conditions had been met except for the 3 year monitoring period plantings, which had been planted in 2019. G. Hochmuth shared photos of the site with the Commission, and stated that at least 80% of the vegetation and plugs have survived.

C. Garnett noted that the plug area also contains crab grass, which should be removed. G. Hochmuth agreed, and said he would tell the Applicant that the crab grass needs to be managed.

D. Kaplan motioned to issue a complete Certificate of Compliance with continuing conditions 38, 39, 43, 44, and 45, D. White seconded, all were in favor, motion approved.

Notice of Intent: Wellington Park

MassDEP File #091-0324

Documents Reviewed:

- 1) *Wellington Park NOI*

Resource Areas:

- 1) *100-ft Wetlands Buffer*
- 2) *Adjacent Upland Resource Area*
- 3) *Riverfront Area*
- 4) *Floodplain*

This project proposes additional amenities in Wellington Park, including more native plantings, an extended pathway, a bioretention basin, additional signage and seating, and an informal exploration area.

D. Bitsko and A. Keel presented the project history and project proposal. Project components include extending the existing boardwalk through a porous pathway that connects to the existing bridge, an informal play and exploration area, additional benches and picnic tables, a bioretention basin near Prentiss Road, and substantial native plantings.

P. Heidell asked why the informal play and exploration area was proposed in the floodplain. D. Bitsko stated that it would add significant compensatory flood storage. The exploration area would require 40 cubic feet of fill, but remove 600 cubic feet of area, creating a net increase of 540 cubic feet of compensatory flood storage.

C. Garnett stated that she had attended multiple public meetings for the design of this project, and appreciated the resilient design. P. Heidell cautioned that an informal play area in the floodplain did not seem like a resilient design. D. Kaplan stated that if areas of the exploration area were in the floodway, it also did not seem like a resilient design.

C. Tirone asked if trees along Mill Brook bank were proposed for removal. D. Bitsko stated that no trees along the bank were proposed for removal, but three trees in the park, near the house on Grove Street were proposed for removal.

C. Tirone asked for clarification on the proposed bioretention basin, and its proposed materials.

C. Tirone asked if the proposed plantings would increase shade in the park. D. Bitsko stated that yes, proposed trees would increase shading in the park.

The Commission made the following requests and suggestions for the project:

- 1) send project to DPW for stormwater review
- 2) look for opportunities to reduce planting maintenance
- 3) review size of stone in bioretention basin and potential for two layers
- 4) review how the exploration area interacts with the floodplain/floodway
- 5) consider the winter maintenance of roads and impact on bioretention basin
- 6) determine if DPW has any future work planned for Prentiss Road

C. Tirone motioned to continue the hearing to the Commission's 10/01/2020 meeting, D. Kaplan seconded, all were in favor, motion approved.

Regulatory Update: Stormwater Management Section

The Commission reviewed and discussed Section 33: Stormwater Management for the Arlington Regulations for Wetlands Protection. Discussion of this regulatory update will continue to the Commission's 10/01/2020 meeting.

D. White motioned to close the Commission meeting, C. Tirone seconded, all were in favor, motioned approved.

Meeting adjourned at 10:40pm.