



Mayor  
Charles C. Kokoros

## Department of Planning and Community Development

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### CONSERVATION COMMISSION

Christopher Hayward, Chair  
Peter Williams, Vice Chair  
Heather Charles Lis, Member  
Diane Francis, Member  
Hung Pham, Member

**APPROVED**

### CONSERVATION COMMISSION MINUTES SEPTEMBER 7, 2023 MEETING (7PM) JOHNSON CHAMBERS

Present: Heather Charles Lis, Christopher Hayward, Hung Pham, Peter Williams and Kelly Phelan, Conservation Planner

Absent: Diane Francis

#### **PUBLIC HEARINGS**

#### **Request for Determination of Applicability 360 (400) Wood Rd./HRP Wood Road, LLC\***

John Coelho from BW Design Group was present representing the applicant. Mr. Coelho said that they provided more detail on the existing and proposed conditions and quantified the areas. Overall, they are reducing impervious area by 1600 square feet and adding 340 square feet of landscaping beds.

Mr. Hayward asked for public comment. There was none.

Ms. Charles Lis suggested modifying draft condition #3 to include that plantings must be native species and no cultivars.

Motion: by Mr. Williams to issue a Negative Determination of Applicability with conditions as modified.

Second: by Mr. Pham.

Vote: In favor: 4, Opposed: 0, Abstained: 0.

#### **Notice of Intent DEP File # pending 25 Pond St./Giglio\***

Deb Keller, Merrill Engineering was present. Ms. Keller presented revised plans which include cross-sections for the proposed condition of the three areas of the Bank. One section has an existing wall, one has boulders and the third is not armored. She said the unarmored area is 35 feet. The total amount of Bank on the site is 283 linear feet. Armoring the unarmored section does not meet the performance standards unless the area is found to be insignificant to wildlife habitat. She has asked Brad Holmes to conduct a wildlife habitat evaluation. She also filed with the Natural Heritage and Endangered Species Program (NHESP) as required due to the Eastern pondmussel habitat. She expects that they will require a mussel sweep prior to construction.

Mr. Williams said that the cross-sections help to clarify the proposal and asked for confirmation that no work is proposed south of the beach/inlet area. Ms. Keller said there was no work proposed there.

Ms. Keller said they also added plantings and propose 14 trees and 20 shrubs to replace the trees to be removed (7 in the 0-50 foot buffer and 4 in the 50-100 foot buffer).

Mr. Pham said he made a site visit and noticed that there was recent vegetation cutting in the cluster around the silver maples. He is also concerned about the new wall impacting Land Under Water and that impact not being noted. Ms. Keller said she amended the NOI to reflect 705 square feet of temporary impact to Land Under Water.

Ms. Charles Lis said she also made a site visit. She asked for clarification on the mussel sweep as Ms. Keller said at the August meeting that the wall would be built landward of the existing wall. Ms. Keller said that her client requested that change. Ms. Charles Lis said that she was not in favor of that option and that it is very different than what was discussed. She said she is opposed to the number of trees to be removed. She said some of the trees proposed to be removed do not appear to be a safety hazard and suggested that pruning be considered. Mr. Hayward noted that the roots stabilize the shoreline. Ms. Charles Lis also noted that there is an asphalt area behind the existing tennis court which could be considered for removal.

Mr. Williams asked what backfill is proposed. Ms. Keller said standard borrow gravel. Mr. Williams asked what is proposed for fill in front of the wall as shown on cross-section 3. Ms. Keller said the same material which is excavated. Mr. Williams suggested looking at ways to temporarily minimize construction impacts.

Mr. Pham asked if there was Chapter 91 jurisdiction. Ms. Phelan said that Sunset Lake is a Great Pond but that DEP did not address that in their comment letter. She will clarify with DEP.

Ms. Phelan said she does not support armoring the unarmored Bank due to the impact to wildlife habitat.

Ms. Charles Lis suggested the applicant consult with an arborist about the possibility of pruning trees.

Mr. Hayward asked for public comment. There was none.

Motion: by Mr. Williams to continue the hearing for 8-722 to the October 5<sup>th</sup> meeting.

Second: by Ms. Charles Lis.

Vote: In favor: 4, Opposed: 0, Abstained: 0.

#### **Abbreviated Notice of Resource Area Delineation DEP File #8-721 Rear Liberty St./McGourty Realty,LLC**

Austin Chartier from McKenzie Engineering Group was present on behalf of the applicant. Mr. Chartier said the wetland boundary had been flagged by Brad Holmes. He and Mr. Holmes walked the site recently with Ms. Phelan and a few flags were relocated during the site walk. He said that the plan had been updated to reflect the changes.

Ms. Phelan noted that they looked vegetation and soils and relocated a few flags based on that review. She is in agreement with the revised delineation. She noted that only one side of the wetland was flagged. She drafted an Order of Resource Area Delineation to reflect that no other resource areas or resource area boundaries were approved other than the A-series. A 2018 plan submitted to staff but not filed with the Commission showed flagging around the perimeter of the wetland. She provided this to the Commission for information purposes only.

Mr. Hayward asked for public comment.

Robert Moschella, 1661 Liberty St., asked about the 2018 proposal. Ms. Phelan said that no application was filed and no action was taken on the 2018 plan. Mr. Chartier said the same wetland scientist who delineated the wetland in 2018 did the current delineation for the ANRAD.

Rich Campbell said he used to skate on the wetland as a child. He said there was a proposal to put Roosevelt Place on the site in the 1970s but it was denied.

Matthew Sisk, 9 Canavan Dr., asked about the process and noted he is concerned about the wetlands and wildlife. Mr. Hayward said that the applicant is asking for confirmation of the wetland boundary only at this time. No project is proposed. Mr. Sisk said the site “dog legs” off of Liberty St. He asked if the Commission takes the impact to wetlands into consideration. Mr. Hayward said that in a proposal for development the Commission considers the impact to wetlands.

Chris Mazzini, Livoli Ave., asked if there was a setback from wetlands. Mr. Hayward said that there is a 25-foot no-disturb buffer zone and any work within 100-feet has to be reviewed by the Commission.

Mike Moschella, 1661 Liberty St., said that he contacted a previous owner of the property named Haufler who tried to develop it and couldn't due to the Wetland Protection Act. He put in a request for those records. He asked if blasting would factor into the Commission's review. Mr. Hayward said it would be discussed as part of construction impacts. Mr. Moschella asked why the entire area was not delineated. Mr. Hayward said it was up to the applicant.

Chris Mazzini asked who is responsible for the delineation. Mr. Hayward said a Professional Wetland Scientist does the delineation based on vegetation, soil and hydrology and the Commission's staff person, Ms. Phelan, reviews the delineation. Ms. Charles Lis noted that an applicant can come in first with the delineation to confirm the wetland boundary before designing a project, or they can do it in the same application with a project proposal.

Ms. Charles Lis said that Andrew Poyant, Circuit Rider with DEP had advised her in the past that the “modified” box should be checked on the decision form even though the plan had been amended to reflect the flag changes.

Brian Joyce, Livoli Ave., said there are flags behind his house and wondered if that is the wetland line. Flagging in that part of the site is part of this application.

Mike Moschella said there is a storm drain which outlets on the site and there are no flags on it. Ms. Phelan said that there is an eroded trench at the outfall of the drain and there is no vegetation in the trench.

Matt Sisk asked about Natural Heritage and Endangered Species jurisdiction. Mr. Chartier said there is no rare species habitat on the site.

Motion: by Ms. Charles Lis to issue the Order of Resource Area Delineation noting that the Bordering Vegetated Wetland is approved as modified in accordance with the revised plan.

Second: by Mr. Williams.

Vote: 4-0-0.

## **OTHER BUSINESS**

### **Modification Request DEP File #8-697 44 and 4 Allen St./Arch Communities LLC**

Jesse Johnson, Weston and Sampson, was present with Rich Relich from Arch Communities, LLC. Mr. Johnson said they were before the Commission about a year ago to request an Amended Order of Conditions. He said they

have continued to refine the design since then. They had to make some additional revisions as a result of the Chapter 91 permitting, such as relocating the loading zone. They got a structural engineer involved and learned that the screen house is not structurally sound. They now propose to demolish the structure but leave the slab in place and fill the voids under the structure. They will create an overlook area to look at the equipment from the screenhouse. They also changed the boardwalk material to porous concrete instead of wood and added an underdrain to the rain garden.

Ms. Charles Lis asked if porous concrete is tolerant of salt water. Mr. Johnson said the Landscape Architect recommended it. She asked that he confirm that because she believes the UNH Stormwater Center found that it did not hold up well to salt.

Mr. Johnson said they also moved the sewage pump tank location to a higher location and realized that they did not need the sheetpile wall which had been proposed on the southwest bank. He said the erosion they saw was caused by the emergency sewer overflow. He said there is a net increase in impervious area 900 sq. ft. but well under the pre vs. post rate calculations. He said they also kept the landscaping the same.

Mr. Pham asked about blocking access to the screenhouse area. Mr Johnson said it was a safety issue so they are trying to repurpose the area. Mr. Pham asked if they thought about daylighting it for restoration. Mr. Johnson said they had dozens of internal meetings about it and decided it wasn't feasible.

Mr. Hayward asked for public comment. There was none.

Motion: by Ms. Charles Lis to approve the changes as a minor modification.

Second: by Mr. Pham.

Vote: 4-0-0.

### **Staff or Commission Updates**

Mr. Hayward was asked by Councilor Boericke to attend the Braintree Farmer's Market this weekend and meet with residents regarding the work of the Conservation Commission.

### **Approval of Minutes – August 3, 2023**

Motion: by Mr. Williams to approve the August 3, 2023 minutes.

Second: by Mr. Pham

Vote: In favor: 3 (Charles Lis, Pham, Williams), Opposed: 0, Abstained: 1 (Hayward).

### **Adjourn**

Motion: by Mr. Pham to adjourn the meeting at 9:30 PM

Second: by Ms. Charles Lis.

Vote: In favor: 4, Opposed: 0, Abstained: 0.

**\* continued from the August 3<sup>rd</sup> meeting**