

NATURAL RESOURCES COMMISSION
Meeting Minutes
January 19, 2022

Pursuant to the notice filed with the Town Clerk, a virtual public meeting of the Natural Resources Commission was held on Wednesday, January 19, 2022 at 7:00 pm. The following Commissioners were present: Ed Nardi, Chair, Sarah Grimwood, Greg Higgins, Nick Pappas, and Gary Kleiman. Natural Resources Director Delia Kaye and Natural Resources Administrative Assistant Karen Bockoven were also present.

APPROVE MEETING MINUTES <ul style="list-style-type: none">• November 3, 2021
DIRECTOR'S UPDATE
CONTINUANCES <ul style="list-style-type: none">• TOWN OF CONCORD, NATURAL RESOURCES DIVISION, 2X Warner St., 39A Commonwealth Ave., 28A Union Turnpike, 976 Barretts Mill Road, and 123B Elm St., NOI• NASHOBA BROOK BAKERY, 152 Commonwealth Avenue, NOI
NEW APPLICATIONS <ul style="list-style-type: none">• KEAN, 394 Monument Street, RDA
CLOSE and ISSUE <ul style="list-style-type: none">• MOON OWL REALTY, LLC, 821 Strawberry Hill Road• BOYAJIAN, 77 Westford Road• MASSACHUSETTS PORT AUTHORITY, 777 Virginia Road
CERTIFICATES OF COMPLIANCE <ul style="list-style-type: none">• PISANO, 73 Monument Street• TORRINGTON PROPERTIES, 23 Fielding Street• BAXTER, 315 Harrington Avenue• BUSHNELL, 1599 Lowell Road
OTHER BUSINESS <ul style="list-style-type: none">• Updated Mitigation Policy – Tree Protection

Chair Nardi called the meeting to order at 7:00 p.m. He stated that the NRC meeting was being audio-recorded and requested that anyone from the public recording the meeting so inform the Commission.

APPROVE MEETING MINUTES

Commissioner Higgins moved to approve the November 3, 2021 NRC meeting minutes, as amended. Commissioner Kleiman seconded. Chair Nardi abstained. **VOTE 4-0** by Roll Call Vote: Grimwood, Aye, Higgins, Aye, Pappas, Aye, Kleiman, Aye.

DIRECTOR'S UPDATE

- Construction to install an irrigation pond at the Concord Country Club has been ongoing since October. Staff was informed by the Environmental Monitor of a failure with the

erosion controls, with a thin layer of silt entering the Jennie Dugan wetland system. The section where the breach occurred had not not hydroseeded because it was probably too late in the season to put down. Director Kaye and Assistant Town Engineer Justin Richardson met with General Manager Greg Cincotta and Course Superintendent Peter Rappoccio to discuss remediation measures. The Club was advised to contact Stamski and McNary to evaluate remediation measures. The Club was also instructed to install check dams down the slope and remove accumulated silt by hand. In the spring, the country club will need to replant and stabilize the slope. Mr. Cincotta and Mr. Rappoccio agreed to these measures.

- At its meeting last night, CPC recommended CPA projects for Town Meeting approval, including \$1,000,000 towards the Assabet River Bluff Preservation Project in West Concord. Director Kaye said originally when the Town, CLCT, SVT, and CHDC starting discussion, the housing proposal included 10 new units to be constructed at a future date, adding to the existing two units at 406 Old Marlboro Road. A Riverwalk style of development was proposed envisioned. This proposal was not met favorably by the neighbors and the project was scaled down to six units plus two for the existing dwelling. The current proposal is to purchase the entire property for 2.8 million, carve out one acre for affordable housing then place the majority of the parcel into conservation. The neighbors felt this was a more favorable option. Director Kaye explained that originally the housing interests would contribute two-thirds of the acquisition and open space interests would contribute one-third; this balance has now reversed to reflect the higher percentage of land for conservation purposes.

The Town will submit a Land and Water Conservation Fund application on Monday for \$500,000. In addition, the Town will apply for a Municipal Vulnerability Preparedness grant for the same amount later this spring. If the Town is not successful in receiving either grant, funds will be sought from the Capital Improvement Plan.

- Director Kaye said there have been several reports of a young moose in West Concord. In the past, there have been sightings on Lowell Road and in Estabrook Woods. Commissioner Pappas said he saw a video of the moose and it did look young. Director Kaye said moose sightings are not unusual and eventually the moose will find its way back to a more suitable area.

CONTINUANCES

Notice of Intent Application, Town of Concord Natural Resources Division, 2X Warner Street, 39A Commonwealth Avenue, 28A Union Turnpike, 976 Barretts Mill Road, and 123B Elm Street, DEP File #137-1585

Chair Nardi reopened the hearing seeking approval to hydraulically dredge approximately 35,750 cubic yards of accumulated sediment from Warner's Pond, dewater sediments, dispose of sediments in an upland location, and improve the Warner's Pond boat access off Commonwealth Avenue. Activities are proposed in Bank, Bordering Vegetated Wetland, Land Under Waterbodies, Bordering Land Subject to Flooding, and the 100-foot Buffer Zone to Bank and Bordering Vegetated Wetland.

List of plans and documents discussed at this meeting:

- Technical Memorandum prepared by EA Engineering, Science, and Technology, Inc. dated December 28, 2021.

Alexander Patterson and Amy Hunt of EA Engineering attended tonight's meeting. Mr. Patterson said the primary comment from the NRC that they needed to address was a question about clarifying the proposed sediment disposal volume at the final sediment disposal area. In response, they took a closer look and have refined the anticipated sediment disposal volume. They revised and submitted their plans accordingly. They have received comments from DEP both on the Notice of Intent Application and the 401 Water Quality Certification. Mr. Patterson said they are in the process of developing responses and will share with the NRC when available.

Ms. Hunt said at the last meeting there was a question about the size and volume of sediment pile. EA Engineering submitted a memo detailing how they came up with the size of the pile. Ms. Hunt explained that they will be excavating approximately 35,750 cubic yards of sediment from the pond. Approximately 4,470 cubic yards of the dredged material will be pumped from one area of the impoundment to another to make the wetland shelf. The remaining 31,300 cubic yards of dredging sediment will be pumped hydraulically into the settling area. The material that is being hydraulically pumped from the bottom of the pond will settle out to take up the same volume of material from when it was in the pond. She explained that when material is fully dewatered and then moved, they consider two things. First, is a bulking factor. Ms. Hunt said that when material is disturbed from its initial location within the pond, air is introduced into the material. The same thing will happen when the material is moved from the dewatering area to the final placement area. The bulking factor will be slightly bigger. She said in this situation there are organic materials as well. Organic materials tend to absorb more water and take up more space. There also is a shrinkage factor associated with organic material. It was determined that the shrinkage factor was a little bigger. They also included a factor of safety. An additional allowance for storage of about 5,500 cubic yards of material was added. Mr. Patterson said with the extra safety factor brings the size of the pile back to what they originally stated.

Commissioner Kleiman asked if the NRC would be provided with comments received from the other agencies. He said he was particularly interested about information about the wetland shelf. Mr. Patterson said they will provide.

Karlen Reed of 83 Whits End said she was impressed with how much detail was provided given the enormity of the project. She thanked the Division and EA Engineering for addressing her concerns.

The Applicant agreed to continue the hearing until February 16, 2022 to allow additional information to be provided.

Notice of Intent, Nashoba Brook Bakery, 152 Commonwealth Avenue, DEP File #137-1587

Chair Nardi reopened the hearing seeking approval to remove and rebuild an existing concrete walkway and install new water and sewer connections within Bordering Land Subject to Flooding, the 200-foot Riverfront Area to the Nashoba Brook, and the 100-foot Buffer Zone to Bank and Bordering Vegetated Wetlands.

List of plans and documents discussed at this meeting:

- Site Plan prepared by Stamski and McNary, Inc. revised January 18, 2022.

Nathanial Cataldo of Stamski and McNary attended tonight's meeting. Mr. Cataldo said revisions have been made to their plan based on comments received at the last meeting. As requested by CPW/Engineering, they revised the floodplain calculations by elevation and contour. They also

noted where the fill and compensatory storage areas will be located. Mr. Cataldo explained that the fill is the result of the walkway being raised. The compensatory storage area is the result of part of the walkway that is being removed. Mr. Cataldo said the section of the walkway that is being removed will be replanted with low cover shrubs. He said the Town Engineer wanted assurance that cars would not be able to drive down the walkway once the bollards were removed. Mr. Cataldo said the bollards are only a couple of inches high now and do not serve any purpose. The walkway in that section will only be 5-feet wide and is not wide enough for a car to drive down. Commissioner Higgins said the walkway is probably not suitable for bicycles either. Mr. Cataldo agreed.

Commissioner Higgins asked if there were any roof drains on the walkway side of the building. Mr. Cataldo said there are no outfalls on the walkway. He said the grass strip in the middle is lower which creates a swale. Director Kaye said if water is running down from the building it may be a good idea to put steel edging on both the river side and walkway side to contain the soil.

Director Kaye said the 223 noted as the contour on the plan needs to be corrected to 123. Mr. Cataldo said he will correct.

Suzanne Spinney of 270 Fiske Street, Carlisle said she has been working with John Gates of Nashoba Brook Bakery on this project. Ms. Spinney explained that the back walkway is also the new handicap accessible entry. They had to be cognizant of the pitch and swale and that is why they are removing the bollards.

The Applicant agreed to continue the hearing until February 2, 2022 to allow additional information to be provided.

NEW APPLICATIONS

Request for Determination of Applicability, Kean, 394 Monument Street, RDA File #22-1

Chair Nardi opened the meeting seeking approval to install a drywell within the 200-foot Riverfront Area of the Concord River and within the 100-foot Buffer Zone to Bank and Bordering Vegetated Wetlands.

List of plans and documents discussed at this meeting:

- Request for Determination of Applicability Application; and
- Drywell Plan prepared by Stamski and McNary, Inc. dated December 28, 2021.

Nathanial Cataldo of Stamski and McNary attended tonight's meeting. Mr. Cataldo said the property is bordered by the Concord River. The entire parcel is within the 200-foot Riverfront area and within the 100-foot BZ to Bank and Bordering Vegetated Wetland. Mr. Cataldo said the homeowner wants to install a water softening system to remove minerals. He explained that over time minerals in the water could potentially damage pipes and appliances. The backwash produced from the softening system will drain into a 300-gallon drywell which will be underneath the existing driveway. Installation of the drywell will only take a day or two. The driveway pavement will be sawcut and then repaved after work is completed.

Commissioner Kleiman asked if there would be any chemicals coming out from the backwash or just mineral content. Mr. Cataldo replied that sodium will cause a chemical reaction which will

remove the minerals from the water. The minerals that will run into the drywell are minerals that are already there now. There is no worry about high mineral content or salt getting into the ground.

There were no public comments.

Commissioner Higgins moved to issue a Negative Determination of Applicability #2 and #3 with the following conditions: 1) A pre-construction site visit shall be held with DNR staff and the Contractor to review erosion controls and limits of work; 2) Stockpiling shall occur within the existing paved driveway, outside the 50-foot buffer zone; and 3) After the project has been completed, the Applicant shall submit a letter to the NRC stating that work has been conducted in accordance with all conditions of this Determination of Applicability. Any changes from the RDA shall be described. Commissioner Grimwood seconded. It was **UNANIMOUSLY VOTED** by roll call vote: Grimwood, Aye, Higgins, Aye, Pappas, Aye, Kleiman, Aye, Nardi, Aye.

CLOSE AND ISSUE PERMITS

Moon Owl Realty, LLC, 821 Strawberry Hill Road, DEP File #137-1580

Chair Nardi reopened the hearing seeking approval to construct a single-family dwelling, deck, associated driveway, and sewage disposal system within the 100-foot Buffer Zone to Bordering Vegetated Wetlands.

Commissioner Grimwood moved to close the hearing and issue an Order of Conditions for DEP File #137-1580 with Findings A and B, Standard Conditions 1-20, and Special Conditions 21-55. Commissioner Higgins seconded. It was **UNANIMOUSLY VOTED** by roll call vote: Grimwood, Aye, Higgins, Aye, Pappas, Aye, Kleiman, Aye, Nardi, Aye.

Boyajian, 77 Westford Road, DEP File #137-1588

Chair Nardi reopened the hearing seeking approval to construct an addition off an existing detached garage within the 100-foot Buffer Zone to Bordering Vegetated Wetlands.

Commissioner Grimwood moved to close the hearing and issue an Order of Conditions for DEP File #137-1588 with Finding A, Standard Conditions 1-20, and Special Conditions 21-52. Commissioner Higgins seconded. It was **UNANIMOUSLY VOTED** by roll call vote: Grimwood, Aye, Higgins, Aye, Pappas, Aye, Kleiman, Aye, Nardi, Aye.

Massachusetts Port Authority, 777 Virginia Road, DEP File #137-1589

Chair Nardi reopened the hearing seeking approval to construct and repave a roadway within Bordering Land Subject to Flooding and the 100-foot Buffer Zone to Bordering Vegetated Wetlands.

Commissioner Grimwood moved to close the hearing and issue an Order of Conditions for DEP File #137-1589 with Findings A and B, Standard Conditions 1-20, and Special Conditions 21-55. Commissioner Higgins seconded. It was **UNANIMOUSLY VOTED** by roll call vote: Grimwood, Aye, Higgins, Aye, Pappas, Aye, Kleiman, Aye, Nardi, Aye.

CERTIFICATES OF COMPLIANCE

Pisano, 73 Monument Street, DEP File #137-1480

Commissioner Pappas moved to issue a Certificate of Compliance for DEP File #137-1480. Commissioner Higgins seconded. It was **UNANIMOUSLY VOTED** by roll call vote: Grimwood, Aye, Higgins, Aye, Pappas, Aye, Kleiman, Aye, Nardi, Aye.

Torrington Properties, 23 Fielding Street, DEP File #137-1467

Commissioner Pappas moved to issue a Certificate of Compliance for DEP File #137-1467. Commissioner Higgins seconded. It was **UNANIMOUSLY VOTED** by roll call vote: Grimwood, Aye, Higgins, Aye, Pappas, Aye, Kleiman, Aye, Nardi, Aye.

Baxter, 315 Harrington Avenue, DEP File #137-777

Commissioner Pappas moved to issue a Certificate of Compliance for DEP File #137-777. Commissioner Higgins seconded. It was **UNANIMOUSLY VOTED** by roll call vote: Grimwood, Aye, Higgins, Aye, Pappas, Aye, Kleiman, Aye, Nardi, Aye.

Bushnell, 1599 Lowell Road, DEP File #137-1519

Commissioner Pappas moved to issue a Certificate of Compliance (partial) for DEP File #137-1519. Commissioner Higgins seconded. It was **UNANIMOUSLY VOTED** by roll call vote: Grimwood, Aye, Higgins, Aye, Pappas, Aye, Kleiman, Aye, Nardi, Aye.

OTHER BUSINESS

Updated Mitigation Policy – Tree Protection

Chair Nardi said the NRC may want to update their mitigation policy to align with the mitigation requirements of the Town's Tree Preservation Bylaw. The Town's policy for tree removal and replacement is based on diameter size which is different from NRC's wetland policy. He said Administrative Approvals that are heard by the NRC are often about tree removal. Homeowners are usually asking to remove trees because they pose a danger, or they are diseased. Commissioner Kleiman said the NRC should be consistent with the Tree Preservation Bylaw. He believes it is just as important to have mitigation for removal of an invasive tree because habitat is needed for wildlife.

Commissioner Grimwood asked if the NRC wants someone to provide mitigation and plant a new tree are they risking more disruption in the wetlands. Commissioner Higgins said the Tree Preservation Bylaw gives homeowners the option of replacing the tree or pay a fee to Tree Preservation Fund. He noted that the NRC encourages homeowners to remove invasives. He asked if the Commission wants to give credit to homeowners towards mitigation for leaving snags. Chair Nardi said that the Town's Tree Preservation Bylaw states that anything that is hazardous and diseased is exempt. He said currently the NRC reviews tree removal as an Administrative Approval. Commissioner Higgins said the Town's Tree Preservation Bylaw only pertains to demolition projects. He would rather have the Town's bylaw coincide with the tree policy of the NRC and not the other way around. The NRC tree policy should stand alone.

Commissioner Kleiman said some people are not very happy about the Town's Tree Preservation Bylaw. They believe it should be more stringent. He said the NRC should stick to their own mandate and protect wetland habitat. The Commission agreed. Commissioner Higgins wanted confirmation

that the NRC is not waiving its right to refuse someone by not allowing a tree to come down unlike the Tree bylaw which allows a homeowner to take down trees and put money in a fund rather than replace. The NRC agreed.

Chair Nardi asked if Natural Resources staff could draft something. Director Kaye said she can put something together. She explained that staff already maintain a database for keeping track of Administrative Approvals most of which are for tree removal, which could be updated to include a column for tree replacement/mitigation.

Commissioner Kleiman noted that the Town's bylaw requires a tree management plan. He asked if staff reviews tree removals what will be the enforcement mechanism. Director Kaye said that for Determination of Applicability permits and Administrative Approvals it is usually the homeowner who is coordinating the tree removal work. For new construction it is a contractor. Director Kaye said she would not want to make the process too burdensome or expensive for a homeowner if a tree management plan was required. The NRC agreed.

Commissioner Higgins said he advises potential new homeowners that an insurance company may require tree removal. Commissioner Pappas said it is probably because of different underwriting standards.

Commissioner Higgins moved to adjourn. Commissioner Pappas seconded. It was **UNANIMOUSLY VOTED** by roll call vote: Grimwood, Aye, Higgins, Aye, Pappas, Aye, Kleiman, Aye, Nardi, Aye.

This meeting adjourned at 8:19 p.m.

Respectfully submitted,

Karen Bockoven
Administrative Assistant

A video of the meeting can be seen by clicking this link or entering it into a web browser:
<https://youtu.be/dpnV3wOQmkg>