Meeting Minutes, 25 Feb 2020
Malden Conservation Commission

Attending:
- P. Buckley
- K. Khaba
- G. Laskey
- K. Mazonson
- I. Slavitt (Acting Chair)

Non-voting
- G. Stead (Clerk)

Absent: 0
Vacant seats: 2

An in-person meeting of the Malden Conservation Commission (“ConCom” or “Commission”) was held in person in the Mayor’s Conference Room, 4th Floor, 17 Pleasant St., Malden, MA. It was determined that a quorum was present.

1. The meeting was called to order.

West Border Road, Malden

2. [The agenda contains an item for a Hearing of a Request for a Determination of Applicability (RDA) but this item was stricken from the agenda.]

Multi-Use path adjacent to Banks Place at the MBTA Oak Grove Station

3. The Commission resumed deliberation on a continued matter from the previous session: hearing of a Notice of Intent for site work related to the construction of a Multi-Use path adjacent to Banks Place at the MBTA Oak Grove Station, off of Winter St., Malden. The proposed work is within a 100’ Buffer Zone and a riverfront area.
4. Members of the Commission had no further questions, and a motion was heard and seconded to close the hearing and issue an Order of Conditions. A voice vote was taken and clearly passed. **RESOLVED**, to close the hearing and issue an Order of Conditions.

**Roosevelt Park**

5. The Commission resumed a hearing continued from the previous meeting on a Notice of Intent for improvements to Roosevelt Park located behind Salemwood School 529 Salem St., Malden, parcel ID 117-728-815. Portions of the proposed work are within a floodplain.

6. The Chairman laid out an agenda for the discussion:
   a. Ask the project team to give a short overview of the plan since they gave an extremely detailed walkthrough at the last meeting.
   b. Open the floor to members of the commission who wish to ask questions.
   c. Set aside time for members of the public to ask questions or contribute comments.
   d. After the public discussion, the commission will discuss next steps and may bring the matter to a vote.

7. The Chairman summarized key themes from letters and emails submitted to the Commission:

<table>
<thead>
<tr>
<th>Topic</th>
<th>Estimated number of letters/comments raising the topic</th>
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<td>Flooding and drainage</td>
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<td>Turf field, toxicity and pollutants</td>
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<td>Turf field, environmental/climate impact</td>
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<td>Turf field, human health effects</td>
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<td>Turf field, warranty and maintenance</td>
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<td>Use of CPC funds</td>
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8. The Chair briefly summarized a section of the Massachusetts Association of Conservation Commissions Environmental Handbook (reproduced below but not read in
Is the area subject to jurisdiction? Wetland resource areas are protected; wetland resource areas and associated buffer zones are regulated. It is important to consider each and every resource area (and buffer zone) when determining whether the commission has jurisdiction over a given project, recognizing that resource areas and buffer zones can overlap one another. For permitting purposes, work within resource areas is treated differently from activities in the buffer zone. The commission’s responsibility with respect to activities proposed within a buffer zone is to ensure that the proposed activities will not alter a resource area. Almost all significant activities in the 100-foot buffer zone to wetlands that border waterbodies, Banks, Coastal Beaches and Dunes will require review by the commission through either a NOI (HB 19.4), a Request for Determination of Applicability (HB 19.2) or an Abbreviated Notice of Resource Area Delineation (HB 19.3). Work outside resource areas and buffer zones usually can be regulated only if and when actual alteration of a resource area occurs (310 CMR 10.02(2)(c) [PDF]). In other words, work outside of the buffer zone that results in an alteration of wetlands or floodplains from a distance of more than 100 feet (e.g., through discharges of pollutants or siltation from erosion) requires a permit from the commission, but only after the work “has in fact altered” a resource area. This is often referred to as “after-the-fact” jurisdiction.

Is the activity subject to jurisdiction? (i.e., Is the activity subject to review or is it exempt?) Regulated activities include any activities that would remove, fill, dredge, or alter that area unless exempt. This includes removal of material resulting in temporary or permanent changes in elevation. “Alter” has a very broad definition in the regulations: “Change the condition.” Alterations include but are not limited to changes in: Drainage; flushing; sedimentation; flow patterns; water table; vegetation; and the physical, biological or chemical condition of the water, such as salinity and water temperature. Consequently, almost all land or vegetation altering activities in a resource area require an NOI. The regulations exempt certain “minor” projects in the Riverfront Area and buffer zone (HB 18.4.3).

Is there an interest to be protected? Are any of the eight protected interests, described in The Wetlands Protection Act (MGL Ch. 131 §40) and the associated regulations (310 CMR 10.00 [PDF]) in play?

a. Public and Private Drinking Water Supply
b. Prevention of Pollution
c. Groundwater Supply
d. Flood Control
e. Storm Damage Prevention
f. Protection of Fisheries
g. Protection of Land Containing Shellfish
h. Protection of Wildlife Habitat

9. The Chair explained that the Commission’s jurisdiction over the area stems primarily from its status as an Isolated Land Subject to Flooding, and as such the main interests to be protected as laid out in the Environmental Handbook are flood control and storm damage prevention.
10. The Chair reminded the public that the Commission has very specific authority and jurisdiction pursuant to well understood Massachusetts laws and regulations, and gave some examples of policy matters that — even if valid cause for concern — would be improper for the Commission to take up:

   a. Medical or scientific claims that are not part of the broadly accepted, peer reviewed scientific consensus as of this date;
   b. Public health issues of any kind;
   c. Unresolved, large scale public policy matters, for example regarding climate change;
   d. Legal or policy claims about how the City chooses to budget or allocate funds, or reach legislative decisions, or enter into contracts with vendors, or the authority exercised by other City agencies or commissions.

11. The Chair encouraged members who disagree with the proposed plan on matters outside ConCom jurisdiction to raise these concerns with the proper agencies or deliberative bodies. The Chair reminded members of the public that the City Council has caused a specific plan to be delivered to the Commission which is the plan being evaluated.

12. Steve O’Neill of Hayner Swanson, Inc summarized the plan (on file and available for public inspection) for a new turf field and under-field drainage systems. Mr. O’Neill restated that the project proposed a multi use athletic field with artificial turf, and that the project is subject to the Wetlands Protection Act because it is in a floodplain. He reiterated the project engineering team’s contention Saugus Branch Brook was culverted and enclosed in the 1930’s, well before the Wetlands Protection Act came into effect, and according to relevant USGS maps it is not a river, stream, or brook; and that even if it was, that if it was culverted and not subject to jurisdiction. Mr. O’Neill also reiterated their view that the Isolated Vegetated Wetland did not exist historically and is a manmade feature, and thus is not a jurisdictional wetland. Mr. O’Neill went on to state that the floodplain is the only source of jurisdiction, and the relevant requirement is “no adverse impact”; this project would have no adverse impact because the drainage is slightly improved and not worsened. The grading will not result in any change in flood storage and that the drainage system will filter water before it reaches the Isolated Vegetated Area.
13. The Commission asked about what prevents blockage in the drainage system. Mr. O’Neill described the filter fabric around the pipe and rocks/grain that filter larger masses.

14. The Commission asked various questions about flooding in the surrounding area. Mr. O’Neill stated that the project is specifically for an athletic field, not a larger public works project to address drainage in the surrounding neighborhood.

15. The Commission asked about potential warranty on the field and whether flooding would be covered. Mr. O’Neill replied that major floods and “Acts of God” are generally not covered.

16. The Commission asked about whether topography would be changed. Mr. O’Neill replied that topography would not be substantially changed.

17. The Commission asked about chemicals required to treat artificial turf. Mr. O’Neill replied that it varies from vendor to vendor, but some vendors advise that a soap-like detergent is part of normal maintenance. Mr. O’Neill stated that no artificial turf park in the City of Malden receives any sort of solution treatment.

18. The Commission asked whether the current trees or plants in the Isolated Vegetated Area would be substantially disturbed. Mr. O’Neill responded that the changes would be minimal.

19. The Commission asked about typical warranty lengths for artificial fields. Mr. O’Neill stated that 8 years is a typical term for warranties.

20. The Commission asked about the status of the soil under the surface. Mr O’Neill described the soil underneath the current grass as “urban fill” which has some level of contamination. The soil will be taken offsite and disposed of properly.

21. The Commission asked about project timing. Mr O’Neill responded that Fall of 2021 is the intended completion date.

22. The Commission asked whether this field would be considered overused by the vendor given that it is right next to the Salemwood School and would often be used for recess.
Mr. O’Neill replied that such use was expected and would not be outside the bounds of any warranty.

23. The Commission asked various other questions pertaining to the plan and then opened up the floor for the public to ask questions.

24. Brian DeLacey rose to express concerns about heat management in the City of Malden as well as localized ambient temperatures on an artificial turf field. He also disagreed with the Chair about jurisdiction and expressed his belief that the Section 8C of the Massachusetts General Laws grants the Commission much wider authority.

25. Kathleen Sullivan rose to express concern that runoff calculations are based on current data, but the Malden vulnerability report predicts increased runoff and flooding in the future, and that natural grass is part of mitigation of flooding. She also raised the concern of a broken or clogged drainage pipe near the project. She also expressed the opinion that students and their families were not consulted sufficiently.

26. John Saia raised concerns about what chemicals might or might not be in Brockfill, whether contamination below would be possible, heat based on Brockfill and heat guidelines for safe use of fields, and what chemicals might or might not be used to maintain the turf field.

27. Stefanie Alberto raised doubts about whether or not the location of the previous brook can properly be considered culverted and not a river. Mr. Prokop, wetlands scientist for the project engineering team read the definition of when the riverfront area starts and stops in the presence of a culverted area. Ms. Alberto also raised concerns based on an example of one vendor’s warranty about what chemicals might or might not be used to treat fields.

28. A resident who did not identify herself by name expressed a preference for natural grass.

29. Stefanie Alberto expressed disagreement that the culverted area should be an Isolated Vegetated Wetland.

30. John Saia expressed the opinion that natural grass would be better for users of the field.
31. A resident who did not identify herself by name expressed a dislike for light pollution from lighting being left on at night. John Saia agreed.

32. Kathleen Sullivan expressed a preference for natural grass fields and the opinion that the City could properly take care of natural grass.

33. Doug Danoff, a representative of Malden Youth Soccer stated that games at Roosevelt Park are often cancelled because the grass field is frequently too muddy to play on.

34. A member of the public who did not identify himself expressed the opinion that Salemwood wasn’t the only park that floods and gets muddy.

35. Stefanie Albero expressed the opinion that drainage is a separate issue from natural grass versus artificial turf.

36. The Commission asked whether pipes outside the project area were inspected. Mr. O’Neill responded that inspections were confined to the project area.

37. A motion was heard and seconded to close the hearing. A voice vote was taken and clearly passed. RESOLVED, to close the hearing and move on to discussing an Order of Conditions.

38. The Commission discussed issuing an Order of Conditions with the following stipulations:

   a. Organic infill material.
   b. Catch basin materials to be inspected and maintained on a regular basis for the duration of the project.
   c. Signage installed for appropriate use of the field.

39. A motion was heard and seconded to issue an Order of Conditions with those items. A voice vote was taken and passed with 4 in favor and 1 opposed. RESOLVED, to issue the Order of Conditions.

40. The meeting was adjourned.

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