

CONSERVATION COMMISSION

LOWELL, MASSACHUSETTS

August 26, 2026

Note: These minutes are not completed verbatim. For further detail, video recordings are available at the Pollard Library, second floor reference desk or online at www.LTC.org.

This meeting was held both in person and virtually using Zoom.

Members Present: Chairman Brad Buitenhuys, Commissioner Marie Burns (via Zoom), Commissioner Kristin Ross-Sitcawich, Commissioner Roberto Ciccarelli

Members Absent: Vice-Chair Perry Downs

Others Present: Mary Brundage, Associate Planner

CALL TO ORDER

B. Buitenhuys called the meeting to order at 7PM with a quorum of members present.

ORDER OF BUSINESS

CONTINUED BUSINESS

Vicki O'Neil

31 Anderson Way

Tyngsborough, MA 01879

Project Location: 10 Old Ferry Road, 01854

A Request for Determination of Applicability has been filed by Vicki O'Neil to construct a single-family home at 10 Old Ferry Road. The applicant is seeking to determine whether the proposed work is located within the 100-foot buffer zone of a wetland resource area.

On Behalf:

Brian Winner, Attorney at Mead, Talerman & Costa.

B. Buitenhuys stated that they have heard from the agent and the law department and there was no reason to reconsider the 3rd party review.

B. Winner stated that a letter was submitted since he was not able to appear at the last meeting. B. Buitenhuys confirmed that the letter was received and was reviewed by the law department. Communication was submitted from the conservation agent that there was no reason not to consider a 3rd party review.

B. Winner stated that they were hoping for the opposite of that position and that they are now at an impasse. He stated that the applicant is not inclined to fund 3rd party review. They believe the

determination that is set forth in the order of conditions, superseding order of condition, and final order of conditions with respect to the Rotary project at the intersection is binding. They will most likely withdraw this application due to other considerations outside of the scope of these proceedings. They are likely to pursue appeal of the failure to approve the building permit. The next step would be to follow up in writing.

In Favor:

None

In Opposition:

None

Discussion:

B. Buitenhuys asked if the commission should request a 3rd party review. B. Winner stated that since they were not going to fund it, it would be ceremonial.

B. Buitenhuys recommended to continue to the next meeting.

Motion:

R. Ciccarelli motioned to continue to the September 9th meeting, K. Ross-Sitcawich seconded. Motion passed unanimously (4-0).

Request for Determination of Applicability

CSX Transportation

500 Water Street

Jacksonville, FL 32202

Project Location: Lowell Train Tack Right-Of-Way

A Request for Determination of Applicability has been filed by CSX Transportation, Inc, regarding their plans for weed control via herbicide. The applicant is seeking to determine where the proposed work is located within the 100-foot buffer zone of a wetland resource area.

On Behalf:

None

In Favor:

None

In Opposition:

None

Discussion:

B. Buitenhuys noted that the commission has received a considerable amount more information regarding the herbicides.

Motion:

R. Ciccarelli motioned to continue to the September 9th meeting, K. Ross-Sitcawich seconded. Motion passed unanimously (4-0).

Notice of Intent

Wexford Science & Technology, LLC
4 N Martin Luther King Jr Blvd, Suite 500
Baltimore, MD 21201

Project Location: 256.2 Market Street, 01852

A Notice of Intent has been filed by Wexford Science & Technology LLC to construct a commercial building at 25.2 Market Street. The proposed work will take place within the 100-foot buffer zone to the bank of a canal.

On Behalf:

Conor Nagle, Civil Engineer, VHB

C. Nagle stated that they have received the DEP number. The number is 206-0854. That was the last remaining item.

In Favor:

None

In Opposition:

None

Discussion:

B. Buitenhuys asked for review of the project. C. Nagle briefly presented the project. The project has been approved by the ZBA and Historic Board.

Motion:

R. Ciccarelli motioned to close the public hearing, K. Ross-Sitcawich seconded. Motion passed unanimously (4-0).

K. Ross-Sitcawich motioned to issue the standard Lowell Order of Conditions, R. Ciccarelli seconded. Motion passed unanimously (4-0)

NEW BUSINESS:**Request for Determination of Applicability**

Broadway Street Holdings, Inc.
706 Broadway Street
Lowell, MA 01854

Project Location: 706 Broadway Street (Pawtucket Canal Wall), 01854

A Request for Determination of Applicability has been filed by Broadway Street Holdings, INC to repair the Pawtucket Canal wall. Work includes rebuilding the failed portion of wall with an overall aesthetic that matches the existing wall. Repair options proposed include a mortared stone wall, reinforced concrete wall with stone facing, or a soil nailed wall with stone facing. All work will occur within the Pawtucket Canal.

On Behalf:

Aimee Rutledge, DuBois and King

A. Rutledge presented the project. She noted that there are no bank riverfront and no bordering vegetated wetlands at the site, it is all built up to the edge of the canal wall. It is an in-kind repair and there is no additional fill below the water line.

Morgan Marlow, DuBois and King

M. Marlow showed photo of the collapsed wall. He showed 3 alternatives for construction. - 1) mortared stone wall, 2) reinforced concrete retaining wall, and 3) soil nailed wall. Alternative #1 would be the preferred approach by the client. They were awaiting feedback from Lowell Historical Board, Mass Historical and the Conservation Commission.

B. Buitenhuys asked about the pros and cons. M. Marlow responded that construction speed is a concern. Option 3 appears to be the most challenging to construct but would be the least amount of impact. Other options are easier. Aesthetic is the same between all options.

A. Rutledge stated that nothing is being expanded. The work can be done by lowering the water in the canal. M. Marlow said it will be a short duration for the project, 4-6 weeks, alternative # 1 would be shorter.

B. Buitenhuys asked about the dewatering of the canal. M. Marlow confirmed that the water in the canal will be lowered to a lower level so just a smaller coffer dam can be used to do the work.

B. Buitenhuys asked if they were willing to any vegetation removal as part as these projects especially with invasive trees coming out of the canal walls. M. Marlow responded that it would be part of their maintenance plan. Jillian Lawrence of DuBois and King gave some background when the original vegetation and maintenance plan was discussed between stakeholders in the city. Boot inherited the responsibility and have developed a canal maintenance plan to address vegetation removal. Specifically for three projects, they will certainly remove vegetation. She also clarified that with Pawtucket Canal that they don't believe the collapse is vegetation induced and the adjacent landowners have put some additional burdensome loads on the wall.

B. Buitenhuys if the vegetation work will be done by the applicant. J. Lawrence stated they have a defined budget for this year. They will be focusing on vegetation removal along with trash and debris removal at the guard lock structure. They will take the opportunity to address any vegetation that needs to be removed for these projects. At the northern canal gate house, they will do 20 feet of vegetation maintenance on each side. She stated they are responsible for the exterior planer face wall and cap, so from the cap of the concrete wall down through the bed is where their easement lies. Some of the vegetation is on the canal walls but some of it is at adjacent properties that they don't have easements to address.

B. Buitenhuys stated that anything to address the vegetation and the consistent vibration and loading that goes through the Boston Concrete site would be great.

In Favor:

None

In Opposition:

None

Discussion:

Motion:

R. Ciccarelli motioned to issue a –3 determination. K. Ross-Sitcawich seconded. The vote was unanimous (4-0).

Request for Determination of Applicability

Boott Hydropower, Inc.

145 Pawtucket Street

Lowell, MA 01854

Project Location: 55 Kearney Square (Boot Valve Island Channel), 01852

A Request for Determination of Applicability has been filed by Boot Hydropower, LLC to stabilize the channel at 55 Kearney Square (the Boot Valve Island Channel) which connects the Eastern Canal to the Lower Locks Gatehouse. Work includes implementing temporary repairs to stabilize the intake channel and remove existing granite stones that have fallen in the channel. Temporary stabilization consists of pre-cast concrete channel abutments and steel framed headwall support. All work will occur within the Eastern Canal.

On Behalf:

A. Rutledge shared the location maps. It is like the Pawtucket Canal project – an in-kind replacement, no bank, river front or bordering vegetated wetlands within the project area. The water will be lowered using their standard watering lowering operations.

M. Marlow showed the plan and photos of the project. The eastern canal shows it is very deteriorated, mostly due to erosion from water passage. It is stone masonry supported by timber columns and beams. The plan is for a temporary stabilization using pre-cast concrete abutments on either side of the intake, steel wide flange beams, girders and infill beams with a steel plate on top. There is a loose block that fell into the canal. The plan is to reset into the wall.

B. Buitenhuis asked if the work can be performed without lowering the water level. Will be able to section off the channel? M. Marlow responded that the plan is to lower the water under normal operating procedures, using a smaller coffer dam if needed. J. Lawrence mentioned that this section has been drained before. This area is typically where the NPS tour boats go through. They typically do their dewatering outside the tour boat season Memorial Day through October and fish passage considerations.

B. Buitenhuis asked about the purpose of temporary repairs versus permanent repairs. M. Marlow responded that is due to funding. They are preparing for a permanent repair. The intent for the temporary repair to last 5-10 years. J. Lawrence that this area is not used operationally for power. NPS is the entity has the easement. Part of leasing agreement is to do temporary repairs.

In Favor:

None

In Opposition:

None

Discussion:

Motion:

R. Ciccarelli to motioned to issue a –3 determination. K. Ross-Sitcawich seconded. The vote was unanimous (4-0).

Request for Determination of Applicability

Boott Hydropower, Inc.

145 Pawtucket Street

Lowell, MA 01854

Project Location: 145 Pawtucket Street (North Canal Waste Gatehouse), 01854

A Request for Determination of Applicability has been filed by Boot Hydropower, LLC to restore and repair the canal wall at 145 Pawtucket Street (the North Canal Waste Gatehouse). Work includes removing vegetation, replacing missing/dislodged stones, and utilizing a pressure injection grouting system to fill voids between the stone masonry to stop the leaks and reestablish the wall structural integrity. Larger voids will be filled with hand applied mortar patches. All work will occur within the 100-foot buffer zone of the North Canal.

On Behalf:

A. Rutledge showed location map. She explained that this is a similar maintenance project. It will involve some vegetation removal but mostly in-kind repairs to the wall where the stones have become loose. There will be no adverse effect to the land underwater. There is no bank, riverfront or bordering vegetated wetlands. There is a lot of bedrock at the bottom of the waterfall. They potentially need to use some coffer damming to do the work on the wall. There will be no equipment, fills or excavation below the water line.

M. Marlow showed the pictures and plans for the project. He pointed out where the leaks are in the mortar stone wall. It caused by deterioration of mortar joints caused by erosion and vegetation. The plan is to make an effort to seal some of the joints. Scaffolding will be put up on the downstream side of the wall and pressure inject the grout into areas that do not have mortar. Grout will be hand packed into the larger voids and remove some of the vegetation. Essentially seal the wall up so there no more leaks.

B. Buitenhuys asked if the intent is to drop the water below the leaks on the upper side of the canal, remove debris and pack the wall. M. Marlow responded that they may not need to the bring the water down for the scaffolding on the face of the wall, not the other side. All the work will be done on the one side.

B. Buitenhuys asked how to prevent water from rushing through the holes. M. Marlow that the contractor will use a pressure system to prevent that. B. Buitenhuys asked if there was a plan for capturing the debris. A. Rutledge stated that there would be something in the contract. B. Buitenhuys stated that he would like to see an affidavit from the contractor submitted along with the request for a building permit.

R. Ciccarelli asked about the extraction process for the vegetation. J. Lawrence explained that they will pull anything 3" in diameter or smaller with the root system. Anything larger than 3", the root ball needs to be considered. Either it's cut back or a non-toxic chemical is applied to the slow the decay. That way is better than taking a live, active tree and its extensive root system out. R. Ciccarelli asked if it was toxic-free. J. Lawrence confirmed that it is aquatic friendly.

In Favor:

None

In Opposition:

None

Discussion:

Motion:

R. Ciccarelli to motioned to issue a –3 determination with a condition that in writing either by contract or an affidavit by the contractor that the debris will be captured out of the river. K. Ross-Sitcawich seconded. The vote was unanimous (4-0).

Request for Determination of Applicability

Berl Engineering

26 Nutter Road

North Reading, MA 01864

Project Location: 31 Pemberton Street, 01850

A Request for Determination of Applicability has been filed by Berl Engineering to replace a septic system within 100-foot buffer zone of a bordering vegetated wetland (BVW) at 31 Pemberton Street.

On Behalf:

Isreal Berl, Berl Engineering

I. Berl explained that the project is for a single-family home septic system replacement. There are no other public option available for sewage disposal at this site. The proposal is to replace the existing failed system and install a new one. Approval was received from the Board of Health. The site is very tight and the soils are not great. No wetlands are on site. The proposed system will be outside of the 50-foot wetland buffer but in the 100-foot wetland buffer. It is an alternative system, so it treats the wastewater better than a conventional system and is also smaller.

In Favor:

In Opposition:

Discussion:

B. Buitenhuys asked how this differs from a conventional system. I. Berl explained how the alternative system works and why it is applicable for a site where the perc rate is bad such as this site. Conventional systems would also require a larger leach field which would go into the 50-foot buffer zone on this site.

Motion:

K. Ross-Sitcawich to motioned to issue a –3 determination. R. Ciccarelli seconded. The vote was unanimous (4-0).

Request for Determination of Applicability

Boston Gas Company

170 Data Drive

Waltham, MA 02451

Project Location: Stockbridge Ave ROW, 01854

A Request for Determination of Applicability has been filed by the Boston Gas Company to abandon a

previously existing 250-foot gas main and install a new 250-foot gas main. Portions of the project are located within the Bordering Land Subject to Flooding and the 100-foot buffer zone of Claypit Brook.

On Behalf:

Kelan Koncewicz, VHB

K. Koncewicz explained that the proposed project is install 200 feet of new gas main and abandon, cut and cap the 250 feet existing gas main. The existing gas main is over a culvert over Clay Pit Brook. That's going to remain in service as the culvert is replaced. As the new gas line is installed, 100 feet of the 250 feet on gas line will be within the riverfront area. All the work will be within the existing pavement and will be an approximately a 2-3 feet trench by 3-4 foot depth. It will be backfilled once the work is done, so no permanent impacts.

Install 250 foot gas main. Temp. Work in existing pavement. Temp. Impacts.

BB due to aging equipment? Size change? No.

In Favor:

None

In Opposition:

None

Discussion:

B. Buitenhuys asked if this was due to aging equipment. K. Koncewicz confirmed. B. Buitenhuys asked if there was a size change. K. Koncewicz stated there will be no size change.

Motion:

R. Ciccarelli to motioned to issue a –3 determination. K. Ross-Sitcawich seconded. The vote was unanimous (4-0).

Request for Determination of Applicability

Glen and Heather Green

40 Eljer Drive

Lowell, MA 01854

Project Location: 40 Eljer Drive, 01854

A Request for Determination of Applicability has been filed by Glen and Heather Green to remove 10 trees within 100-foot buffer zone of a bordering vegetated wetland (BVW).

On Behalf:

Glen and Heather Green, homeowners

H. Green explained that they purchased their home 15 months ago and it came to their attention that there were dead trees on the property that were dropping large branches. Last month, a tree on their neighbor's property fell. They would like to avoid more trees from falling. An arborist had assessed last spring and stated that the trees they are looking at are dead or damaged. A lot of them are leaning toward the house.

In Favor:

None

In Opposition:

None

Discussion:

B. Buitenhuys asked how far the trees were from the wetlands. H. Green responded that the wetlands have receded and there is a manmade pond by one of their neighbors.

B. Buitenhuys asked if they would be willing to do replanting. H. Green responded that they still have a lot of trees. They are not opposed to replanting but want to make sure the trees are healthy. B. Buitenhuys stated that given the density of trees, he is not going to request additional replanting.

K. Ross-Sitcawich asked if the arborist would trim the mature trees to mitigate storm damage. H. Green stated that the arborist will trim trees that are dead or in danger accordingly.

Motion:

R. Ciccarelli to motioned to issue a –3 determination. K. Ross-Sitcawich seconded. The vote was unanimous (4-0).

Request for Determination of Applicability

Donna Greenhalge
752 Varnum Avenue
Lowell, MA 01854

Project Location: 752-762 Varnum Avenue, 01854

A Request for Determination of Applicability has been submitted by Donna Greenhalge to partially remove trees at 752-762 Varnum Avenue. The proposed work is located within the 100-foot buffer zone to a protected wetland and within the 100-year floodplain.

On Behalf:

Donna Greenhagle, homeowner

D. Greenhagle stated the 762 Varnum Ave. is her neighbor. There are 3 sizeable trees, 2 are towering toward the house, one is split over the sidewalk and part of the street. DPW came out and removed the debris from the sidewalk and street and half it is still dangling over. The other two will be contracted to reduce the height. They are asking for approval to reduce the height on the towering ones and trim the one that's split on the sidewalk

In Favor:

None

In Opposition:

None

Discussion:

B. Buitenhuys asked about the schedule. D. Greenhagle responded that they don't know yet. The schedule will be determined by the contractor. B. Buitenhuys asked if they will keep the crane on the asphalt. D. Greenhagle confirmed they would.

Motion:

R. Ciccarelli to motioned to issue a –3 determination. K. Ross-Sitcawich seconded. The vote was unanimous (4-0).

Request for Certificate of Compliance

Patrick Myers

MG Architects LLC

245 Lafayette Street, Unit 2B

Salem, MA 01970

Project Location: 35 Bowl Road, 01851

A Request for Certificate of Compliance has been filed by Patrick Myers work done under the previously issued NOI, DEP #206-0848.

On Behalf:

None

Discussion:

B. Buitenhuys stated that Peter Cutrumbes did a site visit and confirmed that the structure matches the as-built and approved plans.

Motion:

K. Ross-Sitcawich motioned to issue Certificate of Compliance. R. Ciccarelli seconded the motion. The vote was unanimous (4-0).

Enforcement Order

Alish and Jigarkumar Bhagat

4 Epirus Drive

Lowell, MA 01854

Violation Location: 4 Epirus Drive, 01854

An Enforcement Order has been issued against 4 Epirus Drive. The violator has cut trees within the 100-feet of a Bordering Vegetated Buffer (BVW).

On Behalf:

Jigarkumar Bhagat, homeowner

J. Bhagat explained that the property borders Dracut. He believed that he did not cut down trees in the 100 foot buffer. He stated that staff told him he cannot cut the trees on the property.

Discussion:

B. Buitenhuys stated that the standard of the Commission is not allow construction within 50 feet of the wetland and zero disturbance of 25 feet of a wetland. He stated that the Commission can authorize to cut some limbs to protect the roof. He reiterated that the wetlands cannot be touched.

B. Buitenhuys asked about the trees that were cut down. J. Bhagat stated there were three trees cut halfway down, about 12' to 16' in diameter.

B. Buitenhuys stated that the road and path are not allowed and that the trees need to be replanted.

B. Buitenhuys recommended that the enforcement order be ratified and a site visit to be scheduled. B. Buitenhuys stated that ratifying the enforcement order would put a stop work order in place and a plan will be put into place after the site visit.

Motion:

R. Ciccarelli to motioned to ratify. K. Ross-Sitcawich seconded. The vote was unanimous (4-0).

R. Ciccarelli to motioned to continue to the September 9th meeting. K. Ross-Sitcawich seconded. The vote was unanimous (4-0).

Enforcement Order

Massachusetts Department of Conservation and Recreation (North Regional Office)
25 Shattuck Street
Lowell, MA 01852

Violation Location: 300 Pawtucket Blvd. (Rynne Beach)

An Enforcement Order has been issued against 300 Pawtucket Blvd. The violator has dug test pits and cut trees within the 100-feet of Clay Pit Brook and the Merrimack River. The work was also performed within the FEMA 100-year flood plain.

On Behalf:

Bob Uhlig and Briony Angus, Tighe and Bond

B. Uhlig explained they were contracted by the DCR for Rynne Beach for an improvement project. He stated that the trees that were removed adjacent to bath house were dead as part of maintenance and safety and not part of the improvement project.

B. Angus stated that the improvement project will come before the commission and other state agencies. The test pits were done as part of the due diligence in anticipation of that design. Those were hand dug test pits as part of a phase one archaeological assessment and filled back in.

Discussion:

B. Buitenhuys pointed out the photo shows not dead trees in the water and cut and piled in large piles. This is not acceptable. The conservation agent gave a warning. An email was sent and ignored.

BB shows not dead trees. Not acceptable. Gave warning for filing an RDA. Email sent and ignored. Also, an excavator used a cutting tool to cut a bunch of plants inside the river without permission. He stated that the dead stuff needs to be removed. He requested that the head of maintenance to attend the next meeting.

Motion:

R. Ciccarelli to motioned to ratify. K. Ross-Sitcawich seconded. The vote was unanimous (4-0).

OTHER BUSINESS

7/22/2026 meeting minutes

K. Ross-Sitcawich motioned to approve. R. Ciccarelli seconded. The vote was unanimous (4-0).

ADJOURNMENT

K. Ross-Sitcawich motioned to adjourn. Meeting adjourned at 8:56PM