

July 7, 2020

Via email

Michael Parker
Chair, City of Boston Conservation Commission
City Hall Room 709
Boston, MA 02201
cc@boston.gov

Re: City of Boston Local Wetlands Ordinance Implementation, Initial Regulations

Dear Chair Parker and Commissioners:

We are writing to provide the Commission with comments on the revised proposed regulations implementing the Ordinance Protecting Local Wetlands and Promoting Climate Change Adaptation in the City of Boston. The undersigned organizations include residents and neighborhood associations from all parts of the City of Boston, together with regional groups with expert knowledge regarding regulatory frameworks for resource protection at local, state, and federal levels.

The proposed regulations were first posted on March 11, 2020 and we provided initial comments for consideration at the Conservation Commission's April 1 meeting. We appreciate the Commission's willingness to accept public input and feedback on these proposed regulations. We also acknowledge that the Commission has made significant recent improvements to the application review process by updating the Filing Guide to require applicants to provide information about environmental justice and climate equity, as well as Areas of Critical Environmental Concern. We look forward to participating in a widely inclusive stakeholder process going forward.

Comments

Application of the Boston Wetlands Ordinance to Projects Currently Under Review

There continues to be discussion about whether projects must comply with the ordinance before the full set of regulations implementing the ordinance are developed. As the Commission has correctly acknowledged, the ordinance clearly states that "[a]ll of these provisions and requirements set forth in this Ordinance shall take effect immediately upon passage." While we appreciate the need to have consistent standards for ongoing review of applications while the full set of comprehensive regulations is being developed, all projects must at a minimum comply with the baseline requirements provided in the ordinance.

Consideration of Climate Change Impacts, Climate Equity, and Environmental Justice

We continue to urge the Commission to prioritize consideration of climate change impacts, climate equity, and environmental justice in project review. These considerations were a primary impetus for the ordinance and remain critical to building climate resilience and addressing racial and economic inequities in Boston. The interconnection of climate change, environmental justice, and public health makes it especially important for the Commission to focus on these issues.

We commend the Commission for updating the language in its Filing Guide to require applicants to include:

narrative on how climate change will impact the entire property regardless of whether climate change will have an immediate impact on the project in the proposal. This must include how the applicant plans to integrate climate change and adaptation planning considerations into their project to promote climate resilience to protect and promote Resource Area Values and functions into the future, addressing climate equity and environmental justice, as well as an alternatives analysis describing all of the climate resiliency measures that could be taken and a reasoning as to why they are not feasible.

We request that the Filing Guide and Filing Checklist be updated to reflect the ordinance's requirement that the Commission consider the best available climate data. The ordinance requires the Commission to "explicitly consider climate change resilience and impacts in the issuance or denial of any permit through measurement of potential adverse impacts to resource areas for the protection of resource areas both as they currently exist and as are reasonably expected to exist based on the best available data on the projected impacts of climate change." However, the Filing Guide and Filing Checklist currently refer only to FEMA maps – FEMA maps are not the best available data as they are retrospective and do not take future projections for sea level rise and inland flooding into account. The Climate Ready Boston maps, on the other hand, contain the best available information on the projected impacts of climate change and should therefore be used to determine flood risk and other climate change implications. The Filing Guide and Filing Checklist should refer to the City's Climate Ready Boston maps and direct applicants to indicate whether the subject parcel is within any of the coastal or inland flood risk zones, pending final mapping of Coastal and Inland Flood Resilience Zones by the Commission.

The development of all further regulations implementing the wetlands ordinance should take climate and equity into account and ensure that due consideration is given to these issues.

Stakeholder Engagement

We reiterate that ongoing stakeholder involvement is crucial to the rulemaking and work plan processes. We urge the Commission to continue building in opportunities for public outreach and solicitation of public input. These processes must be inclusive and designed to

encourage feedback from all City residents, particularly environmental justice communities and those Boston residents and neighborhoods most affected by climate change and development.

While acknowledging the challenges of outreach during the public health emergency and the value of promptly implementing performance standards, we recommend that the Commission, staff, and consultants expend the time and effort needed for meaningful stakeholder involvement even if that means further time is required before final regulations are in place. We include work with NAIOP and other private sector stakeholders in this wide engagement and issue resolution effort.

The ordinance can only be but improved through a widely inclusive process that values the perspectives of all stakeholders and takes the time needed to find consensus solutions on key issues, where these solutions are consistent with the resource protection intent of the ordinance.

Extended Riverfront Areas

We are glad to see that designation of Extended Riverfront Areas has been included in the revised work plan, as these areas are critical to successful implementation of the ordinance. Charles River Watershed Association is in the process of assessing areas that may be appropriate for extended riverfront protection and looks forward to providing the Commission with its recommendations. In the meantime, for any projects undergoing review prior to designation of Extended Riverfront Areas city-wide, we reiterate our request that decisions be made on a case-by-case basis as to whether a particular riverfront area should be expanded beyond the 25-foot default.

Streamlined review, including for beneficial projects

We continue to believe there are opportunities to implement streamlined project review, including fee schedules by project type and “tiering” whereby certain beneficial projects may be exempt from a full Notice of Intent.

Coordination of Conservation Commission Review within Overall City Project Review

Acknowledging that progress is being made in this area, we remain concerned that resource protection, climate action, and environmental equity values are not yet fully integrated into the City’s overall project review process. Projects continue to arrive at the Commission at or near the end of their sequenced steps through the City review process, with basic project elements already determined after BPDA and Board of Zoning Appeal approvals. Additionally, we are concerned by the practice of applicants seeking Boston and Water and Sewer Commission review in advance of basic resource delineation determinations. We encourage the Commission and staff to seek within the City system strict process requirements that resource delineations and project consultation occur as early as feasible in project review.

Thank you again for your leadership on this critical component of the City’s overall response to climate change, resource protection, and sustainable, equitable development.

Very Truly,

Arborway Coalition
Boston Harbor Now
Charles River Watershed Association
Conservation Law Foundation
Friends of Allandale
Friends of Belle Isle Marsh
Greater Mattapan Neighborhood Council
GreenRoots - Raices Verdes
Mount Hope Canterbury Neighborhood Association
Mystic River Watershed Association
Muddy Water Initiative
Neponset River Watershed Association
Piers Park Sailing Center
Sierra Club Massachusetts Chapter