



City of Cambridge
Department of Public Works

Owen O'Riordan, Commissioner

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September 2, 2014

To: Richard C. Rossi
City Manager

From: Owen O'Riordan, Commissioner, DPW
Jennifer Letourneau, Director, Conservation Commission

Re: Council Orders O-4 and O-27, dated July 28, 2014
Silver Maple Forest

PROJECT BACKGROUND

O'Neill Properties is proposing to develop property in northeast Belmont, north of the Little River, east of Spot Pond and immediately west of Acorn Park Drive, commonly known as the Belmont Uplands site. The total site is 15.6 acres, 2.6 of which are in Cambridge. The project will construct 299 residential units in 5 buildings.

The project is located within the Little River watershed, which is 8.16 square miles and the larger Mystic River watershed, which is 76 square miles. The project area represents approximately 0.3% of the total Little River watershed and 0.03% of the Mystic River watershed. The project will provide a conservation easement on a total of 7.95 acres, including all of the 2.6 acres in Cambridge.

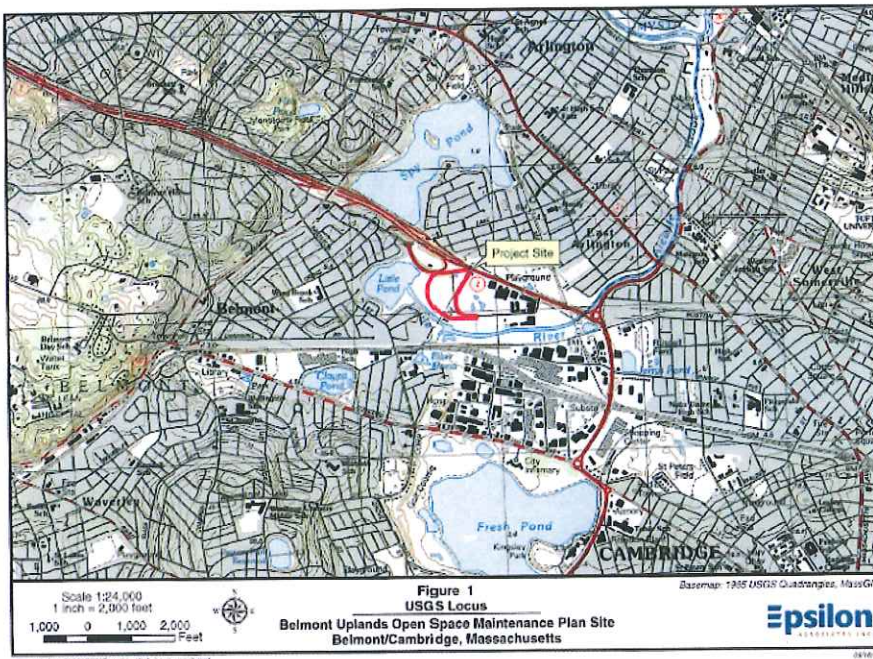


Figure 1, Project Location

Notice of Intent Application, June 21, 2007

STORMWATER PERMITTING PROCESS

The project has a valid Order of Conditions from the Cambridge Conservation Commission (DEP File #123-208). The Public hearing was held on June 21, 2008 and the permit is valid through November 15, 2016. The project has a Superseding Order of Conditions from DEP for the Belmont portion of the project (DEP File #106-75). DEP has informed city staff that there is no mechanism for the City to re-open the Order of Conditions issued by the Cambridge Conservation Commission.

The project is designed to meet DEP’s Stormwater Management Policy and established standards, and has been reviewed and approved by MassDEP. In appeals, this compliance with the state’s stormwater regulations was upheld culminating in a denial of Further Appellate Review by the Supreme Judicial Court on November 21, 2013.

WORK IN CAMBRIDGE

The work within the Cambridge portion of the parcel includes grading for a vegetated basin to retain stormwater and create compensatory flood storage, a total of 3,500 square feet will be altered. No structures or impervious surfaces associated with the project will be constructed in Cambridge. No Cambridge city utilities are servicing the development; both water and sewer service are being provided by the Town of Belmont.

FLOOD PLAIN IMPACTS

The project will fill a portion of the 100-Year Floodplain in Belmont and provides compensatory storage in Belmont and Cambridge at a ratio of 1.63:1, in excess of the storage required under the Massachusetts Wetlands Protection Act (310 CMR 10.00).

Fill:	33,930 sq ft	17,251 cu ft
Compensatory Storage:	45,361 sq ft	28,274 cu ft
Ratio of Compensation:		1.63:1

The project was designed to meet the 1982 floodplain elevation, 8.2’ NGVD29. This is more conservative than what would be required if the project were permitted today. In 2010, FEMA adopted new Flood Insurance Rate Maps (FIRM) for the Middlesex County. The 2010 100-year flood plain elevation was developed using the 2003 Northeast Regional Climate Center (NRCC) rain fall data and detailed topographic survey data. Due to the more accurate survey information, the 100-year flood plain elevation was determined to be approximately 0.6’ lower than the 1982 elevation. The updated floodplain tends to extend further, but at a lower elevation.

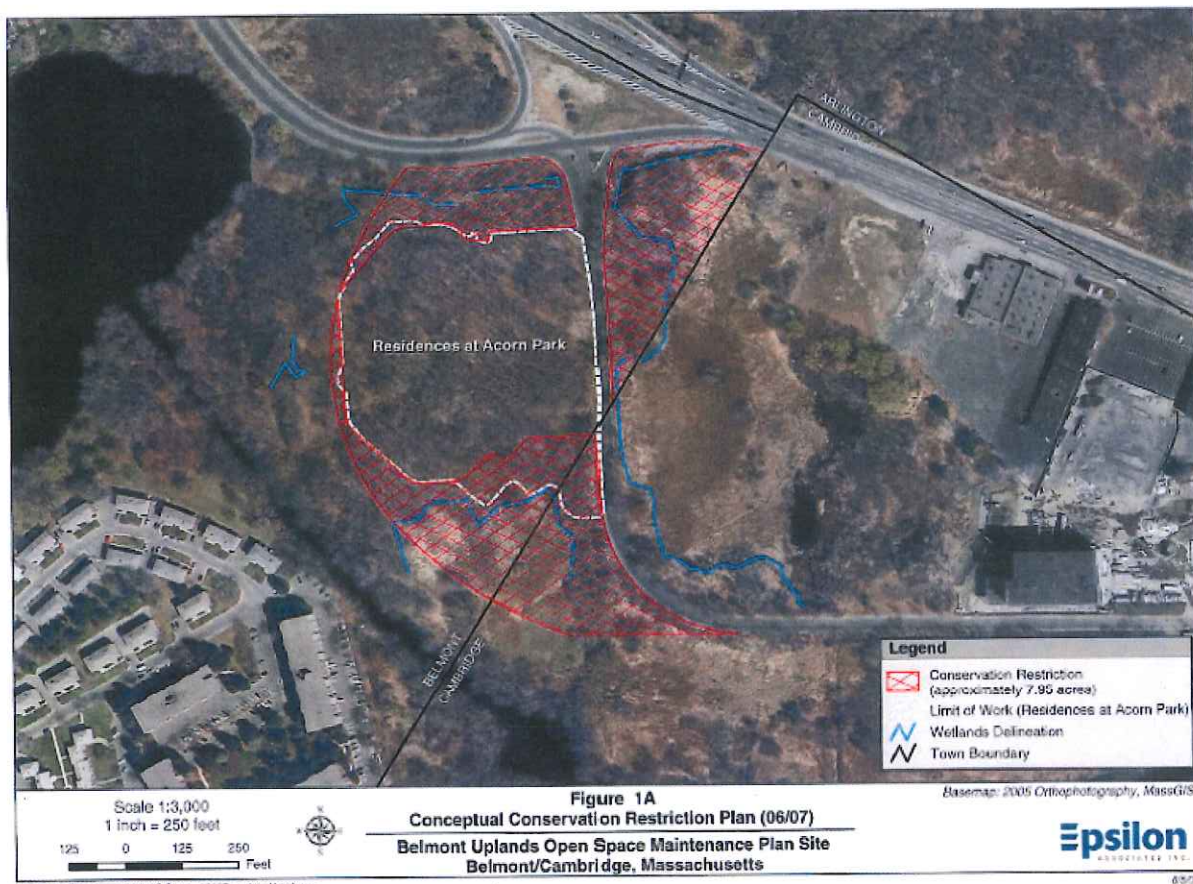
This parcel represents a very small fraction of the Little River watershed (0.3%) and the Mystic River watershed (0.03%). After initial saturation during a long rain event, the benefit of the Belmont Uplands site to flood reduction is considerably diminished.

	Little River Watershed	Alewife Brook Watershed	Mystic River Watershed
Area of Watershed	8.16 sq miles	8.5 sq miles	76 sq miles
Project Contribution to Watershed (15.6 acres / 0.024 sq mi)	0.3%	0.3%	.03%

DEPARTMENT OF CONSERVATION AND RECREATION (DCR)

Attached is the August 22, 2014 letter from DCR Commissioner John P. Murray. Commissioner Murray appreciates the intentions of the City, but does not feel it would be appropriate to reconsider the review and approval of this project outside of the state permitting process. In addition, he does not believe that this issue is relevant to DCR's intent to ensure conservation of nearly eight acres of forest through acceptance of a no cost conservation easement. He declined further review of the project prior to accepting the conservation easement.

The plan below shows the approximate limit of construction and the 7.95-acre conservation easement.



**Figure 1A, Area of Construction and Conservation Easement
Notice of Intent Application, June 21, 2007**

CITY MANAGER COORDINATION WITH ARLINGTON AND BELMONT

The City Manager reached out to both Arlington and Belmont to discuss options for the preservation of the Silver Maple Forest, including funding commitments. All three communities (Arlington, Belmont and Cambridge) support the goal of protecting open space and are interested in on-going conversations, but no funding has been identified to purchase the property.

The Town of Arlington committed to participating in discussions, but would not commit any financial resources to acquiring or protecting the land. If Arlington were to commit financial resources to land preservation, their priority would be the 17-acre Mugar property located between Thorndike Field and Route 2 in Arlington.

The Belmont Board of Selectmen support seeking an alternative to the proposed 40 B development at the site. They have concerns about the Town's ability to provide school and town services to support the development, as well as impacts on neighboring communities. Belmont has actively engaged the developer and will continue to do so, however, to date no funding has been identified to purchase the property. If a financially responsible alternative is agreed upon with the developer, Belmont has indicated they would consider identifying Community Preservation Act funds, Debt Exclusion funds, Reserves and other resources. However, the appropriation of any funds would require the approval of Belmont Town Meeting.

PROPERTY OWNER POSITION:

In a conversation with a representative of the property owner on September 3, 2014, it was indicated to the City Manager that the property is not being actively marketed for sale at this time.



August 22, 2014

Mr. Richard C. Rossi, City Manager
City of Cambridge
795 Massachusetts Avenue
Cambridge, MA 02139

Re: Cambridge City Council Policy Order Resolution 0-27

Dear City Manager Rossi:

The Massachusetts Department of Conservation and Recreation (DCR) has reviewed and given careful consideration to the Cambridge City Council Policy Order Resolution 0-27, regarding the proposed development of the Belmont Uplands site (i.e., the Silver Maple Forest) in Belmont and Cambridge. The Council requested that DCR - as a condition of accepting a conservation easement from AP Cambridge II, LLC (the owner and developer) - consult with the Belmont Conservation Commission and require the developer to demonstrate that the proposed project will comply with the Northeast Regional Climate Center ("NRCC") Precipitation Model for storm water. I am writing to inform you that DCR respectfully declines to accept the City Council recommendations in Policy Order Resolution 0-27.

The Commonwealth of Massachusetts has adopted storm water regulations for all public and private development. The Department of Environmental Protection (DEP), a sister agency to DCR, has the statutory authority to administer and enforce these storm water regulations. I understand that the proposed project has gone through extensive review for compliance with current regulations and has been found by the relevant regulatory authorities to meet state as well federal requirements related to storm water. Further, in appeals, this compliance with the state's storm water regulations was upheld repeatedly culminating in a denial of Further Appellate Review by the Supreme Judicial Court (SJC) on November 21, 2013. The project also has a valid Order of Conditions from the Cambridge Conservation Commission and a Superseding Order of Conditions from DEP for the Belmont portion of the project.

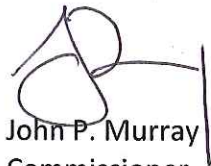
DCR does not feel it would be appropriate and well outside the agency's mission and purview, to reconsider the review and approval of appropriate regulatory authorities in a process outside of those customary processes and conventions. Nor can DCR require a fully permitted and storm



water regulatory compliant project to undergo a new storm water review against a model with storm water standards that have not been adopted. Nor do I believe that this issue is relevant to the DCR's intent to ensure conservation of nearly eight acres of forest through acceptance of a no cost conservation easement.

I appreciate the good intentions of the Cambridge City Council with this resolution but cannot honor this request for the reasons discussed above.

Sincerely,



John P. Murray
Commissioner

Cc: Cambridge City Council