



Ruthanne Fuller
Mayor

City of Newton, Massachusetts
 Department of Planning and Development
 1000 Commonwealth Avenue Newton, Massachusetts 02459

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Barney S. Heath
Director

Conservation Commission Wetland Application Coversheet/Checklist

Date October 16, 2023

Fill in all white cells completely

Parcel	3 parcels:	Applicant name	Chestnut Hill Shopping Center, LLC c/o WS Development, LLC		
Address	1-27; 27 R; & 33-55 Boylston St	Address	Amanda Chilsholm, Development Director		
Sec/Block/Lot	63037 0018A; 0025; & 0026	Email	33 Boylston St, Suite 3000 Chestnut Hill, MA 02467		
Book & Page	63205 - 127	Phone	Amanda.Chisholm@wsdevelopment.com 617-564-5799		
Owner name	Same as Applicant	Representative	Val Locker, Tighe & Bond, Inc.		
Address		Address	300 TradeCenter Dr, Suite 5580 Woburn, MA 01801		
Email		Email	VLocker@tighebond.com		
Phone		Phone	781-995-3040		
Legal Ad Payor	Please identify which party will pay for the Legal Ad.		Tighe & Bond, Inc.		
Wetland type	100-ft buffer to Inland Bank & BVW	sf/cf affected	32,160 SF	Relevant Perf. Standards	10. <u>N/A</u>
Wetland type		sf/cf affected		Relevant Perf. Standards	10. _____
Wetland type		sf/cf affected		Relevant Perf. Standards	10. _____

Components of a Complete NOI Application

State Form: NOI Form 3	Included? <input type="checkbox"/> Yes <input type="checkbox"/> No
Engineered Plan* title(s)	
Plan date	
Plan stamped by	
*if legible, plans should be 11"x17"	
Narrative	Included? <input type="checkbox"/> Yes <input type="checkbox"/> No
Proof that all relevant perf. standards are met	Included? <input type="checkbox"/> Yes <input type="checkbox"/> No
Locus map	Included? <input type="checkbox"/> Yes <input type="checkbox"/> No
Delineation lines (backup material)	Included? <input type="checkbox"/> Yes <input type="checkbox"/> No
Fees	
● Fee Transmittal form	Included? <input type="checkbox"/> Yes <input type="checkbox"/> No
● City portion of state filing fee \$ _____	Included? <input type="checkbox"/> Yes <input type="checkbox"/> No
● City's separate filing fee \$50	Included? <input type="checkbox"/> Yes <input type="checkbox"/> No
Abutter Information	
● Certified abutters list (within 100')	Included? <input type="checkbox"/> Yes <input type="checkbox"/> No
● Newton's Abutter notification form	Included? <input type="checkbox"/> Yes <input type="checkbox"/> No
● Affidavit & proof -- bring to hearing	<i>Present them at the hearing</i>
Other Attachments, e.g.	
Planting Plan	Included? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Applicable
Floodplain analysis	Included? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Applicable
Stormwater analysis	Included? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Applicable
Riverfront Area Alternatives Analysis	Included? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Applicable
Restoration or mitigation summary	Included? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Applicable
Phasing/Sequencing plan, O&M plan, etc.	Included? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Applicable

Conservation Commission Wetland Permit Process

RDA	NOI	Steps in Permitting Process		
1.	1.	Get a certified list of all abutters within 100' of property lines from the Newton Assessor's Office.		
	2.	Submit applications by noon of the Tuesday deadline (16 days before the desired hearing) to: <ol style="list-style-type: none"> a. <u>Newton Conservation Commission</u>: <ul style="list-style-type: none"> • Complete NOI or RDA application packet via electronic submission through NewGov. For NOIs use the application checklist to ensure completeness. <ul style="list-style-type: none"> • Application coversheet, state forms, narrative, photocopies of checks, ALL attachments • Plans (11"x17" format, if legible) stamped by engineer if any aspect of the project requires engineering. • Application fees via mail to Newton Conservation Office, 1000 Commonwealth Ave., Newton, MA 02459. For NOIs use the application checklist to ensure completeness. <ul style="list-style-type: none"> • Check to City of Newton for city portion of the state filing fee • \$50 check to City of Newton for city filing fee b. <u>Mass DEP Northeast Regional Office</u>: Wetlands Division, 150 Presidential Way, Woburn, MA 01801 (1 paper copy) <ul style="list-style-type: none"> • Complete NOI or RDA application packet (hard copy) AND Photocopy of the two state filing fee checks c. <u>DEP Lock Box</u>: Box 4062, Boston MA 02211 <ul style="list-style-type: none"> • Check to Commonwealth of Mass. for state portion of the state fee AND Fee transmittal form 		
			<i>The Conservation Agent will determine application completeness and assign a public hearing/meeting date and time.</i>	
	3.	Once you have the date and time of the hearing, using the City's " Notification to Abutters Form ", notify all abutters within 100' of the property line via certified mail, certificate of mailing, or hand delivery with signatures.		
			<i>The Conservation Agent will place a legal ad in the Boston Herald and the Applicant will receive an email with instructions to pay.</i>	
	4.	Stake the project. 2 weeks in advance of the public hearing, stake all proposed structures, erosion control barriers, stormwater systems, etc. within Con Com jurisdiction.		
			<i>The Conservation Agent will perform a site visit before the public hearing to confirm existing conditions and proposed work. If you wish to be informed of the time of the visit, please contact the Con Com office.</i>	
			<i>One week prior to the meeting, when the agenda is posted, the Conservation Agent will send all Applicants detailed Conservation staff notes and recommendations (from the Conservation Commission's detailed agenda).</i>	
	5.	Applicants may submit revised materials (via NewGov) by the Tuesday prior to the meeting (to be reviewed and discussed at the meeting) or may request a continuation to a future Conservation Commission meeting.		
	2.	6.	Attend the public hearing/meeting. The applicant or representative is expected to provide proof of abutter notification , briefly present the project , and answer any questions about possible impacts on wetlands . At the end of the hearing, the Con Com will either: <ul style="list-style-type: none"> • Issue a Determination of Applicability ("negative" determination means no further permitting is needed), • Issue an Order of Conditions (OOC) approving or denying the project, or • Approve a continuation of the public hearing, to allow time for additional information to be provided. 	
	3.	7.	Receive and read the decision and understand the conditions. Contact the Con Com if you have any questions. Some conditions are temporary (such as maintaining erosion controls), and some are perpetual (such maintaining restoration planting areas or limiting the use of fertilizers and outdoor lighting).	
			8.	Wait-out the 10-Day appeal period. A decision of the Con Com can be appealed to MassDEP by any abutter, applicant, or 10-citizen group within 10 business days of the decision.
			9.	Record the Order at the Registry of Deeds. Provide proof of recording to the Conservation office.
			10.	Install MassDEP file number sign and erosion controls.
		11.	Schedule and attend a pre-construction site visit. Contact the Conservation office to schedule the site visit.	
4.	12.	Execute the project. The project must be completed within 3 years, unless an extension of the permit is issued.		
		13.	Request a Certificate of Compliance (COC) via NewGov. Once the project is complete and all conditions have been satisfied, request a COC from the Conservation office by submitting: (1) DEP Form 8a , (2) a stamped as-built plan , and (3) a letter from the engineer stating that everything is in substantial compliance with the approved plans and OOC.	
		<i>The Con Com will perform a site visit to ensure compliance, and will issue a COC if appropriate.</i>		
		14.	Record the Certificate of Compliance (COC) at the Registry of Deeds to remove the cloud from the title. Provide proof of recording to the Conservation office.	

W-1743-010B
October 23, 2023

Jennifer Steel, Agent
Newton Conservation Commission
Planning & Development Department
1000 Commonwealth Avenue
Newton, MA 02459

Re: **Request for Determination of Applicability
Chestnut Hill Shopping Center Paving Maintenance Project
27 Boylston Street, Chestnut Hill, Massachusetts**

Dear Agent Steel and Members of the Commission:

On behalf of Chestnut Hill Shopping Center, LLC c/o WS Development Associates LLC (the Applicant), Tighe & Bond respectfully submits this Request for Determination of Applicability (RDA) for the proposed Chestnut Hill Shopping Center Paving Maintenance Project located adjacent to 27 Boylston Street, Chestnut Hill, Massachusetts. This is a proposed maintenance project to re-pave the existing parking lot and includes invasive species control, landscaping, and a general clean up of the existing stormwater features if required, as shown on the plans in Attachment D.

This RDA is being filed because a portion of the proposed work will occur within the 100-foot Buffer Zone to inland Bank and Bordering Vegetated Wetland along the edges of Hammond Pond. This area is regulated under the Massachusetts Wetlands Protection Act (MAWPA, M.G.L. c. 131 §40) and implementing regulations as well as Newton Conservation Commission policies. The applicant respectfully requests that the Newton Conservation Commission make a Negative Determination, confirming that a Notice of Intent will not be required for the project.

This RDA application includes the following items:

- Attachment A – WPA Form 1
- Attachment B – Figures
- Attachment C – Site Photographs
- Attachment D – Project Drawings
- Attachment E – Existing and Proposed Surface Plans

The following text discusses the MAWPA resource areas and other existing conditions, proposed activities, and proposed protective measures.

Site Description

The project site is located on the northern side of the Chestnut Hill Shopping Center property known as The Street. Abutting land uses include residential properties to the east, commercial buildings and parking to the south and west by, and Hammond Pond to the north.

The site consists primarily of impervious parking area with some pervious areas located within parking islands and along the northern boundary between the parking lot and Hammond Pond.



Portions of the pervious areas north of the parking lot are generally overgrown with asiatic bittersweet (*Celastrus orbiculatus*), common buckthorn (*Rhamnus cathartica*), and poison ivy (*Toxicodendron radicans*). Two rain gardens are located within the vegetated areas northwest of the parking lot, between the parking lot and Hammond Pond.

Wetland Resource Areas

Site reconnaissance and wetland resource investigations of the project area were conducted by a Tighe & Bond wetland scientist on November 18, 2022. The delineation was conducted in accordance with the procedures outlined in the *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Northcentral and Northeast Region* (Version 2.0, U.S. Army Corps of Engineers, January 2012), *Delineating Bordering Vegetated Wetlands Under the Massachusetts Wetlands Protection Act* (MassDEP, 1995), and 310 CMR 10.55(2)(c)(1). Jurisdictional resource area boundaries were recorded using a Global Positioning System (GPS) unit with sub-meter accuracy. Representative photographs are included in Attachment C.

TABLE 1
Summary of MA WPA Resource Areas by Flag Series

Wetland ID Series	Flag Numbers	Resource Area Type
1A	1A-1 through 1A-3	Bordering Vegetated Wetland
1A	1A-3 through 1A-24	Inland Bank to Hammond Pond

Inland Bank

The inland Bank of Hammond Pond was identified within the investigation area and demarcated by a portion Flag Series 1A. The Bank was nearly vertical throughout the investigation area and laterally coincided with the mean annual high water line of Hammond Pond. Soils were highly altered, with evidence of fill and grading present. Commonly identified vegetation along the bank included, but was not limited to, northern blue flag (*Iris versicolor*, OBL), purple loosestrife (*Lythrum salicaria*, OBL), broadleaf cattail (*Typha latifolia*, OBL), common reed (*Phragmites australis*, FACW), poison ivy (*Toxicodendron radicans*, FAC), northern bayberry (*Morella pensylvanica*, FAC), arrowwood (*Viburnum dentatum*, FAC), highbush blueberry (*Vaccinium corybosum*, FACW), buckthorn (*Rhamnus cathartica*, FAC), speckled alder (*Alnus incana*, FACW), grey birch (*Betula populifolia*, FAC), red maple (*Acer rubrum*, FAC), and white willow (*Salix alba*, FACW).

Bordering Vegetated Wetland

One Bordering Vegetated Wetland was identified within the project area, demarcated by a portion Flag Series 1A. The wetland is a palustrine forested (PFO) wetland located abutting Hammond Pond and above the pond’s mean annual high water line. Soils were predominantly muck and peat, with a gravelly layer present below 12 inches. Hydric indicators included a higher water table, saturation, water-stained leaves, hydrogen sulfide odor, geomorphic position, microtopographic relief, and FAC-neutral test. Commonly identified vegetation included, but was not limited to, greenbrier (*Smilax rotundifolia*, FAC), highbush blueberry (*V. corybosum*, FACW), pepperbush (*Clethra alnifolia*, FAC), silky dogwood (*Cornus amomum*, FACW), swamp white oak (*Quercus bicolor*, FACW), red maple (*A. rubrum*, FAC), and red oak (*Quercus rubra*, FACU).



Bordering Land Subject to Flooding

The Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM, Panel No. 25017C0558E, effective June 4, 2010) was consulted to evaluate the presence of Bordering Land Subject to Flooding (BLSF) at and near the project area. The project area does not fall within an area subject to flooding and/or inundation by the 100-year flood, and therefore is not regulated as BLSF (see FIRMette enclosed in Attachment B).

Rare Species

No portion of the proposed project falls within any *Priority Habitats of Rare Species* or *Estimated Habitats of Rare Wildlife* based on a review of the Massachusetts Natural Heritage and Endangered Species Program (NHESP) Atlas (15th edition; August 1, 2021) and NHESP data available on MassGIS online, as shown on Figure 2 in Attachment B.

Proposed Activities

The proposed project involves repaving the exiting parking lot, creating new vegetated parking islands in areas of existing pavement outside of the 100-ft Buffer Zone, and maintaining existing pervious areas north of the parking lot, including existing stormwater management features (Attachment D).

Approximately 1.5"-2" of pavement will be milled and removed from the existing rear parking lot and the base pavement will be overlaid with 1.5"-2" of new pavement. The project will also include maintenance of the existing rain gardens and pervious areas north of the parking lot, within the 100-ft Buffer Zone to Bank and BVW. Invasive species management will be implemented consistent with the Newton Conservation Commission Invasive Plant Control Policy to the extent practicable. Existing impermeable liner exposed edges and accumulated mulch will be removed. Riprap drainage channels to the existing rain gardens will be removed and replaced with river stone aprons. Three shade trees will be planted and a previously mulched area will be reseeded with a native, wet meadow seed mix.

The existing topography and drainage patterns will remain the same on-site and there is an opportunity to increase the pervious area within the 100-ft Buffer Zone. The plans in Attachment D show a total increase in pervious areas on site by approximately 974 SF with 285 SF of the total pervious area being added within the 100-ft Buffer Zone. Therefore, there will be no increase in the rate or volume of stormwater runoff from the site as a result of the proposed maintenance project. Existing and Proposed Surface Comparison Plans showing the reduction in impervious areas are provided in Attachment E.

Work Within Resource Areas

No work is proposed within inland Bank or BVW. Impacts to these resources will be avoided with implementation of protective measures, further described below.

Portions of the project will occur within the 100-foot buffer zone, resulting in approximately 32,160 square feet (sf) of temporary impacts within the 100-foot Buffer Zone. Areas within the 100-foot buffer zone where work is proposed consist entirely of previously disturbed areas, including existing pavement, landscaping, and stormwater management features. The proposed work will not change the general characteristics of the area and will result in a reduction of 285 SF of impervious area within the 100-foot buffer zone.

Approximately 16,570 sf of temporary impacts will occur within the 25-foot Naturally Vegetated Buffer to wetland resource areas. Proposed work within these areas is limited to maintenance of previously disturbed areas and invasive species removal. The proposed

project will result in a net increase of pervious areas within 25 feet of wetland resource areas that will be seeded with a native wet meadow seed mix.

Protective Measures

Wetland resource areas in close proximity to the proposed project activities will be protected by sediment and erosion control barriers. These measures will be installed prior to the commencement of work and will be maintained for the duration of construction and until disturbed areas are restored and stabilized. The locations of sediment and erosion control practices and details of these measures are provided in the Project Drawings in Attachment D.


Summary

We look forward to having the opportunity to discuss this project with the Newton Conservation Commission at the public meeting on November 9, 2023. A filing fee of \$50 has been mailed under separate cover to the Newton Conservation Commission.

We anticipate these materials are sufficient for the Commission to issue a Negative Determination confirming that a Notice of Intent (NOI) will not be required for the proposed work to proceed. Should you have any questions regarding this application or require any additional information, please do not hesitate to contact me at (781) 995-3040 or via email at vlocker@tighebond.com.

Sincerely,

TIGHE & BOND, INC.



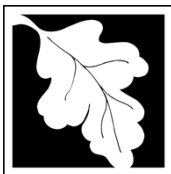
Val Locker
Project Manager, Environmental Services

Enclosures

Copy: MassDEP Northeast Regional Office
Amanda Chisholm, Development Director, WS Development, LLC

\\tighebond.com\data\Data\Projects\W\W1743 WS Development Chestnut Hill\W1743-010B 27 Boylston North Parking Lot\Permitting\Newton ConCom\RDA Request\ChestnutHill_RDA_2-Letter.docx





Massachusetts Department of Environmental Protection
Bureau of Water Resources - Wetlands

WPA Form 1- Request for Determination of Applicability

Newton
Municipality

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

A. General Information

Important:

When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



1. Applicant:

<u>Amanda</u>	<u>Chisholm</u>	
First Name	Last Name	
<u>Chestnut Hill Shopping Center LLC c/o WS Development Associates LLC</u>		
Company Name		
<u>33 Boylston St, Suite 3000</u>		
Address		
<u>Chestnut Hill</u>	<u>MA</u>	<u>02467</u>
City/Town	State	Zip Code
<u>617-564-5799</u>	<u>Amanda.Chisholm@wsdevelopment.com</u>	
Phone Number	Email Address	

2. Property Owner (if different from Applicant):

<u></u>	<u></u>	
First Name	Last Name	
<u></u>		
Address		
<u></u>	<u></u>	<u></u>
City/Town	State	Zip Code
<u></u>	<u></u>	
Phone Number	Email Address (if known)	

3. Representative (if any)

<u>Val</u>	<u>Locker</u>	
First Name	Last Name	
<u>Tighe & Bond, Inc.</u>		
Company Name		
<u>300 TradeCenter, Suite 5580</u>		
Address		
<u>Woburn</u>	<u>MA</u>	<u>01801</u>
City/Town	State	Zip Code
<u>(781) 995-3040</u>	<u>vlocker@tighebond.com</u>	
Phone Number	Email Address (if known)	

B. Project Description

1. a. Project Location (use maps and plans to identify the location of the area subject to this request):

<u>Section of parking north of The Street at 27 Boylston</u>	<u>Newton</u>
Street Address	City/Town
<u>42.3237</u>	<u>-71.1689</u>
Latitude (Decimal Degrees Format with 5 digits after decimal e.g. XX.XXXXX)	Longitude (Decimal Degrees Format with 5 digits after decimal e.g. -XX.XXXXX)
<u>127</u>	<u>63037: 0018A, 0025, & 0026</u>
Assessors' Map Number	Assessors' Lot/Parcel Number

[How to find Latitude and Longitude](#)

[and how to convert to decimal degrees](#)

b. Area Description (use additional paper, if necessary):
See cover letter for description and figures and drawings in Attachments B and C, respectively.

c. Plan and/or Map Reference(s): (use additional paper if necessary)

<u>Attachment B, Figures 1 - 3</u>	<u>10/10/2023</u>
Title	Date
<u>Attachment C, Project Drawings</u>	<u>10/23/2023</u>
Title	Date



B. Project Description (cont.)

2. a. Activity/Work Description (use additional paper and/or provide plan(s) of Activity, if necessary):

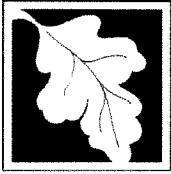
This is a maintenance project that includes replacing existing pavement and maintenance of existing stormwater features and vegetated buffer areas, including invasive species management. Approximately 32,160 square feet of temporary impacts are proposed within the 100-foot Buffer Zone to wetland resource areas. See cover letter for additional details on proposed activities.

- b. Identify provisions of the Wetlands Protection Act or regulations which may exempt the applicant from having to file a Notice of Intent for all or part of the described work (use additional paper, if necessary).

-
3. a. If this application is a Request for Determination of Scope of Alternatives for work in the Riverfront Area, indicate the one classification below that best describes the project.

- Single family house on a lot recorded on or before 8/1/96
- Single family house on a lot recorded after 8/1/96
- Expansion of an existing structure on a lot recorded after 8/1/96
- Project, other than a single-family house or public project, where the applicant owned the lot before 8/7/96
- New agriculture or aquaculture project
- Public project where funds were appropriated prior to 8/7/96
- Project on a lot shown on an approved, definitive subdivision plan where there is a recorded deed restriction limiting total alteration of the Riverfront Area for the entire subdivision
- Residential subdivision; institutional, industrial, or commercial project
- Municipal project
- District, county, state, or federal government project
- Project required to evaluate off-site alternatives in more than one municipality in an Environmental Impact Report under MEPA or in an alternatives analysis pursuant to an application for a 404 permit from the U.S. Army Corps of Engineers or 401 Water Quality Certification from the Department of Environmental Protection.

- b. Provide evidence (e.g., record of date subdivision lot was recorded) supporting the classification above (use additional paper and/or attach appropriate documents, if necessary.)
-



Massachusetts Department of Environmental Protection
Bureau of Water Resources - Wetlands

WPA Form 1- Request for Determination of Applicability Newton
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40 Municipality

C. Determinations

1. I request the Newton Conservation Commission make the following determination(s). Check any that apply:

- a. whether the **area** depicted on plan(s) and/or map(s) referenced above is an area subject to jurisdiction of the Wetlands Protection Act.
- b. whether the **boundaries** of resource area(s) depicted on plan(s) and/or map(s) referenced above are accurately delineated.
- c. whether the **Activities** depicted on plan(s) referenced above is subject to the Wetlands Protection Act and its regulations.
- d. whether the area and/or Activities depicted on plan(s) referenced above is subject to the jurisdiction of any **municipal wetlands' ordinance** or **bylaw** of:

Name of Municipality

- e. whether the following **scope of alternatives** is adequate for Activities in the Riverfront Area as depicted on referenced plan(s).
- _____

D. Signatures and Submittal Requirements

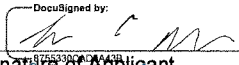

I hereby certify under the penalties of perjury that the foregoing Request for Determination of Applicability and accompanying plans, documents, and supporting data are true and complete to the best of my knowledge.

I further certify that the property owner, if different from the applicant, and the appropriate DEP Regional Office were sent a complete copy of this Request (including all appropriate documentation) simultaneously with the submittal of this Request to the Conservation Commission.

Failure by the applicant to send copies in a timely manner may result in dismissal of the Request for Determination of Applicability.

Signatures:

I also understand that notification of this Request will be placed in a local newspaper at my expense in accordance with Section 10.05(3)(b)(1) of the Wetlands Protection Act regulations.

<small>DocuSigned by:</small>  Signature of Applicant	10/23/2023 Date
 for Val Locker Signature of Representative (if any)	10/24/2023 Date