

# CONSERVATION COMMISSION AGENDA

Date: Thursday, October 10, 2024

Time: 7:00pm

Place: This meeting will be held as a virtual meeting via Zoom.

This will be a virtual meeting via Zoom. No in-person meeting will take place at City Hall.

Click here to join by Zoom: <https://newtonma-gov.zoom.us/j/82531090247>

Contact [isteel@newtonma.gov](mailto:isteel@newtonma.gov) or 617-796-1134 with any questions.

**NOTE:** Packets and full applications are available on [the Commission's website](#).

**NOTE:** Times listed are estimates. Items may be taken out of order at the Chair's discretion. Discussion may be limited by the Chair.

## DECISIONS

### A. WETLANDS DECISIONS

#### 1. 7:00 PM (30 minutes) 24 Warren St – Notice of Intent – DEP #239-XXX

- Owner/Applicant. Jeff Goldman
- Representatives. James DeVellis, DeVellis Zrein Inc.; Jessalyn Jarest, Landscape Architect
- Proposed Project Summary.
  - Addition to a single-family home
  - Removal of 2 mature trees
  - Mitigation plantings
- Request. Issue OOC
- Jurisdiction. Buffer Zone
- Relevant Performance Standards. **Buffer Zone** 10.53(1): General Provisions: "... the Issuing Authority shall impose conditions to protect the interests of the Act identified for the adjacent Resource Area.
- Documents in packets. Highlighted plans
- Additional documents presented at meeting. Site photos
- Staff Notes.
  - Staff await the issuance of a DEP file number.
  - The additions and tree removals are in the outer buffer zone.
  - The trees to be cut were identified on a 2011 site plan as a 26" and a double 16". Staff feel that they are now ~28" and a single ~18". The 28" tree appears to be slightly compromised. The 18" tree appears to be in good health.
  - The proposed plantings are diverse, robust, and situationally appropriate. 21 canopy trees, 19 understory trees, 76 shrubs, and many perennials are proposed.
  - Beech leaf and beech bark disease are evident in other trees on the parcel. The owner intends to treat these trees to try to save them.
- Staff Recommendation. Vote to close the hearing and issue an Order of Conditions with the site-specific special conditions.

#### 2. 7:30 (15 minutes) Jacob Shen eagle scout presentation - Wood Chip Installation on Trail at Flowed Meadow

- Owner. Newton Conservation Commission
- Representative. Jacob Shen, Eagle Scout candidate
- Project Summary. Jacob Shen and his troop have completed the wood chip project work day, on some sections of the path, to reduce tripping hazards.
- Request. Sign-off on his project.
- Documents presented at meeting. Scout's PowerPoint presentation



**Mayor**

*Ruthanne Fuller*

**Director  
Planning &  
Development**

*Barney Heath*

**Chief  
Environmental  
Planner**

*Jennifer Steel*

**Assistant  
Environmental  
Planner**

*Ellen Menounos*

**Conservation  
Commission  
Members**

*Kathy Cade*

*Dan Green*

*Ellen Katz*

*Susan Lunin*

*Jeff Zabel*

*Leigh Gilligan*

**Alternate  
Member**

*Sonya McKnight*

**Contact  
Information**

*1000 Comm. Ave.*

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*Reasonable accommodations will be provided to persons with disabilities requiring assistance. If you need a reasonable accommodation, please contact the city of Newton's ADA/Sec. 504 Coordinator, Jini Fairley, at least two business days in advance of the meeting: [jfairley@newtonma.gov](mailto:jfairley@newtonma.gov) or (617) 796-1253. For Telecommunications Relay Service, please dial 711 or call City Hall's TTY/TDD line at 617-796-1089.*

- Staff Notes. Jacob completed the project as planned.
- Consensus. Agree to have staff sign-off on Jacob's Eagle Scout project as satisfactorily completed.

**3. 7:45 (50 minutes) 528 Boylston St - Notice of Intent (continued) - 40B development - 184-unit multi-family residential building - DEP File # 239-977**

- Owner/Applicant. Toll Brothers
- Representatives. Bohler Engineering
- Proposed Project Summary.
  - The proposed project (on 5.8 acres) consists of:
    - A 6-story residential building
    - Multi-level underground garage parking, surface entry drive and parking, a pedestrian walking path
    - Utilities
    - A stormwater management system
    - Landscaping and mitigation grading and plantings.
- Request. Issue OOC.
- Jurisdiction. RFA, BLSF, BVW, Bank (outside of work zone), LUWW (outside of work zone)
- Relevant Performance Standards.

**RFA: Redevelopment in Previously Developed Riverfront Areas; Restoration & Mitigation: 10.58(5)**

- ... work improves existing conditions.
- Redevelopment means ... reuse of degraded or previously developed areas.
- A previously developed riverfront area contains areas degraded prior to August 7, 1996....
- Work to redevelop previously developed riverfront areas shall ...:
  - (a) At a minimum, work shall result in an improvement over existing conditions ...
  - (b) Stormwater management is provided according to standards
  - (c) Proposed work shall not be closer to the river than existing conditions or 100', whichever is less, except in accordance with 10.58(5)(f) or (g).
  - (d) Proposed work...shall be located... away from the river, except in accordance with 10.58(5)(f) or (g).
  - (e) .... proposed work shall not exceed the ... degraded area ... except in accordance with 10.58(5)(f) or (g).
  - (f) Despite what it says in 310 CMR 10.58(5)(c), (d), and (e), more alteration closer to the river may be allowed if an applicant proposes restoration ... of at least 1:1 ...
  - (g) Despite what it says in 310 CMR 10.58(5)(c), (d), or (e), more alteration closer to the river may be allowed if an applicant proposes mitigation ... of at least 2:1
  - (h) The issuing authority shall include a continuing condition in the COC ...under 10.58(5)(f) or (g) prohibiting further alteration within the restoration or mitigation area....

**Bordering Land Subject to Flooding: 10.57**

1. Compensatory storage shall be provided for all flood storage volume that will be lost...
2. Work shall not restrict flows so as to cause an increase in flood stage or velocity.
3. Work in those portions of bordering land subject to flooding found to be significant to the protection of wildlife habitat shall not impair its capacity to provide important wildlife habitat functions. ....

**BVW: 10.55(4)**

- (a) work in a Bordering Vegetated Wetland shall not destroy or otherwise impair any portion of the BVW
- (b) The ConCom may permit the loss of up to 5000 square feet of BVW when said area is replaced IF: ...
- (c) The ConCom may permit the loss of a portion of BVW when ...;
- (d) No project may be permitted which will have any adverse effect on specified habitat sites of rare species
- (e) No work shall destroy or otherwise impair any Area of Critical Environmental Concern

**Buffer Zone 10.53(1): General Provisions:** "... the Issuing Authority shall impose conditions to protect the interests of the Act identified for the adjacent Resource Area.

- Documents in packets. Revised area of degradation, confirmation of bankfull to determine Riverfront Area boundary, BSC peer review report #1.
- Additional documents presented at meeting. TBD
- Staff Notes.
  - Bohler submitted a revised limit of degradation for the purposes of calculating existing degraded areas and the proposed change in degraded areas. The new line resulted in 1800 sf less degraded area. The area removed is lacking vegetation but has topsoil so technically qualifies as non-degraded. The plan sheet should be properly dated and stamped by the surveyor or engineer of record.

- Bohler submitted calculations for the bankfull line confirming the location of the Riverfront Area boundary. The plan sheet should be properly titled, dated, and stamped by the engineer.
- BSC's first Wetland Scientist Peer Review and Professional Engineer Peer Review of the application materials received to date were received on 10/3/2024. The full report has been posted on the Commission's website. The primary findings are as follows.
  - Riverfront Area performance standards have been met in full – with caveats about the stormwater standards (see below).
  - Bordering Land Subject to Flooding performance standards have been met in full.
  - The Commission's Flood Zone policy has been met in full.
  - Regarding the State Stormwater Standards, the applicant should consider:
    - Adding a design/discharge point at Hagen Road
    - Citing the source of the off-site topography
    - Fixing the minor discrepancy in the boundary of the soils in the existing and proposed conditions
    - Modifying the Time of Concentration in sub-catchment EX-1
    - Clarifying why 2 segments of sheet flow were used near sub-catchment PR-6
    - Revising the existing conditions in EX-4 to "woods: light underbrush"
    - Providing the Frimpter Method calculations
    - Conducting more test pit analyses when feasible
    - Providing details and TSS removal calculations for treatment train #1
    - Minor revisions to the O&M plan and LTPP plan
    - Clarification of snow storage plans
    - Clarification regarding pet waste collection plans
  - Commissioners and members of the public will make a site visit on 10/9/2024.
- Staff Recommendations.
  - Discuss the site visit.
  - Discuss the peer review report.
  - Discuss new or outstanding issues that: (1) the applicant should address, (2) BSC should comment on, and/or (3) the Commission should consider for conditions. Such issues might include:
    - 21E study results
    - Blasting
    - Depth of garages, etc.
    - Construction Sequence Plan and Narrative (showing interim and interior temporary sediment controls, perimeter sediment controls, bank stabilization details, dewatering controls, stockpiling areas, protection of infiltration areas, tree protection, etc.)
    - Independent Environmental Monitor
    - Future test pits to be observed by Conservation staff
    - SWPPP weekly reports (with photos and narratives).
  - Vote to continue the hearing to October 31 to allow the applicant to provide revised materials, with materials due Monday October 21 at noon.

#### 4. 8:35 PM (40 minutes) 825 (aka 877) Centre St., BC Quonset hut – Notice of Intent – DEP #239-987

- Owner/Applicant. Boston College
- Representatives. CHA Consulting, Nitsch Engineering, LEC wetland scientist
- Proposed Project Summary.
  - Demolish existing Quonset hut and parking lot
  - Construct new building (with associated grading)
  - Construct porous pavement parking lot (with associated grading) and stormwater management system
  - Install new water and sewer service
  - Install a new well for field irrigation
- Request. Issue an OOC
- Jurisdiction. Buffer Zone to an intermittent stream
- Relevant Performance Standards. **Buffer Zone** 10.53(1): General Provisions: "... the Issuing Authority shall impose conditions to protect the interests of the Act identified for the adjacent Resource Area.
- Documents in packets. Highlighted plans
- Additional documents presented at meeting. Site photos
- Staff Notes.

- Edmands Brook is currently very flashy and highly eroded. Infiltrating stormwater will help that situation a bit Using porous pavement of the entire parking lot and pathway system is intended to improve stormwater quality and quantity entering Edmands Brook. New water quality structures are proposed as additional means to improving stormwater quality and quantity entering Edmands Brook.
- Within the Buffer Zone, reconstruction of the parking lot will require the removal of 4 6-inch trees and 1 12-inch tree in the parking lot islands.
- The current design also calls for a “stub” for busses and dumpsters. Creation of that bus parking and dumpster storage would require fairly significant grading and the removal of one or more large trees immediately adjacent to the gravel path that leads to Edmands Park. Staff recommended repositioning the dumpster area to limit grade changes and, possibly, tree cutting. Clear indication of trees that will be lost must be provided and ecologically appropriate mitigation plantings should be proposed.
- A new well is proposed outside the 100-foot buffer zone and will feed an irrigation storage tank and pumping system.
- Outside but immediately adjacent to the current project limits and Edmands Brook, is a long-failed piece of stormwater infrastructure that needs to be entirely rebuilt. The owner and applicant team has acknowledged the need to address the current condition of: (1) runoff being conveyed directly to Edmands Brook and (2) severe historic erosion of the bank. At the pre-hearing site visit, staff suggested that as a first step in enforcement, this Order of Conditions require timely submission of restoration plans for that stormwater system and embankment, and completion of reconstruction during the 3-year life of the Order of Conditions.
- Staff await revised plans for the bus and dumpster area that indicate tree cutting and grading. A revised mitigation planting plan will need to reflect all proposed tree cutting in the Buffer Zone.
- Staff Recommendation. Once revised materials have been received and reviewed and are considered appropriate, vote to close the hearing and issue an Order of Conditions site-specific special conditions, including the requirement to address the off-site stormwater drainage (as noted above).

**5. 9:15 PM (30 minutes) 712 Watertown St - NOI – tear down SFH, construct duplex – DEP #239-988**

- Owner/Applicant. 712 Watertown St LLC (Daniel Ustayev)
- Representatives. John Rockwood, Eco-Tec
- Proposed Project Summary.
  - Tear down SFH with 2 driveways, patios, a deck, etc.
  - Remove 6 trees (90” total); protect off site oak tree
  - Construct a duplex with 2 driveways, patios, 2 stormwater systems
  - Install two mitigation planting beds close to Cheesecake Brook (11 saplings, 94 shrubs), 10 stone bounds
- Request. Issue OOC.
- Jurisdiction. RFA, BZ
- Relevant Performance Standards.

**RFA: Redevelopment in Previously Developed Riverfront Areas; Restoration & Mitigation: 10.58(5)**

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    - (b) Stormwater management is provided according to standards
    - (c) Proposed work shall not be closer to the river than existing conditions or 100’, whichever is less, except in accordance with 10.58(5)(f) or (g).
    - (d) Proposed work...shall be located... away from the river, except in accordance with 10.58(5)(f) or (g).
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    - (h) The issuing authority shall include a continuing condition in the COC ...under 10.58(5)(f) or (g) prohibiting further alteration within the restoration or mitigation area....

**Buffer Zone 10.53(1): General Provisions:** “... the Issuing Authority shall impose conditions to protect the interests of the Act identified for the adjacent Resource Area.

  - Documents in packets. Highlighted plans
  - Additional documents presented at meeting. Site photos
  - Staff Notes.
    - The plans call for the removal of all trees on the site. The arborist’s report notes that most of the trees are in poor health and several are Norway maples. The mitigation planting plan calls for the installation of 4 full canopy trees and 7

smaller stature trees. Staff feel that the site could accommodate additional canopy trees in the proposed southern lawn, near the corner of Watertown Street and Albemarle Road, and/or in the northwest corner of the site.

- Staff disagree with the applicant’s statements about regulated and exempt areas on the site. The application narrative states “The proposed permeable patios are minor exempt activities under 310 CMR 10.02(2)(b)2.e. and have been shown on the Site Plan for sake of completeness.” And “Existing degraded area excluded the wooden deck and stairs; the proposed degraded area excluded the permeable patios as these features are minor exempt activities that could be constructed without permitting under the Regulations.” Staff, however, contend that:
  - The noted exemption applies to the conversion of lawn to patio
  - Existing degraded area should include the decks
  - The proposed patios must be shown as new construction and be included in the proposed degraded area.
- Because of the above, staff feel that an additional 144 sf of mitigation must be provided to meet the absolute minimum requirements of the Riverfront Area performance standards. This will allow for the permanent protection of additional canopy trees.

	Applicant	Staff
Total existing degraded	3203	3486
Total proposed degraded	3991	4453
New degraded	788	967
Restoration provided	210	210
Mitigation required		1514
Mitigation provided	1370	1370
Extra Mitigation needed		144

- The stormwater system can count as the “required improvement” since a duplex is exempt from needing to meet the stormwater standards under the RFA performance standards.
- The off-site 32” northern red oak is very close to the property line/erosion control line/proposed retaining wall. The retaining wall will hold back 2 feet of fill; excavation for the footings of the wall could damage the oak’s roots.
- Test pit data indicate groundwater at 6 feet in one location. The basement slab will be 4 feet deep. Dewatering may be required and should be conditioned.
- Staff Recommendation. If approvable revised mitigation planting plans are received, vote to close the hearing and issue an Order of Conditions with site-specific conditions.

**6. 9:45 (15 minutes) - 15 Keefe Ave - Request for Amended Order of Conditions for a patio (continued) – DEP#s 239-924**

- Owner/Applicant. Lital Asher-Dotan
- Representatives. Self
- Request. Construct a large patio with retaining wall. Keep an unpermitted dock and stair on the adjacent DCR parcel.
- Jurisdiction. Riverfront Area, Flood Zone
- Documents in packets. Proposed patio expansion plans
- Additional documents presented at meeting. Site photos
- Project History and Staff Notes.
  - At the Commission’s 8/1/2024 hearing on the request to amend Order of Conditions #239-924, the Commission asked for two things before they would take up the request for the expanded patio:
    - Clarification from the Engineering Department as to whether the proposed patio would require an on-site stormwater management system per the City’s stormwater ordinance; and
    - Documentation of the approval of the landowner (DCR?) on whose land you constructed unpermitted stairs and installed an unpermitted dock.
  - To date, staff have received neither of those. The owner has initiated an application for a dock, but it is not clear that accurate information was provided in that application (the application noted the address as 15 Keefe, but the dock is on public property).
  - The owner recently submitted two new on-line applications via NewGov, but both were incorrectly filed and incomplete. The recent on-line RDA application (CONS-24-32) for the patio did not contain the required state RDA application form and the cover letter cited a request to amend Order of Conditions DEP File #239-924. The recent on-line NOI application (CONS-24-34) for the dock did not contain the required state NOI application form or other components required in a complete NOI application package; the cover letter cited Order of Conditions DEP File #239-924.
  - Staff have noted that for the "proposed" stairs and dock, the owner will need to address land ownership, secure permission from the landowner for the stairs and dock, secure a Wetlands and Waterways permit from DEP, and secure an Order of Conditions from the Conservation Commission that addresses fill in flood zone, bank stabilization, mitigation for the increase in degraded Riverfront Area, etc.
  - Staff have noted the complexity of the projects the owner is approaching and have recommended employing qualified professionals to assist.
- Staff Recommendation.

- Get an update from the owner about Engineering requirements and communications with DCR.
- Provide the owner with next steps.

**7. 10:05 (3 minutes) 192 Concord St - Request for Certificate of Compliance - DEP #239-886**

- Owner/Applicant. Nathan Hayman
- Project Summary. Partial demolition and reconstruction of a single-family home with mitigation plantings
- Request. Issue COC.
- Jurisdiction. Riverfront Area
- Documents in packets. Site plan
- Additional documents presented at meeting. None
- Staff Notes.
  - The permit expired on 4/1/2024. The house sold and the new owner is trying to close out the permit.
  - In mitigation planting bed, many plants did not survive. This summer, the new owner worked with his landscaper to install supplemental plants using species from the original plant list. Bounds were installed. The site looks really good.
- Staff Recommendation. Vote to issue a complete COC.

**8. 10:08 (3 minutes) 25 Bernard St - Request for Certificate of Compliance - DEP #239-883**

- Owner/Applicant. Albert Chin
- Project Summary. Demo and construction of a single-family home with mitigation planting
- Request. Issue COC.
- Jurisdiction. Riverfront Area
- Documents in packets. Site plan
- Additional documents presented at meeting. None
- Staff Notes.
  - In mitigation planting bed, some plants did not survive, but the owner has replaced them and they appear to be thriving. The site looks very good.
- Staff Recommendation. Vote to issue a complete COC.

**9. 10:11 (3 minutes) 942 Watertown St - Request for Certificate of Compliance/Enforcement Order closeout – DEP #239-479**

- Owner/Applicant. Janet Edsall
- Project Summary. Demolition of single-family and construction of duplex. There was a violation (unpermitted enlargement of the driveway, construction of a patio, etc.) that resulted in the need for enlarged mitigation planting areas.
- Jurisdiction. Riverfront Area
- Documents in packets. Site plan
- Additional documents presented at meeting. None
- Staff Notes.
  - The EO was issued in 2005; the permit expired in 2007.
  - The unpermitted patio was removed, lawn was minimized, the mitigation planting beds were enlarged, ailing plants were replaced, and bounds were installed.
  - One of the small front beds struggles in the shade, the other is thriving, and the main beds along Cheese Cake Brook are in good shape.
- Staff Recommendation. Vote to issue a complete COC.

**10. 10:14 (3 minutes) 409 Crafts St - Request for Certificate of Compliance - DEP #239-906**

- Owner/Applicant. Chris Attardo
- Project Summary. Single-family house renovation
- Request. Issue COC.
- Jurisdiction. Riverfront Area
- Documents in packets. Site plan
- Additional documents presented at meeting. Site photos
- Staff Notes.
  - The owners have installed a small shed, but it is more than 50' from MAHW and so is "minor exempt".
  - Construction comports with the approved plans.
  - Plant installation deviates from the approved plans and conditions: The site is lacking 2 spruce and 5 plums/hollies. The site has added 1 oak and 2 dogwoods.

- Staff Recommendation. Determine whether to issue a COC.

**11.10:17 (3 minutes) 1897 Washington St – Request for Certificate of Compliance – DEP #239-925**

- Owner/Applicant. Woodland Golf Club/Jon Randall
- Project Summary.
  - Draw down pond, excavate to original “pond” bottom, reset “pond” overflow and area drain lines.
  - Cut leaning willow tree
  - As mitigation and enhancement: plant 3 native trees and 5 native shrubs where the willow is removed; institute a “no-mow Bank” with a native seed mix; and maintain a 3-foot-minimum annual-mow strip just above the Bank.
- Request. Issue COC.
- Jurisdiction. Buffer Zone, BVW, (and Land Under a Waterbody)
- Documents in packets. Site plan
- Additional documents presented at meeting. None
- Staff Notes. Staff are due to make a site visit on 10/8/2024.
- Staff Recommendation. If the site visit proves that the site is in full compliance with the approved plans and order, vote to issue a complete COC.

**12.10:20 (3 minutes) 104 Lake Ave. – Request for Certificate of Compliance – DEP #239-43**

- Owner/Applicant. Ken Arndt
- Project Summary. An “interior addition”
- Request. Issue COC.
- Jurisdiction. Buffer zone (to Crystal Lake)
- Documents in packets. None
- Additional documents presented at meeting. None
- Staff Notes. The Order of Conditions was issued in 1979. There is no plan in the file. No Certificate of Compliance was ever issued. Staff will make a site visit.
- Staff Recommendation. If the site visit proves that the house footprint comports with the plans associated with 239-440 (see below), vote to issue a complete COC.

**13.10:23 (3 minutes) 104 Lake Ave. – Request for Certificate of Compliance – DEP #239-440**

- Owner/Applicant. Ken Arndt
- Project Summary. An “interior addition”
- Request. Issue COC.
- Jurisdiction. Buffer zone (to Crystal Lake)
- Documents in packets. Site plan
- Additional documents presented at meeting. None
- Staff Notes. The Order of Conditions was issued in 2002. A Certificate of Compliance was issued in 2004 but never recorded. Staff will make a site visit.
- Staff Recommendation. If the site visit proves that the site remains in full compliance with the approved plans and order, vote to issue a complete COC-resign.

**B. ADMINISTRATIVE DECISIONS**

**14. (10:26) Minutes to be approved**

- Documents in packets. Draft 9/12/2024 minutes, reviewed by Dan Green
- Vote to approve the 9/12/2024 minutes.
- Volunteer. Who will volunteer to review the 10/10/2024 minutes?

**ISSUES AROUND TOWN DECISIONS**

**UPDATES / DISCUSSION**

**C. WETLANDS –**

- Beavers at 2 Wells Ave. The Conservation Office and/or Health and Human Services await an application from DPW to address the matter of the sewer line that runs through the wetland.

**D. CONSERVATION AREAS – none at this time**

**E. ADMINISTRATIVE MATTERS – none at this time**

**F. ISSUES AROUND TOWN** – none at this time

**PUBLIC COMMENT**

**OTHER TOPICS NOT REASONABLY ANTICIPATED BY THE CHAIR 48 HOURS BEFORE THE MEETING** – none at this time

**ADJOURN**