

# CONSERVATION COMMISSION AGENDA

Date: October 3, 2019  
Time: 7:00 pm  
Place: City Hall, Room 204

**NOTE:** Items may be taken out of order at the Chair's discretion.

**NOTE:** Discussions of wetland cases may be limited to 20 minutes for RDAs and 40 minutes for NOIs

## DECISIONS

1. **20 Rogers Street – Conservation Restriction**
  - o Owner: City of Newton, Parks and Recreation Representative: Andrew Lee, Alice Ingerson
  - o Request: Sign the Municipal Certification for the 20 Rogers St Conservation Restriction (CR).
2. **Kessler Woods/Sawmill Brook – Conservation Restriction**
  - o Owner: City of Newton, ConCom Representative: Andrew Lee, Alice Ingerson
  - o Request: Sign the Municipal Certification and CR for the Kessler Woods/Sawmill Brook CR.

## I. WETLANDS DECISIONS

3. **191 Dedham St – NOI – creation of accessible pathway -- DEP File #239-XXX**
  - o Owner: City of Newton Applicant: Tiffany Leung, Newton CD Planner
  - o Request: Issue an OOC.
4. **75 Kingswood Rd – RDA – vista pruning**
  - o Owner/Applicant: Donald Swire Representatives: self
  - o Request: Issue Determination of Applicability.
5. **194 Dedham St – NOI – ex post facto vegetation removal and mitigation plantings – DEP File #239-XXX**
  - o Owner/Applicant: Ritchie and Denitsa Brown Representative: self
  - o Request: Issue an OOC.
6. **188-192 & 210 Needham St – cont'd NOI – 36-stall expansion of parking -- DEP File #239-841**
  - o Owner/Applicant: Kerry McCormack, Crosspoint Assoc. Representative: Kelly Engineering
  - o Request: Issue an OOC.
7. **1114 Beacon St – cont'd NOI – construct 25-unit residential condominiums -- DEP File #239-827**
  - o Owner: Ronald Simons, 1114 Beacon Street Applicant/Representative: DGT Associates
  - o Request: Issue an OOC.
8. **212 Kenrick St – COC Request – mech. & chemical management of ponds – DEP File #239-317**
  - o Owner: City of Newton Applicant: David Stowe, Newton Comm. Golf Course
  - o Request: Issue COC to close out Order of Conditions 239-317.
9. **212 Kenrick St – COC Request – addition to existing clubhouse structure – DEP File #239-340**
  - o Owner: City of Newton Applicant: David Stowe, Newton Comm. Golf Course Request: Issue COC to close out Order of Conditions 239-340.
10. **212 Kenrick St – COC Request – mech. & chemical management of ponds – DEP File #239-495**
  - o Owner: City of Newton "Owner's Rep.": Steven Meyer, Newton Commonwealth Foundation
  - o Applicant: David Stowe, Newton Comm. Golf Course Representative: none
  - o Request: Issue COC to close out Order of Conditions 239-495.
11. **195 Islington Rd – COC Request – replacement of failing retaining wall – DEP File #239-828**
  - o Owner/Applicant: Kathryn Cade Representative: self
  - o Request: Issue complete COC to close out Order of Conditions 239-828
12. **Stormwater Outfall at Nonantum Road and Maple St – E-Cert Ratification for oil spill cleanup**
  - o Responsible Party: MassDOT Representative: Green Environmental
  - o Request: Ratify the Emergency Certification issued 9/25/19 by Conservation staff.

## II. CONSERVATION AREA DECISIONS – none at this time

## III. ADMINISTRATIVE DECISIONS

13. Conservation Commission as a Respected Resource
14. Minutes of 9/12/19 to be approved

## IV. ISSUES AROUND TOWN DECISIONS

## UPDATES

**OTHER TOPICS NOT REASONABLY ANTICIPATED BY THE CHAIR 48 HOURS BEFORE THE MEETING**  
**ADJOURN**



**Mayor**  
Ruthanne Fuller

**Director  
Planning &  
Development**  
Barney Heath

**Senior  
Environmental  
Planner**  
Jennifer Steel

**Assistant  
Environmental  
Planner**  
Claire Rundelli

**Conservation  
Commission  
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Judy Hepburn  
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*Congrats to Leigh Gilligan on her appointment to full voting member of the Conservation Commission!*

## DECISIONS

### 1. 20 Rogers Street – Conservation Restriction

- Owner: City of Newton, Parks and Recreation Representative: Andrew Lee, Alice Ingerson
- Request: Commission signatures on the Municipal Certification for the 20 Rogers St. Conservation Restriction (CR) stating that the 20 Rogers Street CR is in the interest of the public and that the site will be maintained as conserved land in perpetuity.
- Documents Presented: conservation restriction conservation restriction
- Project Summary: The City is trying to get CRs placed on all properties that were acquired with CPA funds (as required by the CPA). This ~44,000 s.f. parcel was acquired in 2007 so the CR is overdue. The CR has been drafted, reviewed, and approved by the Executive Office of Energy and Environmental Affairs (EOEEA).
- Staff Notes: None at this time.
- Staff Recommendations: Vote to sign the Municipal Certification.

### 2. Kessler Woods/Sawmill Brook – Conservation Restriction

- Owner: City of Newton, ConCom Representative: Andrew Lee, Alice Ingerson
- Request: Commission signatures on the Municipal Certification for the Kessler Woods/Sawmill Brook CR stating that the Kessler Woods/Sawmill Brook CR is in the interest of the public and that the site will be maintained as conserved land in perpetuity. The Commission also needs to sign-off on the Conservation Restriction language itself as the landowners.
- Documents Presented: conservation restriction conservation restriction
- Project Summary: The City is trying to get CRs placed on all properties that were acquired with CPA funds (as required by the CPA). Multiple parcels, totaling ~542,000 s.f., were acquired in 2004 so the CR is overdue. The CR has been drafted, reviewed, and approved by EOEEA.
- Staff Notes: None at this time.
- Staff Recommendations: Vote to sign the CR as drafted and the Municipal Certification.

## I. WETLANDS DECISIONS

### 3. 191 Dedham St – NOI – creation of accessible pathway -- DEP File #239-XXX

- Owner: City of Newton Applicant: Tiffany Leung, Newton CD Planner Representative: Luis Perez Demorizi, Newton Parks, Recreation, and Culture Open Space Coordinator
- Request: Issue an OOC.
- Documents Presented: colored plans colored plans, photos, draft OOC
- Jurisdiction: Riverfront Area, BLSF (~112.4 NAVD88), City Flood Plain
- Performance Standards
  - **Bordering Land Subject to Flooding: 10.57**
    - Compensatory storage shall be provided for all flood storage volume that will be lost ... Such compensatory volume shall have an unrestricted hydraulic connection to the same waterway or water body.
    - Work shall not restrict flows so as to cause an increase in flood stage or velocity.
    - 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. ....
  - **City Floodplain. Sec. 22-22. Floodplain/Watershed Protection Provisions.**



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Ruthanne Fuller

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- (b)(1) Except as provided in subsections (b)(2) and (e) of this section, no building or other structure shall be erected, constructed, altered, enlarged or otherwise created for any residence or other purpose ... which will restrict floodwater flow or reduce floodwater storage capacity shall be permitted.
- (b)(2) ... the conservation commission may issue an order of conditions for the following uses in the Floodplain/Watershed Protection District:
  - a) Any building or structure for which compensatory storage is provided ...

- **Riverfront Area: 10.58(4)**

- 10.58(4)(c) Practicable and Substantially Equivalent Economic Alternatives.
- 10.58(4)(d) No Significant Adverse Impact.
  1. Within 200-foot riverfront areas, the issuing authority may allow the alteration of up to 5000 square feet or 10% of the riverfront area within the lot, whichever is greater ..., provided that:
    - a. At a minimum, a 100' wide area of undisturbed vegetation is provided... preserved or extended...
    - b. Stormwater is managed ...
    - c. ... work does not impair ... capacity of ... riverfront area to provide important wildlife habitat ..
    - d. ... incorporating erosion and sedimentation controls...

- Project Summary:

- Creation of a direct, accessible 240'x5' stone dust path from the Countryside parking lot to the existing play area.

- Staff Notes

- The new path will meet and follow existing grades for its entirety and be created within existing lawn area.
- The entire path is within the 100-year FEMA flood plain and a small portion is within the outer riparian zone.
- Total volume of existing fill to be removed is 14.6 cubic yards. The proposed volume of fill to be used to create the path is 14.8 cubic yards (240' x 5' x 1/3' = 400 cubic feet /27 cubic yards = 14.8 cubic yards).

- Staff Recommendations: Vote to close the hearing and issue an Order of Conditions with the following special conditions.

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#### 4. 75 Kingswood Rd – RDA – vista pruning

- Owner/Applicant: Donald Swire Representatives: self

- Request: Issue Determination of Applicability.

- Documents Presented: annotated photos, quote for work photos, quote for work, draft DOA

- Jurisdiction: Buffer Zone, Riverfront Area

- Performance Standards

- **Riverfront Area: 10.58(4)**

- 10.58(4)(c) Practicable and Substantially Equivalent Economic Alternatives.
- 10.58(4)(d) No Significant Adverse Impact.

1. Within 200-foot riverfront areas, the issuing authority may allow the alteration of up to 5000 square feet or 10% of the riverfront area within the lot, whichever is greater ..., provided that:
  - a. At a minimum, a 100' wide area of undisturbed vegetation is provided... preserved or extended...
  - b. Stormwater is managed ...
  - c. ... work does not impair ... capacity of ... riverfront area to provide important wildlife habitat ..
  - d. ... incorporating erosion and sedimentation controls...

- Project Summary: Selective vista pruning to the existing Japanese Maple, two White Pines, Sassafras, Red Maple. The proposed work also includes the removal invasive thorn plants and bittersweet vines around the existing Sassafras and of an existing Arborvitae.

- Staff Notes:

- The proposed pruning does not seem that it will have a negative impact on the functions and values of the wetland resource area.
- The proposed invasive removal will result in an improvement of the existing riparian area, however clarification is needed on the species of invasive thorn plant mentioned on the arborist quote.
- What is the size of the Arborvitae proposed to be removed?
- Should a conservation seed mix be used to stabilize bare soil areas after invasive species removal?

- Staff Recommendations: Vote to issue a Negative 2 Determination with the following special conditions.

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- ???

5. 194 Dedham St – NOI – ex post facto vegetation removal and mitigation plantings – DEP File #239-XXX

- Owner/Applicant: Ritchie and Denitsa Brown    Representative: self
- Request: Issue an OOC.
- Documents Presented: colored plans colored plans, photos, draft OOC
- Jurisdiction: BLSF (~113.6 NAVD88), City Flood Plain
- Performance Standards
  - **Bordering Land Subject to Flooding: 10.57**
    - Compensatory storage shall be provided for all flood storage volume that will be lost ... Such compensatory volume shall have an unrestricted hydraulic connection to the same waterway or water body.
    - Work shall not restrict flows so as to cause an increase in flood stage or velocity.
    - 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. ....
  - **City Floodplain. Sec. 22-22. Floodplain/Watershed Protection Provisions.**
    - (b)(1) Except as provided in subsections (b)(2) and (e) of this section, no building or other structure shall be erected, constructed, altered, enlarged or otherwise created for any residence or other purpose ... which will restrict floodwater flow or reduce floodwater storage capacity shall be permitted.
    - (b)(2) ... the conservation commission may issue an order of conditions for the following uses in the Floodplain/Watershed Protection District:
      - a) Any building or structure for which compensatory storage is provided ...
- Project Summary:
  - Applicant cut mature vegetation from within the 100-year FEMA flood plain. Conservation staff were informed of the cutting by a neighbor.
  - Applicant removed 5 large trees, 9 smaller trees or large multi-stem shrubs, and a number of smaller multi- or single stem shrubs. The caliper inches that are relevant for replacement calculations is roughly ~90”.
  - Applicant is proposing to install 9 saplings at 1-2” installation size, 1 sapling 3-5”, and 10 shrubs. Applicant is also proposing to install a drywell and remove some existing soil to be replaced with fresh loam for a lawn.
  - Applicant is proposing some plantings on the neighboring lot as the cutting crossed the property line. The owner of the other parcel has signed off on the NOI application and has requested re-planting occur on her lot as well.
- Staff Notes:
  - The shown “existing mature trees” on the plan provided in the packets is not entirely accurate based on staff site visit, however the locations of removed trees does seem accurate.
  - The number of proposed mitigation plants seems appropriate for the vegetation loss, however the planting plan is very densely concentrated along the rear property line. Such placement is not appropriate.
  - The plants listed in the planting schedule differ from those shown on the plan. No symbol for the French hydrangeas is shown on the plan. This species is not acceptable as it is not a native species. This species should be replaced, and a revised planting plan should be provided.
  - The proposed drywell is being reviewed by Engineering, but as it is a voluntary system, no other permit will be required for it aside from a sidewalk crossing permit for the equipment.
  - Applicant should note that any system installed must be 10’ from the property lines, per City drainage requirements.
- Staff Recommendations: Vote to close the hearing and issue an Order of Conditions with the following special conditions.
  - The proposed soil removal and loam installation shall be monitored; the applicant must submit to the Commission proof of soil removal and installation to confirm that no net fill has been brought into the flood plain.
  - The restoration plantings shall occur in a 10’ wide planting bed on the subject property (line, more accurately reflecting the area of cutting, to allow the proposed plantings to be more spaced and have a better chance at survival.

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6. 188-192 & 210 Needham St – cont’d NOI – 36-stall expansion of parking and restoration of RFA -- DEP File #239-841

- Owner/Applicant: Kerry McCormack, Crosspoint Associates    Representative: Brandon Li, Kelly Engineering; Brad Buitenhuys, Crosspoint Associates
- Request: Issue an OOC.
- Documents Presented: none



- Jurisdiction: Riverfront Area, BLSF (~113' NAVD88)
  - Performance Standards
    - **Bordering Land Subject to Flooding: 10.57**
      - Compensatory storage shall be provided for all flood storage volume that will be lost ... Such compensatory volume shall have an unrestricted hydraulic connection to the same waterway or water body.
      - Work shall not restrict flows so as to cause an increase in flood stage or velocity.
      - 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. ....
    - **10.58(5) RFA: Redevelopment within Previously Developed Riverfront Areas; Restoration & Mitigation**
      - ... 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
        - (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 at the RFA outer boundary 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 at the RFA outer boundary 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....
    - **Riverfront Area: 10.58(4)**
      - 10.58(4)(c) Practicable and Substantially Equivalent Economic Alternatives.
      - 10.58(4)(d) No Significant Adverse Impact.
        1. Within 200-foot riverfront areas, the issuing authority may allow the alteration of up to 5000 square feet or 10% of the riverfront area within the lot, whichever is greater ..., provided that:
          - a. At a minimum, a 100' wide area of undisturbed vegetation is provided... preserved / extended....
          - b. Stormwater is managed ...
          - c. ... work does not impair ... capacity of ... riverfront area to provide important wildlife habitat ...
          - d. ... incorporating erosion and sedimentation controls...
  - Project Summary:
    - Applicant is proposing to:
      - Add 36 parking stalls (4800 sf of new pavement) in what is currently lawn and woods.
      - Excavate areas to provide required compensatory flood storage.
      - Install deep sump catch-basins and a water quality structure.
      - Undertake restoration and mitigation planting and stormwater improvements to compensate for the work in RFA.
  - Staff Notes: no word from the applicant
  - Staff Recommendations: none at this time.
7. **1114 Beacon St – cont'd NOI – construction of 25-unit residential condominiums -- DEP File #239-827**
- Owner: Ronald Simons, 1114 Beacon Street LLC Applicant/Representative: Kevin Riopelle, DGT Associates
  - Request: Issue an OOC.
  - Documents Presented: update from applicant update from applicant
  - Jurisdiction: ILSF
  - Project Summary:
    - Tear-down existing building and remove existing parking lot, construct 3 town houses and 22 condominium units (with underground parking) and dredge and landscape Isolated Land Subject to Flooding.
  - Staff Notes:
    - Abutters have been notified and a legal ad was put in the TAB.

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- Applicant is not submitting any new materials for this meeting but has provided an update on the project status and wishes to work with the Commission to develop a timeline for moving forward.
  - The following items were requested at previous Commission meetings and have not yet been provided.
    - Is the ILSF a Vernal pool? An assessment must be conducted by a qualified ecologist (very shortly) to determine whether obligate VP species are present.
    - Groundwater
      - The applicant must determine and illustrate how groundwater currently flows across the site.
      - The applicant must determine and illustrate how groundwater will flow across the site once the garage and foundation drains are constructed and must assess whether the foundation drain will be adequate to handle the groundwater flow, whether any groundwater will be “deflected” to other sites, and whether flow to the ILSF will be increased.
      - The applicant will be doing survey on abutting properties starting tomorrow.
    - Contamination
      - The applicant must determine whether the soils on the site are contaminated. Because of the history of surrounding sites, MCP Phase I must be conducted (this will likely be required by the bank, anyway). A “contamination map” and should be presented to the Con Com.
      - The applicant must determine whether the anticipated disturbance of (potentially) contaminated soils might cause migration of contamination off the site or to the ILSF?
    - Dredging of ILSF
      - The applicant must clarify what amount of dredging will be proposed in light of the degraded nature of the ILSF and the potential VP habitat.
      - Preliminary tests of sediment quality should be conducted to inform plans for dewatering, removal, and capping of the dredged ILSF. (Any dredged sediments will have to be tested anyway).
      - A dredging plan will be needed (storage, dewatering, final grades, etc.); the applicant will supply one.
    - Dewatering: A dewatering plan will be part of the SWPPP, but the Commission wants to review a draft as part of this filing.
    - Concrete washout: A concrete washout plan will be part of the SWPPP, but the Commission wants to review a draft as part of this filing.
    - Phasing: A phasing plan will be part of the SWPPP, but the Commission wants review a draft as part of this filing.
    - Landscaping: The number and inches of trees to be cut and planted in the ILSF will be provided.
    - Peer Review: The Commission discussed the possibility of hiring a peer reviewer to assess the 21E and hydrology materials presented by the applicant.
    - Staff Recommendations: Continue the hearing to a date certain that provides the applicant appropriate time to develop materials requested at previous Commission meetings.
- 8. 212 Kenrick St – COC Request – mechanical and chemical management of ponds – DEP File #239-317**
- Owner: City of Newton “Owner’s Rep.”: Steven Meyer, Newton Commonwealth Foundation Applicant: David Stowe, Newton Comm. Golf Course Representative: none
  - Request: Issue COC to close out Order of Conditions 239-317.
  - Documents Presented: draft COC
  - Jurisdiction: Bank, Land Under Waterbodies and Waterways (LUWW), City Floodplain
  - Project Summary: OOC 239-317 (1997) permitted the dredging of on-site ponds, removal on invasive and nuisance species and replacement plantings, IPM program for the golf course, a composting program for dredging materials and landscaping debris, the treatment of the artificial irrigation pond with Sonar once.
  - Staff Notes: A site visit on 8/16/19 confirmed that the site is in substantial compliance with the approved plans and OOC. There is no as-built plan or engineer’s letter for this project.
  - Staff Recommendations: Vote to issue a Certificate of Compliance for the approved work under OOC 239-317.
- 9. 212 Kenrick St – COC Request – addition to existing clubhouse structure – DEP File #239-340**
- Owner: City of Newton “Owner’s Rep.”: Steven Meyer, Newton Commonwealth Foundation Applicant: David Stowe, Newton Comm. Golf Course Representative: none
  - Request: Issue COC to close out Order of Conditions 239-340.
  - Documents Presented: photos, draft COC
  - Jurisdiction: City Flood Plain



- Project Summary: OOC 239-340 (1998) permitted a 1200 s.f. addition to the existing clubhouse and required compensatory storage.
  - Staff Notes: An as-built was required for this project but has not been provided. A site visit will be conducted to confirm that the site is in substantial compliance with the approved plans and OOC.
  - Staff Recommendations: If appropriate, vote to issue a Certificate of Compliance for the approved work under OOC 239-340.
- 10. 212 Kenrick St – COC Request – mechanical and chemical management of ponds – DEP File #239-495**
- Owner: City of Newton “Owner’s Rep.”: Steven Meyer, Newton Commonwealth Foundation Applicant: David Stowe, Newton Comm. Golf Course Representative: none
  - Request: Issue COC to close out Order of Conditions 239-495.
  - Documents Presented: **draft COC**
  - Jurisdiction: Bank, Land Under Waterbodies and Waterways (LUWW), City Floodplain
  - Project Summary: OOC 239-495 (2005) permitted a variety of mechanical and chemical pond management tasks for 3 years. It should be noted that the Order specifies that no other treatments will be permitted without a comprehensive watershed management plan.
  - Staff Notes: A site visit on 8/16/19 confirmed that the site is in substantial compliance with the approved plans and OOC.
  - Staff Recommendations: Vote to issue a Certificate of Compliance for the approved work under OOC 239-495.
- 11. 195 Islington Rd – COC Request – replacement of failing retaining wall – DEP File #239-828**
- Owner/Applicant: Kathryn Cade Representative: self
  - Request: Issue complete COC to close out Order of Conditions 239-828.
  - Project Summary: OOC 239-828 permitted the replacement (in kind) of an existing dry-stone retaining wall in the riparian zone.
  - Documents Presented: **photos, draft COC**
  - Jurisdiction: Buffer Zone, Riverfront Area, FEMA 100-yr and City Flood Plain
  - Staff Notes: The project received a partial COC in 2010 but did not qualify for a complete COC due to the need for the approved plantings to prove themselves. A staff site visit on 8/22/19 confirmed that the site is now in compliance with the OOC and the approved plans.
  - Staff Recommendations: Vote to issue a Certificate of Compliance for the approved work under OOC 239-380.
- 12. Stormwater Outfall at Nonantum Road and Maple St – E-Cert Ratification – oil spill resulting in outfall contamination**
- Responsible Party: MassDOT Representative: Green Environmental
  - Request: Ratify the Emergency Certification issued 9/25/19 by Conservation staff.
  - Project Summary:
    - When conducting repair work on the joints of a large diameter storm drainpipe near the Crowne Plaza Hotel on 9/24/19, the pipe was breached allowing oil (estimated 20 gals) from an abandoned oil storage tank into the storm drain system.
    - The oil contamination travelled down the storm drain system, exiting at the Charles River outfall near the intersection of Nonantum Road and Maple Street.
  - Documents Presented: **photos, Emergency Certification**
  - Jurisdiction: Bank
  - Staff Notes:
    - Absorbent pads have been installed at the spill site and contaminated soil removal is occurring under the supervision of MassDEP, a Licensed Soil Professional, and Green Environmental.
    - Booms, inner and outer, have been placed at the outfall site, with more to be placed.
    - It appears that the majority of the disturbance of the bank (vegetation flattening and some areas of bare soil) is a result of access and the removal of the saturated pads.
    - The Emergency Certification issued by staff included a special condition regarding a follow-up site visit to determine if restoration activities are needed after the clean-up is finished.
  - Staff Recommendations: Vote to ratify and sign the Emergency Certification.

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**II. CONSERVATION AREA DECISIONS – none at this time**

**III. ADMINISTRATIVE DECISIONS**

**13. Conservation Commission as a Respected Resource**

- Documents Presented: **memo** **memo**
- Staff Notes
  - Jennifer Steel would like to encourage Conservation Commission members and the Commission as a whole to address large issues of conservation and advocacy in addition to the routine wetland regulation.
  - What suggestions in the memo resonate with commissioners? Who would like to tackle what?

**14. Minutes of 9/12/19 to be approved**

- Documents Presented: **draft minutes** **draft minutes**
- Staff Recommendations: Vote to accept the 9/12/19 minutes.

**IV. ISSUES AROUND TOWN DECISIONS – none at this time**

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**UPDATES**

**V. WETLANDS UPDATES – none at this time**

**VI. CONSERVATION AREA UPDATES**

- Houghton Pond Dredging: Staff will solicit estimates for dredging to determine whether it is financially feasible before exploring how to have a hydroperiod study conducted.
- Norumbega Slope Restoration: SumCo will be starting October 7th.

**VII. ISSUES AROUND TOWN UPDATES**

- New, Large Developments in the pipeline: Northland and Riverside are still going through the Special Permitting process; Washington Place and Austin Street are being constructed; the City just received 40B applications for two new developments, Dunstan East and Riverdale.
- Aqueducts: Jennifer Steel gave a public presentation on 9/26/19 regarding the potential City acquisition of portion of Sudbury aqueduct from MWRA through an 8m license.
- Ticketing: Staff met with the Law Dept. to discuss ticketing under 21D for off-leash dogs. The Law Dept. and Conservation Staff will continue working towards the goal of being able to issue tickets against off-leash dog offenders.
- Open Space and Recreation Plan: We will be contracting with the Conway School of Landscape Design to create our our update.
- Climate Action Plan: The current draft of the Climate Action Plan went to ZAP on 10/2/19.

**VIII. ADMINISTRATIVE MATTER UPDATES**

- MACC Fall Conference: Final registration deadline for the MACC Fall Conference is 10/4/19, if you wish to have the City pay for your registration.

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**OTHER TOPICS NOT REASONABLY ANTICIPATED BY THE CHAIR 48 HOURS BEFORE THE MEETING**  
**ADJOURN**



# ① 20 Rogers St. Conservation Restriction (excerpts)

## I. PURPOSES:

This Conservation Restriction is defined in and authorized by Sections 31-33 of Chapter 184 of the General Laws and otherwise by law. The purpose of this Conservation Restriction is to assure that the Premises will be maintained in perpetuity for recreational and other conservation purposes, to permit such limited activities pursuant to said purposes and consistent with the terms of this Conservation Restriction, and to prevent any use or change that would impair or interfere with its open space, recreational or conservation values (collectively, the "conservation values").

The Premises was acquired using M.G.L. c. 44B Community Preservation Act funds, and copies of the Newton Board of Aldermen Orders "#88-07 & 88-07(2)", and "88-07(4)" authorizing the use of such funds for such purpose are attached hereto as Exhibit C and Exhibit D, respectively

The conservation values include the following:

### Open Space Protection and Consistency with Clearly Delineated Federal, State, or Local Governmental Conservation Policy.

Protecting open space is a goal in Newton, with specific points of importance outlined in the 2014 Open Space and Recreation Plan "OSRP" and also stated in the Newton Comprehensive Plan section for Open Space and Recreation. In the 2014 OSRP, Crystal Lake and the open space areas surrounding the lake, including the Premises (20 Rogers Street), are highly prioritized areas of interest. This is because of all water bodies in Newton, Crystal Lake receives the most use, hosting up to 1200 swimmers a day in the summer season.

### Flood Plain Protection.

A portion, approximately 505 square feet, of the Premises lies within the 100-year floodplain determined by the City of Newton Floodplain Ordinance (§22-22) of Crystal Lake. The protection of this floodplain will ensure the continued availability of this flood storage during major storm events. The site is also partially encompassed by the 100' Buffer Zone to Crystal Lake (technically a Great Pond) under the Wetlands Protection Act, M.G.L. c. 131, § 40, and by protecting the Premises it will prevent future development on the parcel that may cause damage to or alter the wetland resource area.

### Public access.

Public access to the Premises will be allowed for passive recreation and nature study. The protection of the Premises will connect public land or access easements on either side, allowing public access between the adjacent City-owned Crystal Lake beach and bathhouse to the southeast of the Premises and the adjacent City-owned land to the northwest of the Premises. Connectivity is a priority for Newton open space, as stated in the 2014-2020 Open Space and Recreation Plan.

### Water Quality Protection.

The Premises includes approximately 210 feet of frontage along Crystal Lake. The permanent conservation of the Premises thus contributes to the overall water quality maintenance provided by the natural vegetative buffer around Crystal Lake through natural stormwater management.



These and other recreational values of the Premises, as well as its current uses and state of improvement, are described in a Baseline Documentation Report ("Baseline Report") prepared by Grantor, consisting of maps, photographs, and other documents and on file with the Grantee and referenced herein. The Baseline Report (i) is acknowledged by Grantor and Grantee to be a complete and accurate representation of the condition and values of the Premises as of the date of this Conservation Restriction, (ii) is intended to fully comply with applicable Treasury Regulations, and (iii) is intended to serve as an objective information baseline for subsequent monitoring of compliance with the terms of this Conservation Restriction as described herein. Notwithstanding the foregoing, the parties may utilize any evidence of the condition of the Premises at the time of this grant other than the Baseline Report, should the Baseline Report be unavailable or if it does not adequately address the issues presented.

## **II. PROHIBITED ACTS AND USES, EXCEPTIONS THERETO, AND PERMITTED USES**

### **A. Prohibited Acts and Uses**

Subject to the exceptions set forth herein, the Grantor will not perform or allow others to perform the following acts and uses which are prohibited on, above, and below the Premises:

- (1) Constructing, placing or allowing to remain any temporary or permanent building, tennis court, landing strip, mobile home, swimming pool, asphalt or concrete pavement, sign, fence, billboard or other advertising display, antenna, utility pole, tower, solar panel, solar array, conduit, line, drilled or dug wells, or other temporary or permanent structure or facility on, above or under the Premises.
- (2) Mining, excavating, dredging or removing from the Premises of groundwater, soil, loam, peat, gravel, sand, rock or other mineral or natural resource or natural deposit or otherwise making topographical changes to the area.
- (3) Placing, filling, storing or dumping of soil, refuse, trash, vehicle bodies or parts, rubbish, debris, junk, tree and other vegetation cuttings generated off-site, waste, hazardous substances or waste oil, or other substance or material whatsoever, including the installation of underground storage tanks;
- (4) Cutting, removing or otherwise destroying trees, grasses or other vegetation;
- (5) Activities detrimental to drainage, flood control, water conservation, water quality, erosion control, soil conservation, wildlife habitat, or archaeological conservation;
- (6) Use, parking or storage of vehicles including motorcycles, mopeds, all-terrain vehicles, trail bikes, or any other motorized vehicles of any kind on the Premises, except for vehicles necessary for public safety (i.e., fire, police, ambulance, other government officials) in carrying out their official duties or individual transportation vehicles as necessary for the mobility impaired, and except as permitted under Paragraph B or as reasonably necessary in connection with activities permitted under Paragraph B;

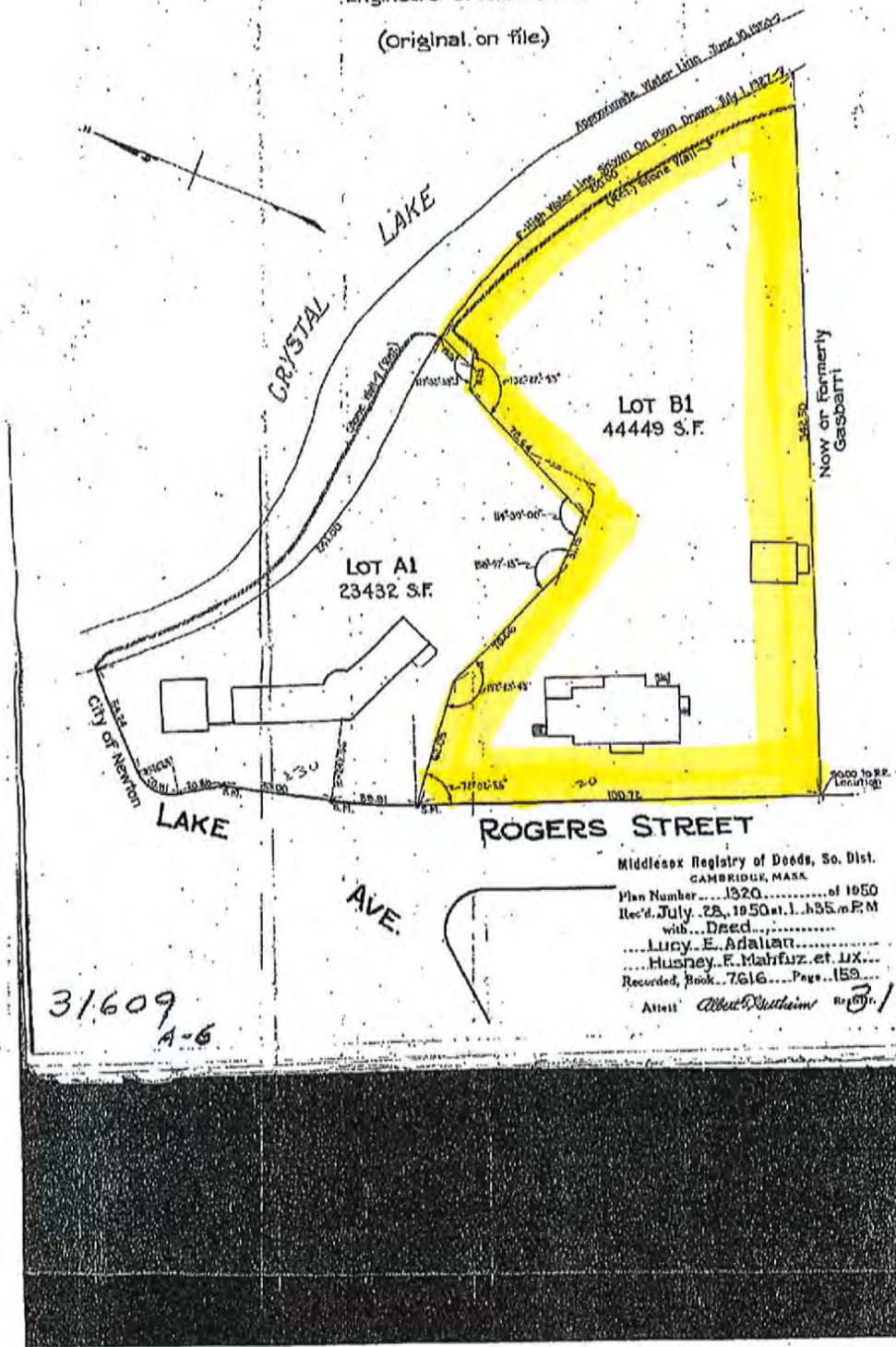


**Exhibit B – Reduced Copy of Plan of the Premises**

Scale: 1 inch = 40 ft. July 13, 1950  
 Henry F. Bryant & Son, Inc.  
 Engineers - Brookline, Mass.

EXHIBIT B

(Original on file)



31609  
A-6

Middlesex Registry of Deeds, So. Dist.  
 CAMBRIDGE, MASS.  
 Plan Number... 1320... of 1950  
 Rec'd. July 28, 1950 at 1.15 P.M.  
 with Deed  
 Lucy E. Adalian  
 Husney, E. Mahfuz, et. ux.  
 Recorded, Book... 7616... Page... 159  
 Attest: Albert... 3/1



**GRANTOR:** City of Newton  
1000 Commonwealth Avenue  
Newton Centre, MA 02459

**GRANTEE:** Newton Conservators, Incorporated  
P.O. Box 590011  
Newton Centre, MA 02459

**ADDRESS OF PREMISES:** 0 Vine St, 200 Vine St  
Newton, MA 02467

**FOR GRANTOR'S TITLE SEE:**  
Middlesex South Registry of Deeds  
Book 42435, Page 203

**CONSERVATION RESTRICTION**

The City of Newton, acting by and through its Mayor, with a mailing address at 1000 Commonwealth Avenue, Newton Centre, Massachusetts 02459, being the sole owner, for its successors and assigns (hereinafter referenced to as the "Grantor"), acting pursuant to Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws, hereby grants with QUITCLAIM COVENANTS to Newton Conservators Incorporated, having an address of P.O. Box 590011, Newton Centre, Massachusetts 02459 and its permitted successors and assigns (hereinafter referred to as the "Grantee"), for nominal consideration, IN PERPETUITY AND EXCLUSIVELY FOR CONSERVATION PURPOSES, the following Conservation Restriction located on the following parcels of land in Newton, Massachusetts:

Lots C and D shown on a plan entitled "Plan of Land in Newton, Mass", by Barnes Engineering Company, Inc., dated January 21, 1965, recorded at Middlesex South Registry of Deeds as Plan No. 841 of 1967, a reduced copy of which is attached as Exhibit A; said Lot C contains approximately 386,494 square feet of land; said Lot D contains approximately 16,650 square feet of land.

Lot G shown on a plan entitled "Subdivision Plan of Land in Newton, MA", by Toomey-Munson & Associates, Inc., dated November 26, 2003, recorded with Middlesex South Registry of Deeds as Plan No. 347 of 2004, a reduced copy of which is attached hereto as Exhibit B; said Lot G contains approximately 138,591 square feet of land.

Lot A shown on a plan entitled "Plan of Land in Boston (West Roxbury) Mass.", by Barnes Engineering Company, Inc., dated January 21, 1965, recorded with Suffolk Registry of Deeds in Book 8135, Page 468, containing approximately 444 square feet of land, a copy of said plan is attached hereto as Exhibit C.

**I. PURPOSES:**

This Conservation Restriction is defined in and authorized by Sections 31-33 of Chapter 184 of the General Laws and otherwise by law. The purpose of this Conservation Restriction is to assure that the Premises will be maintained in perpetuity for conservation purposes, in a natural, scenic and undeveloped condition, and to prevent any use or change that would impair or interfere with its open space, conservation and preservation values ("conservation values").

The Premises were acquired using M.G.L. c. 44B Community Preservation Act funds, and a copy of the Newton Board of Aldermen Order #277-03 authorizing the use of such funds for such purpose is attached hereto as Exhibit D.

The conservation values include the following:

- Open Space Protection.** For many years, the Kessler Woods area had been featured in numerous Open Space Plans as a target acquisition for the Conservation Commission because it abuts the existing Saw Mill Brook Conservation Area and Baldpate Meadow Conservation Area. This Conservation Restriction will ensure that no portion of the Premises will be developed, but will remain in its undisturbed state, providing views and opportunities for passive recreation. The Grantor intends to locate trails connecting the Premises to adjacent open space in the less-sensitive areas on the upland portion of the Premises.
- Flood Plain Protection.** A portion (~1.19 acres) of the Lot C lies within a Floodplain, as determined by the City of Newton Floodplain Ordinance, not FEMA floodplain. A small portion (~0.15 acres) of Lot G also falls within the Floodplain determined by the City of Newton Floodplain Ordinance. The protection of this floodplain will ensure the continued availability of this flood storage during major storm events. This area has a history of flooding during severe storm events, especially along Wayne Road, and the preservation and improvement of the floodplain for Saw Mill Brook, a perennial stream is vital to preventing future flood events in the area.
- Soils.** The Premises falls within the Boston Basin Ecoregion and is currently comprised of two land uses, Forested and Forested Wetland as categorized by the MassGIS online mapping tool, OLIVER. Lot G includes ~0.67 acres of Prime Farmland of Unique Importance and ~1.9 acres of Prime Farmland of Statewide Importance, as designated by the USDA. The entirety of Lots C, D, and A are classified as Prime Farmland with ~2.19 acres of Prime Farmland of Statewide Importance, ~1.37 acres of standard Prime Farmland, and ~5.43 acres of Prime Farmland of Unique Importance. The soil on site is

comprised mainly of Freetown Muck with small areas of Canton fine sandy loam and Scituate fine sandy loam. The topography of Lots C, D, and A is variable, with a large number of rocky outcroppings of ledge, though the site does have an overall slope from the surrounding roadways down to the elevation of Saw Mill Brook. The topography of Lot G is also variable with a number of hummocks created from previous disturbance of the site. The overall topography slopes down towards Vine Street.

- **Public Access.** Public access to the Premises will be allowed for passive recreation and nature study. The Premises will permanently conserve approximately 1100 ft of the Saw Mill Brook Trail which traverses all of Lot C and provides connectivity from Vine Street to Marta Circle. Parking is available for the site on Vine Street adjacent to the trail head for the Saw Mill Brook Trail. The permanent conservation of these parcels will allow for increased public access to the surrounding Conservation Areas, along with increased wildlife access to various types of ecosystems.

- **Water Quality Protection.** The permanent conservation of these parcels prevents development within the 200' Riverfront Area to Saw Mill Brook and contributes to the overall water quality maintenance provided by the forests of the Saw Mill Brook Conservation Area and Kessler Woods Conservation Areas through natural stormwater management. The Premises also includes portions of more extensive wooded swamp deciduous wetlands complexes as identified by the MA Department of Environmental Protection, which wetlands provide valuable habitat for a diverse array of wildlife species as well as provide the many other public benefits of wetlands protection recognized by the Commonwealth of Massachusetts (Massachusetts General Laws Chapter 131, section 40).

These and other conservation values of the Premises, as well as its current uses and state of improvement, are described in a Baseline Documentation Report ("Baseline Report") prepared by Grantor, consisting of maps, photographs, and other documents and on file with the Grantee and referenced herein. The Baseline Report (i) is acknowledged by Grantor and Grantee to be a complete and accurate representation of the condition and values of the Premises as of the date of this Conservation Restriction, (ii) is intended to fully comply with applicable Treasury Regulations, and (iii) is intended to serve as an objective information baseline for subsequent monitoring of compliance with the terms of this Conservation Restriction as described herein. Notwithstanding the foregoing, the parties may utilize any evidence of the condition of the Premises at the time of this grant other than the Baseline Report, should the Baseline Report be unavailable or if it does not adequately address the issues presented.

## II. PROHIBITED ACTS AND USES, EXCEPTIONS THERETO, AND PERMITTED USES

### A. Prohibited Acts and Uses

Subject to the exceptions set forth herein, the Grantor will not perform or allow others to perform the following acts and uses which are prohibited on, above, and below the Premises:

- (1) Constructing, placing or allowing to remain any temporary or permanent building, tennis court, landing strip, mobile home, swimming pool, asphalt or concrete pavement, sign, fence, billboard or other advertising display, antenna, utility pole, tower, solar panel, solar array, conduit, line, drilled or dug wells, or other temporary or permanent structure or facility on, above or under the Premises;
- (2) Mining, excavating, dredging or removing from the Premises of groundwater, soil, loam, peat, gravel, sand, rock or other mineral or natural resource or natural deposit or otherwise making topographical changes to the area;
- (3) Placing, filling, storing or dumping of soil, plowed snow, refuse, trash, vehicle bodies or parts, rubbish, debris, junk, tree and other vegetation cuttings generated off-site, waste, hazardous substances or waste oil, or other substance or material whatsoever, including the installation of underground storage tanks;
- (4) Cutting, removing or otherwise destroying trees, grasses or other vegetation;
- (5) Activities detrimental to drainage, flood control, water conservation, water quality, erosion control, soil conservation, wildlife habitat, archaeological conservation, or scenic views;
- (6) Use, parking or storage of vehicles including motorcycles, mopeds, all-terrain vehicles, trail bikes, or any other motorized vehicles of any kind on the Premises except for vehicles necessary for public safety (i.e., fire, police, ambulance, other government officials) in carrying out their official duties or individual transportation vehicles as necessary for the mobility impaired;
- (7) Division, subdivision or conveyance of a part or portion of the Premises alone, or division, or subdivision of the Premises, and no portion of the Premises may be used towards building or development requirements on this or any other parcel;
- (8) The use of the Premises for business, residential or industrial use;
- (9) Hunting or commercial trapping;
- (10) The use of herbicides or pesticides, except as approved in the invasive species management plan for the Premises, which plan has been approved by the Grantee and is incorporated in the Baseline Report.
- (11) Any other use of the Premises or activity which is inconsistent with the purpose of this Conservation Restriction or which would impair its conservation values.

### B. Reserved Rights and Exceptions



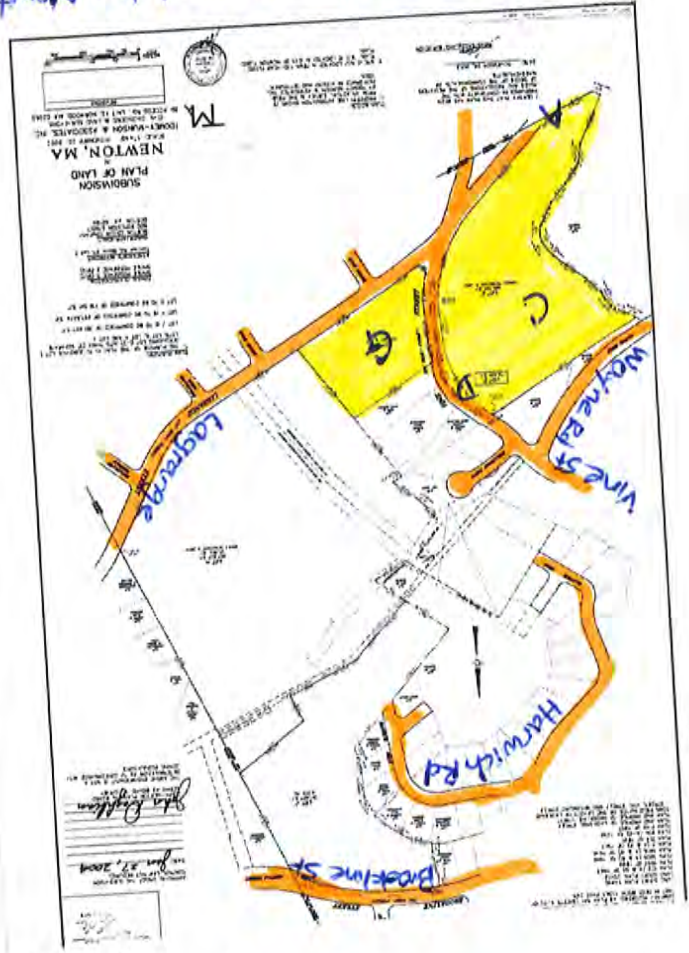
The Grantor reserves the right to conduct or permit the following activities and uses on the Premises, but only if such uses and activities do not impair the conservation values or purposes of this Conservation Restriction.

- (1) **Vegetation Management.** The selective minimal removing of brush, pruning and cutting to prevent, control or remove hazards, diseases, insect or fire damage, or to preserve the present condition of the Premises, including vistas as documented in the Baseline Survey, woods, roads, fence lines and trails and meadows;
- (2) **Non-native or nuisance species.** The removal of non-native or invasive species, the replanting of native species, and the control of species in a manner that minimizes damage to surrounding, non-target species and preserves water quality;
- (3) **Composting.** The stockpiling and composting of stumps, trees, brush, limbs, and similar biodegradable materials originating on the Premises, provided that such stockpiling and composting is in locations where the presence of such activities will not impair the conservation values (including scenic values) of this Conservation Restriction. No such activities will take place closer than one hundred (100) feet from any wetland, waterbody or stream. All exercise of this reserved right shall take into account sensitive areas and avoid harm to nesting species during nesting season;
- (4) **Wildlife Habitat Improvement.** With the approval of the Grantee, measures designed to restore native biotic communities, or to maintain, enhance or restore native wildlife, wildlife habitat, or rare or endangered species including selective planting of native trees, shrubs and plant species and, with prior notice to the Grantee, the placement of minimally invasive structures that support declining species (i.e., apiaries for beekeeping and bat houses);
- (5) **Archaeological Investigations.** The conduct of archaeological activities, including without limitation survey, excavation and artifact retrieval, following submission of an archaeological field investigation plan and its approval in writing by the Grantee and the State Archaeologist of the Massachusetts Historical Commission (or appropriate successor official).
- (6) **Trails.** The marking, clearing and maintenance of existing trails as shown in the Baseline Report. With prior notice to the Grantee, the construction of new trails or the relocation or alteration of existing trails provided that no such activities result in trails wider than eight (8) feet.
- (7) **Signs.** The erection, maintenance and replacement of signs with respect to trespass, trail access, any gift, grant, or other applicable source of support for the conservation of the Premises, the Reserved Rights, and the protected conservation values;
- (8) **Outdoor Passive Recreational Activities.** Use of the Premises by the general public for education, nature study, bird watching, fishing, boating, hiking, horseback riding, cross-country skiing and other non-motorized outdoor recreational activities that do not

materially alter the landscape, do not degrade environmental quality, and do not involve more than minimal use for commercial recreational activities;

- (9) **Site Restoration.** Any work undertaken in conjunction with the Reserved Rights described in this Paragraph B shall seek to minimize disturbance to the Conservation Values and other natural features within the Premises that may be impacted as a result of exercising any of the Reserved Rights described herein. Upon completion of any site work performed in conjunction with the Reserved Rights described in this Paragraph B, any disturbed areas shall be restored substantially to the conditions with respect to soil material, grade, and vegetated ground cover as documented in the Baseline Report, as applicable, or in conformance with the conditions with respect to soil material, grade, and vegetated ground cover that existed prior to said work, if said work is done in any area not documented in the Baseline Report.
- (10) **Permits, Regulations, Laws.** The exercise of any right reserved by Grantor under this Paragraph B shall be in compliance with zoning, the Wetlands Protection Act, and all other applicable federal, state and local laws, rules, regulations, and permits. The inclusion of any reserved right requiring a permit from a public agency does not imply that the Grantee or the Commonwealth takes any position whether such permit should be issued.
- (11) **Best Management Practices.** The exercise of any right reserved by Grantor under this Paragraph B shall follow, when available and if applicable, established, up to date, and regionally-applicable Best Management Practices or similar standards developed by a governmental agency or other entity with known expertise in the area of practice and designed to protect the natural features potentially affected by the action(s).

C. Notice and Approval.





3a 191 DEDHAM ST - PROPOSED PATH LOCATION OVERVIEW

Countryside School Locus map

City of Newton, Massachusetts



The information on this map is from the Newton Geographic Information System (GIS). The City of Newton is not responsible for determining its suitability for use in any other purpose. City departments may use this information for their own purposes. City departments should verify on GIS data.

CITY OF NEWTON, MASSACHUSETTS  
 Mayor - Katherine Filmer  
 Map Date: September 19 2019

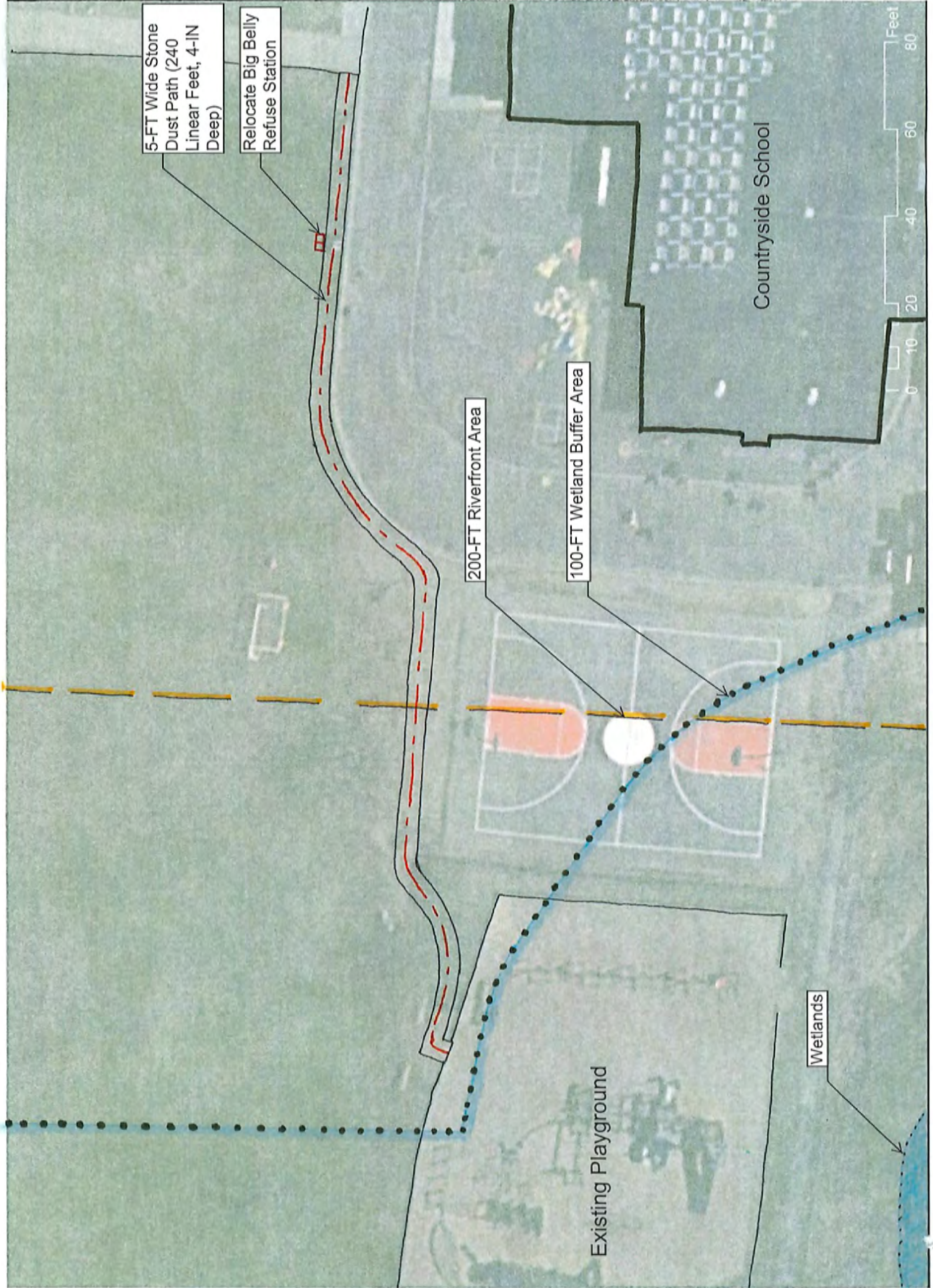


36 191 DEDHAM - PROPOSED PATH DETAILS

10/13/19

Countryside School Accessible Path to Playground

City of Newton, Massachusetts



The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy for determining its suitability for any particular purpose. City departments will not accept any liability based solely on GIS data.

CITY OF NEWTON, MASSACHUSETTS Mayor - Rubens Faller

Map Date: September 19 2019



Before and After Photos - 75 Kingswood Road

9-17-19

PH

10/13/19



~2007



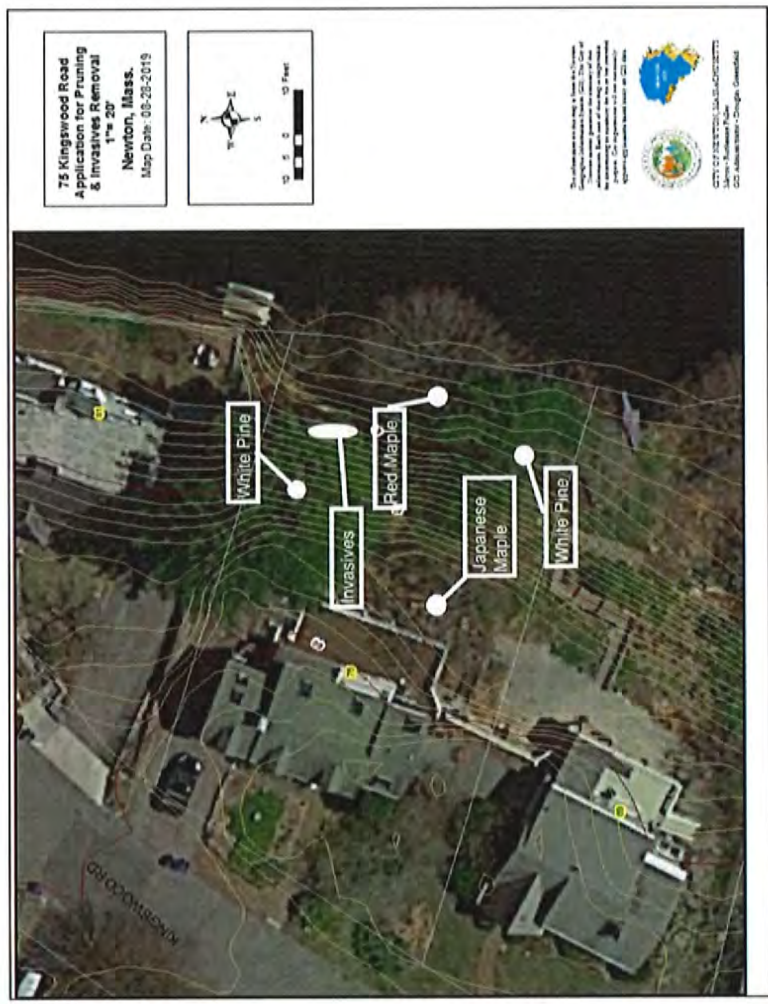
2019





46 75 KINGSWOOD AERIAL AND ANNOTATED PHOTO

10/3/19



10/31/19

4a

# 75 KINGSWOOD - ARBORIST

## QUOTE



Home Estimates

All Estimates

### Estimate: 719

Accept

Request Changes

PDF

Print

**OPEN**

An Artist's Touch Tree & Shrub Inc.  
34 Beecher Place  
Newton MA 02459  
United States



Don Swire  
75 Kingswood road  
Newton Ma

Proposal # 719  
Proposal Date July 6, 2019  
Proposal Total (USD) \$5,000.00

Item	Description	Unit Cost	Quantity	Line Total
Japanese Maple	Open up for view	0.00	1	0.00
White Pine	Remove 1 large branch out of the pine on right Remove 15-20 branches out of the pine on the left to expose the park on the opposite bank	0.00	1	0.00
Vista Prune	Sassafras as discussed	0.00	1	0.00
Remove	Remove invasive thorn and bittersweet around sassafras Arborvitae and top of Viburnum	0.00	1	0.00
Red Maple	Prune to increase light, view and structural integrity	0.00	1	0.00
Dogwood	Fine prune two Dogwoods Optional (\$600)	0.00	1	0.00
Total Cost of Work	Not including dogwoods	5,000.00	1	5,000.00

Proposal Total (USD) \$5,000.00

#### Terms

Fine Pruning: Shape plants, Remove all deadwood and prune with aesthetics in mind as well as long term integrity and structure

A 30% deposit is required for first time customers

All pruning will be performed based on the judgement and expertise of An Artist's Touch and according to ANSI300 standards

This is not a hazard tree evaluation. Hazard tree evaluations must be requested separately

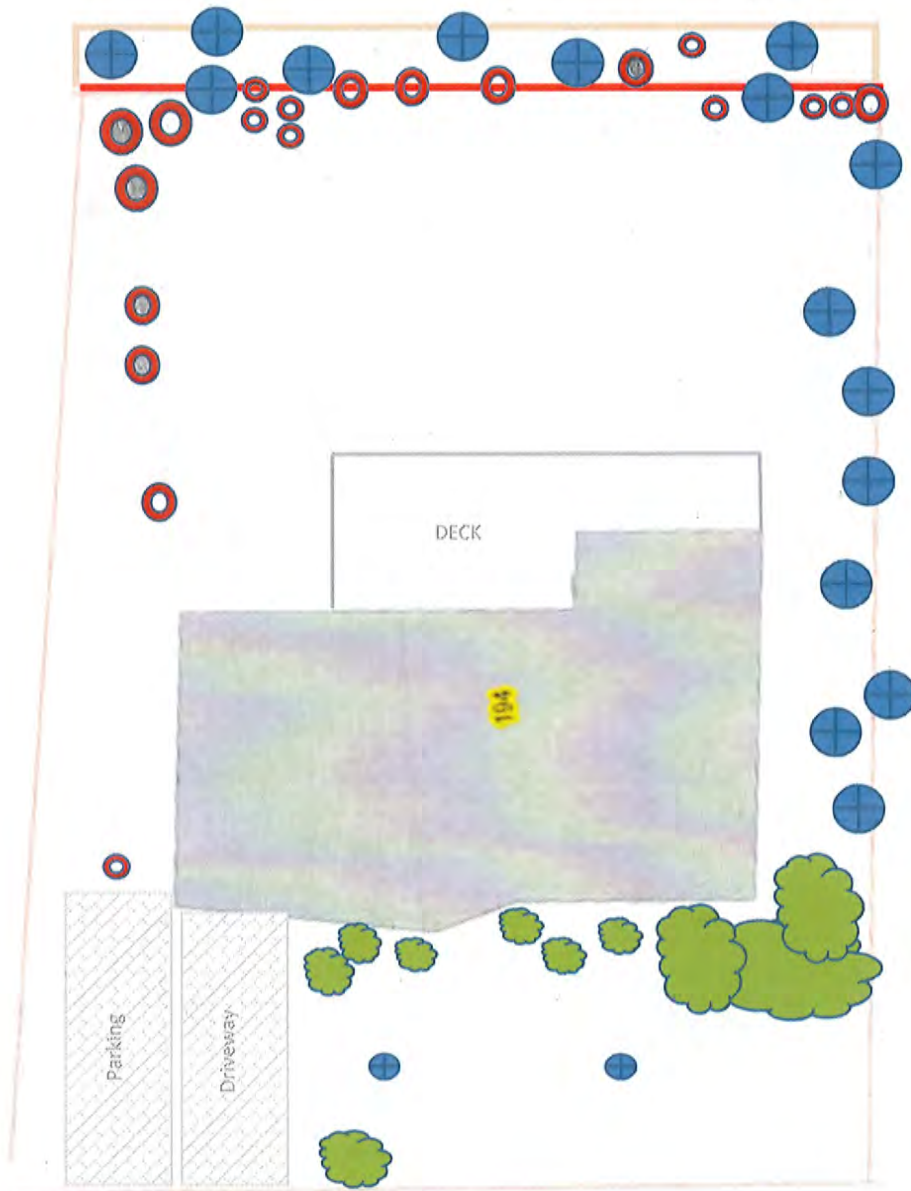
This estimate was sent using **FRESHBOOKS**







# 5A 194 DEDHAM ST - REMOVAL PLAN

01/3/19

## Plot Plan Before Restoration Activities



### Legend:

-  Tree that was cut without a permit (large, 5)  and " 9 small trees + shrubs cut w/o permit
-  Existing mature tree
-  Existing shrub



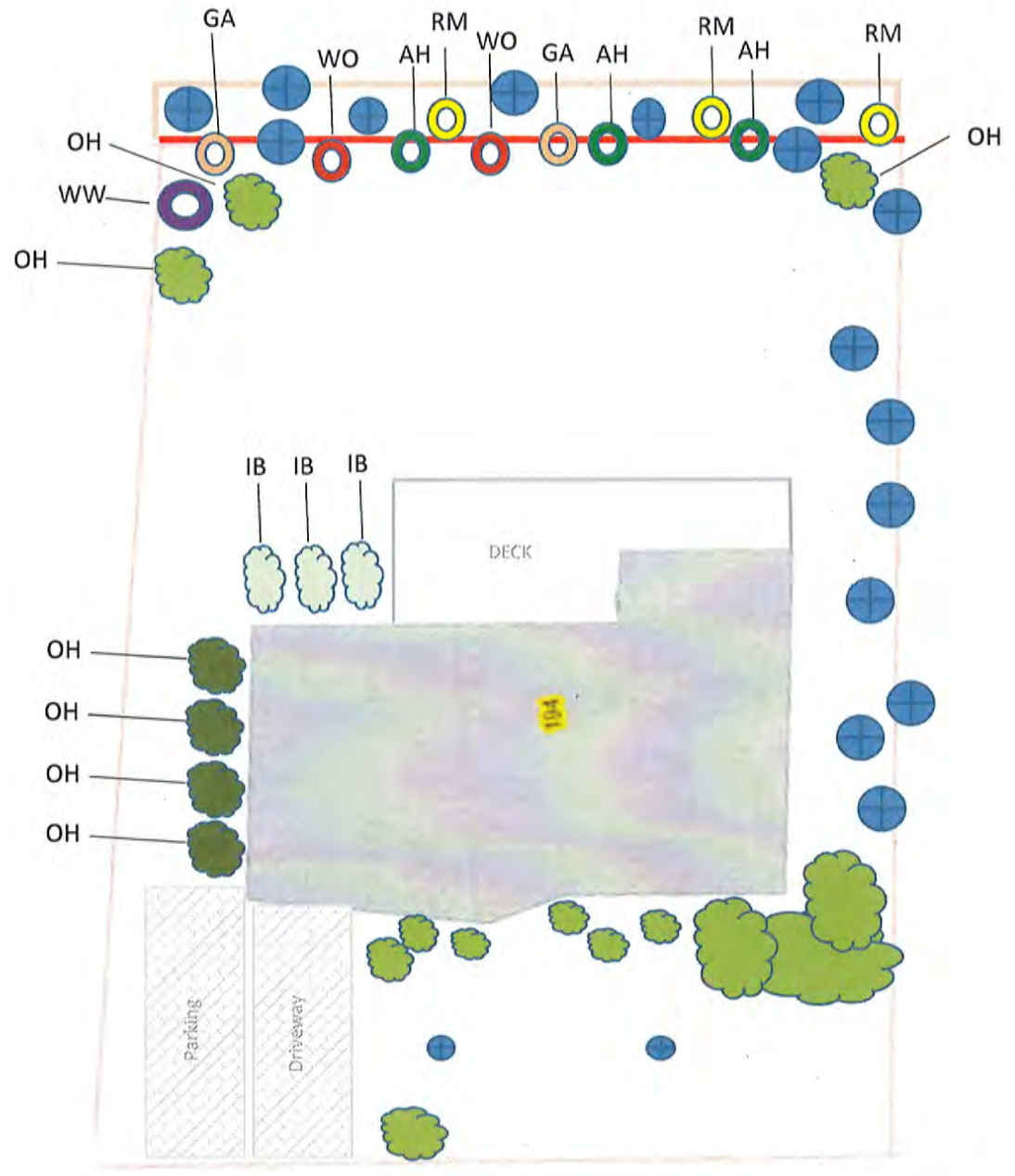
5B

10/3/19

# 194 DEDHAM ST - PROPOSED

Plot Plan After Restoration Activities

# RESTORATION



### Legend:

- Existing mature tree
- Existing shrub

Plant ID	Qty	Latin Name	Common Name	Scheduled Size	Remarks
<b>Trees:</b>					
RM	2	<i>Acer rubrum</i>	Red Maple	1-2"	Native, fast growing, seed, sap and buds serve as food for wildlife
GA	2	<i>Fraxinus pennsylvanica</i>	Green Ash	1-2"	Native, fast growing, provides food and cover for wildlife
WO	2	<i>Quercus alba</i>	White Oak	1-2"	Native, fast growing, acorns provide food for wildlife
WW	1	<i>Salix babylonica</i>	Weeping Willow	3-5"	Native, water absorbing
AH	3	<i>Ilex opaca</i>	American Holly	1-2"	Native, fast growing, tollerates shade
<b>Shrubs:</b>					
IB	3	<i>Ilex glabra</i>	Inkberry	2-2.5 Gal	Native, understory
OH	3	<i>Hydrangea quercifolia</i>	Oakleaf hydrangea	1-2 Gal	Native, understory
FH	4	<del><i>Hydrangea macrophylla</i></del>	French hydrangea	1-2 Gal	Native, understory



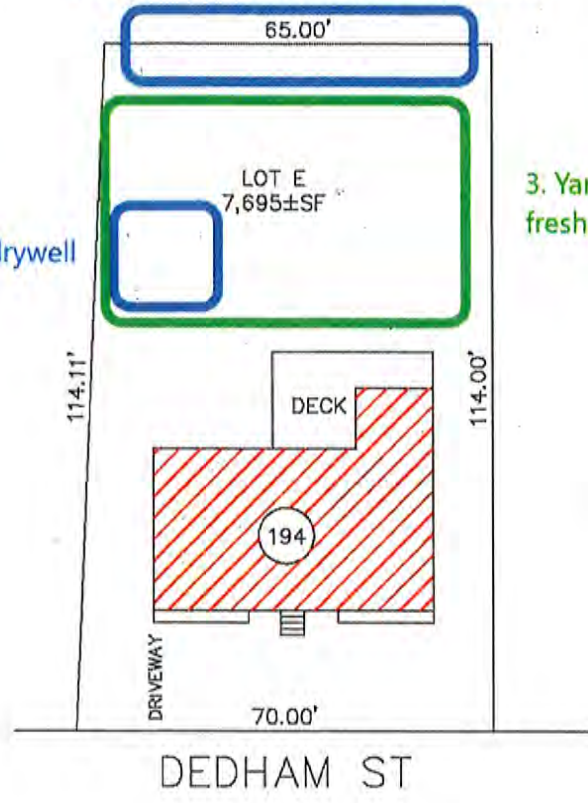
50 194 DEDHAM ST - PROPOSED WORK  
10/3/19

1. Replanting of trees and shrubs area



2. Install of a drywell

3. Yard re-grade with fresh fertile loam



LT A1  
PL 7492-168

DEED REF: 50794-421  
PLAN REF: 1475 OF 1949  
CERTIFICATION MADE TO: GUARANTEED RATE INC

I HEREBY CERTIFY THAT THE DWELLING SHOWN ON THIS PLAN IS LOCATED ON THE GROUND APPROXIMATELY AS SHOWN AND CONFORMED TO THE DIMENSIONAL REQUIREMENTS OF THE ZONING BY-LAWS OF THE TOWN/CITY OF NEWTON MASS. WHEN CONSTRUCTED OR IS EXEMPT FROM VIOLATION ENFORCEMENT ACTION UNDER MASS. GENERAL LAWS CHAPTER 40A SEC. 7.(\*)

I ALSO CERTIFY THAT THE BUILDING(S) SHOWN HEREON DO LIE WITHIN A FEDERALLY DESIGNATED FLOOD HAZARD AREA AS DEFINED ON THE F.E.M.A. FLOOD HAZARD BOUNDARY MAP FOR THE TOWN/CITY OF NEWTON, MASS.

THIS PLAN WAS NOT MADE FROM AN INSTRUMENT SURVEY AND IS FOR MORTGAGE PURPOSES ONLY. FURTHERMORE, IT IS NOT TO BE USED FOR THE PHYSICAL ESTABLISHMENT OF PROPERTY LINES AND/OR CERTIFICATION OF FENCES, PLANTINGS, PAVED AREAS, UTILITIES, SHEDS, ETC., OR THE CONSTRUCTION OF ADDITIONAL STRUCTURES ON THE LOT. ANY STRUCTURES/PAVED DRIVEWAYS ON LOCUS OR ABUTTING AND LOCATED NEAR PROPERTY LINES REQUIRE AN INSTRUMENT LOCATION TO DETERMINE ANY POSSIBLE ENCROACHMENTS. CERTIFICATION IS RESTRICTED TO RESIDENCE AREA OF LOT. (\*)NO ACCESS TO REARYARD AT TIME OF INSPECTION

THIS CERTIFICATION IS BASED UPON THE LEGAL DESCRIPTION(S) OF THE PREMISES SHOWN HEREON WHICH WERE PROVIDED BY THE CLIENT, INTERNET, TOWN PUBLIC RECORDS, LINES OF OCCUPATION AND DOES NOT PURPORT TO REVEAL ANY INCONSISTENCES AND/OR ENCROACHMENTS WHICH MAY BE DISCOVERED WITH A FULL AND COMPLETE TITLE SEARCH, EXAMINATION OF ABUTTING DEEDS, OR INSTRUMENT SURVEY. NO CERTIFICATION IS HEREBY MADE WITH RESPECT TO ANY OTHER PROVISIONS OF SAID BY-LAW



President

Date

03/10/19

MORTGAGE INSPECTION

PLOT PLAN

IN

NEWTON, MASS.

Scale 1" = 30'

P.N. ASSOCIATES, INC.

310 Oak Street  
Shrewsbury, MA

508-958-2914  
Fax 508-519-9198

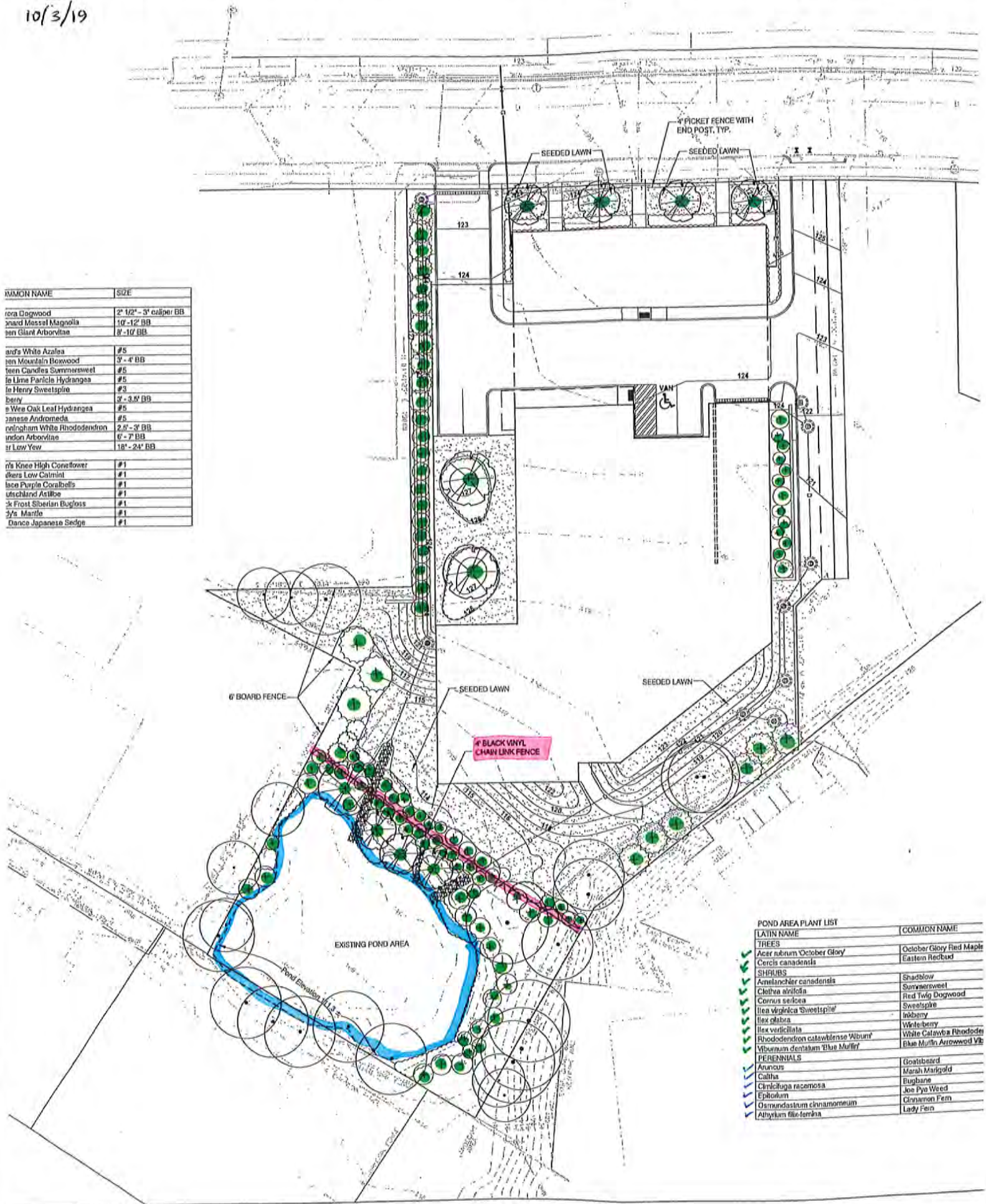


7

10/3/19

# 1114 BEACON ST - PROPOSED PLANTINGS

COMMON NAME	SIZE
Iron Dogwood	2" 1/2" - 3" caliper BB
Shard Magnol Magnolia	10' - 12' BB
Green Giant Arborvitae	8' - 10' BB
Hardy White Azalea	#5
Green Mountain Boxwood	3' - 4' BB
Green Candice Summersweet	#5
White Lime Particle Hydrangea	#5
White Henry Sweetspine	#3
Blueberry	3' - 3.5' BB
White Wee Oak Leaf Hydrangea	#5
Japanese Andromeda	#5
Livingstone White Rhododendron	2.5' - 3' BB
Green Indian Arborvitae	6' - 7' BB
Green Low Yew	18' - 24' BB
White Knee High Coneflower	#1
White Pink Low Calamint	#1
White Purple Coralbells	#1
White Tussock Aster	#1
White Frost Siberian Bugloss	#1
White 3/4" Mantis	#1
White Danco Japanese Sedge	#1



POND AREA PLANT LIST	
LATIN NAME	COMMON NAME
<b>TREES</b>	
<i>Acer rubrum</i> 'October Glory'	October Glory Red Maple
<i>Cercis canadensis</i>	Eastern Redbud
<b>SHRUBS</b>	
<i>Amelanchier canadensis</i>	Shadblow
<i>Caltha sibirica</i>	Summersweet
<i>Cornus sericea</i>	Red Twig Dogwood
<i>Ilex virginica</i> 'Sweetspine'	Sweetspine
<i>Ilex opaca</i>	Inkberry
<i>Ilex verticillata</i>	Wineberry
<i>Rhododendron catawbiense</i> 'Wbum'	White Catawba Rhodode
<i>Viburnum dentatum</i> 'Blue Muffin'	Blue Muffin Arrowwood Vb
<b>PERENNIALS</b>	
<i>Anunculus</i>	Goatsbeard
<i>Caltha</i>	Marsh Marigold
<i>Cimicifuga racemosa</i>	Bugbane
<i>Epitolum</i>	Joe Pye Weed
<i>Osmundastrum cinnamomeum</i>	Cinnamon Fern
<i>Athyrium filix-femina</i>	Lady Fern

## **THE CONSERVATION COMMISSION AS A RESPECTED RESOURCE**

Many Conservation Commissions wish that they could spend more time and energy on proactive conservation efforts but feel over-burdened with wetland regulatory responsibilities. Being viewed less as a regulatory body and more as a valued and respected resource for your town or city is a worthy goal, and one you could help achieve.

Conservation Commissions across the state are undertaking activities and projects that engage the public, change attitudes of citizens about the role and responsibilities of the Commission, and make the job of Commissioner or Staff more rewarding.

The following list is not all-inclusive, but rather offers some suggestions to help your Commission gain the respect as a source of valuable experience and information about conservation-related topics. Trying one or two of these might change many citizens' perceptions and make the job of Commissioner much more rewarding. Some Commissions that are using or have used these outreach and service efforts are noted in *(italics)*.

### **ENCOURAGE CITIZEN PARTICIPATION, ESPECIALLY AT YOUR MEETINGS**

- Have a question and answer session (e.g. 10-15 minutes), "Citizens Time" at the beginning of your Commission meetings where the public may ask questions, e.g. about items not on the agenda (*Wayland, Ipswich*).
- If you have staff, offer weekly walk-in hours, especially for general, non-permit related questions.
- Participate in Q and A programs (e.g. electronic) of your town government (*Hopkinton*)

### **KEEP CITIZENS AND OTHER TOWN/MUNICIPAL OFFICIALS AND VOLUNTEERS INFORMED**

- Keep your webpage updated, e.g. with contact information, agendas and minutes, special projects, reports, office hours, electronic versions of forms, tips and FAQs (*Uxbridge, Cambridge, Blackstone*), a list of conservation resources and organizations along with associated links (*Maynard*), etc. Include a list [and photo(s)] of your Commission and Staff, and their (abbreviated) resumes or areas of interest/expertise, awards or accomplishments (*Wayland, Grafton*).
- Host conservation talks with invited speakers and topics such as vernal pools, floodplains and flood storage, ways to prepare for climate change, agriculture, wildlife of the area, stormwater management, forestry, invasive plant management, beavers, etc. (*Ipswich*)
- Create an e-newsletter, with articles of interest to citizens, written by Commissioners and/or Staff (*Weston*).
- Submit a monthly report (e.g. electronic, a couple of paragraphs - no more than one page) of activities and filings of interest to the Board of Selectmen, Planning Board, Zoning Board, Board of Health, Agricultural Commission, Community Preservation Committee, and others who might be interested.
- Have a booth at a local festival, e.g. fall harvest, spring, etc., with information about Commission activities, maps of the Town/City (e.g. floodplain, perennial and intermittent streams, etc.).



### **INVITE CITIZENS TO BE INVOLVED IN THE COMMISSION'S CONSERVATION ACTIVITIES**

- Establish Associate Member (non-voting) positions for special areas/projects (*Weston*)
- Establish a Conservation Land Stewardship Program (*Lexington*), e.g. with Land Stewards and Field Work Volunteers (*Framingham*).
- Establish a "Friends of Conservation" group or ask a local land trust for assistance, e.g. monitoring and maintaining town/municipal Conservation Lands and trails (*Boxford – BTA/BOLT*)
- Ask abutters to monitor and assist with trail maintenance of Town Conservation Areas (*Ipswich*)
- Have a local naturalist lead walks for residents (*Framingham*).
- Have a local artist create a flyer for your town/city website or for a local festival
- Offer to give a talk at a local garden club, Rotary Club, or other civic association meeting (e.g. about invasive plants, vernal pools, town Conservation lands, wetland plants and wildlife, etc.)

### **SIMPLIFY PERMITTING AND AUTHORIZATION FOR CERTAIN SMALL PROJECTS**

- Formalize administrator review and authorization/permit (*Topsfield*)
- Develop a Tree Removal and Replacement Policy (*Weston, North Andover*)

### **MAKE CONNECTIONS WITH TEACHERS AND OTHER EDUCATORS**

- Propose joint activities (*Topsfield Commission, Ipswich River Watershed Assoc., Masconomet Middle & High Schools – Eco Garden - funded by a state grant, with considerable volunteer participation by teachers, students, and families.*)
- Suggest that classes explore a nearby woodland, vernal pool, pond, or stream.
- Promote Science fairs, Environmental clubs, Envirothon, etc.

### **PROMOTE CITIZEN ACTIVITIES AND MEMBERSHIP IN CONSERVATION, LAND TRUSTS, AND HIKING/OUTDOOR ORGANIZATIONS, ESPECIALLY LOCAL ONES**

- Promote MA Audubon, The Trustees, Greenbelt, The Kestrel Land Trust, other local Land Trust, The Vernal Pool Association, Essex County Trails Association, Appalachian Mountain Club, etc.
- List some of these organizations and a few of their current activities on your website.

### **ON SITE VISITS, OFFER MORE THAN A REVIEW OF THE WETLAND LINE**

- Teach homeowners about natural features of their property. Point out invasive plants; explain how they are harmful and how they might be controlled. Promote native plants and explain their role in supporting wildlife of the area. If they are receptive, suggest alternatives to mowed lawns, the use of rain barrels, etc.

### **SEEK FUNDING FOR TOWN or REGIONAL CONSERVATION-RELATED PROJECTS**

- Apply for Municipal Vulnerability Preparedness (MVP) Program grants – Executive Office of Energy and Environmental Affairs (EOEEA)

### **SEEK INTERNS, PROSPECTIVE EAGLE SCOUTS – HIGH SCHOOL AND COLLEGE STUDENTS TO DO SPECIAL PROJECTS**

- Create a map of and mark trails on Town Conservation Land
- Certify a vernal pool.
- Write an article for the local newspaper about a conservation topic of interest to the town/city.
- Create a map of perennial streams of the town/city.
- Monitor Conservation properties, e.g. with a checkoff list for signage, trail obstructions that need to be removed, dumping that needs to be addressed, etc.
- Create a timeline for applications

### **CONTRIBUTE TO YOUR LOCAL NEWSPAPER**

- Write a weekly conservation-related column (*Middleton - Pike Messenger*)
- Publish announcements – talks, citizen projects, intern projects, etc. in the relevant section. Get to know the local reporter(s).

### **ENCOURAGE COMMISSIONERS TO BE INFORMED AND KNOWLEDGEABLE**

- MACC courses, workshops, fall and annual meetings, etc.
- MACC handbook
- Seek to have all Commissioners, or at least all those new to the Commission earn the MACC Fundamentals certificate.



# CONSERVATION COMMISSION MINUTES

Date: September 12, 2019

Time: 7:00 pm

Place: City Hall, Room 204

With a quorum present, the meeting opened with Dan Green presiding as Chair

**Members Present:** Judy Hepburn, Ellen Katz, Jeff Zabel, Susan Lunin, Kathy Cade, Leigh Gilligan  
(Associate)

**Staff Present:** Jennifer Steel

**Members of the Public:** See sign-in sheet

## DECISIONS

### I. WETLANDS DECISIONS

#### 1. 149 Pleasant St – NOI – installation of solar canopy -- DEP File #239-844

- Owner: City of Newton    Applicant: William Ferguson, Newton Co-Director of Sustainability  
Representative: Stuart Clark, Green Seal Environmental
- Request: Issue an OOC.
- Documents Presented: colored plans    colored plans, photos, draft OOC
- Jurisdiction: Buffer Zone, Riverfront Area, City Flood Plain
- Project Summary:
  - Applicant is proposing to install two solar canopies supported by columns. All support columns will be installed using a 48" auger within the existing parking lot pavement and grassy verge as part of the City's Solar Installation Phase III. The canopy closest to Hammond Brook will extend over the existing lawn/vegetated area between the existing pavement and the brook.
  - Applicant is proposing to install new electrical conduits to connect the canopies to the grid. Some of this trenching for this conduit will occur within existing pavement, but a fair amount occurs within existing lawn/vegetated areas surrounding the parking lot.
  - Applicant is proposing to remove two trees (1 10" Norway maple and 1 6" crab apple). This cutting will be mitigated by planting 29 trees within the park area associated with the school.
- Presentation (Stuart Clark) and Discussion
  - Conservation staff fully support the installation of solar canopies over municipal lots.
  - Revised plans show appropriate erosion controls on the down-gradient perimeter; two trees as "to be removed" and one tree as "to be trimmed"; and tree protection details for existing trees within the limit of work proposed to remain.
  - The proposed trenching alignment now avoids impacting the existing trees to remain.
  - The parking lot will be patched, as needed after canopy installation.
  - The proposal to plant 29 trees as mitigation is very robust. The City's Tree Warden will be doing the planting and will provide a plan of native species and specific locations prior to planting.
  - The canopies have gaps, so rain will penetrate and drainage will not be changed.
  - There were some concerns about the shade cast by the canopies precluding the reestablishment of grass and killing bank vegetation. The solar canopy contractor is obligated, for 20 years, to ensure revegetation under the canopies.
  - The project is due to begin in the spring of 2020 and be completed in the summer of 2020.
- Vote to close the hearing and issue an Order of Conditions with the following special conditions. [Motion: Jeff Zabel; Second: Kathy Cade; Vote: 6:0:0]
  - The proposed mitigation planting of 29 native trees will be undertaken by the Parks and Rec. Department. The applicant shall supply \$7,250 and Parks and Rec. will install 29 native saplings on the 149 Pleasant St. or abutting Newton Center Playground parcels. The trees must be installed on or before June 15, 2020. A plan showing the location of the planted trees must be supplied to the Conservation Office on or before July 15, 2020. The trees must have a survival rate of 75% of total number of trees (after 2 growing seasons) for a Certificate of Compliance to be issued.



**Mayor**  
Ruthanne Fuller

**Director  
Planning &  
Development**  
Barney Heath

**Senior  
Environmental  
Planner**  
Jennifer Steel

**Assistant  
Environmental  
Planner**  
Claire Rundelli

**Conservation  
Commission  
Members**  
Kathy Cade  
Dan Green  
Judy Hepburn  
Ellen Katz  
Susan Lunin  
Norm Richardson  
Jeff Zabel

**Conservation  
Commission  
Alternates**  
Leigh Gilligan

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- If the shade of the canopy causes the death or significant decline of bank vegetation at any time during the lease term of the solar panels (20 years), the City (through the solar contractor), shall ensure re-stabilization of the affected bank area with native, shade-tolerant species of vegetative and woody plants.
- Concrete washout must occur off-site or within the area designated on the plans.

## 2. 100 Old England Rd – cont'd RDA – confirmation of wetland resource area

- Owner/Applicant: Sean Wilder Representatives: Tom Rebula, Goddard Consulting; Franklin Schwartz, Attorney
- Request: Issue Determination of Applicability.
- Documents Presented: Drainage maps Drainage maps
- Jurisdiction: TBD (likely: RFA, Buffer Zone to bank and BVW)
- Presentation and Discussion:
  - The stream's watershed is large enough to be perennial, however there is an elevated and regularly dry section of "stream bed" near 100 Old England Road. A dam structure upstream of the area in question can "negate" the dry areas (i.e., the stream would not qualify as intermittent because of the dam), but field investigations showed that the dam does not affect the dry portion of the stream because even when the dam is being over-topped, the dry portion remains dry.
  - A dye test was conducted and dye placed near the pond appeared behind 440 Beacon Street.
  - Documentation provided by the applicant's representative shows a previously unknown storm drain main under the dry portion of the stream, ending near the culvert that goes under Hammond Pond Parkway. City survey records confirm that there is a pipe in that location.
  - Therefore, the dry portion of Hammond Brook near Old England Road would not have RFA because of the >200' culvert and the discontinuous flow (due to the storm drain main?).
- Vote to issue a Negative 1 Determination, confirming that there is not an open reach of perennial stream across the from 100 Old England Road (at 0 Old England Rd), so 100 Old England Road is not encumbered by a 200' Riverfront Area. [Motion: Jeff Zabel; Second: Judy Hepburn; Vote: 6:0:0]

## 3. 303-309 Winchester St – RDA – removal of mature pines and restoration planting

- Owner: Winchester Park Applicant: David Altman, Advantage Property Management Representatives: Steve Gold, Boston Tree Company
- Request: Issue Determination of Applicability.
- Documents Presented: aerial, proposed plantings aerial, proposed plantings, draft DOA
- Jurisdiction: Buffer Zone, Flood Plain (112 NAVD88)
- Project Summary: Applicant is proposing to remove 8 mature pine trees and one broken stump (198"). The proposal includes a restoration planting proposal.
- Presentation and Discussion:
  - Applicant is requesting approval for the removal of 8 mature pine trees and 1 roughly 10' tall stump since one pine tree in this row fell (leaving the stump TBR) and did serious damage to an abutting home (291 Winchester St.). Applicant wishes to remove these pines to avoid similar damages the neighboring properties.
  - Steve Gold did a tree assessment and found the trees to be a "moderate risk" because of old pruning and "included bark".
  - Applicant has received a tree permit from the City Tree Warden.
  - Most of the trees are outside the Buffer Zone, but all are within the Flood Zone.
  - Applicant is proposing to plant 8 native saplings and 8 native shrubs of a variety of species. The performance standard of note is wildlife habitat value, so consideration was given to recreating viable flood zone habitat.
  - The Conservation asked that a total of 12 native saplings and 12 native shrubs be planted and that the additional trees be black spruce and the additional shrubs be rhododendron maximum to provide replacement for the loss of evergreen canopy.
- Vote to close the meeting and issue a "Negative 2" determination confirming that the work does not require a Notice of Intent and a "Negative 3" determination with the following conditions. [Motion: Susan Lunin; Second: Ellen Katz; Vote: 6:0:0]
  - Mitigation plantings shall include, at a minimum, the 12 native trees (at least 3' tall) and 12 native shrubs (at least 2' tall), as detailed on the approved Native Plant Installation List.

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- Plantings shall be installed within Flood Zone in the general area of the permitted tree removal (see the approved Tree Removal Plan)
- Plantings must be installed within 6 months of tree removal.
- 75% of the mitigation plantings must survive 2 growing seasons. Photographic proof of survival must be sent to the Conservation office at the end of the 2 growing seasons. Should 75% not survive, applicant must replace the dead plants.

4. **212 Kenrick St – cont'd NOI – vegetation management in golf course ponds – DEP File #239-834**

- Owner: City of Newton "Owner's Rep.": Steven Meyer, Newton Commonwealth Foundation Applicant: David Stowe, Newton Comm. Golf Course Representative: Keith Gazaille, SOLitude Lake Management
- Request: Issue an OOC.
- Documents Presented: revised proposal, map of hydroraking revised prop., map of hydroraking, photos, draft OOC
- Jurisdiction: Bank, Land Under Waterbodies and Waterways (LUWW), City Floodplain
- Project Summary:
  - Five ponds (three connected by an intermittent stream, 2 isolated) are contained within the played portion of the golf course. All are suffering overgrowth of weeds and algae.
  - The applicant is proposing regular monitoring and chemical treatments and hydroraking to address the broad variety of nuisance aquatic vegetation and accumulated sediment in year 1.
  - As presented, this project seems that it may not fully to qualify as an ecological restoration project (as filed) and so staff has recommended issuing a standard Order of Conditions.
- Presentation and Discussion:
  - The site is over-run with nuisance aquatic plants and so significant removal is appropriate to reestablish flow, preclude flooding, and allow a healthier aquatic environment.
  - Revised plans reflect the Commission's interests in:
    - Seeing real watershed management improvements such as:
      - the installation of vegetated buffers (to limit geese, reduce grass trimmings from entering waterways, and trap nutrients)
      - stream and pond dredging/cleaning (to "reset the clock").
    - Limiting the use of chemical controls (e.g., the accumulation of copper and the flow of chemicals downstream) by reducing the concentrations.
    - Protecting some cattail areas (while removing 100% from stream corridors and 50% from ponds to re-establish flow).
  - The Applicant's proposal includes bi-monthly monitoring April – September to provide information on how to adapt pond management.
  - Applicant will consider more robust native herbaceous buffers in future years.
  - Site staff have already initiated a 5' wide no/high mow strip around all water features.
  - The Applicant has filed to close out several old filings for 212 Kenrick St.:
    - 1997: An Order of Conditions (#239-317) was issued on March 19th, 1997 for project approving several aspects of golf course management.
    - 1998: An Order of Conditions (#239-340) was issued for the project approving the construction of a clubhouse with the appropriate compensatory flood storage.
    - 2005: An Order of Conditions (#239-459) was issued for the project approving the proposed vegetation management for one year (with second and third year work only being approved with annual management reports submitted to the Conservation Office) and no further chemical management after year 1. An extension request was submitted on March 26th, 2008 and a 3-year management summary was provided on April 24th, 2008 at the request of the Conservation Agent (Anne Phelps). Several extensions were granted for mechanical vegetation management and once for the repair of the irrigation pond. No chemical management was approved for these extensions.
- Vote to close the hearing and issue an Order of Conditions with the following special conditions. [Motion: Jeff Zabel; Second: Kathy Cade; Vote: 6:0:0]
  - This OOC is valid for three years. Different actions will be taken in different years.
    - a. In all years, a 5'-wide high-mow or no-mow strip shall be maintained around all ponds and streams in the subject area.
    - b. Calendar year 2019 efforts shall be limited to hydro-raking and hand-pulling.
    - c. Hydro-raking must be undertaken as described in the approved letter entitled "Newton Commonwealth Golf Course Pond Management Plan."



- d. In calendar years 2020, 2021, and 2022, the chemical treatments outlined in the tables in the approved letter entitled "Newton Commonwealth Golf Course Pond Management Plan" may be undertaken if/as necessary based on the regular monitoring.
- Annual reports of weed conditions found, management activities undertaken, and effects of the management activities will be submitted to the Conservation Office by November 15th of each calendar year for the life of this Order.
  - By March 15, 2020, the applicant shall submit to the Conservation Office a plan for buffer zone plantings designed to protect the streams and ponds from nutrient runoff and enhance wetland wildlife habitat.
5. **188-192 & 210 Needham St – cont'd NOI – 36-stall expansion of parking and restoration of RFA -- DEP File #239-841**
- o Owner/Applicant: Kerry McCormack, Crosspoint Associates Representative: Brandon Li, Kelly Engineering; Brad Buitenhuis (Cross Point)
  - o Request: Continue hearing to 10/3/19 Conservation Commission meeting.
  - o Documents Presented: none
  - o Jurisdiction: Riverfront Area, BLSF (~113' NAVD88)
  - o Staff Notes: Applicant is seeking a continuation
  - o Staff Recommendations: Vote to accept applicant's request to continue hearing to 10/3/19. [Motion: Ellen Katz; Second: Susan Lunin; Vote: 6:0:0]
6. **1114 Beacon St – cont'd NOI – construction of 25-unit residential condominiums -- DEP File #239-827**
- o Owner: Ronald Simons, 1114 Beacon Street LLC Applicant/Representative: Kevin Riopelle, DGT Associates
  - o Request: Withdraw Notice of Intent filing.
  - o Documents Presented: none
  - o Jurisdiction: ILSF
  - o Presentation and Discussion: Applicant requested to withdraw the Notice of Intent as they are exploring renting the building to a commercial tenant, however, they just sought to withdraw that request and instead continue to 10/3/19. Staff recommends accepting the request to withdraw their request to withdraw and instead continue to 10/3/19 with the requirement that the Applicant notify abutters of the 10/3/19 hearing and pay for a new legal ad in the TAB.
  - o Vote to continue to 10/3/19. [Motion: Judy Hepburn; Second: Susan Lunin; Vote: 6:0:0]
7. **22 Hollywood Dr – Ratification of Enforcement Order – DEP file #239-368**
- o Owner: James McKay Representative: John Rockwood, EcoTec, Inc.
  - o Request: Ratify "friendly" Enforcement Order.
  - o Documents Presented: photos, colored restoration plan
  - o Jurisdiction: BVW, Buffer Zone, Riverfront Area, and City Floodplain
  - o Performance Standards: Compliance with 3 Enforcement Orders and an open OOC
  - o Project Summary: Applicant proposes to move fence to rear property line, plant required native shrub and understory tree species, remove invasive species and diseased/hazard trees, and prune existing canopy to allow light into the restoration plantings.
  - o Staff Notes: As per the discussions at the 8/1/19 Conservation Commission meeting, staff issued the "friendly" Enforcement Order to approve and require the proposed restoration plan for the existing encroachment area. The E.O. needs to be ratified by the full Commission.
  - o Vote to ratify the Enforcement Order issued 8/2/19 by Conservation staff. [Motion: Judy Hepburn; Second: Susan Lunin; Vote: 6:0:0]
8. **56 Greenwood St – OOC Extension – interior work, hardscaping, and utility install– DEP File #239-768**
- o Owner/Applicant: Rita and Gene Spivak Representative: none
  - o Request: Extend Order of Conditions by 3 years to allow for the applicant to install the final landscaping and to allow for the 2-year growing season survival requirement be met.
  - o Documents Presented: photos, draft OOC extension
  - o Jurisdiction: Buffer Zone
  - o Project Summary: Approved work included significant interior renovations, hardscaping of the front walkway and driveway, utility installation, and required mitigation.
  - o Staff Notes: A staff site visit on 8/22/19 confirms the site is still in compliance with the OOC and approved plans.

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- Vote to approve request to extend Order of Conditions 239-768 for three years. [Motion: Jeff Zabel; Second: Ellen Katz; Vote: 6:0:0]
- 9. 50 Grace Road – OOC Extension – teardown/rebuild single-family home – DEP File #239-772**
- Owner/Applicant: Carole and Russell Jackson Representative: Jonathan Buchman, Banner Construction Company, Inc.
  - Request: Extend Order of Conditions by 3 years. Applicants have not started construction on the approved project and are still determining if they will go forward with the work.
  - Documents Presented: photos, draft OOC extension
  - Jurisdiction: Riverfront Area
  - Project Summary: Approved work included the demolition of the existing single-family home and the construction of a new single-family home with associated site features.
  - Staff Notes: A site visit on 8/22/19 confirmed that the site is in compliance with the Wetlands Protection Act. No work has begun on site.
  - Vote to approve request to extend Order of Conditions 239-772 for three years. [Motion: Susan Lunin; Second: Jeff Zabel; Vote: 6:0:0]
- 10. 204 Dedham St – COC Request – exterior hardscaping and landscaping – DEP File #239-829**
- Owner/Applicant: Alex Kane, Kane Innovations Representative: Michael Quinn
  - Request: Issue COC to close out Order of Conditions 239-829.
  - Documents Presented: photos, draft COC
  - Jurisdiction: FEMA 100-yr Flood Plain
  - Project Summary: OOC 239-829 was issued in response to the NOI required by the Enforcement Order issued against the applicant for unpermitted work in the flood plain. The OOC permitted exterior hardscaping (driveway repave, front walkway re-construct in place, replace failing retaining walls) and landscaping (removal of existing vegetation, required restoration plantings).
  - Staff Notes: A site visit on 8/16/19 confirmed that the site is in substantial compliance with the approved plans and OOC.
  - Vote to issue a Certificate of Compliance for the approved work under OOC 239-829. [Motion: Kathy Cade; Second: Susan Lunin; Vote: 6:0:0]
- 11. 44 Olde Field Rd – COC Request – teardown/rebuild with landscaping – DEP File #239-742**
- Owner/Applicant: Mark Quian Representative: Chris Utano, Pinecone Construction
  - Request: Issue COC to close out Order of Conditions 239-742.
  - Documents Presented: photos, draft COC
  - Project Summary: Approved work included the teardown and rebuild of an existing single-family home outside of wetlands jurisdiction. Approved work within wetland jurisdiction included the removal of mature vegetation, replacement of an existing fence, and new landscaping.
  - Jurisdiction: Buffer Zone, FEMA 100-yr and City Flood Plain
  - Staff Notes: A staff site visit on 8/6/19 confirmed that the site is in substantial compliance with the OOC and the approved plans.
  - Vote to issue a Certificate of Compliance for the approved work under OOC 239-742. [Motion: Jeff Zabel; Second: Susan Lunin; Vote: 6:0:0]
- 12. 36 Parsons St – COC Request – teardown single-family and rebuild duplex – DEP File #239-728**
- Owner/Applicant: Arto Dermovsesian Representative: John Rockwood, EcoTec, Inc.
  - Request: Issue COC to close out Order of Conditions 239-728.
  - Project Summary: Approved work included the teardown of an existing single-family home and the construction of a new duplex with associated drainage, driveway, and mitigation plantings.
  - Documents Presented: photos, colored plans
  - Jurisdiction: Flood Zone, Riverfront Area
  - Staff Notes: A staff site visit on 8/21/19 noted that the building and plantings were according to plan, but staff discovered that there was no letter of approval from the as-built engineer and that excess fill had been added in the flood zone.
  - Consensus: to have Jennifer Steel issue a memo noting denial of a Certificate of Compliance for 239-728 and requiring, through an Enforcement Order, a new plan and a new NOI. Jennifer will send a draft to Dan and Leigh for their review prior to sending it out.
- 13. 296 Islington Rd – COC Request – new deck and addition on single-family home with landscaping – DEP File #239-380**



- Owner/Applicant: Lucia Marshall Representative: self
- Request: Issue complete COC to close out Order of Conditions 239-380
- Project Summary: Approved work included the construction of an addition and a new deck with impervious surface underneath with associated landscaping.
- Documents Presented: photos, draft COC
- Jurisdiction: Buffer Zone, Riverfront Area, FEMA 100-yr and City Flood Plain
- Staff Notes: The project received a partial COC in 2010 but did not qualify for a complete COC due to the need for the approved plantings to prove themselves. A staff site visit on 8/22/19 confirmed that the site is now in compliance with the OOC and the approved plans.
- Vote to issue a Certificate of Compliance for the approved work under OOC 239-380. [Motion: Susan Lunin; Second: Jeff Zabel; Vote: 6:0:0]

#### 14. 4 Bryon Rd – COC Request – driveway expansion and rain garden – DEP File #239-798

- Owner/Applicant: Dino Rossi Representative: self
- Request: Issue COC to close out Order of Conditions 239-798.
- Project Summary: Approved work included the ex-post facto approval of a driveway expansion and the installation of improved stormwater drainage, including a rain garden and required plantings.
- Documents Presented: photos, draft COC
- Jurisdiction: Buffer Zone, Riverfront Area
- Staff Notes: A staff site visit on 9/3/19 confirmed that the site is in compliance with the OOC and the approved plans.
- Staff Recommendations: Vote to issue a Certificate of Compliance for the approved work under OOC 239-798. [Motion: Kathy Cade; Second: Susan Lunin; Vote: 6:0:0]

## II. CONSERVATION AREA DECISIONS

### 15. Encroachment Resolution Policy – Discussion

- Documents Presented: draft encroachment procedure draft encroachment procedure
- Staff Notes:
  - After meeting with the Law Department about the 170 Suffolk Road encroachment, it was recommended that the Commission develop and adopt a formal policy for dealing with historic, new, and future encroachments.
  - Existing known encroachments include:
    - lawn at 230 Dudley Rd – to be planted this fall by owner
    - lawn at 170 Suffolk Rd – under consideration
    - lawn at 70 Wayne Rd – to be staked this fall by City
    - lawn at 261 Parker St – to be planted this fall by City
    - lawn at 149 Harwich Rd – yet to be addressed
    - landscaping at 92 Pine St – yet to be addressed
    - lawns at 28 Rebecca Rd – yet to be addressed
  - Problems with restoration of encroachments:
    - Restoration plantings are subject to drought and invasive plants
    - Some property lines are very close to existing houses, so planting trees or shrubs could adversely affect abutters.
  - The Commission should develop a standardized procedure for approaching encroachers and correcting encroachments.
- Actions: None at this time.

### 16. 170 Suffolk Road – Encroachment into Houghton Garden – Discussion

- Request: Develop a clear goal for resolution and determine best path forward to achieve that goal.
- Staff Notes:
  - Staff met with the Law Dept. to discuss potential resolutions to the historic encroachment from 170 Suffolk Rd.
  - It was determined that a land swap is not a viable option as the City-owned land falls under Article 97 and any land swap would be categorized as a change of use of that protected land. This means that the land swap would have to be approved by 2/3 vote of the City Council and a 2/3 vote of the Massachusetts state legislature.
  - Possible resolutions include: (1) immediate removal of the encroachment, (2) licensing the encroachment (with or without compensation) for a time limited duration, (3) ignoring the encroachment.

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- Discussion:
  - The Conservation Commission may not be able to license Article 97 land at all.
  - Leigh Gilligan will research Article 97.
  - Jennifer Steel will speak with Brandon in Wellesley's Natural Resources Department to see how they deal with long-standing encroachments.
  - Jennifer Steel will speak with the Newton Law Department again to see what else they might suggest.

**17. Charles River Pathway – assessment for a restoration and maintenance plan**

- Project Summary: The Conservation Stewards for the Charles River Pathway would like to discuss hiring outside contractors to perform an assessment of the Charles River Pathway and develop a long-term restoration and maintenance plan, in light of the impending development at Northland and the need to address knotweed and trail connectivity (i.e., a set of stairs allowing access to the Greenway rail trail). Private funding may be available through Newton Upper Falls Community Development to augment any Commission contributions.
- Discussion: The Conservation Commission was very supportive.
- Public Comment: A Charles River Pathway Steward noted concerns about the work recently conducted on the site by Mark Neves' crew, including leaving trash on site, cutting a sapling specifically noted as to be saved, and one crew member sitting idle while another walked the site and drove to get gravel.

**III. ADMINISTRATIVE DECISIONS**

**18. New Liaison to the Newton Commonwealth Foundation - Discussion**

- Discussion
  - With the resignation of Norm Richardson, there is an open Commission liaison position on the NCF Board.
  - Currently, no commissioner is willing/able to attend more than 1-2 Foundation meetings each year.
  - Since the need for a ConCom liaison is not clear, as a starting point, Jennifer Steel will ask the Foundation to send the Commission copies of their minutes. The Commission can always later to appoint a liaison.

**19. Invasive Species Disposal Special Condition - Review**

- Documents Presented: UNH "Methods for Disposing Non-Native Invasive Plants"
- Staff Notes: At the request of Commissioners, staff drafted the language below to be added to the Special Conditions and Findings for appropriate Orders of Conditions.
  - "In order to prevent contamination of City yard waste, invasive species approved to be removed must be disposed of per the University of New Hampshire 'Methods for Disposing Non-Native Invasive Plants.' For no reason may removed invasive species be disposed of through the City of Newton yard waste collection."
- Discussion:
  - There is already an Invasive Policy with removal details that could be augmented.
  - There was concern about some of the content of the UNH Methods.
  - Commissioners also noted the need to translate the final document into Russian, Portuguese, and Mandarin.
  - The policy should be clearly posted on the City's website.

**20. Earth Moving Ordinance – Homework Assignment**

- Discussion:
  - Staff was not clear on the intent of a new ordinance that would require large cut/fill projects to be reviewed by the Commission.
  - Staff will send around Westwood's bylaw.
  - To better understand what the Commission is aiming to protect and what authority it would enforce under, staff have asked Commissioners to develop a "purpose" statement for the ordinance that they envision.

**21. Fall Conference MACC – October 19<sup>th</sup>, 2019**

- Staff Notes:
  - The MACC Fall Conference will be on 10/19/19 at the Devens Common Center.
  - For more information about units and workshops see [www.maccweb.org/events/Sessions.aspx?id=1268814](http://www.maccweb.org/events/Sessions.aspx?id=1268814).
  - If Commissioners are interested in attending, please let staff know that you would like to attend and what classes you would be interested in signing-up for before the 10/3/19 meeting. Registration must occur through staff for the City to pay.

**22. Minutes of 8/1/19 to be approved**

- Documents Presented: draft minutes draft minutes
- Vote to accept the 8/1/19 minutes. [Motion: Susan Lunin; Second: Jeff Zabel; Vote: 5:0:1]

**IV. ISSUES AROUND TOWN DECISIONS – none at this time**

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**UPDATES**

**V. WETLANDS UPDATES – none at this time**

**VI. CONSERVATION AREA UPDATES**

- Houghton Pond Dredging: Staff received a surprisingly positive response from NHESP in regard to potentially dredging Houghton Pond, a certified vernal pool. They would support a dredging project once a hydroperiod study confirms that dredging is necessary to reestablish vernal pool functions. John Rockwood suggested looking at 314 CMR 9 (Water Quality Certification regulations).
- Norumbega Slope Restoration: We have received final design plans from SumCo and work will be starting this month.

**VII. ISSUES AROUND TOWN UPDATES**

- New, Large Developments in the pipeline: Northland and Riverside are still going through the Special Permitting process; Washington Place and Austin Street are being constructed; the City just received 40B applications for two new developments, Dunstan East and Riverdale.
- Aqueducts: There will be a public presentation on 9/26/19 regarding the potential City acquisition of portion of Sudbury aqueduct from MWRA through an 8m license.
- Ticketing: Staff met with the Law Dept. to discuss ticketing under 21D for off-leash dogs. The Law Dept. and Conservation Staff will continue working towards the goal of being able to issue tickets against off-leash dog offenders. Commissioners recommended that Jennifer Steel look into a hand-held machine that would allow on-site payment and registration for off-leash medallions.
- Open Space and Recreation Plan: Request for quotes was sent out. Jeff Zabel and Susan Lunin are interested in participating in the OSRP update.
- Climate Action Plan: Next steps are to marry the long-term vision of the Citizen's Climate Action Plan (developed by the Citizens Commission on Energy) and the City's plan. The plan will be back in front of ZAP on 10/2/19.

**VIII. ADMINISTRATIVE MATTER UPDATES – none at this time**

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**OTHER TOPICS NOT REASONABLY ANTICIPATED BY THE CHAIR 48 HOURS BEFORE THE MEETING**

- 2310 Washington St wants to repave its parking lot: Jennifer discovered that the down-gradient border is not curbed or catch-basined, so treatment improvements are possible. Jennifer Steel will let the potential applicant know that an NOI should be filed and stormwater improvement should be offered.

**ADJOURN** Motion to adjourn at 10:12 pm: Susan Lunin; Second: Judy Hepburn; Vote: 6:0:0.

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*The location of this meeting is wheelchair accessible and reasonable accommodations will be provided to persons with disabilities who require 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 or (617) 796-1253. The city's TTY/TDD direct line is: 617-796-1089. For the Telecommunications Relay Service (TRS), please dial 711.*

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