

# CONSERVATION COMMISSION AGENDA

Date: June 7, 2018  
Time: 7:00 pm  
Place: City Hall, Room 204

**NOTE:** Items may be called in any order at the Chair's discretion.

**NOTE:** The Conservation Commission reserves the right to discuss open wetland cases during the public meeting at which they are due to be heard.

## DECISIONS

### I. WETLANDS

1. **RDA – 303-309 Winchester St (Winchester Park Condos) – hazard tree removal**
  - o Request: Remove 8 trees that pose a hazard to existing buildings and gas lines.
  - o Owner/Applicant: Winchester Park Condo Trust      Representative: David Altman (Advantage Property Management)
2. **OOA Amendment – DEP File #239-745 -- Daly Rink (Newton Country Day School) – Path**
  - o Request: Applicant is requesting an amendment to Order of Conditions #239-745 to include a 7' wide public access pathway along the Charles River.
  - o Owner: Martha McMahon DCR/DCAMM)   Applicant: Boston Academy of the Sacred Heart (NCDS)   Representative: Daniel J Padien (VHB, Inc.)
3. **Informal Discussion -- Northland Development Group**
  - o Request: The development team would like to let the Commission know where project planning stands and get preliminary feedback from the Commission.
  - o Owner/Applicant: Northland companies   Representative: Alan Schlesinger, Kent Gonzalez
4. **Certificate of Compliance– 777 Dedham Street – DEP File #239-697**
  - o Request: Complete COC
  - o Owner: Cheryl St. Pierre-Sleboda (Mt. Ida College)   Applicant/Representative: George Chadwick (Bedford Design Consultants, Inc.)
5. **Certificate of Compliance – 46 Suffolk Rd – DEP File #239-706**
  - o Request: Applicant is requesting a Certificate of Compliance for the Order of Conditions permitting landscaping activities relating to the construction of terraces, pool, and kitchen garden and related stormwater management brought about after an enforcement action.
  - o Owner: Bob Deresiewicz   Applicant/Representative: Dan K. Gordon (Dan Gordon Landscape Architects)
6. **Certificate of Compliance – 46 Suffolk Rd – DEP File #239-732**
  - o Request: Applicant is requesting a Certificate of Compliance for the Order of Conditions permitting landscaping activities relating to the ecological restoration of the pond (dredging) and improvement to the habitat value of the wetland resources on the property.
  - o Owner: Bob Deresiewicz   Applicant/Representative: Dan K. Gordon (Dan Gordon Landscape Architects), Marc Cooperman

### II. CONSERVATION AREAS

7. Old Deer Park – Consideration of trail creation and long-term management of invasive vines
8. Conservation Area "Encroachments" – Discussion of Commission's historical knowledge of three sites

### III. ADMINISTRATIVE

9. Minutes of 5/17/18 to be approved.

### IV. ISSUES AROUND TOWN

## UPDATES

### V. WETLANDS

### VI. CONSERVATION AREAS

### VII. ISSUES AROUND TOWN

### VIII. ADMINISTRATIVE MATTERS

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



**Mayor**  
Ruthanne Fuller

**Director  
Planning &  
Development**  
Barney Heath

**Senior  
Environmental  
Planner**  
Jennifer Steel

**Assistant  
Environmental  
Planner**  
Claire Rundelli

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

**Conservation  
Commission  
Alternates**  
Kathy Cade

1000 Comm. Ave.  
Newton, MA 02459  
T 617/796-1120  
F 617/796-1142

[www.newtonma.gov](http://www.newtonma.gov)

*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](mailto: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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## DECISIONS

### I. WETLANDS

#### 1. RDA – 303-309 Winchester St (Winchester Park Condos) – hazard tree removal

- Request: Remove 8 trees that pose a hazard to existing buildings and gas lines.
- Owner/Applicant: Winchester Park Condo Trust      Representative: David Altman (Advantage Property Management)
- Documents Presented: aerial showing tree locations      photos, draft DOA
- Jurisdiction: Buffer Zone, and City and FEMA Floodplain (BLSF), Conservation Restriction
- Performance Standards:
  - **Bordering Land Subject to Flooding (BLSF):** 10.57 (3)  
Work in those portions of bordering land subject to flooding found to be significant to the protection of wildlife habitat shall not impair its capacity to provide important wildlife habitat functions. ...
  - **City Floodplain:** "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 ..."
- Staff Notes
  - **Project Summary:** Applicant is proposing the removal of 8 trees (all under 12"), deemed to be hazardous to existing structures and gas lines. The trees proposed to be removed are mainly invasive species (black locust and Norway Maple), all but one are under 12" dbh, and are all in poor health or are being killed by bittersweet.
  - **Impact Summary:** Because these hazard trees are scattered around the perimeter of a large wooded natural area, the overall impact of the proposed work on the habitat value of the Flood Zone is minimal. Hazard trees should be allowed to be cut to protect life and property.
  - **Question:** How will the trees proposed to be removed behind 307-E be accessed?
- Staff Recommendations: Vote to issue a Negative 3 Determination with the following special conditions:
  - Top trees behind 305-G and D to create standing dead wood habitat for cavity nesters.
  - Flush cut the trees behind 307-E, 307-C, and 309-D.
  - Do not leave brush or wood chips in the wooded portion of the lot.

#### 2. OOC Amendment – DEP File #239-745 -- Daly Rink (Newton Country Day School) – Path

- Request: Applicant is requesting an amendment to Order of Conditions #239-745 to include a 7' wide public access pathway along the Charles River.
- Owner: Martha McMahon DCR/DCAMM      Applicant: Boston Academy of the Sacred Heart (NCDS)      Representative: Daniel J Padien (VHB, Inc.)
- Documents Presented: colored plans      photos, draft amended OOC
- Jurisdiction: RFA, Buffer Zone, and City and FEMA Floodplain (BLSF) 4.8 NGVD = 4.0 NAVD
- Performance Standards



**Mayor**  
Ruthanne Fuller

**Director  
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Development**  
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- **Riverfront Area:** 10.58(4)
  - (c) Practicable and Substantially Equivalent Economic Alternatives.
  - (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. Proposed work does not impair the capacity of the riverfront area to provide important wildlife habitat functions. ...
      - d. ... incorporating erosion and sedimentation controls and other measures ....
- **Bordering Land Subject to Flooding (BLSF):** 10.57 – all work is above the 100-year flood elevation

○ **Staff Notes**

• **Project Summary**

- NCDS was brought before the Commission for unpermitted expansion of the boathouse and docks.
- NCDS received an OOC for the boathouse expansion (ex post facto) and were required to get Chapter 91 license for the dock and install restoration planting bed and protective split rail fence along the river bank.
- Charles River Watershed Association appealed the Chapter 91 license to ensure that a pedestrian pathway would be constructed across the NCDS lease site.
- The proposed amendment to the existing OOC is to add a 7' stabilized stone dust pedestrian pathway.
- The originally approved planting plan has been modified a bit.

• **Impact Summary**

- All work is above the 100-year flood elevation
- Stormwater runoff will be “country drainage”
- The 2010 restoration planting area will be bisected by the new path, but elimination of the river-side trail could mitigate for the loss of the that area (roughly 900 sf).
- Pedestrians will be encouraged to stay on the new trail and away from the more sensitive river’s edge.

• **Questions/Concerns**

- Will there be any grading changes?
- Why is the fence no longer at the outer edge of the restoration areas?
- Stormwater coming off the driveway and parking area need to be addressed. The swale is not taking water now and the path at the base of the “driveway” is liable to see heavy crossing traffic and some erosion.

○ **Staff Recommendations:** Vote to issue an amended Order of Conditions with the following special conditions:

- Stormwater coming off the driveway and parking will be captured and treated by [redacted] ?? [redacted].
- The river-side trail must be eliminated by [redacted] ?? [redacted] to mitigate for the loss of the restoration planting area installed in 2010.
- The split rail fences must be placed at the outer edges of the restoration areas to ensure permanent protection of those areas. (Conditions must reflect permanent protection of the mitigation planting areas.)

**3. Informal Discussion -- Northland Development Group**

- **Request:** The development team would like to let the Commission know where project planning stands and get preliminary feedback from the Commission.
- **Owner/Applicant:** Northland companies      **Representative:** Alan Schlesinger, Kent Gonzalez
- **Documents Presented:** aerial photo    aerial photo
- **Jurisdiction:** Buffer Zone, and City and FEMA Floodplain (BLSF), Conservation Restriction

**4. Certificate of Compliance– 777 Dedham Street – DEP File #239-697**

- **Request:** Complete COC
- **Owner:** Cheryl St. Pierre-Sleboda (Mt. Ida College)      **Applicant/Representative:** George Chadwick (Bedford Design Consultants, Inc.)

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- Documents Presented: site photos, draft COC
- Jurisdiction: Buffer Zone
- Staff Notes:
  - Letter from engineer, as-built, Form 8a received ... however
  - Staff site visit noted: Work on the tree box filters is not complete. Site near tree box filters is not stable. Drainage from low point of parking lot is not directed to a tree box filter. Erosion controls are still in place.
- Staff Recommendations: Do not issue a Certificate of Compliance for DEP File #239-697.

**5. Certificate of Compliance – 46 Suffolk Rd – DEP File #239-706**

- Request: Applicant is requesting a Certificate of Compliance for the Order of Conditions permitting landscaping activities relating to the construction of terraces, pool, and kitchen garden and related stormwater management brought about after an enforcement action.
- Owner: Bob Deresiewicz Applicant: Dan K. Gordon Representative: Dan K. Gordon (Dan Gordon Landscape Architects)
- Documents Presented: site photos, draft COC
- Jurisdiction: LUWW, BVW, Riverfront Area, Buffer Zone, City Floodplain
  - Letter from landscape architect, as-built stamped by engineer, Form 8a received.
  - Work is complete. Grading is appropriate. Site is stable. Required blueberries have been planted and are surviving.
- Staff Recommendations:
  - Vote to issue a Certificate of Compliance for DEP File #239-706.
  - Vote to officially close out Enforcement Order.

**6. Certificate of Compliance – 46 Suffolk Rd – DEP File #239-732**

- Request: Applicant is requesting a Certificate of Compliance for the Order of Conditions permitting landscaping activities relating to the ecological restoration of the pond (dredging) and improvement to the habitat value of the wetland resources on the property.
- Owner: Bob Deresiewicz Applicant: Dan K. Gordon Representative: Dan K. Gordon (Dan Gordon Landscape Architects), Marc Cooperman
- Documents Presented: site photos, draft COC
- Jurisdiction: LUWW, BVW, Riverfront Area, Buffer Zone, City Floodplain
- Staff Notes
  - Letter from landscape architect, as-built stamped by engineer, Form 8a received.
  - Wetland seems to be functioning well. Site looks lovely. Plants are well-established. Survival is well over 75%.
- Staff Recommendations: Vote to issue a Certificate of Compliance for DEP File #239-732.

**II. CONSERVATION AREAS**

**7. Old Deer Park – Consideration of trail creation and long-term management of invasive vines**

- Staff Notes
  - Brush hogging is complete. Specimen trees have been cleared of vines.
  - Trail could be established connecting Old England Road and Lowell Lane
  - Gates would have to be “unlocked” (or chained so that 1 person at a time could enter, but vehicles could not.)
  - Footbed would take to establish.
  - Pilot program might be best (a “soft launch”). Community meeting is recommended.
  - Clarify that dogs must be on leashes and ask for community support of that.
- Staff Recommendations
  - Vote to initiate a pilot program: Community meeting, “unlocking the gate”, trail mowing, community assistance with footbed etc.
- How would the Commission like to address the possibility of establishing a loop trail? How would the Commission like to address the expanses of vines long-term?

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**8. Conservation Area “Encroachments” – Discussion of Commission’s historical knowledge of three sites**

- Questions: Does the Commission have any knowledge of the history of these sites? How should staff proceed?
  - 170 Suffolk Road encroachments into Houghton Garden Plans, response letter from owner, old minutes
  - 230 Dudley Road encroachments into Hahn Brook Plans, aerial photo site photos
  - 261 Parker St. encroachments into Oakdale Woods Plans, aerial photo site photos

**III. ADMINISTRATIVE**

**9. Minutes of 5/17/18 to be approved.**

- Documents Presented: draft minutes draft minutes
- Staff Recommendations: Vote to approve 5/17/18 minutes.

**IV. ISSUES AROUND TOWN**

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**UPDATES**

**V. WETLANDS**

- 3 Bridge St. – working with owner and DCR
- 56 Farwell St. – Appeal SV 6/6/18
- Needham St – MEPA SV 6/5/18

**VI. CONSERVATION AREAS**

- Norumbega brush-hogging of the old “viewing corridor” complete
- Norumbega Dog Park decision must be an advertised “public hearing” so the review of the RFP will be so advertised.
- Kessler Trail – recon, design, construction must get underway

**VII. ISSUES AROUND TOWN**

- Street Design Guide
- Watertown St Corridor visioning
- Climate change plans

**VIII. ADMINISTRATIVE MATTERS**

- None to-date
- 

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

**ADJOURN**

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① 6/7/18 303-309 WINCHESTER ST - PDA



**Winchester Condos  
Floodplain, CR,  
and Buffer Zone  
Newton, Mass.**

Map Date: 05-07-2018



**Legend**

-  Wetland Buffer Areas
-  Flood Plain City
-  Flood plain FEMA FIRM 100 y
-  CRs

The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve applications based solely on GIS data.

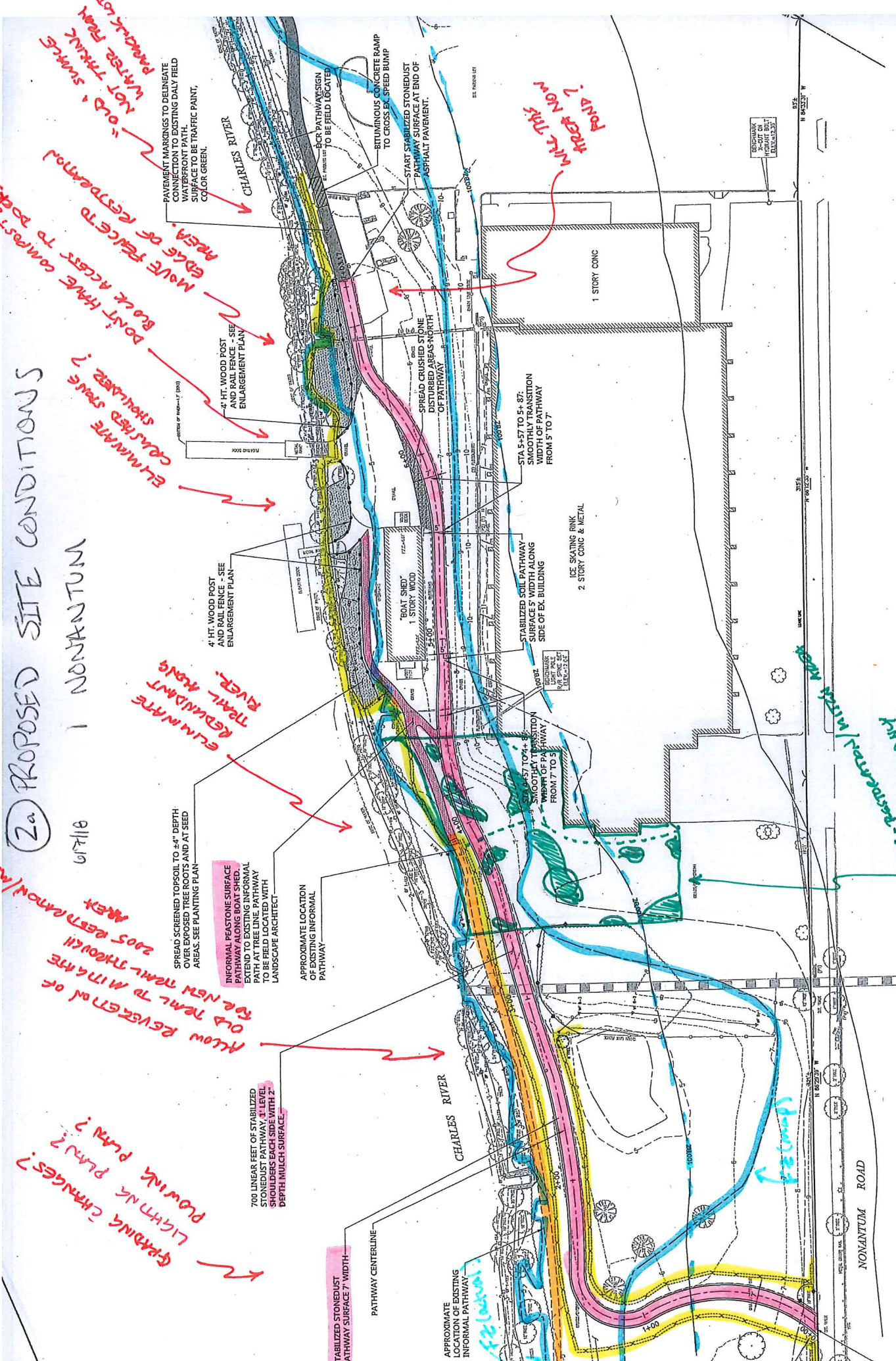


CITY OF NEWTON, MASSACHUSETTS  
Mayor - Richard Fuller  
GIS Administrator - Douglas Greenfield

# Z<sub>a</sub> PROPOSED SITE CONDITIONS

01/10/10 | NONANTUM

GETTING CHANGES? LIGHTER PLAN?  
 PROVIDING PLAN?  
 Allow REVEGETATION of OLD TRAIL TO MATCH THE NEW TRAIL THROUGHOUT AREA. SEE REMOVAL/AREAS  
 2005 REVEGETATION AREAS  
 ELIMINATE RECLAIMED TRAIL FROM SHOULDER? ELIMINATE SHOULDER?  
 DON'T HAVE COMPACT SOILS MAKE FENCE TO EDGE OF RESTORATION AREA.  
 PAVERMENTS TO BE TRAFFIC PAINT, COLOR GREEN.  
 "OLD" SWIRL NOT TRAIL BUT TRAIL FROM TRAIL FOR



WILL THIS AREA NOW BE PAVED?

SEEDS IN 2005 - REVEGETATION WITH NEW GRASS  
 SEEDS IN 2005 - REVEGETATION WITH GRASS  
 ELIMINATE SHOULDER? ELIMINATE SHOULDER?

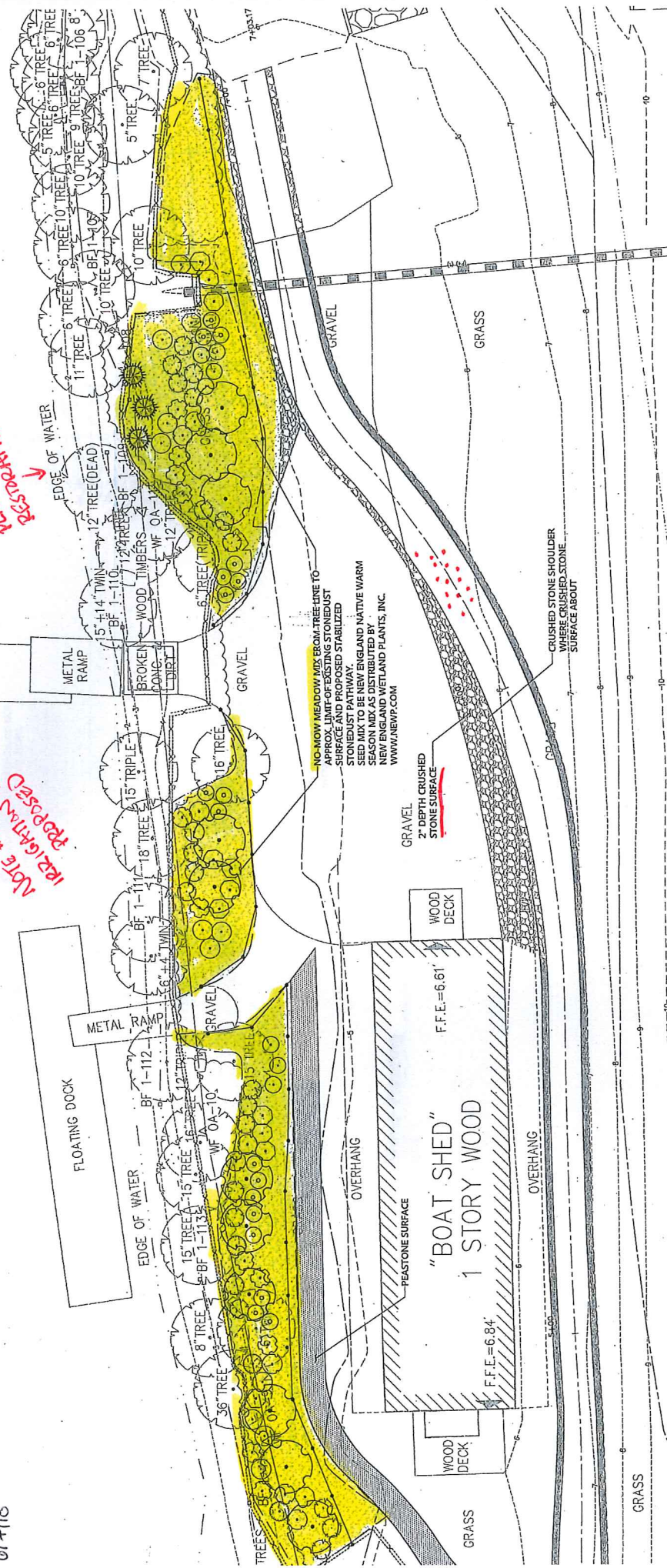
01/10/10

Z6 PROPOSED PLANTING PLAN  
NONANTUM

6/7/18

RESPIRATION AREA  
FIELD LOCATE  
PLANTS TO FIELD

NOTE #1  
RESPIRATION IS  
PREPARED



NO MOW MEADOW MIX  
NEW ENGLAND NATIVE WARM SEASON MIX AS DISTRIBUTED BY:  
NEW ENGLAND WETLAND PLANTS, INC. WWW.NEWP.COM  
LOAM AND SEED: SEE PLANTING NOTE #10 AND  
SPECIFICATIONS

ALL DISTURBED AREAS NOT OTHERWISE NOTED ON  
CONTRACT DOCUMENTS SHALL BE LOAM AND  
SEED OR MULCHED AS DIRECTED BY OWNER'S  
REPRESENTATIVE.

- ALL PROPOSED PLANTING LOCATIONS SHALL BE STAKED AS SHOWN ON THE PLANS FOR FIELD REVIEW AND APPROVAL BY THE LANDSCAPE ARCHITECT PRIOR TO INSTALLATION.
- CONTRACTOR SHALL VERIFY LOCATIONS OF ALL BELOW GRADE AND ABOVE GROUND UTILITIES AND NOTIFY OWNERS REPRESENTATIVE OF CONFLICTS.
- NO PLANT MATERIALS SHALL BE INSTALLED UNTIL ALL GRADING AND CONSTRUCTION HAS BEEN COMPLETED IN THE IMMEDIATE AREA. CONTRACTOR SHALL NOTIFY OWNER'S REPRESENTATIVE OF ANY CONFLICT.
- ANY PROPOSED PLANT SUBSTITUTIONS MUST BE REVIEWED BY LANDSCAPE ARCHITECT AND APPROVED IN WRITING BY THE OWNER'S REPRESENTATIVE. *CON COM*
- ALL PLANT MATERIALS INSTALLED SHALL MEET THE SPECIFICATIONS OF THE "AMERICAN STANDARDS FOR NURSERY STOCK" BY THE AMERICAN ASSOCIATION OF NURSERMEN AND CONTRACT DOCUMENTS.
- ALL PLANT MATERIALS SHALL BE GUARANTEED FOR ONE YEAR FOLLOWING DATE OF FINAL ACCEPTANCE.
- AREAS DESIGNATED "LOAM & SEED" SHALL RECEIVE *WWW.NEWP.COM* *WWW.NEWP.COM*

Tree Protection

- EXISTING TREES TO REMAIN SHALL BE PROTECTED WITH TEMPORARY CONSTRUCTION FENCE. ERECT FENCE AT EDGE OF THE TREE DRIPLINE PRIOR TO START OF CONSTRUCTION.
- CONTRACTOR SHALL NOT OPERATE VEHICLES WITHIN THE TREE PROTECTION AREA. CONTRACTOR SHALL NOT STORE VEHICLES OR MATERIALS, OR DISPOSE OF ANY WASTE MATERIALS, WITHIN THE TREE PROTECTION AREA.
- DAMAGE TO EXISTING TREES CAUSED BY THE CONTRACTOR SHALL BE DEEMED BY A CERTIFIED

Planting Notes

- ALL PROPOSED PLANTING LOCATIONS SHALL BE STAKED AS SHOWN ON THE PLANS FOR FIELD REVIEW AND APPROVAL BY THE LANDSCAPE ARCHITECT PRIOR TO INSTALLATION.
- CONTRACTOR SHALL VERIFY LOCATIONS OF ALL BELOW GRADE AND ABOVE GROUND UTILITIES AND NOTIFY OWNERS REPRESENTATIVE OF CONFLICTS.
- NO PLANT MATERIALS SHALL BE INSTALLED UNTIL ALL GRADING AND CONSTRUCTION HAS BEEN COMPLETED IN THE IMMEDIATE AREA. CONTRACTOR SHALL NOTIFY OWNER'S REPRESENTATIVE OF ANY CONFLICT.
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PLANT SCHEDULE

EVERGREEN TREES	QTY	BOTANICAL NAME	COMMON NAME	SIZE
	3	Juniperus virginiana	Eastern Red Cedar	5-6 HT. =
SHRUBS	QTY	BOTANICAL NAME	COMMON NAME	SIZE
	10	Clethra alnifolia	Summersweet, Clethra	#3 CONT. +3
	21	Cornus sericea	Red Osier Dogwood	#3 CONT. +4
	11	Hamamelis virginiana	Common Witch Hazel	#3 CONT. -3
	10	Ilex verticillata	Winterberry	#3 CONT. =
	3	Myrica pensylvanica	Northern Bayberry	#3 CONT. -2
	10	Spiraea tomentosa	Steeplebush	#3 CONT. +1
GRASSES	QTY	BOTANICAL NAME	COMMON NAME	SIZE
	14	Panicum virgatum	Switch Grass	#2 POT =
	7	Schizachyrium scoparium	Little Bluestem	#2 POT =
	18	Sporobolus heterolepis	Prairie Dropseed	#1 POT =

*native?*

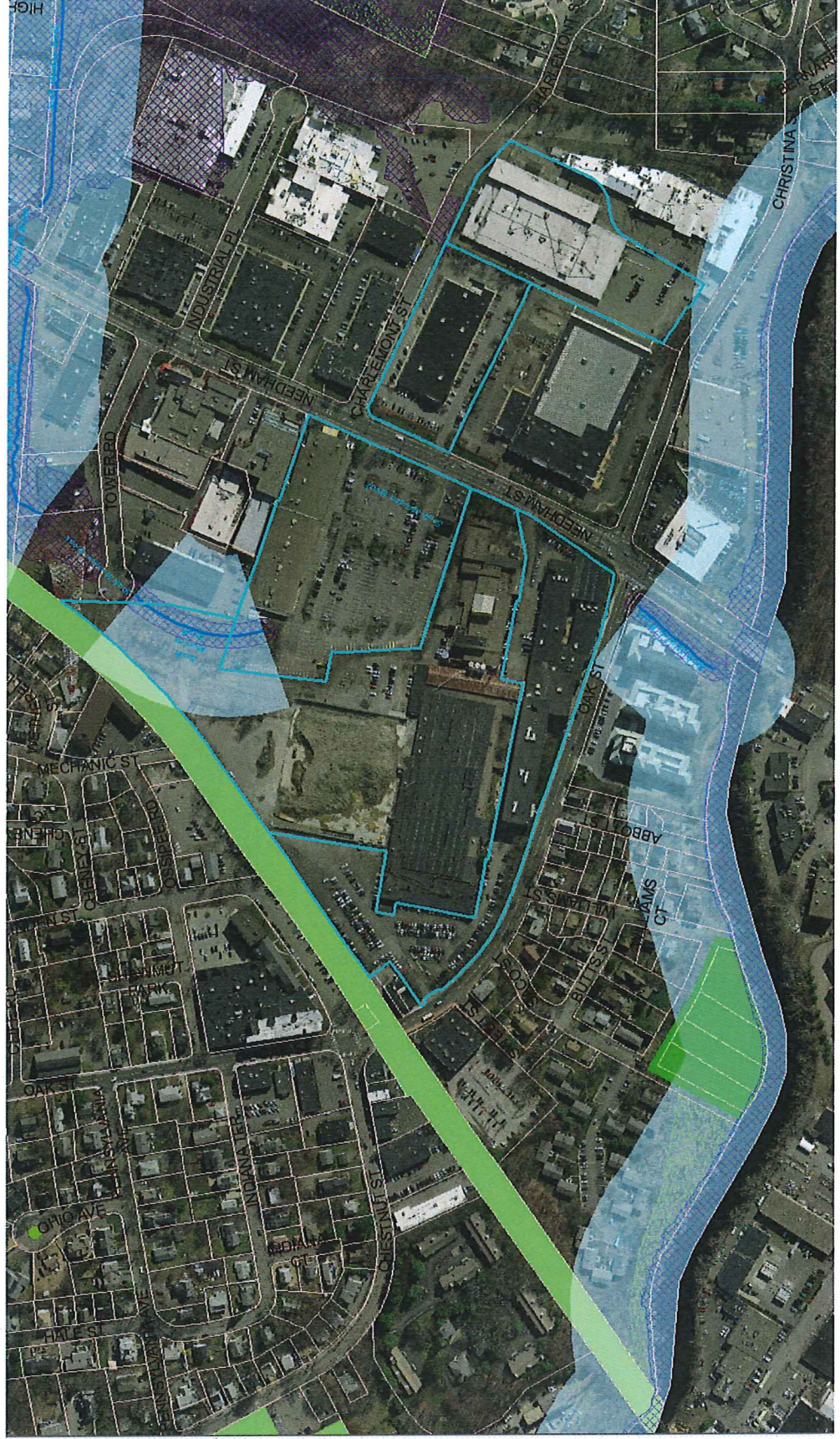


③ Aerial of Northland Site

6/7/18

Northland Site

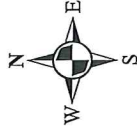
Blue = Riverfront Area, Green = Open space, Purple = City floodplain



**170 Suffolk Rd  
Possible Encroachment**

**Newton, Mass.**

**Map Date: 05-08-2018**



25 12.5 0 25 Feet



From S.U. 5/2/18 p.m. + CR

**Legend**

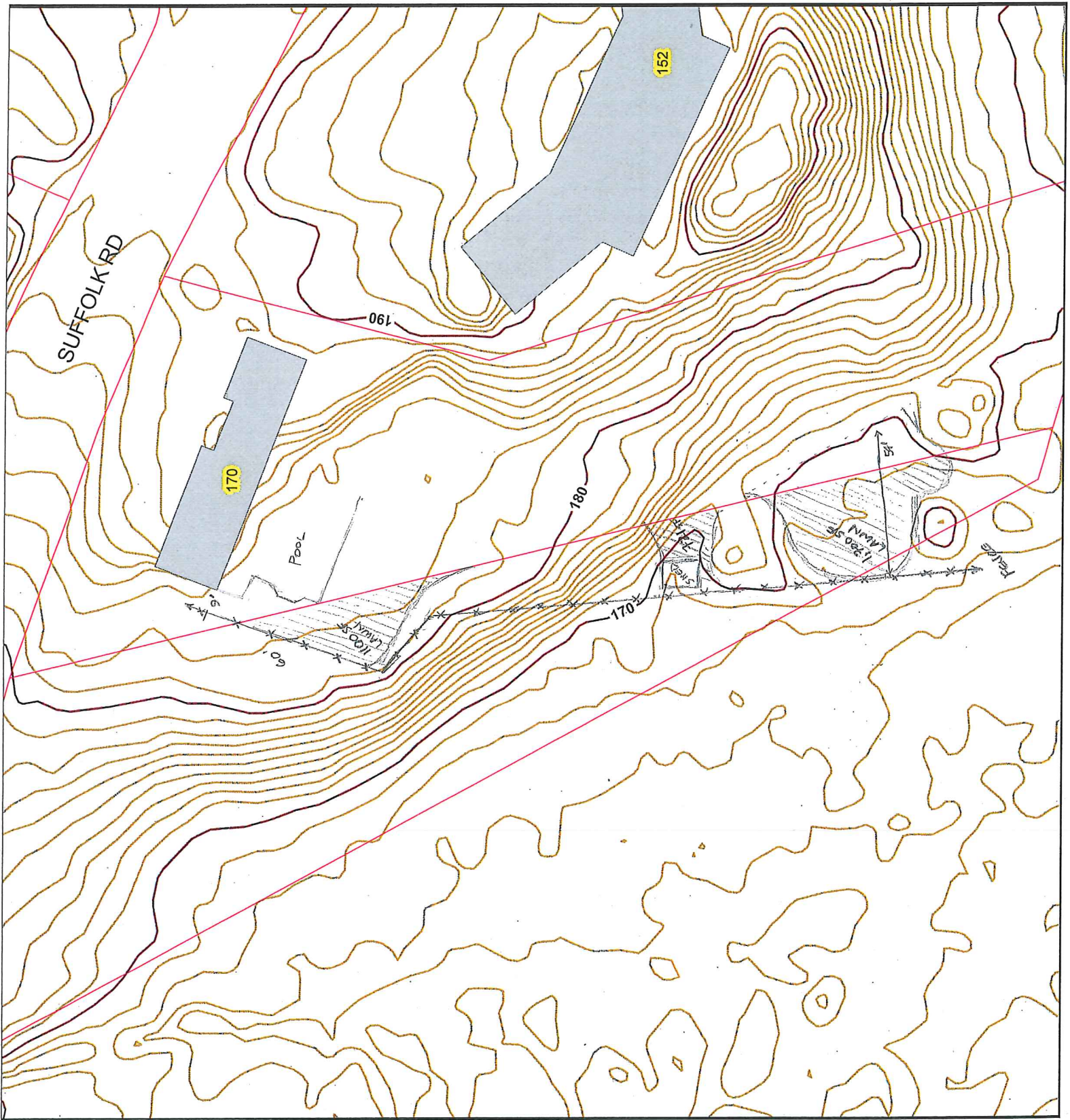
8a(1) Sketched areas  
with of apparent  
encroachment

170 Suffolk

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CITY OF NEWTON, MASSACHUSETTS  
Mayor - Ruthanne Fuller  
GIS Administrator - Douglas Greenfield



(8a(z)) Response letter  
6/7/18 from owner

170 Suffolk

**Mr. Kenneth P. Lyons Associates**  
**170 Suffolk Road**  
**Chestnut Hill, MA 02467**

May 21, 2018

Ms. Jennifer Steel  
Newton City Hall  
1000 Commonwealth Avenue  
Newton, MA 02459

RE: 170 Suffolk Road

Dear Ms. Steel,

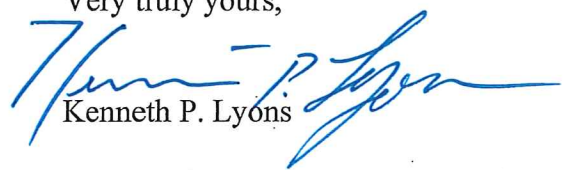
Thank you for your note. I did not know that you had toured our property on May 2, 2018. Had you contacted me, I would have invited you over and given you the history of the long standing agreement between our property and the City of Newton. I understand the history of this agreement may predate your tenure. It is well documented that in 1986 the City of Newton Conservation Commission, in conjunction with the Law Department, acted to preserve Newton's legal rights to the land in question and specifically allow the use of "a strip of lawn along the middle of the Garden's east boundary by the Hill's (170 Suffolk Road) for lawn purposes." Additionally, the aerial map referenced in your letter portrays a much larger encroachment than the instrument survey.

The City agreed to allow a permissive "unenforced" trespass for lawn purposes. The City specifically evidenced its intent to allow this use and we relied on that agreement when we purchased the property in 2008. This 32 year old agreement was most recently revisited in 2010 when the Conservation Commission unanimously voted to allow this agreement to continue indefinitely.

There were many reasons that factored into these decisions over the years and it should be noted, that while not part of the agreement, we have allowed a much larger swath of our land to remain open to the Garden, which we allow visitors to the Garden to enjoy. The Mayor has personal knowledge of this arrangement, as she was very kind to attend the 2010 hearing at our request.

Accordingly, I trust that this letter shall resolve any questions you may have had with respect to this area of land.

Very truly yours,

  
Kenneth P. Lyons

Cc: The Honorable Ruthanne Fuller

8a(3) Excerpts from past  
minutes  
6/11/18

170 Suffolk

**CONSERVATION COMMISSION  
MEETING MINUTES  
March 24th, 2011  
Beginning at 7:30 p.m.  
City Hall, Room 209**

**170 Suffolk Rd. RDA-** Minor foundation work and re-grading in the 100 ft buffer zone

**Report:** GIS shows lot is partly in buffer zone to stream draining to Houghton Ponds. Site visit indicates no part of the work proposed is within 100 ft of bank and I estimate it is beyond the 100 ft buffer of bordering vegetated wetland. However, structures (porch, walkway) are in side setback, so lawn, surrounded by chain link fence, extends onto conservation property (into Houghton Garden) ~ 10 ft on west side. Owner says previous owner showed him a letter from the City that the trespass is allowed. There is no file on this property, and no copy of letter available.

**Meeting:** Kenneth Lyons and Anne Lyons, owners, and Nancy Sadecki, architect, were present for the project. They said there will be a minimal amount of re-grading of the front yard area around the portico. There should be no impact to wetlands. Discussion of trespass issue: Owner has found correspondence (Meeting Agenda, Thursday, September 11, 1986, for the Newton Conservation Commission) which the Env. Planner distributed at the meeting - with discussion of the trespass issue from 1986. Owner said there is additional correspondence - a letter that was written by someone in the Law Department acknowledging the trespass, and stating no action would be taken. He cannot find the letter. Chair says the commission has a public trust to protect city-owned conservation land. There is nothing in the documents that the situation was intended to continue into perpetuity. The Chair would like to know on what basis the commission allowed the use of city land. If it was because of the pool, it should only continue as long as the pool stays there, for example. **Motion by D. Green to issue a negative determination for proposed work. Second by S. Lunin. Vote: all in favor. Motion passed.** The commission decided the encroachment issue will stay on the agenda in the discussion section. Chair suggested owner make a public records request of the Law Department.

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**CONSERVATION COMMISSION  
MEETING MINUTES  
April 28, 2011  
Beginning at 7:30 p.m.  
City Hall, Room 209**

**170 Suffolk Rd. –** Encroachment into Houghton Garden

**Meeting:** Owner Ken Lyons present, and he submitted a new letter he found from the Law Department. Dr. Hill, the former owner, was also present. Dr. Hill said he worked with Helen Heyn to acquire Houghton Garden for the city, and at that time the fence already encroached onto the abutting property. I. Wallach had asked for reason to allow the encroachment. Mr. Hill said that people walking through the Houghton Garden area were trespassing onto his property, and he thinks the conservation commission was grateful he erected the fence, since it kept him from complaining about trespassers. The question by the commission, is whether the acknowledgement of the encroachment has to be an allowance in perpetuity. Consensus is that if something changes, the city can exert its right to revisit this encroachment.

230 Dudley Rd



Ruthanne Fuller  
Mayor

(86)

617118

Potential Encroachment Letter

sent to owner w/ attachment

## City of Newton, Massachusetts

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

Telephone  
(617) 796-1120  
Telefax  
(617) 796-1142  
TDD/TTY  
(617) 796-1089  
[www.newtonma.gov](http://www.newtonma.gov)

Barney S. Heath  
Director

May 31, 2018

Meredith Bennett or current owner  
230 Dudley Road  
Newton, MA 02459

### Re: Potential Encroachment into Hahn Brook Conservation Area

Dear Ms. Bennett,

During a recent site visit to our Hahn Brook Conservation Area to evaluate whether any cleaning/dredging of the stream bed is needed, I noticed what may be significant encroachment of your lawn and landscaping onto the City conservation land beside your driveway.

Upon returning to my office, I sought to determine the location of the property boundary. I found in our files the original deed for the Hahn Brook Conservation Area and the referenced plans. I also checked the plans from three open Order of Conditions (#239-146, #239-222, #239-318) on the property, a 2005 administrative approval for the installation of a pool, and our GIS aerials.

I have appended below an annotated aerial photo showing the area of apparent encroachment based on the documentation available in our files, the deed referenced plan from City acquisition of Hahn Brook Conservation Area, and a 2005 Survey of 230 Dudley Road the showing property line in question.

If you have any documentation relating to the property lines, the lawn area beside your driveway (or the three open orders of conditions), please share it with me. I would like to gather all pertinent information then arrange for a site visit to discuss the matter and a path to resolution.

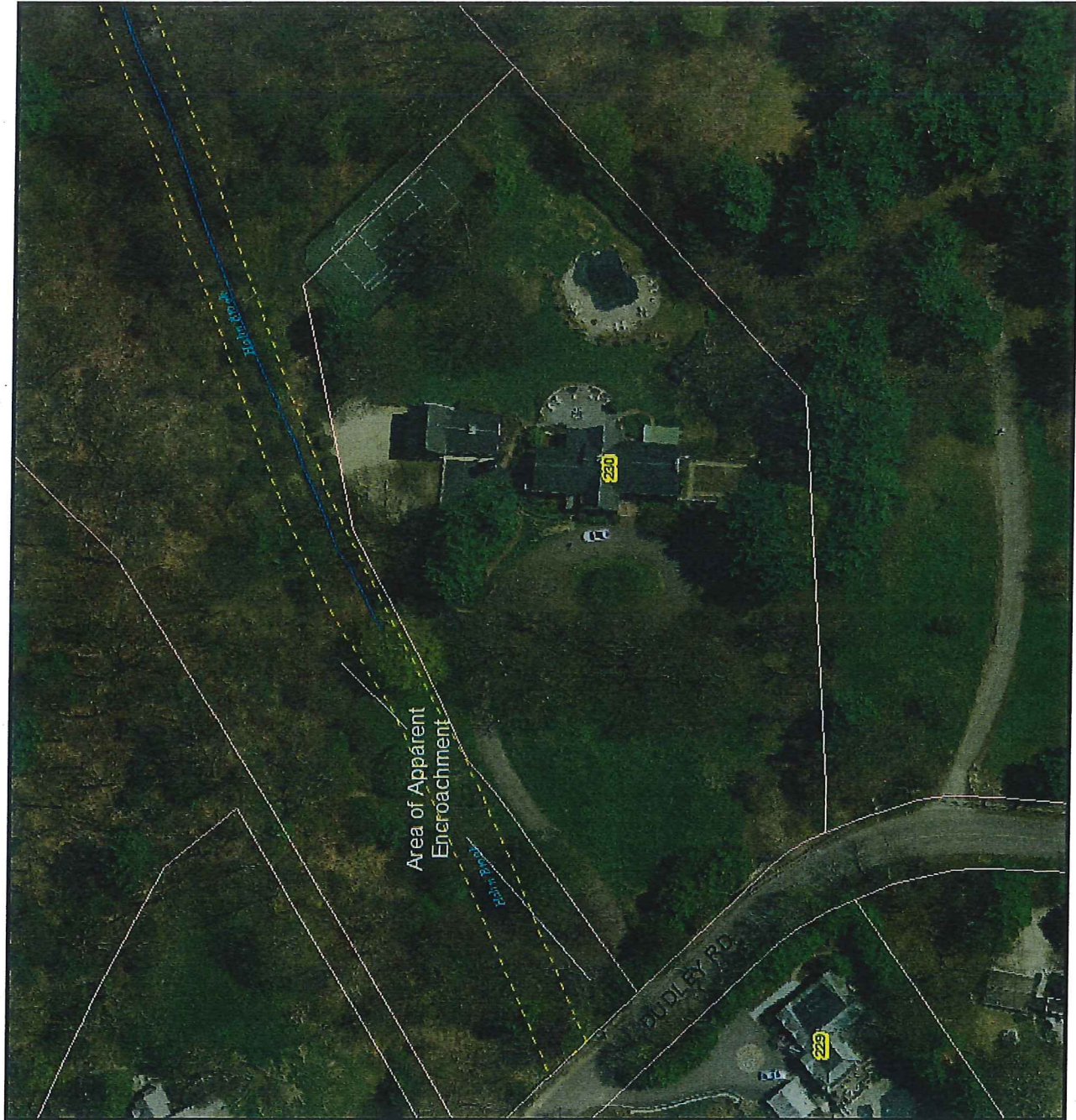
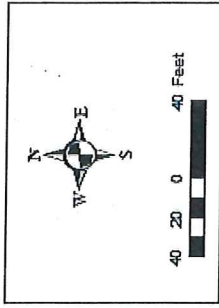
Please contact me at your earliest convenience. I can be reached by phone at 617-796-1134, by email at [jsteel@newtonma.gov](mailto:jsteel@newtonma.gov), or by mail at Conservation Office, Basement Level, 1000 Commonwealth Ave., Newton, MA 02459.

Thank you for your consideration.

For the Commission,

Jennifer Steel  
Chief Environmental Planner

**230 Dudley Rd.  
 Apparent Encroachment  
 North of Driveway  
 Newton, Mass.  
 Map Date: 05-31-2018**

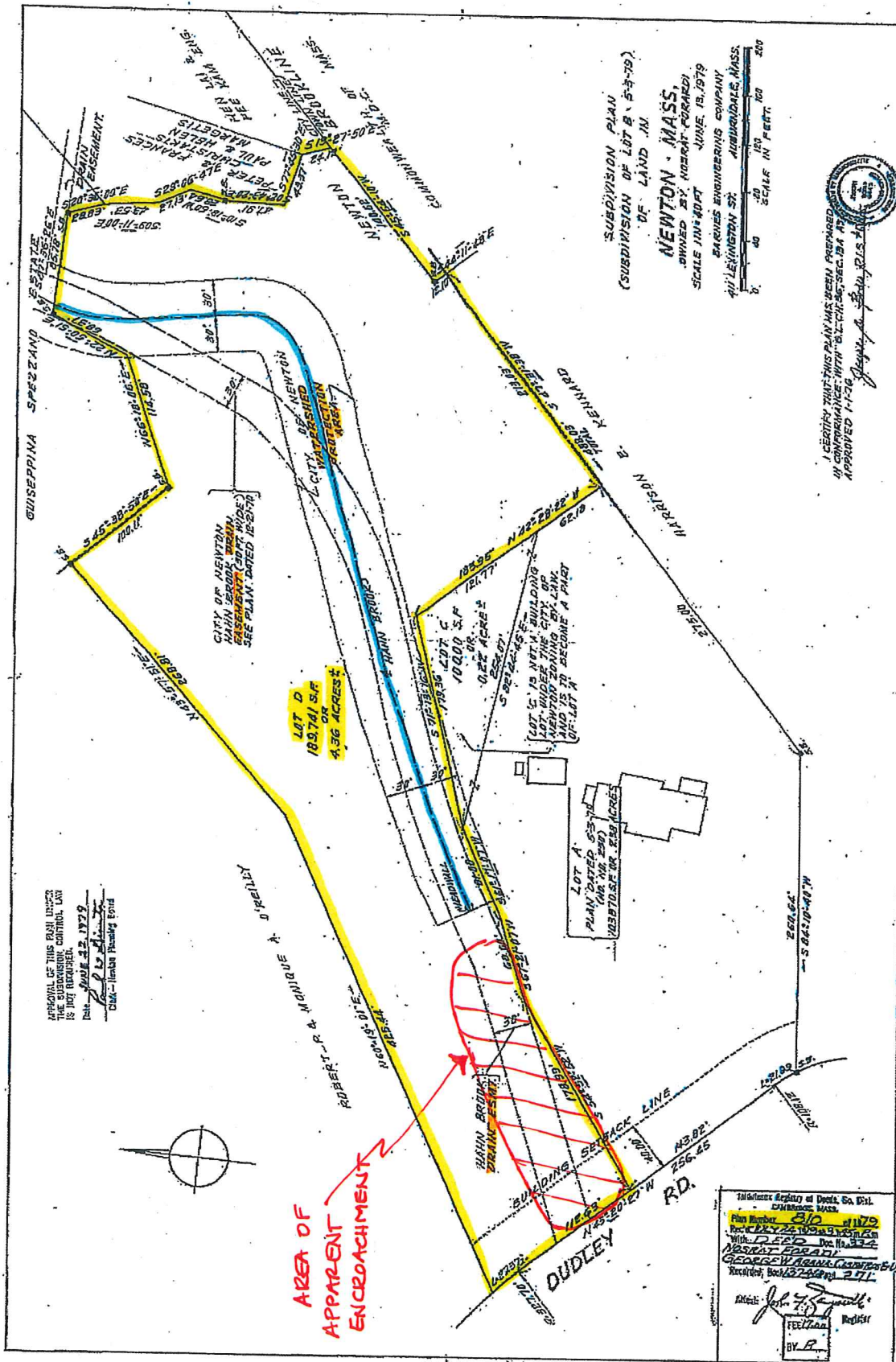


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for the use intended. Please. City departments will not necessarily approve applications based solely on GIS data.

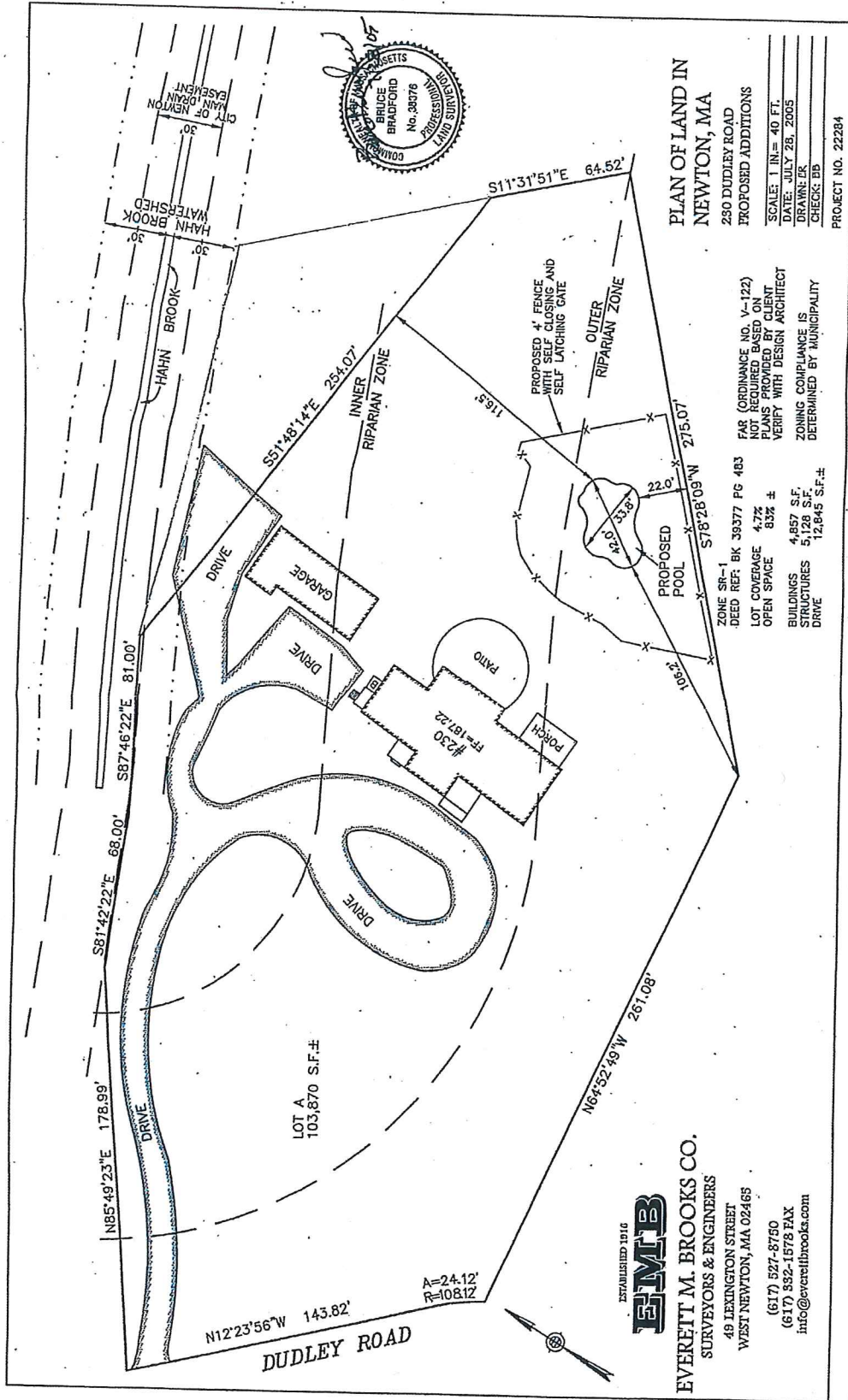


**CITY OF NEWTON, MASSACHUSETTS**  
 Mayor - Ruthanne Fuller  
 GIS Administrator - Douglas Greenfield

Aerial showing area of apparent encroachment.



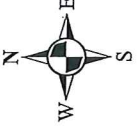
Deed referenced plan from City acquisition of Hahn Brook Conservation Area (in yellow highlighter)



184WP-JUL27-05-JMG

2005 Survey of 230 Dudley Road showing property line very close to driveway (Note: triangular lot with drive extension is joined with house lot)





Newton, Mass.

261 Parker St.

8c Area of potential/apparent utility encroachment

261 Parker St

Legend



The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve applications based solely on GIS data.

CITY OF NEWTON, MASSACHUSETTS  
Mayor - Scott D. Warren  
GIS Administrator - Douglas Greenfield



# CONSERVATION COMMISSION MINUTES

Date: May 17, 2018  
Time: 7:02 pm  
Place: City Hall, Room 204

**With a quorum present**, the meeting opened with Susan Lunin, Vice-Chair, presiding  
**Members Present:** Judy Hepburn, Norm Richardson, Jeff Zabel, Kathy Cade (Associate) Dan Green (7:10),  
Ellen Katz (7:15)  
**Staff Present:** Jennifer Steel  
**Members Absent:** Ira Wallach  
**Members of the Public:** See sign-in sheet

## DECISIONS

### I. WETLANDS

#### 1. RDA – 47 Kingswood Rd – dock installation

- o **Request:** Applicant proposes to install an 8'x4' dock to allow kayak launches onto Ware's Cove of Charles River. The year-round dock will sit on cobbles on the shore and be anchored in the river with two 3-inch galvanized steel posts. 4 native shrubs are proposed as mitigation.
- o **Owner/Applicant:** Jerry Wald      **Representative:** Jerry Wald
- o **Documents Presented:** colored plans photos, draft DOA
- o **Jurisdiction:** Bank, Riverfront Area, Buffer Zone, and City and FEMA Floodplain (BLSF)
- o **Discussion and Presentation**
  - There is currently very little vegetation and an existing cobble area on the bank where the dock is due to be placed. There is little vegetation under the water. Disturbance would be minimal.
  - Shrubs must be native (e.g., clethra or vaccinium) and at least 3' tall when installed.
  - There was concern about loss of flood storage and being consistent in the requirement for compensatory flood storage. Ultimately, the majority of the Commission decided that since the dock will be elevated above normal river level (i.e., in the highest portion of the flood elevation) and will be only 5 cu ft of materials, and that creation of compensatory storage would be destabilizing, compensatory storage would not be required in this instance.
- o **Vote:** Issue a Negative 3 Determination with the following special condition [Motion: Dan Green; Second: Jeff Zabel; Vote 4:1:0]
  - 4 native shrubs of at least 3' in height are to be planted along the bank, two on each side of the proposed dock.

#### 2. Ex Post Facto NOI – 190 Sumner Street – DEP File #239-806

- o **Request:** Ex post facto filing for grading changes and the construction of an addition on a duplex, along with proposed driveway changes and landscaping. The applicant is now seeking an OOC for:
  - ex post facto permission for the tiny portion (~36 sf) of the addition in Buffer Zone
  - ex post facto permission for the driveway grading that was done in RFA
  - new permission to pave ~400 sf of expanded driveway in RFA
  - acceptance of plans to plant with grass, trees, and shrubs the remainder of the lot within Commission jurisdiction.
- o **Owner/Applicant:** Samuel Roth      **Representative:** Samuel Roth
- o **Documents Presented:** colored plans photos, draft OOC
- o **Jurisdiction:** RFA and Buffer Zone



**Mayor**  
Ruthanne Fuller

**Director  
Planning &  
Development**  
Barney Heath

**Senior  
Environmental  
Planner**  
Jennifer Steel

**Assistant  
Environmental  
Planner**  
Claire Rundelli

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

**Conservation  
Commission  
Alternates**  
Kathy Cade

1000 Comm. Ave.  
Newton, MA 02459  
T 617/796-1120  
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[www.newtonma.gov](http://www.newtonma.gov)

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- Discussion and Presentation
  - **Riverfront Area on lot:** The Riverfront Area on this property is oddly configured (because of the sinuous culverted stream) extending 200' from the length of each side of the small, L-shaped length of stream that is daylighted, see map included in packet. This means that only a portion of the lot is RFA. The jurisdictional areas on the lot encompass a small portion of the addition (BZ only), the areas of grading changes (RFA/BZ), proposed driveway changes (RFA/BZ), and proposed landscaping (RFA/BZ).
  - **Project History:** Work on this site was initiated when a detached garage collapsed in 2016. Jennifer gave administrative approval for the demolition of the collapsed garage. Unfortunately, the applicant was not sent to the Con Com for the addition of a two-car garage and extra living space for the duplex units on the back of the existing duplex in 2016. Fortunately, the footprint of the addition was entirely outside RFA and only a tiny bit was in outer Buffer Zone. Unfortunately, grading for the driveway was done in RFA and Buffer Zone and exceeded the originally proposed plans approved by the Building Department.
  - **Filing Requirements**
    - Staff did not feel that an Alternatives Analysis was necessary since:
      - The grading has been done
      - the unpermitted work in RFA done to date was grading (not expansion of impervious area)
      - new proposed work (driveway expansion of ~400 sf) in RFA could be considered "accessory to a residential structure" and therefore exempt from the need to file.
      - the applicant is proposing to "re-green" much of the graded area
      - construction occurred only in outer Buffer Zone
      - The project(s) do result in an increase in impervious area within RFA (but not an overall increase in impervious area on the lot)
    - Staff did feel that an NOI was appropriate to fully document changes on the site (especially within RFA) and to obligate the applicant to a robust planting plan.
  - **Required plan change:** The paved driveway shall be removed along the 14.0' dimension between the garage door and the entry door to the house. Pavers, lawn, or plantings may be installed in this area.
  - **Landscape plantings.** The Commission approved the proposed landscape planting plans and noted their desire to have the MWRA easement area planted with native shrubs and groundcover if the MWRA agrees to the proposed plans.
- **Vote:** Issue an Order of Conditions with the following special conditions [Motion: Norm Richardson; Second: Jeff Zabel; Vote 6:0:0]
  - Pre-construction site visit to ensure proper erosion and sediment control.
  - The paved driveway shall be removed along the 14.0' dimension between the garage door and the entry door to the house.
  - All plants shown outside of the MWRA easement must be installed as per the approved plans. Desired deviations from the approved plans must be approved by the Conservation office in advance. Plantings must survive over 75% of the planting area for 2 growing seasons for a Certificate of Compliance to be granted. Native shrubs and groundcover shall be planted within the MWRA easement area if the MWRA and the owner agree on plantings.

### 3. OOC Extension – 777 Dedham Street – DEP File #239-697

- **Request:** 60-day extension request to finish up drainage work including: pipe overflow from infiltration system to new discharge near edge of pond, install more pervious areas to reduce total runoff, and restore disturbed area behind "maintenance" building. Applicant reports that most of the work was completed last fall, but the weather conditions were too cold to install curbing. Curbing installation is the final portion of the approved work.
- **Owner/Applicant:** Cheryl St. Pierre-Sleboda (Mt. Ida College) **Representative:** none
- **Documents Presented:** draft OOC extension
- **Jurisdiction:** Buffer Zone
- **Vote:** Issue an extension on the Order of Conditions for DEP File #239-697. [Motion: Dan Green; Second: Jeff Zabel; Vote 6:0:0]

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#### 4. COC Request – 95 Albemarle Rd – DEP File #239-464

- Request: Certificate of Compliance for demolition of and construction of a single-family home, in the existing footprint of previous house at 95 Albemarle Rd.
- Owner/Applicant: Frank Antonellis      Representative: self
- Documents Presented: photos, draft COC
- Jurisdiction: RFA and Buffer Zone
- Staff Notes: This request is essentially a re-sign, since the project was closed out in 2008, but only one of two COC's was issued.
  - The first application for 95 Albemarle, DEP #239-457, was for an addition on a SFH (January 2003).
  - The applicant then sought to tear down the SFH and rebuild the entire approved footprint (SFH + addition).
  - The Con Com required a new filing so the applicant filed DEP #239-464 (July 2003).
  - The applicant demo-ed the old SFH and built the new house in exactly the same/approved footprint.
  - Bibbo completed an as-built survey and close out letter (Dec. 2, 2004) and the applicant filed for a COC for #239-457 only, which the Con Com issued as "complete" on March 12, 2008. The applicant never filed for a COC for #239-464. [The ConCom should have cited 239-457 "work never initiated" and 239-464 as "complete".]
  - A staff site visit confirmed compliance.
- Vote: Issue a complete Certificate of Compliance. [Motion: Norm Richardson; Second: Judy Hepburn; Vote 6:0:0]

## II. CONSERVATION AREAS

#### 5. Norumbega Conservation Area – Parks and Recreation Off-Leash Dog Park Proposal

- Request: Parks and Recreation would like Commission approval of a scope of work and preliminary sketch to accompany an RFP for the design and construction of an off-leash dog park at the Norumbega Conservation Area.
- Documents Presented: sketch plan, City ordinance excerpt, draft scope of work
- Discussion:
  - The plans comport with what the Commission agreed to in concept at the May 4, 2017 meeting when Bob DeReubis presented the overall concept.
  - This portion of Norumbega Conservation Area is significantly degraded: asphalted, fenced, and overrun with an invasive understory.
  - The proposal would result in:
    - Removal of asphalt, fallen trees, and some of the invasives
    - Better enforcement of off-leash dogs in the remainder of the Conservation Area
    - Enhanced parking on and entry from Comm. Ave.
    - Parks and Rec being responsible for maintenance
    - Maintained pedestrian access outside the fenced dog park area.
  - The Commission would like to see:
    - Plans
      - Continued attractive access/connectivity for non-dog pedestrians must be a priority (coming off Comm Ave. and coming from the end of Woodbine). Perhaps the trail off Comm Ave could go across the wooded hillside close to the vet's office?
      - The Marriott fence along the parking lot is collapsing and could possibly be re-installed by them but be used by the dog park ...
      - In general, the Commission does not support lighting in natural areas because of the detrimental effects on nocturnal creatures. Please clarify the need/intentions in this regard.
    - Management
      - One member noted his concern that inviting dog owners/walkers to the area would actually put more off-leash dog pressure on the Conservation Area, with no more ability to enforce the leash law than we now (do not) have. Can you describe your experience at Cold Spring Park or anywhere else with regard to that and to any plans for expanded enforcement at the off-leash sites?
      - Leashes will have to be employed between Woodbine and the off-leash area.

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- Apparently the dog waste bags (the Mutt Mitt bags) are not being refilled at the pet waste station at Norumbega, so there is concern that management of the new area be clearly identified and agreed to in advance of a “transfer of custody”
- Overall
  - The Commission would like to review the RFP before it goes out for bids
  - P&R needs to figure out how, from a legal perspective, the Con Com can “surrender” lands that were set aside for conservation purposes. (with regard to Ch 40 Sec 8c protection and the Massachusetts Recreational Use Statute, G.L. ch. 21, § 17C)
- Consensus: review the RFP before it goes out for bids

### III. ADMINISTRATIVE

6. **Discussion of Commission Roles** – discussion postponed to next meeting when Ira Wallach (chair) will be present.

7. **Minutes of 4/26/18 to be approved.**

- Documents Presented: draft minutes draft minutes
- Vote: To approve 4/26/18 minutes with Dan Green’s edits incorporated. [Motion: Dan Green; Second: Ellen Katz; Vote 6:0:0]

### IV. ISSUES AROUND TOWN – nothing to vote on

## UPDATES

### V. WETLANDS

- 56 Farwell abutters appealed. Jennifer Steel submitted a response to DEP.
- MBTA Greenline tree cutting has concluded. Some clean-up remains.
- MBTA Positive Train Control project. Big communications infrastructure improvement project. DEP has declared it exempt from the need to file.
- Vernal Pool Taskforce has been quiet. Jennifer Steel will submit comments on recent draft. Taskforce will submit draft for pro bono legal review.

### VI. CONSERVATION AREAS – no updates

### VII. ISSUES AROUND TOWN

- Newton Serves occurred on 4/29/18 and was very successful! There were four invasive pulls scheduled for the day and the turn out was fantastic.
- Climate Action Plan being developed by Energy Committee representatives, Sustainability Office, and Planning Department.
- Staff submitted a grant application for the Municipal Vulnerability Preparedness Program on 5/11/18 and will hear about funding distribution by early June.

### VIII. ADMINISTRATIVE MATTERS - no updates

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

**ADJOURN** Vote to Adjourn at 9:30pm [Motion: Dan Green; Second: Jeff Zabel; Vote 6:0:0]

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