

# CONSERVATION COMMISSION AGENDA

The Conservation Commission will hold this meeting as a virtual meeting on Thursday, August 6, 2020 at 7:00 pm. No in-person meeting will take place at City Hall.

Zoom access information for the August 6, 2020 Conservation Commission meeting will be posted at the following web address 48 hours in advance of the meeting.

<http://www.newtonma.gov/gov/planning/conserv/default.asp>

Please feel free to email [jsteel@newtonma.gov](mailto:jsteel@newtonma.gov) and [crundelli@newtonma.gov](mailto:crundelli@newtonma.gov) with any questions about filings prior to the meeting or access to the meeting.

**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

### I. WETLANDS DECISIONS

1. **Various Locations in Newton – RDA – herbicide spraying along commuter rail**
  - Owner: Massachusetts Bay Transportation Authority (MBTA) Applicant: Clary Coutu, Keolis Commuter Services Representative: Tim Dermody, Fair Dermody Consulting Engineers
  - Request: Issue a DOA.
2. **55 Bernard Street – NOI – ex post facto – vegetation removal and stockpiling in flood zone – DEP File #239-XXX**
  - Owner/Applicant: Jim Corsi, Corsi Realty LLC Representative: John Rockwood, EcoTec, Inc.
  - Request: Issue OOC.
3. **24 Village Road – NOI (cont'd) – construction of new detached garage and new driveway – DEP File #239-866**
  - Owner/Applicant: Hisham Salem Representative: Anthony Stella, Site Engineering Consultants, Inc.
  - Request: Issue OOC.
4. **39 Norwood Avenue – NOI – demolition of greenhouse and shed/construction of SFH addition – DEP File #239-XXX**
  - Owner/Applicant: John Shields Representative: self
  - Request: Issue OOC.
5. **35 Spiers Road – NOI – teardown/rebuild single-family home with associated site features – DEP File #239-XXX**
  - Owner/Applicant: Andrey Agamov Representative: Karon Skinner Catrone
  - Request: Issue OOC.
6. **210 Upland Avenue – Notice of Intent – proposed retaining wall – DEP File #239-XXX**
  - Owner/Applicant: Matthew Border Representative: Karon Skinner Catrone
  - Request: Continue hearing to 8/27/20.

### II. CONSERVATION AREA DECISIONS

### III. ADMINISTRATIVE DECISIONS

7. Tree Replacement Policy
8. Unrestricted Hydraulic Flow
9. Earthmoving in the context of Zoning Redesign and Stormwater Ordinance
10. Minutes of 7/16/20 to be approved

IV. ISSUES AROUND TOWN DECISIONS – None at this point in time.

## UPDATES

### V. WETLANDS UPDATES

### VI. CONSERVATION AREA UPDATES

### VII. ISSUES AROUND TOWN UPDATES

### VIII. ADMINISTRATIVE MATTER UPDATES

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

**ADJOURN**



**Mayor**  
Ruthanne Fuller

**Director  
Planning &  
Development**  
Barney Heath

**Chief  
Environmental  
Planner**  
Jennifer Steel

**Assistant  
Environmental  
Planner**  
Claire Rundelli

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

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## DECISIONS

### I. WETLANDS DECISIONS

#### 1. Various Locations in Newton – RDA – herbicide spraying along commuter rail

- Owner: Massachusetts Bay Transportation Authority (MBTA) Applicant: Clary Coutu, Keolis Commuter Services Representative: Tim Dermody, Fair Dermody Consulting Engineers
- Request: Issue a DOA.
- Documents Presented: Plans, draft DOA
- Jurisdiction: Riverfront Area
- Performance Standards: Various exemptions:
  - 10.03(6)(c) for the work in Riverfront Area
  - 10.58(6)(a) maintenance of rail lines in RFA
- Project Summary
  - Wetland boundary determination: Keolis must get wetland/sensitive-area maps approved through this RDA.
  - Work determination: Applicant proposes to do mechanical weed control and spray herbicides, per best management practices, along the commuter rail tracks with key locations marked as limited or no-spray due to wetlands presence immediately adjacent to the tracks.: Under right-of-way (ROW) regulations, such work must be performed in compliance with an MDAR-approved 5-year vegetation management plan (VMP) and yearly operating plan (YOP). When that is the case, various exemptions apply.
- Staff Notes
  - Inaccuracies of the application:
    - The applicants claim of exemption under 10.02(2)(a)(2) is incorrect -- railway is not a listed public service.
    - The presumption of "no alteration" in 10.03(6)(b) only pertains to buffer zone -- not Riverfront Area.
    - The wetland jurisdictions on the commuter rail line are Buffer Zone and Riverfront Area. All other "sensitive" areas shown on the plans are not wetland jurisdiction.
  - Conclusions
    - The maps should be corrected to show only the Riverfront Area
    - The DOA should approve the revised maps (as required by under 333 CMR 11.00).
    - The DOA should reference the following exemptions:
      - 10.03(6)(b) Any application of herbicides within the Buffer Zone, other than as provided in 310 CMR 10.03(6)(a), shall be presumed not to alter an Area Subject to Protection under M.G.L. c. 131, § 40, only if the work is performed in accordance with such plans as are required by the Department of Food and Agriculture pursuant to 333 CMR 11.00: Rights of Way Management, effective July 10, 1987. This presumption shall apply only if the person proposing such activity has requested and obtained a determination of the boundaries of the Buffer Zone and Areas



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Subject to Protection under M.G.L. c. 131, § 40 in accordance with 310 CMR 10.05(3)(a)1. and 2.; and has submitted that determination as part of the Vegetation Management Plan.

- 10.03(6)(c) for the work in Riverfront Area: “Any application of herbicides for management of rights of way within a riverfront area not subject to 310 CMR 10.03(6)(a) or (b), provided the area is outside any other resource area and qualifies under the provisions of 310 CMR 10.58(6)(a), shall be accorded an exemption of such work under M.G.L. c. 131, § 40, provided that the application of herbicides is performed in accordance with such plans as are required by the Department of Food and Agriculture pursuant to 333 CMR 11.00: Rights of Way Management.”
- 10.58(6)(a): maintenance of rail lines is allowed without an NOI.
- Staff Recommendations: If revised maps are received, vote to issue a determination as noted above.

## 2. **55 Bernard Street – NOI – ex post facto – vegetation removal and stockpiling in flood zone – DEP File #239-XXX**

- Owner/Applicant: Jim Corsi, Corsi Realty LLC Representative: John Rockwood, EcoTec, Inc.
- Request: Issue OOC.
- Documents Presented: Colored plans, site photos, draft OOC
- Jurisdiction: Buffer Zone, Riverfront Area, BLSF, City Floodplain
- Performance Standards
  - **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 to the max. extent feasible...
        - 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 to attenuate nonpoint source pollution.
  - **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&2) ... the conservation commission may issue an order of conditions for [grading] for which compensatory storage is provided ...
- Project Summary
  - The owner of this parcel did a tear-down/re-build of a SFH. The requested work was administratively approved as being entirely outside ConCom jurisdiction. Without permission, the owner exceeded the limit of work line and cut “dead” trees and scrub growth within ConCom jurisdiction. One large healthy oak was also removed from the property. An Enforcement Order was issued requiring the filing of a NOI and restoration plantings.
  - Total restoration plantings include 10 canopy trees, 20 understory trees, 104 shrubs.
- Staff Notes:
  - Photos from 2006 indicate that the site used to be fully lawned to the rivers’ edge.
  - The proposal does indicate a reduction in turf grass through the installation of wood chip planting beds.
  - The applicant indicates that 12 “dead” trees (204”) were cut without a ConCom permit. This is shown as “Landscape Phase 1” on an engineered plan. During my 2019 preliminary site visit, I noted only one hazard tree and provided administrative approval for its removal.
  - One large live tree was also cut without a ConCom permit.

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- The applicant has planted 10 spruce trees along the southern property line and 8 rhododendrons on the north and south property lines.
- The “Phase 2 Landscape” i.e., the restoration planting plan now includes:
  - 8 “habitat islands” within the originally shown wood chip planting beds, that will each have 10 shrubs clustered around 1 understory tree, where originally only shrubs were proposed.
  - 6 “free-standing” canopy trees have been added to the 2 River birches previously proposed. These additional trees are outside of or just along the edge of the proposed woodchipped beds.
  - River bank restoration plantings including 4 trees and 16 shrubs.
- The total proposed plantings for the site are:
  - 4 canopy saplings along the bank,
  - 6 canopy trees “free-standing”,
  - 2 understory trees “free-standing,”
  - 8 understory trees in woodchipped beds,
  - 10 spruce trees (already installed),
  - 8 rhododendrons (already installed),
  - 80 shrubs in woodchipped beds, and
  - 16 shrubs along the bank.
- Staff Recommendation: Vote to close the hearing and issue an Order of Conditions with the following special conditions.
  - Trees and shrubs (of the species, number and sizes shown on the plans) must be installed this fall. Any changes to species, number or sizes must be approved by the Conservation Office in advance of installation.
  - No additional fill ...
  - Lawn may be seeded or sodded, but no additional loam/fill ...

**3. 24 Village Road – NOI (cont’d) – construction of new detached garage and new driveway – DEP File #239-866**

- Owner/Applicant: Hisham Salem Representative: Anthony Stella, Site Engineering Consultants, Inc.
- Request: Issue OOC.
- Documents Presented: Colored plans, site photos, draft OOC
- Jurisdiction: Riverfront Area
- Performance Standards
  - **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 to the max. extent feasible....
      - 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 to attenuate nonpoint source pollution.
- Project Summary
  - Construction of a 24’x26’ detached, 2-car garage. Existing garage will be converted to storage.
  - Pouring of a new asphalt driveway that begins at 12’ in width at the curb cut and expands gradually to be 22’ wide where it meets the proposed garage.
  - The project will result in a ~1200 s.f. increase in impervious area, all within the outer riparian zone.
  - Installation of underground infiltration chambers and trench drain will collect runoff from driveway and new roof.
  - Installation of 3 mitigation planting areas will total 1211 s.f.
- Staff Notes
  - Applicant is conducting a title search to determine the legality of construction in the 25-foot set back.
  - At the Commission’s request, the applicant has proposed to eliminate half (7’x30’) of the existing driveway and create a mitigation planting bed in its place. (N.B. both are outside ConCom jurisdiction.)
  - The total curb cut will now be 22’ (10’ from the existing drive and 12’ from the proposed drive)
  - The erosion control detail has been amended to include staked silt fence and a compost sock.

- Engineering comments have been received and the project meets the City of Newton drainage requirements.
  - 1 Norway maple and 1 peach tree will be removed. Two mature shrubs have already been removed in connection with the digging of test pits.
  - Three mitigation beds are now proposed for a total of 1211 s.f. Native plants have been proposed (in addition to some non-native transplants). One “evergreen tree” has been proposed, but not specified in any way.
  - Staff Recommendations: Review the revised plans and vote to issue an OOC if it is felt that the intent of the Act and the requirement of “At a minimum, a 100’ wide area of undisturbed vegetation is provided... preserved or extended to the max. extent feasible...” is being upheld.
- 4. 39 Norwood Avenue – NOI – demolition of greenhouse and shed/construction of SFH addition – DEP File #239-XXX**
- Owner/Applicant: John Shields Representative: self
  - Request: Issue OOC.
  - Documents Presented: Colored plans, site photos, draft OOC
  - Jurisdiction: Buffer Zone
  - Performance Standards
    - **Buffer Zone. 10.53(1): General Provisions** “For work in the Buffer Zone subject to review under 310 CMR 10.02(2)(b)3., the Issuing Authority shall impose conditions to protect the interests of the Act identified for the adjacent Resource Area. ... where prior development is extensive, may consider measures such as the restoration of natural vegetation adjacent to a Resource Area to protect the interest of [the Act]. ... The purpose of preconstruction review of work in the Buffer Zone is to ensure that adjacent Resource Areas are not adversely affected during or after completion of the work.”
  - Project Summary
    - Demolish existing greenhouse and shed structures.
    - Construct addition onto single family home where existing greenhouse and shed are located. Increase in impervious area within jurisdiction is roughly ~289.5 s.f.
    - Relocate 5 existing lilac and buckeye plants to accommodate the construction.
  - Staff Notes
    - The plans provided are missing a few key details. Proposed plans also show an increase of impervious area by 68.7’, which seems incorrect based on the amount of existing impervious seen on the site. VTP may have been counting the existing bluestone paver patio as impervious, but based on aerial photos and staff site visit, this area is still, for the most part, permeable compared to a building structure.
    - The Commission should determine what, if any, mitigation plantings are appropriate for the increase in impervious area within buffer zone.
  - Staff Recommendations: Vote to continue the hearing, if necessary, to allow for revised plans to be presented with the following revisions.
    - Add the 100’ Buffer Zone line
    - Add erosion controls and provide erosion control detail
    - Any proposed/required mitigation plantings (include species and numbers to be planted) AND the proposed lilac/buckeye to be relocated.
- 5. 35 Spiers Road – NOI – teardown/rebuild single-family home with associated site features – DEP File #239-XXX**
- Owner/Applicant: Andrey Agamov Representative: Karon Skinner Catrone
  - Request: Issue OOC.
  - Documents Presented: Colored plans, site photos, draft OOC
  - Jurisdiction: Buffer Zone
  - Performance Standards
    - **Buffer Zone. 10.53(1): General Provisions** “For work in the Buffer Zone subject to review under 310 CMR 10.02(2)(b)3., the Issuing Authority shall impose conditions to protect the interests of the Act identified for the adjacent Resource Area. ... where prior development is extensive, may consider measures such as the restoration of natural vegetation adjacent to a Resource Area to protect the interest of [the Act]. ... The purpose of preconstruction review of work in the Buffer Zone is to ensure that adjacent Resource Areas are not adversely affected during or after completion of the work.”

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- Project Summary
  - Demolish existing single-family home.
  - Construct new single-family home with associated patio within the outer 50' of the buffer zone. Install 2 infiltration systems to collect roof and driveway runoff.
  - Increase in impervious area within the buffer zone is roughly 610 s.f.
  - Plant 3 sugar maple saplings, 3 common bearberry shrubs, and 5 sweet ferns as mitigation.
- Staff Notes
  - The limit of work line is unrealistically close to the edge of grading, excavation, and construction.
  - Applicant should clarify if the existing wooden fence is due to be removed and replaced.
  - The narrative states that no trees are proposed to be removed, yet no tree protection is proposed for the trees within the limit of work line (1 Arborvitae). There is also a Norway Maple (10") just outside the limit of work that will likely have its roots impacted by construction.
  - The mitigation planting plan is very dense and small, and all plantings should be done on the subject lot, as the plans appear to show plantings occurring beyond property boundaries.
  - There is an existing oak tree in the neighboring lot adjacent to the proposed plantings in the rear corner. It is fairly small and may not impact the growth of the proposed maples, but the location of the southern most maple should be shifted closer to the proposed house to ensure no conflict.
  - There is quite a bit of dumping/littering that appears to have been taking place over the years by previous owners including trash, old fence pieces, and a large pile of grass clippings. The applicant should consider cleanup of these dumping areas during construction to right the historic issue.
- Staff Recommendations: If staff concerns are addressed appropriately, vote to close the hearing and issue an Order of Conditions with the following special conditions.
  - Should any of the three trees on the lot die within two years of construction or are shown to have been demonstrably harmed by the construction, these trees will be replaced at a ratio of 2:1.
  - All landscape plantings must survive two growing seasons at 100%.
  - Any new fence installed on the site must be elevated 6" from the ground to allow for wildlife passage.

**6. 210 Upland Avenue – Notice of Intent – proposed retaining wall – DEP File #239-XXX**

- Owner/Applicant: Matthew Border Representative: Karon Skinner Catrone
- Request: Continue hearing to 8/27/20.
- Documents Presented: none
- Jurisdiction: Buffer Zone, Riverfront Area
- Staff Notes: Applicant's representatives have requested a continuation as they start the Special Permit process, as retaining walls over 4' in height within setbacks require a special permit.
- Staff Recommendations: Vote to continue hearing to 8/27/20.

**II. CONSERVATION AREA DECISIONS -- None at this point in time.**

**III. ADMINISTRATIVE DECISIONS**

**7. Tree Replacement Policy**

- Staff Notes:
  - The ConCom's tree replacement policy sets guidelines for replacement based on size (mitigated by hazard and invasiveness). Often, large trees cannot be fully replaced, but there should be some standard. Ellen Katz suggested adapting (and adopting guidance for?) legacy trees: any live native tree ≥21 inches DBH and (or?) ≥150 years old.
  - Staff heard that a Councilor Norton of CRWA has an intern reviewing the existing Tree Ordinance and researching peer community policies in order to propose amendments to the existing policy.
- Staff Recommendation: Refine tree replacement guidelines to ensure our guidance is consistently implemented and is ecologically effective.

**8. Unrestricted Hydraulic Flow**

- Staff Notes:
  - The goal: guidance that can be reflected in proposed plans, OOC conditions, and administrative approvals.
  - The regulations and DEP offer minimal guidance and staff received little to nothing from FEMA, DEP, or colleagues that would clarify the best way to mitigate concerns regarding how to ensure that floodwaters remain on-site.
- Staff Recommendation: Characteristics to consider:
  - Foundations

- Foundation walls with openings (size required? covers allowed?) vs piers
- Deck/house skirting
  - Required elevation from the ground
  - Required/allowed scale and orientation of openings in lattice, screen, or slats
- Fences
  - Solid panel vs slat
  - Vertical slat vs horizontal slat
  - Elevated vs in the ground
  - parallel/perpendicular to stream flow

**9. Earthmoving in the context of Zoning Redesign and Stormwater Ordinance**

- Staff Notes: The City’s Environmental Engineer, Maria Rose, has expressed a willingness to consider including the issues of fill, retaining walls, and earthmoving into the new Stormwater Ordinance. We would like to hear the Commission’s main concerns and ideas about these issues so that we can provide Maria with some guidance.
- Staff Recommendation: Reflect on the main concerns regarding earth moving and retaining walls for staff to pass onto the team working on the Stormwater Ordinance and the Zoning Redesign efforts.

**10. Minutes of 7/16/20 to be approved**

- Documents Presented: draft minutes
- Staff Recommendations: Vote to accept the 7/16/20 minutes.

**IV. ISSUES AROUND TOWN DECISIONS – None at this point in time.**

**UPDATES**

**V. WETLANDS UPDATES**

**VI. CONSERVATION AREA UPDATES**

- COVID-19 heavy use: Trail repairs will be needed after use returns to more normal levels.
- Pending projects:
  - Old Deer Park -- Maintenance contractors did another round of mowing on 7/24/20.
  - CRP stairs – AAB variance application has been submitted!
  - Kessler boardwalk and bridge – a bid was released 6/18 but no bids were received. Staff have reached out and are anticipating an estimate from another firm with which we have worked before.
  - Webster stairs – we received a draft permit from DCR; it is under review by the Law Department.
  - Dolan crusher-run – we have received a material estimate and are hoping for a more thorough estimate for the entire levelling project, as the materials cost was well under what was anticipated.
  - Houghton Garden hydroraking and trail work – work due to begin as soon as the team can assemble and the water level is appropriate.

**VII. ISSUES AROUND TOWN UPDATES**

- OSRP: We received our conditional approval from the state; staff are working to address state-requested edits.

**VIII. ADMINISTRATIVE MATTER UPDATES**

- EnviSci Summer Program: is happening virtually.
- Interns: Our 2 high school interns through the Mayor’s internship program are doing well.

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

**ADJOURN**

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PROPOSED LIMITED SPRAY / NO SPRAY AREAS pt. 1 of 2

8/16/20



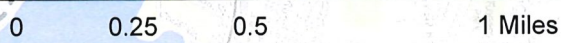
NEWTON PAGE 2



BOSTON LINE

NEWTON

BOSTON



TOWN: **NEWTON**

DATE: 7/15/2020

SCALE: 1:25,000

SHEET: 1 OF 2

- LIMITED SPRAY ZONE (1 YEAR INTERVAL)
- LIMITED SPRAY ZONE (2 YEAR INTERVAL)
- NO SPRAY ZONE

- DEP APPROVED ZONE I
- DEP APPROVED ZONE II
- IWPA

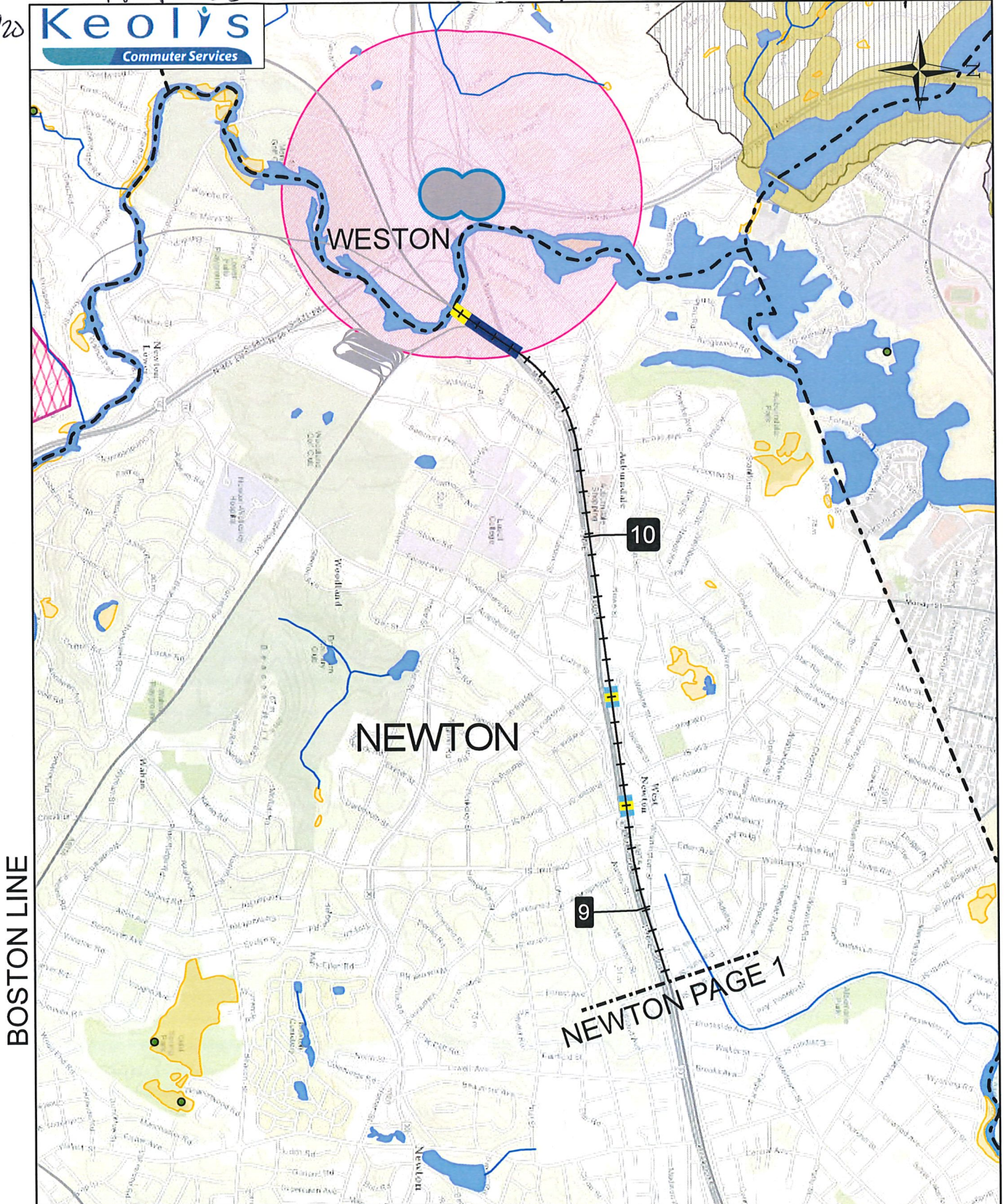
- ZONE A
- ZONE B
- NHESP PRIORITY HABITATS

- NATIONAL WETLANDS
- CERTIFIED VERNAL POOL



PROPOSED LIMITED SPRAY / NO SPRAY AREAS pt. 2 of 2

8/16/20



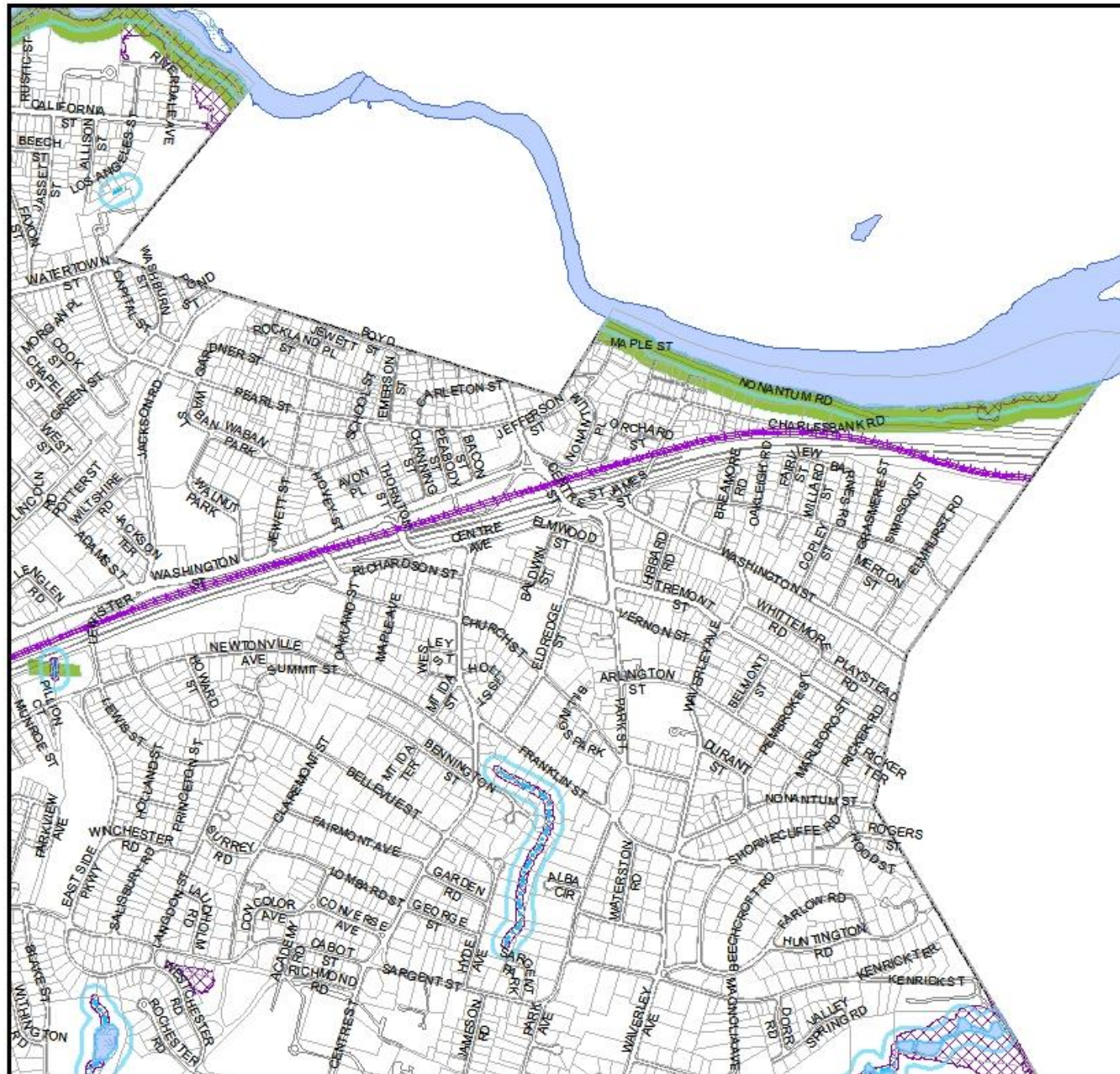
BOSTON LINE

NEWTON PAGE 1



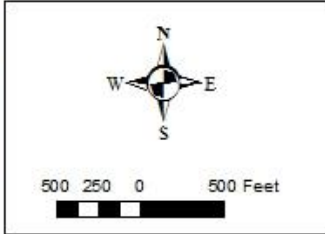
TOWN:	<b>NEWTON</b>	LIMITED SPRAY ZONE (1 YEAR INTERVAL)	DEP APPROVED ZONE I	ZONE A	NATIONAL WETLANDS CERTIFIED VERNAL POOL
DATE:	7/15/2020	LIMITED SPRAY ZONE (2 YEAR INTERVAL)	DEP APPROVED ZONE II	ZONE B	
SCALE:	1:25,000	NO SPRAY ZONE	IWPA	NHESP PRIORITY HABITATS	
SHEET:	2 OF 2				

# WETLAND RESOURCE AREAS ALONG COMMUTER RAIL



**Wetland Resource Areas along the Commuter Rail**

**Newton, Mass.**  
Map Date: 07-28-2020

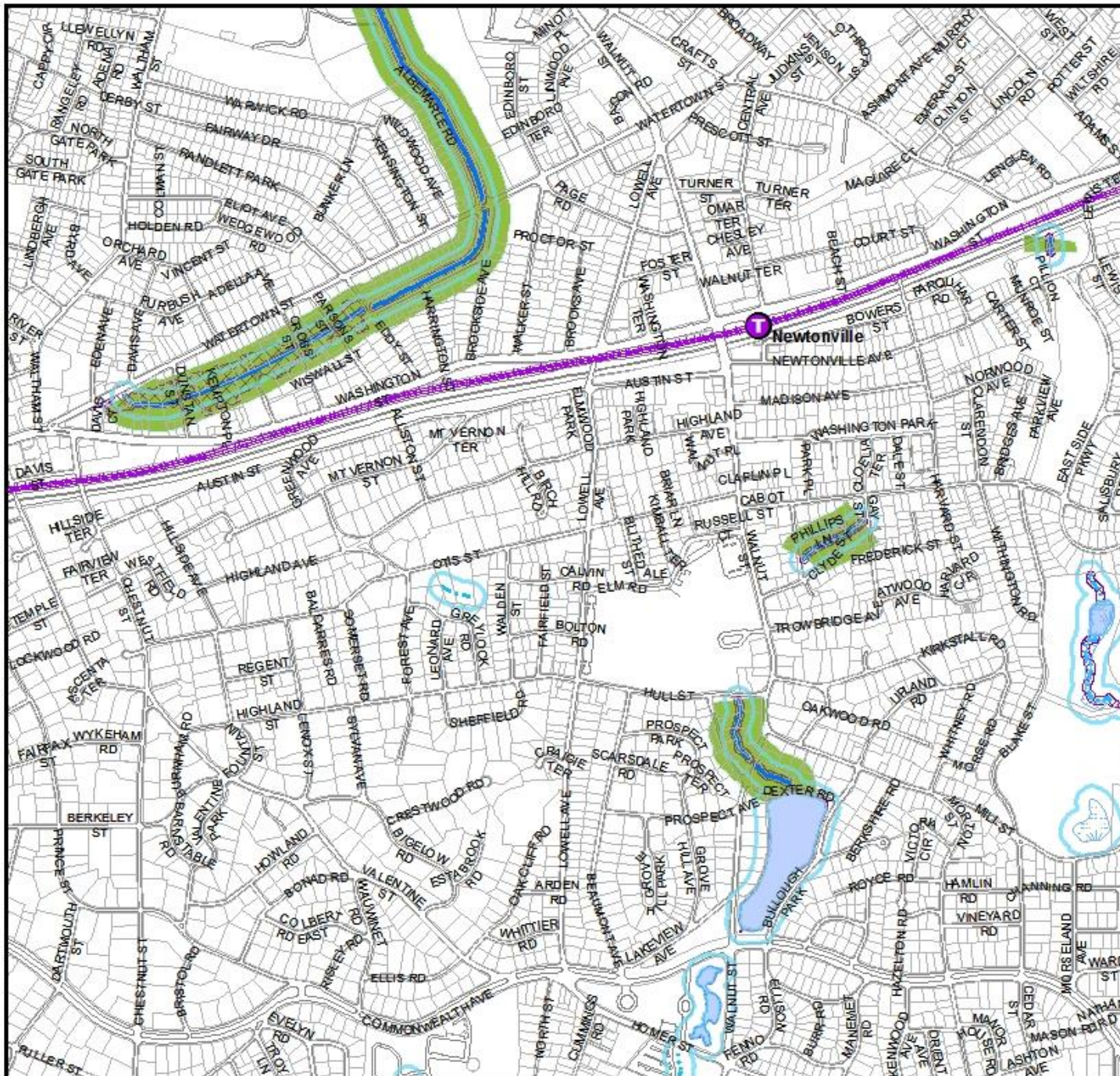


- Legend**
- Riverfront Areas
  - IWPA's
  - Wetland Buffer Line
  - Wetlands

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.

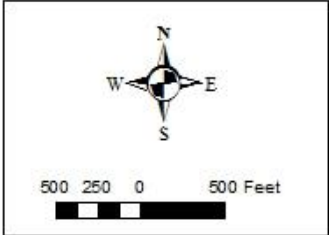
CITY OF NEWTON, MASSACHUSETTS  
Mayor - Ruthanne Fuller  
GIS Administrator - Douglas Greenfield

# WETLAND RESOURCE AREAS ALONG COMMUTER RAIL



**Wetland Resource Areas along the Commuter Rail**

**Newton, Mass.**  
Map Date: 07-28-2020



- Legend**
- Riverfront Areas
  - IWPA's
  - Wetland Buffer Line
  - Wetlands

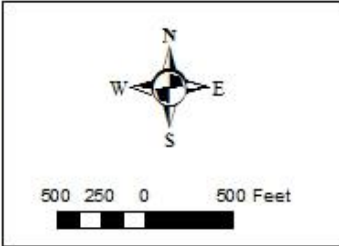
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# WETLAND RESOURCE AREAS ALONG COMMUTER RAIL



**Wetland Resource Areas along the Commuter Rail**

**Newton, Mass.**  
Map Date: 07-28-2020



- Legend**
- Riverfront Areas
  - IWPAs
  - Wetland Buffer Line
  - Wetlands

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 - Ruthanne Fuller  
GIS Administrator - Douglas Greenfield



55 Bernard St.  
for 8/6/20

6 canopy trees  
2 understory trees

PLANTING SPECIFICATIONS FOR INDIVIDUAL CANOPY AND UNDERSTORY TREES			
SPECIES	SYMBOL	CALIPER	QUANTITY
CANOPY TREE SPECIES			
NORTHERN RED OAK (QUERCUS RUBRA)	RO	1.5-2"	3
RED MAPLE (ACER RUBRUM)	RM	1.5-2"	3
UNDERSTORY TREES			
RIVER BIRCH (BETULA NIGRA)	RB	5-6"	2
PROPOSED TREE LOCATIONS AS SHOWN ON THE SITE PLAN. PLANTINGS TO BE MULCHED WITH LEAF COMPOST			

60-75'  
40-60'  
40-70'

4 trees  
16 shrubs

PLANTING SPECIFICATIONS FOR BANK PLANTING AREA		
SPECIES	HEIGHT	QUANTITY
TREE SPECIES		
AMERICAN WHITE CEDAR (CHAMAECYPARIS THYOIDES)	5-6'	2
PIN OAK (QUERCUS PALUSTRIS)	5-6'	2
SHRUB SPECIES		
RED OSIER DOGWOOD (CORNUS SERICEA)	3-4'	4
HIGH TIDE BUSH (IVA FRUTESCENS)	3-4'	4
COMMON BUTTONBUSH (CEPHALANTHUS OCCIDENTALIS)	3-4'	4
SILKY WILLOW (SALIX SERICEA)	3-4'	4
PLANTS TO BE PLACED BY THE QUALIFIED WETLAND SCIENTIST. THE PROPOSED SUBSTITUTION IS SPECKLED ALDER (ALNUS RUGOSA). PLANTINGS TO BE MULCHED WITH LEAF COMPOST		

50'  
60-70'

Total  
trees: 28  
shrubs: 106

8 trees  
80 shrubs

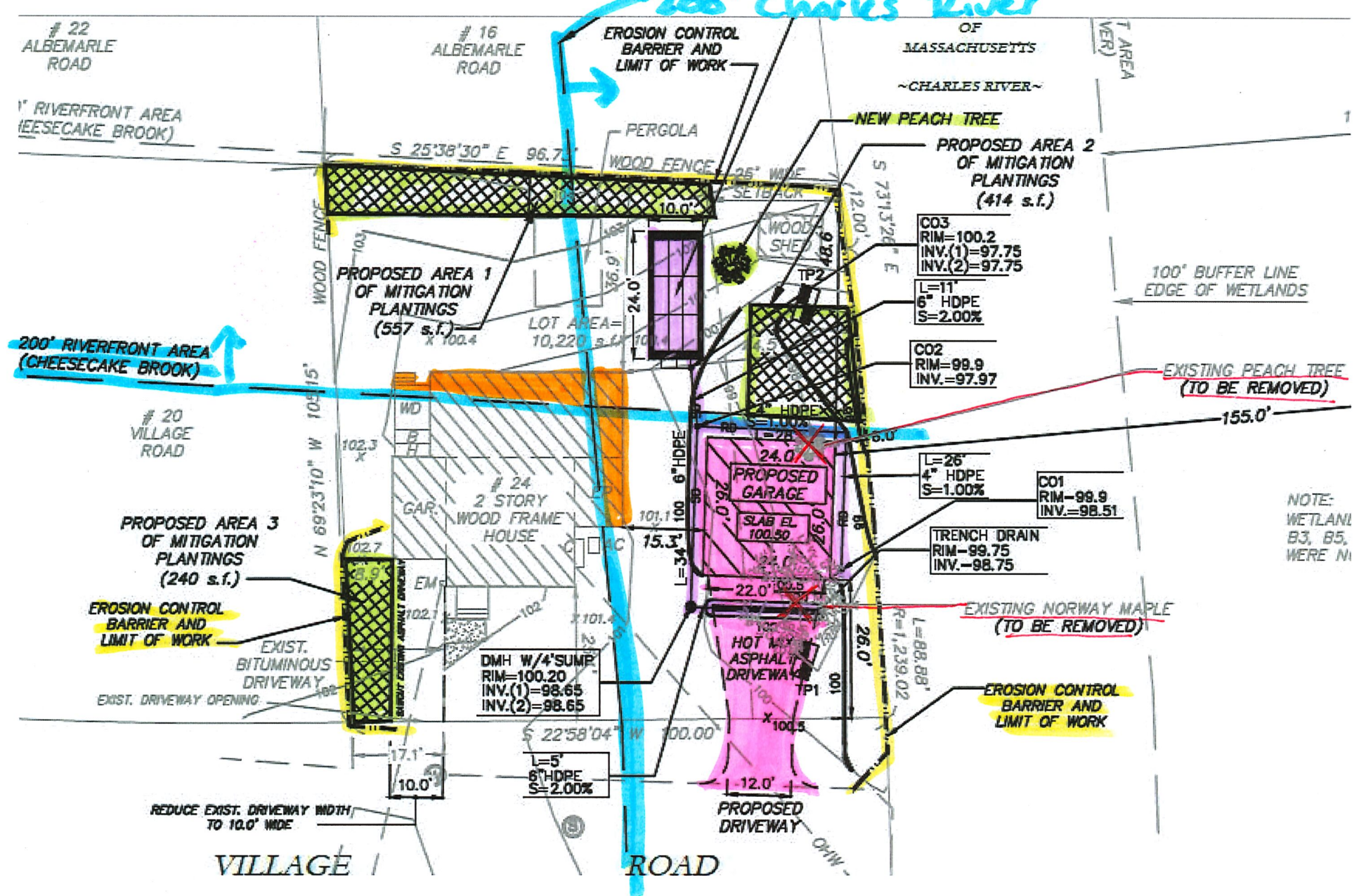
PLANTING SPECIFICATIONS FOR WOOD CHIP AREA THICKETS EIGHT 200SF HABITAT ISLANDS		
SPECIES	HEIGHT	QUANTITY
TREE SPECIES		
AMERICAN HORNBEAM (CARPINUS CAROLINIANA)	5-6'	2
FLOWERING DOGWOOD (CORNUS FLORIDA)	5-6'	2
BLACK GUM (NYSSA SYLVATICA)	5-6'	2
BLACK CHERRY (PRUNUS SEROTINA)	5-6'	2
SHRUB SPECIES		
MOUNTAIN LAUREL (KALMIA LATIFOLIA)	3-4'	8
INKBERRY (ILEX GLABRA)	3-4'	8
SWEET PEPPER BUSH (CLETHRA ALNIFOLIA)	3-4'	8
GRAY DOGWOOD (CORNUS RACEMOSA)	3-4'	8
AMERICAN WITCH HAZEL (HAMAMELIS VIRGINIANA)	3-4'	8
AMERICAN HAZELNUT (CORYLUS AMERICANA)	3-4'	8
BLACK CHOKEBERRY (PHOTINIA MELANOCARPA)	3-4'	8
HIGHBUSH BLUEBERRY (VACCINIUM CORYMBOSUM)	3-4'	8
COMMON SPICEBUSH (LINDERA BENZOIN)	3-4'	8
MAPLE LEAF VIBURNUM (VIBURNUM ACERIFOLIUM)	3-4'	8
ONE TREE AND TEN SHRUBS OF FIVE SPECIES WILL BE PLANTED IN EACH OF EIGHT PROPOSED HABITAT ISLANDS; PLANT SELECTION FOR EACH HABITAT ISLAND WILL BE MADE BY THE QUALIFIED WETLAND SCIENTIST. THE PROPOSED SUBSTITUTIONS ARE NANNYBERRY (VIBURNUM) AND SWEET PEPPER BUSH (CLETHRA). PLANTINGS TO BE MULCHED WITH LEAF COMPOST		

20-40'  
40'  
30-50'  
60-90'

10 rhododendrons + 8 spruce trees

# 24 VILLAGE RD - PROPOSED CONDITIONS

816120



# 24 VILLAGE RD - PROPOSED PLANTING SCHEDULE

8/16/20

## PROPOSED PLANTING SCHEDULE:

Mitigation Planting Matrix

Property: 24 Village Road, Newton, MA Zone: 6

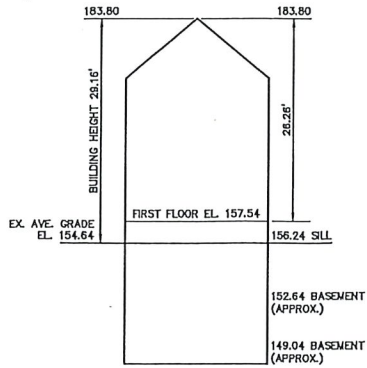
Mitigation Area No.	Mitigation Area Size (SQ. FT.)	Plant Type	Height (FT)	Span (FT)	Existing	New QTY	Narrative																																		
1	557 Predominantly east facing with maybe some south sun where it gets through the neighboring trees	Forsythia	6	4		Yes	1	Transplanted from proposed project area due to backhoe used in soil analysis dig.																																	
		Evergreen Tree	12	9	Yes		1																																		
		Rose Bush	4	3	Yes		1																																		
		Lilac	8	6	Yes		1																																		
		Forsythia	6	8	Yes		1																																		
		Lilac	8	8	Yes		1																																		
		Raspberry Bushes	6	7	Yes		1	There are 6 individual raspberry plantings in close proximity to form said bush.																																	
		Itea virginica 'Sprich' LITTLE HENRY				Yes	5	It can be planted in the foreground and mingle nicely. Maybe as a front sweep or 2 groupings and it should be nice with existing vegetation.																																	
		Hydrangea quercifolia 'Pee Wee'				Yes	2	Will give a pop of color and texture. These plants can go in at 2- to 3-gallon size.																																	
2	414 Predominantly south facing with east shade from the new garage wall/roof and maybe some west shade by the neighboring trees on the west boundary	Ilex x aquipernyi 'Meschick' DRAGON LADY				Yes	1	It is more manageable in size for that small space. Attracts birds and Tolerate of air pollution.																																	
		Clethra alnifolia 'Hummingbird'				Yes	3	This is a nice compact clethra and will look nice with the holly if surrounded in a gentle chevron Extremely fragrant white flowers. Attracts butterflies. Tolerant of heavy shade.																																	
		Sedum 'Autumn Joy'				Yes	2																																		
		Salvia nemerosa 'May Night'				Yes	4	Great pollinator plants. Get them all as 1-gallon plants; they will really fill in the space with the above shrubs.																																	
		Rudbeckia fulgida 'Goldsturm'				Yes	2																																		
		Stachys humello				Yes	4																																		
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>Mitigation Area No.</th> <th>Mitigation Area Size (SQ. FT.)</th> <th>Plant Type</th> <th>Height (FT)</th> <th>Span (FT)</th> <th>Existing</th> <th>New QTY</th> <th>Narrative</th> </tr> </thead> <tbody> <tr> <td rowspan="4">3</td> <td rowspan="4">240 North facing with some light from the east and maybe a hint of west</td> <td>Highbush Blueberry (Vaccinium corymbosum)</td> <td colspan="2" rowspan="2" style="background-color: #ADD8E6; text-align: center;">Option 1</td> <td></td> <td>Yes</td> <td>6</td> <td>Could do a mix of 3 types for the best cross-pollination. Choose what's available in the nurseries, do 2 of each for a total of 6 plants along that run. Provide ample water and a 5-inch depth of wood chip mulch to get blueberries.</td> </tr> <tr> <td>Waldsteinia fragarioides</td> <td></td> <td>Yes</td> <td>5</td> <td>Native ground cover.</td> </tr> <tr> <td>Azalea (Rhododendron) Weston's Innocence</td> <td colspan="2" rowspan="2" style="background-color: #90EE90; text-align: center;">Option 2</td> <td></td> <td>Yes</td> <td>4</td> <td>Attracts butterflies, hummingbirds and birds. Fragrant. Tolerate: Rabbit.</td> </tr> <tr> <td>Ilex glabra 'Shamrock'</td> <td></td> <td>Yes</td> <td>3</td> <td>Attracts birds. Tolerate: Rabbit, Deer, Erosion, Wet Soil, Air Pollution.</td> </tr> </tbody> </table>								Mitigation Area No.	Mitigation Area Size (SQ. FT.)	Plant Type	Height (FT)	Span (FT)	Existing	New QTY	Narrative	3	240 North facing with some light from the east and maybe a hint of west	Highbush Blueberry (Vaccinium corymbosum)	Option 1			Yes	6	Could do a mix of 3 types for the best cross-pollination. Choose what's available in the nurseries, do 2 of each for a total of 6 plants along that run. Provide ample water and a 5-inch depth of wood chip mulch to get blueberries.	Waldsteinia fragarioides		Yes	5	Native ground cover.	Azalea (Rhododendron) Weston's Innocence	Option 2			Yes	4	Attracts butterflies, hummingbirds and birds. Fragrant. Tolerate: Rabbit.	Ilex glabra 'Shamrock'		Yes	3	Attracts birds. Tolerate: Rabbit, Deer, Erosion, Wet Soil, Air Pollution.
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CHARLES MURPHY



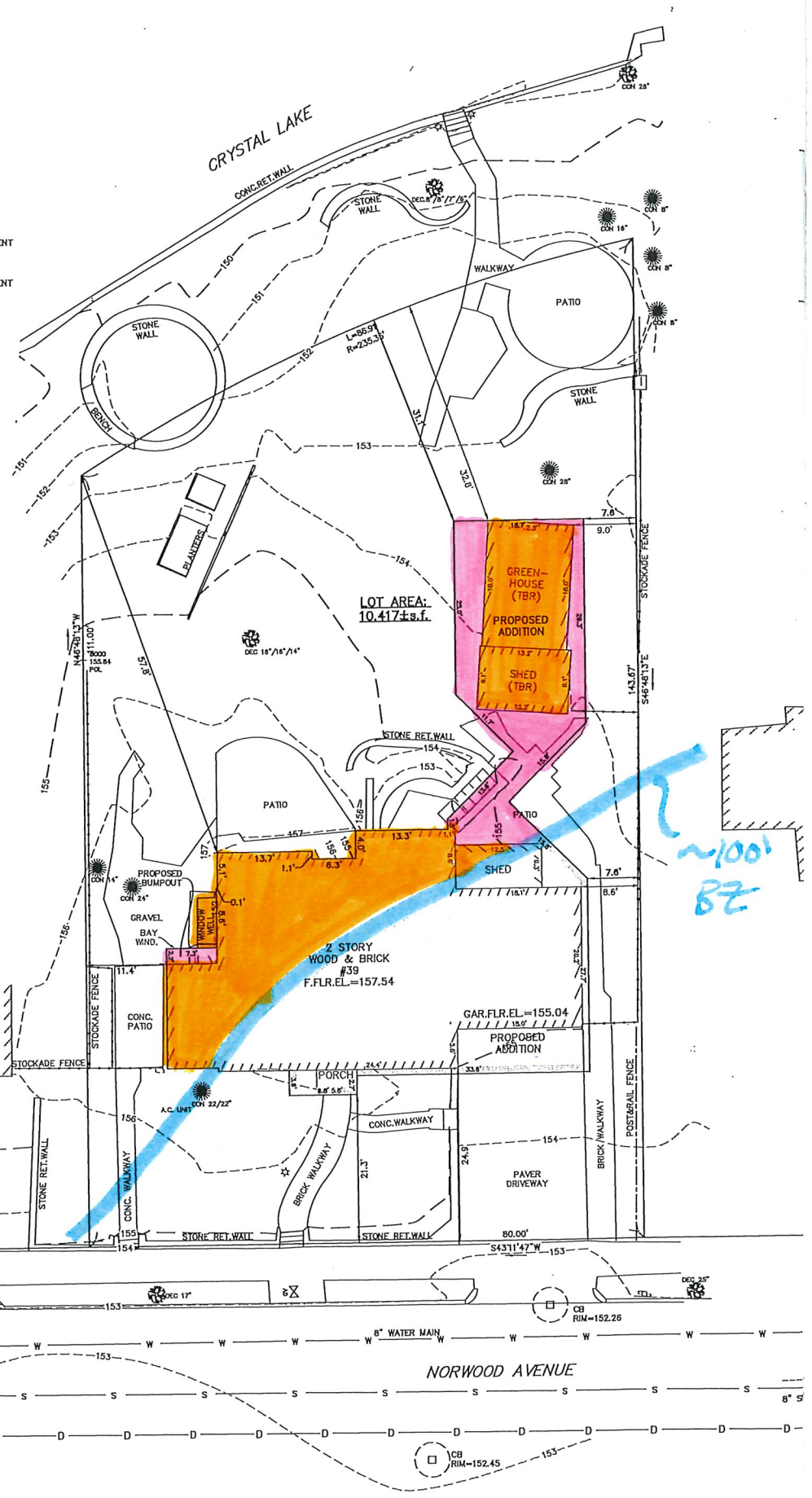
# 39 NORWOOD AVE. - PROPOSED CONDITIONS

8/6/20



PROPOSED BUILDING HEIGHT  
NOT TO SCALE

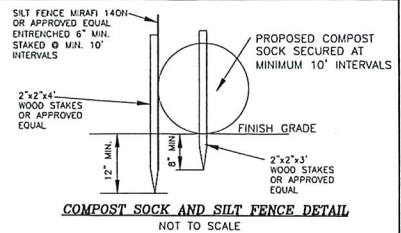
Weighted Mean Average Grade Calculation			
D	E	F	
Height of Low Point of Segment	E=(C+D)/2 Segment Height	F=BxE	
156.16	156.20	2350.81 Sq. Ft.	
156.38	156.40	1144.81 Sq. Ft.	
156.16	156.56	1690.79 Sq. Ft.	
156.29	156.33	2144.85 Sq. Ft.	
154.84	155.63	980.44 Sq. Ft.	
152.33	154.04	2051.75 Sq. Ft.	
152.33	153.53	2084.94 Sq. Ft.	
154.23	154.44	1802.28 Sq. Ft.	
153.57	154.13	3853.25 Sq. Ft.	
153.11	153.17	2871.94 Sq. Ft.	
153.02	153.34	4590.38 Sq. Ft.	
153.95	154.13	2439.88 Sq. Ft.	
154.17	154.30	2442.57 Sq. Ft.	
154.16	154.20	4279.05 Sq. Ft.	
154.20	154.43	2934.17 Sq. Ft.	
154.66	155.33	2269.30 Sq. Ft.	
155.92	156.01	1528.90 Sq. Ft.	
155.43	155.88	1579.01 Sq. Ft.	
156.18	156.27	1156.36 Sq. Ft.	
		44105.45 Sq. Ft.	
F / Total Column B = Average Grade			
Average Grade: 154.64'			



~100'  
BZ

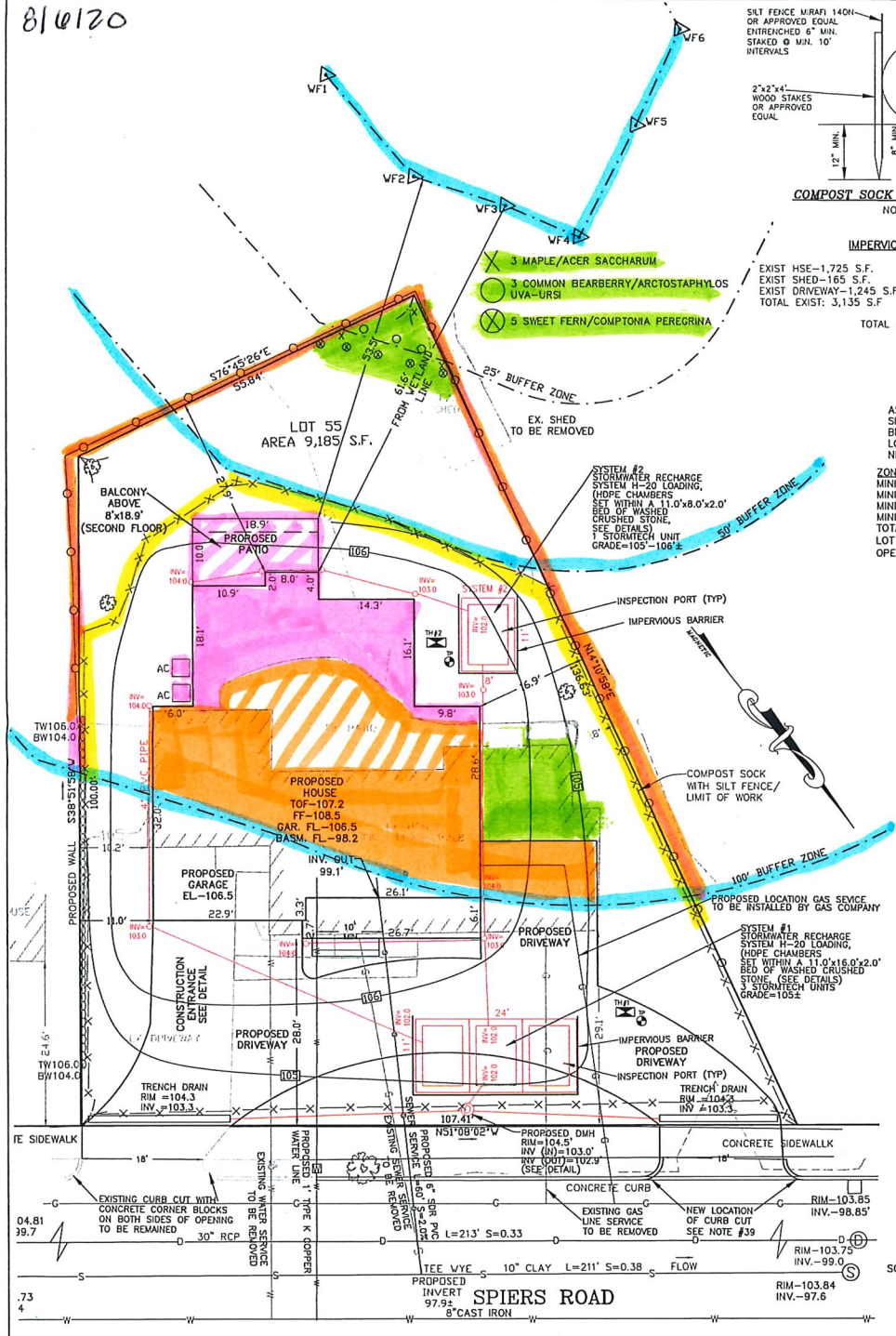
# 35 SPIERS ROAD - PROPOSED CONDITIONS

810120



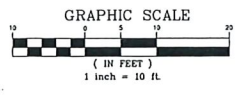
**IMPERVIOUS AREA:**  
 EXIST HSE-1,725 S.F.      PROPOSED HSE-2,360 S.F.  
 EXIST SHED-165 S.F.      PROPOSED DRIVEWAY-1,690 S.F.  
 EXIST DRIVEWAY-1,245 S.F.      TOTAL EXIST: 3,135 S.F.      TOTAL PROPOSED: 4,050 S.F.  
 TOTAL INCREASED AREA: 915 S.F.

ASSESSOR'S MAP 167NW  
 SECTION 84  
 BLOCK 10  
 LOT 55  
 NEIGHBOURHOOD 40  
 ZONING - SR3 DISTRICT (OLD)  
 MINIMUM LOT AREA: 7,000 SF  
 MINIMUM DEPTH OF FRONT YARD: 25FT  
 MINIMUM WIDTH OF SIDE YARD: 7.5 FT  
 MINIMUM DEPTH OF REAR YARD: 15 FT  
 TOTAL AREA 9,185 S.F. 100%  
 LOT COVERAGE = 25.7%<30% (REQUIRED)  
 OPEN SPACE = 52.2%>50% (REQUIRED)



**PROPOSED SITE PLAN**  
 35 SPIERS ROAD  
 NEWTON, MA 02459  
 SCALE: 1"=10' DATE: JUNE 12, 2020

**NOTES:**  
 1. THE DATUM IS CITY OF NEWTON BASE.  
 EXISTING HOUSE 1,725 S.F.  
 1,260 S.F. INSIDE 100' BUFFER ZONE  
 EXISTING SHED 160 S.F. INSIDE 50' BUFFER ZONE  
 EXISTING SHED 5 S.F. INSIDE 25' BUFFER ZONE  
 PROPOSED HOUSE 2,228 S.F.  
 1,640 S.F. INSIDE 100' BUFFER ZONE  
 163 S.F. PROPOSED DRIVEWAY/PARKING INSIDE 100' BUFFER ZONE



# CONSERVATION COMMISSION AGENDA

Date: July 16, 2020

Time: 7:00pm

Place: This meeting was held as a virtual meeting via Zoom

<https://us02web.zoom.us/j/82576773625>

**With a quorum present**, the meeting opened at 7:04 with Dan Green presiding as Chair.

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

**Members Absent:** none

**Staff Present:** Jennifer Steel and Claire Rundelli

**Members of the Public:** not recorded due to remote nature of the meeting

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## DECISIONS

### I. WETLANDS DECISIONS

#### 1. 24 Village Rd – NOI (cont'd) – construction of detached garage and driveway – DEP File #239-866

- Owner/Applicant: Hisham Salem Representative: Anthony Stella, Site Engineering Consultants, Inc.
- Request: Issue OOC.
- Documents Presented: Colored plans, site photos, draft OOC
- Jurisdiction: Riverfront Area
- Project Summary
  - Construction of a 24'x26' detached, 2-car garage. Existing garage will be converted to storage. Total new impervious proposed is 1196 s.f.
  - Pouring of a new asphalt driveway that begins at 12' in width at the curb cut and expands gradually to be 22' wide where it meets the proposed garage.
  - Installation of underground infiltration chambers and trench drain to collect runoff from driveway and new roof.
  - Installation of 3 mitigation planting areas totaling 1218 s.f. No bounds are proposed.
  - The project will result in a roughly 1200 s.f. increase in impervious area on the site, all within the outer riparian zone.
- Presentation (Tony Stella and Hisham Salem) and Discussion
  - At staff request, applicant has reduced the size of the driveway.
  - The erosion control detail has been amended to staked silt fence and a compost sock.
  - Engineering comments have been received. The project meets the City's drainage requirements. Groundwater is at 5' and so the 2' separation requirement is being met.
  - The mature vegetation to be removed is 1 large Norway maple and 1 small peach tree. The peach tree is due to be relocated, but concerns were raised that it was not likely to survive and that planting a new sapling would be better.
  - Based on a site visit and review of Google Street View images, two mature shrubs have already been removed in relation to the digging of test pits for the infiltration system.
  - Three small mitigation beds are proposed (for a total of 1218 s.f.). Native plants have been proposed but no numbers of species or locations within individual beds has been provided. The Commission noted that small dispersed/disjointed beds were not ideal and that species numbers and sizes would be required. The Commission noted that the proposed bed beside the driveway would be subject to snow storage.
  - The Commission noted that removal of the old driveway would reduce the need for mitigation and would increase the opportunity for mitigation planting areas, particularly since the Commission sought trees to provide habitat value.
  - The Commission questioned the legality of:
    - Two curb cuts exceeding 22 feet
    - Construction in the designated "25-foot setback"
  - Neighbor Lauren Paton was concerned about the snow plow blocking the proposed drive and about the proposed drive using up street-side parking.
  - The Commission requested revised plans showing
    - 1-2 trees and



**Mayor**

Ruthanne Fuller

**Director**

**Planning &  
Development**  
Barney Heath

**Chief**

**Environmental  
Planner**  
Jennifer Steel

**Assistant**

**Environmental  
Planner**  
Claire Rundelli

**Conservation  
Commission  
Members**

Kathy Cade  
Dan Green  
Judy Hepburn  
Ellen Katz  
Susan Lunin  
Jeff Zabel  
Leigh Gilligan

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

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

- Details of other mitigation plantings
- Possible removal of some asphalt
- Clarification of curb cut allowances
- Clarification of the 25-foot setback prohibitions
- Vote: To accept applicant's request to continue the hearing to 8/6/20. [Motion: Susan Lunin; Second: Leigh Gilligan; Roll-Call Vote: Katz (aye), Gilligan (aye); Hepburn (aye); Green (aye), Cade (aye), Zabel (aye), Lunin (aye), Vote: 7:0:0].

**2. Dunstan St/Washington St/Kempton PI – NOI (cont'd) – Dunstan East Mixed-Use 40B Development – DEP File #239-867**

- Owner/Applicant: Robert Korff, Mark Development, LLC Representative: Rich Hollworth, PE, VHB, Inc.; Rob Adams, landscape architect, Halvorson/Tighe and Bond; Damien Chaviano, Mark Dev.
- Request: Issue OOC.
- Documents Presented: Colored plans, site photos, draft OOC
- Jurisdiction: Buffer Zone, Riverfront Area, BLSF, Land Under Waterways, City Floodplain, Bank
- Project Summary
  - Demolish existing large commercial buildings and remove existing pavement.
  - Remove the majority of the southern stream wall, regrade the bank, and plant the slope to create a more natural stream channel. Culvert headwalls will also be reconstructed
  - Construct 3 mixed use buildings (with parking under buildings) totaling roughly 426,000 s.f. and one central roadway, resulting in a proposed reduction of 13,691 s.f. of impervious area.
  - Stormwater management changes include a new sand filter and changes to the existing outfall.
  - Create flood storage area/green space/public space resulting in a 1321 cu yd increase in flood storage capacity.
  - Construct a boardwalk along the newly naturalized Cheesecake Brook.
- Presentation (Rich Hollworth) and Discussion
  - Project has received ZBA approval under Ch 40B.
  - Project will result in a number of improvements to current conditions
    - The (dilapidated) southern wall of Cheesecake Brook will be removed and a sloped, vegetated embankment will be created. The stream will be made sinuous and wider. The low-flow stream channel will be lined to limit the possibility of scour.
    - The current MassDOT culvert connection to Cheesecake Brook will be stabilized and converted (with a plunge pool) to an angled, sinuous, vegetated channel.
    - 10,000 gallons of extra flood storage capacity and 8500 sf of public green space will be created.
    - Impervious area will be reduced.
    - Parking will be placed under buildings, so runoff will be minimized and will be directed to City sewer.
    - Phosphorus loads to Cheesecake Brook will be reduced by 65%
    - Stormwater infiltration will be increased and stormwater quality will be improved prior to discharge to Cheesecake Brook.
    - Under the boardwalk ("terra firma") will be stone to ensure perviousness
  - Possible ecologically detrimental aspects of the project
    - Increased shading of the stream corridor
    - Increased artificial lighting of the stream corridor
  - Applicants have provided revised plans, addressing the following
    - Clarification of bank stabilization details for the Cheesecake Brook naturalization of the southern bank
    - Addition of geotextile filter fabric and additional design refinements of the sand filtration systems
    - Addition of appropriately robust perimeter erosion controls
    - Grading near the Dunstan Street and MassDOT headwalls
    - A note has been added to indicate a permeable base material below the boardwalk
    - Revisions to sand filter sizing
    - Added trees to Brook Drive
    - Added some granite blocks in flood storage area to assist with erosion and flow
    - Provided a detail/section of street treeway showing soil volume

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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](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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- Provided section at boardwalk to provide clarity on drainage
- Provided minimal size of trees and container shrubs.
- Updated the seed mix for the area in flood storage above elevation 34.5
- Clarified hatches in flood storage area to relate to planting notes on plan
- Provided a detail/section through wood stairs
- Provided clarification/correction of lines and references on plan sheets as requested
- Provided a plan sheet showing areas of cut and areas of fill and a memo clarifying depth to groundwater and the depth of the garages, noting that groundwater will not be pumped - the garage will be waterproofed
- Numerous details will be addressed in submissions by the contractor (once selected), including:
  - Realigning the MassDOT stormwater culvert
  - Protecting stream during sidewalk repairs (to stop debris or concrete washwater from entering stream)
  - A revised O&M plan
  - How will you keep the flood area from being a dog park and trampled?
  - Restoration area should be bounded, per 310 CMR 10.58(5)(h).
  - Detailed construction sequence
  - Temporary measures: stormwater on-flow management, detention basins, stockpiling, vehicular access, etc.
  - Dewatering sites and systems
  - Erosion controls for wall/bank/stream work
  - Process and mechanisms for bypass pumping/dewatering/ESC for stream realignment
  - Concrete washout details
  - Lighting plans
- Additional requests from the Commission:
  - All trees and shrubs within the naturalized areas within ConCom jurisdiction should be native.
  - Be sure to use the hybrid elms that resist Dutch elm disease.
  - Some evergreens (Atlantic white cedar?) should be added to the planting palette for diversity.
  - Do not use *Viburnum dentatum*; rather try *Itea virginica*.
  - Ensure that stream area is not overly lighted.
  - Surety was discussed at length. 135% of the cost of stream restoration was determined to be appropriate.
- Vote: To close the hearing and issue an OOC with the following special conditions [Motion: Zabel; Second: Katz; Roll-Call Vote: Katz (aye), Gilligan (aye); Hepburn (aye); Green (aye), Cade (aye), Zabel (aye), Lunin (aye), Vote: 7:0:0].
  1. The final construction plans and construction logistics for the stream naturalization including any plan changes required by MassDOT due to alterations of the design for the stormwater outfall will require final administrative review and approval by the Commission or its agent. "Methods and Means" submissions shall include: but not be limited to:
    - a. Erosion controls – perimeter controls as well as intermediate controls throughout the duration of construction activities to reduce potential sediment transported by site runoff
    - b. A construction phasing plan that addresses demolition, stockpiling, laydown, vehicular access, stormwater management, snow management, etc. must be presented to the Conservation Commission for review and approval.
    - c. Temporary measures such as: stormwater on-flow management, detention basins, stockpiling, vehicular access, etc.
    - d. Dewatering sites and systems. A dewatering plan designed to limit and control any adverse impact on wetland resource area
    - e. A concrete washout plan designed to limit and control any adverse on the wetlands resource area(s)
    - f. Bypass pumping/dewatering/ESC for stream realignment designed to ensure health of the upstream and downstream reaches of Cheesecake Brook during instream work
    - g. Channel design
    - h. A revised O&M plan
    - i. Details regarding realignment of the MassDOT stormwater culvert
    - j. The applicant shall post financial security such as a surety bond, letter of credit, or a check or money order to the City of Newton, in the amount of 135% of the contracted cost of stream restoration, flood storage creation, and wetland jurisdiction landscaping, contracted cost to be agreed upon by the Conservation Commission which shall hold it as surety for satisfactory completion as set forth under this

Order. If the Commission finds that the applicant has failed to satisfactorily complete the above work as required by the Order of Conditions, the Conservation Commission shall have the option, but not the obligation to: (i) use the funds to complete the work; and/or (ii) hire its own landscaper, wetland scientist, and other consultants or contractors as deemed necessary by the Commission in order to comply with the conditions set forth under this Order. Applicant hereby agrees to allow access to the property by such consultants or contractors in such event. Release and/or partial release shall be granted as long as 135% of the cost of outstanding work is covered by the balance.

2. An Environmental Monitor, paid for by the Applicant, shall be hired by and report to the Commission, to assist the Commission in its oversight of the activities approved by this Order. The name, e-mail address & cell phone number of the Environmental Monitor will be provided to the Applicant upon such designation. The Environmental Monitor will:
  - a. Review the dewatering plan, including the bypass pumping plan
  - b. Review the Applicant's NPDES NOI and Storm Water Pollution Prevention Plan to the extent it relates to the activities approved by this Order and make recommendation for proposed changes, if necessary, to protect the interests of the WPA and the Ordinance and associated regulations issued thereunder;
  - c. Advise on current erosion control practices and make recommendations for proposed changes, if necessary, to protect the interests of the WPA and the Ordinance;
  - d. Ensure adherence to the Order of Conditions and report any non-compliance to the Commission;
  - e. Be present on site for the following:
    1. Preconstruction meeting
    2. Periodic visits during staging of materials and dewatering of the brook
    3. Removal of the southern retaining wall of Cheesecake Brook and associated fine grading, and "lining" of the stream channel and flood compensation and streambank naturalization areas
    4. A minimum of twice-weekly visits during construction (in particular, grading activities) of the restoration areas
    5. Periodic visits during restoration planting activities
    6. Inspection of erosion controls within 24 hours after any rain event or events totaling more than 0.5 inches within a 24-hour period
    7. Periodic inspection of erosion controls as necessary
  - f. Oversee any emergency placement of controls and regular inspection or replacement of erosion and sedimentation control devices.
  - g. Have the authority and responsibility to stop work at any time and/or to implement additional impact mitigation measures on site whenever necessary to prevent or halt existing or imminent violations of this Order;
  - h. Provide memos during the time period(s) when work is being conducted for items e.1 through 7 above. Said memos shall summarize work completed, any problems that arise in the Commission's jurisdiction, corrective measure(s) made in the field, and any additional corrective measures needed. Memos shall be provided on a weekly to biweekly basis as necessary, or more frequently if conditions require. The Applicant will be supplied with all reports submitted by this outside consultant. The Applicant will be expected to make said changes immediately as identified and requested by the Environmental Monitor.
3. Landscape plantings within Commission jurisdiction must be installed in compliance with the approved plans (desired changes must be approved by the Conservation office in advance) and must:
  - a. Be bounded with stone or other permanent markers to ensure the areas remain in a predominantly natural vegetated state and are not converted to other uses
  - b. Stabilize all exposed areas
  - c. Be installed between April 15 and June 15 or between September 1 and October 31
  - d. Have a survival rate of 75 % of total number of trees (after 2 growing seasons)
  - e. Have a survival rate of 75 % of total number of shrubs (after 2 growing seasons)
  - f. Have a survival rate of 75 % aerial coverage of all other plants (after 2 growing seasons)
  - g. Mulch applications shall diminish over time & eventually cease as ground cover species & shrubs spread.

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4. Compensatory flood storage must be provided in its entirety as per the approved plans.
5. The stormwater sand filtration system must be installed as per the approved plans.
6. The City Engineer must inspect the sand filtration system when the system is still open and bottom conditions are visible. The applicant must submit proof of inspection to the Conservation Office.
7. Signage noting snow storage restrictions as in Condition 44 must be installed along Brook Drive.
8. In-stream work must be performed in accordance with the dewatering and bypass pumping plans required in Special Condition 25, and must conform to the following general performance standards:
  - a. To the extent practicable, work must be conducted during low flow conditions.
  - b. All work must be conducted within adequately dewatered and protected areas; no work or equipment is allowed within flowing water.
  - c. Cofferdams or other stream constricting measures must be installed so as to minimize the restricted portion of the stream channel.
  - d. The weather must be monitored, and no soil disturbing work is allowed within 2 hours of the predicted start of any rain event.
  - e. Before any rain begins, the work site must be secured and stabilized with temporary protective measures adequate to prevent erosion or scour of any unconsolidated material.
  - f. Discharge from any dewatering measures must be through a sedimentation bag and/or other protective measures and must not be discharged directly to the stream.
  - g. Any soils stockpiles must be located outside the stream channel and must be adequately protected with temporary sediment controls.
  - h. Any necessary equipment storage, refueling, or maintenance must take place outside the stream channel.
9. The flood storage/landscape planting areas shall be maintained in perpetuity in their predominantly natural condition.
10. The banks of Cheesecake Brook and the newly created flood storage area must be maintained in a vegetated state as shown on the Project Plans. Any future erosion control or scour control measures will require the filing of a new Notice of Intent.
11. The Operations and Maintenance Plan, as approved through Condition #22, shall be recorded and must be adhered to.
12. To maintain the flood storage capacity of the site, the flood plain compensation area shall be constructed in accordance with the plan. Interim measures may be provided to allow phased construction subject to the final administrative review and approval by the City Engineer, Commission or its agent.
13. The owner shall implement the Snow Management Plan and ensure that snow is not plowed onto the stream bank or stored on the stream side of Brook Drive. This plan must be incorporated in snow plow contracts and enforced by the owner. The owner shall maintain snow signage.
14. The Riverfront restoration/mitigation areas, bounded by the boardwalk, Brook Drive, and Building 3, as shown on a plan to be recorded with this Order, shall be maintained in perpetuity in their predominantly natural conditions.

**3. 55 Bernard Street – NOI – ex post facto – vegetation removal and stockpiling in flood zone – DEP File #239-XXX**

- Owner/Applicant: Jim Corsi, Corsi Realty LLC Representative: John Rockwood, EcoTec, Inc.
- Request: Issue OOC.
- Documents Presented: Colored plans, site photos, draft OOC
- Jurisdiction: Buffer Zone, Riverfront Area, BLSF, City Floodplain
- Project Summary
  - The owner of this parcel did a tear-down/re-build of a SFH. The requested work was administratively approved as being entirely outside ConCom jurisdiction. Without permission, however, the owner exceeded the limit of work line and cut 12 “dead” trees (204”) and scrub growth within ConCom jurisdiction. One additional large healthy oak was also removed from the property. An Enforcement Order was issued requiring the filing of a NOI and restoration plantings.
- Presentation (John Rockwood) and Discussion:
  - Photos from 2006 indicate that the site used to be fully lawned to the rivers’ edge.
  - The applicant indicates that 12 “dead” trees were cut without a ConCom permit. During Jennifer’s 2019 preliminary site visit, she noted only one hazard tree and provided administrative approval for its removal.
  - The applicant stated that 160 cubic yards of material were removed from the site, so that even though loam and wood chips have been brought on to the site, there will be a net gain in flood storage capacity.

- The proposed restoration and landscaping plan indicates a reduction in turf grass through the installation of wood chipped planting beds, but only 2 trees and numerous shrubs and plants.
- The applicant has begun to plant 10 spruce trees along the southern property line and 8 rhododendrons on the north and south property lines.
- The Commission felt that since canopy trees were cut, canopy trees needed to be planted and that allowing the stream bank to remain without trees or shrubs seemed inappropriate.
- The Chair noted that only a planting plan that would have been approved had the applicant applied for the tree cutting and mitigation planting.
- Neighbor Miriam Jost sought (and received) reassurance that the proposed cobblestones at the edge of the lawn would not increase flooding on adjacent properties.
- Vote: To accept applicant's request to continue the hearing to 8/6/20 to revise the planting plan to incorporate more trees throughout and more shrubs along the river bank. [Motion: Susan Lunin; Second: Judy Hepburn; Roll-Call Vote: Katz (aye), Gilligan (aye); Hepburn (aye); Green (aye), Cade (aye), Zabel (aye), Lunin (aye), Vote: 7:0:0].

**4. 62 Carlton Road – OOC Amendment Request – lawn extension with associated grading, retaining walls, and plantings – DEP File #239-836**

- Owner/Applicant: Hillcrest Development Representative: John Rockwood, EcoTec, Inc.
- Request: Issue amended OOC.
- Documents Presented: Colored plans, site photos, draft OOC amendment
- Jurisdiction: Buffer Zone, City Floodplain (proposed work outside floodplain)
- Summary of Requested Changes
  - No changes are proposed to the house location and size, driveway location and size, wildlife corridors along the side yards, or stormwater systems.
  - The requested changes are to:
    - Lower the basement floor elevation from 142.4' to 141.6' (~1.5 feet), and patio elev. from 142' to 140'.
    - Extend lawn and construct two retaining walls to accommodate the grade change and fill needed for lawn. Lower retaining wall will be 47' from the edge of BVW.
    - The upper retaining wall is maximum of 2' tall at its highest point and tapers down to 1' at each end. The upper retaining wall is proposed to have a 4' tall safety fence installed along it. The lower retaining wall is a maximum of 8' tall at its highest point and tapers down to 2' at each end.
    - Revise grading, retaining walls (outside 100' BZ), and landscape stairs associated with lawn expansion.
    - Expanded invasive species removal on the lot.
    - Increase number of mitigation plantings by 8 saplings and 13 shrubs, bringing the project totals to 12 saplings and 80 shrubs. The saplings will be comprised of 8 canopy saplings and 4 understory saplings (Previously approved: 67 shrubs and 4 saplings).
    - The area between the two retaining walls and the disturbed areas down gradient of the lower retaining wall proposed to be seeded with NE Wetland Plants Conservation/Wildlife Mix & Showy Wildflower Mix.
  - The basement floor has already been constructed at the "newly proposed" elevations.
  - A deck has been added at the first-floor level that was not shown on the approved plan, but it is exempt because it is over 50 feet from the wetland boundary.
- Presentation (John Rockwood) and Discussion
  - The applicant has revised the plans to take into account Commission comments from the previous meeting including pulling the walls back, reducing lawn area, and diversifying plantings. Hardscape is not fully out of the 50' buffer zone, but the closest retaining wall location is now 47' feet from the edge of the resource area.
  - The proposed steepness of the lawn has been reduced to ~20%.
  - There are now 8 new canopy trees, 4 understory trees, and 80 shrubs of larger native species proposed.
  - Invasive control (primarily garlic mustard, myrtle, bittersweet, and buckthorn) is proposed to be 3 years.
  - The wildflower mix to be planted between and down-gradient of the walls will not be mowed.
- Neighbors commented
  - Jack Fabiano asked about the heights of the two retaining walls – Answer: 2' and 8'

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- Charles Klee asked how the kettle pond would be protected during construction of the retaining walls – Answer: with robust sediment control line
  - Andrew O’Connor asked why the Commission accepted the request for an amended OOC rather than demanding a new NOI – Answer: because the scope was substantially the same and a new NOI wouldn’t provide any new or different information.
  - Jay Roxe asked why the Commission didn’t maintain the requirements/prohibitions reflected in the original approved plan. – Answer: because the Commission has to respond to the request at hand and it shouldn’t demand so much that it begs an appeal by the applicant; since this is a “buffer zone only” project, the Commission’s absolute authority is quite limited and the kettle pond and the City stand to lose if the Commission over-steps its authority.
  - Errol Yudelman asked how neighbors should help keep an eye on the project as it moves forward. – Answer: there is no obligation for neighbors to do anything, but if they see what appears to be a problem, they should contact the Conservation Office.
- Vote: To close the hearing and issue an OOC with the following amended (in bold) special conditions [Motion: Zabel; Second: Lunin; Roll-Call Vote: Katz (abstain), Gilligan (aye); Hepburn (abstain); Green (aye), Cade (aye), Zabel (aye), Lunin (aye), Vote: 5:0:2].
1. **The new erosion control must be properly embedded Super Silt Fence or equivalent with wire mesh held vertical with metal posts, and staked 12” compost sock.**
  2. **At no time shall heavy equipment, disturbed slope materials, or storage of construction materials pass the easternmost erosion control line shown on the AMENDED approved plans.**
  3. **All plantings within the Buffer Zone must be installed by hand.**
  4. **Geogrid matting (or another similar anti erosion method) must be installed under entire disturbed area of the “wildlife corridors” on either side of the proposed house to reduce potential erosion caused by the grading.**
  5. **The mitigation and/or restoration planting plan must be installed per the approved plans (desired changes must be approved by the Conservation office in advance) and:**
    - a. Be designed and maintained to replicate to the maximum extent practical a diverse ecological system, provide habitat for native species, and keep invasive species in check.
    - b. **Include 8 native canopy trees, 4 native understory trees, and 80 native shrubs in the sizes indicated on the approved plan**
    - c. **Include the native seed mix around the retaining walls, as shown on the approved plan**
    - d. **Have a 100% survival of the trees and 85% survival of the shrubs three years after installation. If providing 3 years of survival will require the applicant to seek an extension of the Order of Conditions, an extension shall be sought and a Certificate of Compliance shall not be issued until 3 years of survival have been satisfactorily achieved.**
    - e. Stabilize all exposed areas
    - f. Be installed in compliance with the approved plans
  6. **Annual progress reports must be submitted to the Conservation Commission before December 15 of each year for the three-year obligation for invasive species removal and planting survival. Annual reports shall detail all efforts to control the invasive species on the site as described in the Notice of Intent, on the approved plan, and in the referenced July 6, 2020 memo, as well as the survival of all mitigation plantings. If providing the obligate 3 years of invasive species control and plant survival will require the applicant to seek an extension of the Order of Conditions, an extension shall be sought and a Certificate of Compliance shall not be issued until 3 years of control and survival have been satisfactorily completed.**
  7. **Lawn shall not be installed or maintained down-gradient/closer to the kettle pond than the upper retaining wall and shall not be installed or maintained down-gradient/closer to the kettle pond than the boulder “wing walls” associated with the retaining walls.**
5. **Newton Highlands Playground – COC – playground/park renovation – DEP File #239-738**
- Owner/Applicant: City of Newton (Parks, Recreation, and Culture) Representative: none
  - Request: Issue COC.
  - Jurisdiction: Buffer Zone, Riverfront Area
  - Staff Notes: Staff site visit on 7/11/20 confirmed compliance.
  - Vote: To issue a complete Certificate of Compliance [Motion: Lunin; Second: Cade; Roll-Call Vote: Katz (aye), Gilligan (aye); Hepburn (aye); Green (aye), Cade (aye), Zabel (aye), Lunin (aye), Vote: 7:0:0].

**II. CONSERVATION AREA DECISIONS** -- None at this point in time.

**III. ADMINISTRATIVE DECISIONS**

**6. Newton Commonwealth Foundation Liaison**

- Staff Notes: The Newton Commonwealth Golf Foundation oversees the course and has 3 members serve as trustees of the NCG Fund, from which the ConCom gets \$25,000 annually for maintenance of our properties. The Chair of the ConCom is supposed to be one of the 3 trustees, along with the Commissioner of Parks, Rec, and Culture, Nicole Banks. Nicole has asked for ConCom involvement to be reinitiated. [The Ordinance notes that the ConCom Chair is supposed to be one of three trustees of the Newton Commonwealth Fund, appointed by the Mayor, and trustees of the Newton Commonwealth Fund are supposed to be selected from the members of the Foundation.
- Consensus: Dan Green will attend the Zoom meetings. Jennifer Steel will send him all relevant information.

**7. Tree Replacement Policy**

- Staff Notes: The ConCom's tree replacement policy sets guidelines for replacement based on size (mitigated by hazard and invasiveness). Often, large trees cannot be fully replaced, but there should be some standard. Ellen Katz suggested adapting guidance for legacy trees: any live native tree  $\geq 21$  inches DBH and (or?)  $\geq 150$  years old.
- Consensus: Discuss the value of and implications of adopting such a definition and how to ensure our guidance is consistently implemented at the next meeting when hopefully it won't be so late.

**8. Amenities in Buffer Zone**

- Staff Notes: Ellen Katz brought up concerns about benches causing/attracting the accumulation of trash
- Staff Recommendation: Discuss benches, memorial benches, pet waste stations, picnic tables, etc. and develop guidance for staff at the next meeting when hopefully it won't be so late.

**9. Minutes of 6/25/20 to be approved**

- Documents Presented: draft minutes
- Vote to accept the 6/25/20 minutes. [Motion: Lunin; Second: Gilligan; Roll-Call Vote: Katz (aye), Gilligan (aye); Hepburn (abstain); Green (aye), Cade (aye), Zabel (aye), Lunin (aye), Vote: 6:0:1].

**IV. ISSUES AROUND TOWN DECISIONS** – None at this point in time.

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**UPDATES**

**V. WETLANDS UPDATES**

- Unrestricted hydraulic flow: Staff have reached out to colleagues and agencies for guidance. We still await input from DEP, FEMA, and BET and will provide a full update when more information is available.

**VI. CONSERVATION AREA UPDATES**

- COVID-19 heavy use: Trail repairs will be needed after use returns to more normal levels.
- Pending projects:
  - Old Deer Park -- Maintenance contractors did their first mowing of the season two weeks ago; wood chips will be needed to keep down poison ivy etc. on the trail.
  - CRP stairs – AAB variance application will be submitted shortly
  - Kessler boardwalk and bridge – a bid was released 6/18 but no bids were received. Staff are reviewing options.
  - Webster stairs – we received a draft permit from DCR; it is under review by the Law Department.
  - Dolan crusher-run – we are waiting on materials estimate
  - Houghton Garden hydroraking and trail work – DEP approval was received so work will begin soon.

**VII. ISSUES AROUND TOWN UPDATES**

- OSRP: We received our conditional approval from the state; staff are working to address state-requested edits.

**VIII. ADMINISTRATIVE MATTER UPDATES**

- EnviSci Summer Program: is happening virtually.
- Interns: Our 2 high school interns through the Mayor's internship program started this week. A college intern is being considered for this fall to assist with land stewardship and office obligations.

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

**ADJOURN**: Vote to adjourn at 10:45. [Motion: Lunin; Second: Zabel; Roll-Call Vote: Katz (aye), Gilligan (aye); Hepburn (aye); Green (aye), Cade (aye), Zabel (aye), Lunin (aye), Vote: 7:0:0].

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