

# CONSERVATION COMMISSION AGENDA

The Conservation Commission will hold this meeting as a virtual meeting on Thursday, January 28, 2021 at 7:00 pm. No in-person meeting will take place at City Hall.

Zoom access information for the January 28, 2021 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. **145 Warren Street – cont'd NOI – renovation and additional units onto single-family home – DEP File #239-882**
  - Owner/Applicant: David Oliveri, Norton Point Warren St LLC Representative: John Rockwood, EcoTec, Inc.
  - Request: Continue hearing to 2/18/21.
2. **116 Upland Avenue – Compliance Discussion – enclosure of deck – DEP File #239-824**
  - Owner/Applicant: Ilya Zvenigorodskiy
  - Request: Vote on plan to bring site into compliance.
3. **942-944 Watertown Street – Compliance Discussion – new duplex – DEP File #239-427**
  - Owner/Applicant: Janet Edsall Fields Representative: Stephen Fields
  - Request: Determine how unapproved changes made to site should be mitigated in order to bring the site into compliance for a Certificate of Compliance.
4. **42 Hyde Avenue – OOC Extension Request – addition onto single-family home – DEP File #239-786**
  - Owner/Applicant: Adam Young and Esther Freeman Representative: none
  - Request: Issue an extension for the maximum 3 years.
5. **73 Beaconwood Road – OOC Extension Request – demo single-family new duplex – DEP File #239-791**
  - Owner/Applicant: Matthew Haney, PZ Realty Representative: none
  - Request: Issue an extension for the maximum 3 years.
6. **62 Carlton Road – Minor Plan Change Request – new single-family home – DEP File #239-836**
  - Owner/Applicant: Danius Kuper, Hillcrest Development Representative: none
  - Request: Approve minor plan changes.
7. **11 Chesley Road – COC – new shed and driveway improvements – DEP File #239-626**
  - Owner/Applicant: Ellen Silver Representative: none
  - Request: Issue COC.
8. **326 Fuller Street – COC – footbridges across stream – DEP File #239-857**
  - Owner: Brae Burn Country Club Applicant: Sean McLaughlin, BBCC Representative: Sarah Stearns, Beals & Thomas
  - Request: Issue COC.

### II. CONSERVATION AREA DECISIONS

#### 9. Trailhead Signs

Request: Provide direction on map color palette, map font size, and draft text. III. ADMINISTRATIVE DECISIONS

#### 10. Minutes of 1/7/21 to be approved

### IV. ISSUES AROUND TOWN DECISIONS



**Mayor**  
Ruthanne Fuller

**Director  
Planning &  
Development**  
Barney Heath

**Chief  
Environmental  
Planner**  
Jennifer Steel

**Assistant  
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**Conservation  
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[www.newtonma.gov](http://www.newtonma.gov)

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**UPDATES**

V. WETLANDS UPDATES

VI. CONSERVATION AREA UPDATES

VII. ISSUES AROUND TOWN UPDATES

VIII. ADMINISTRATIVE UPDATES

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

**ADJOURN**

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## DECISIONS

### I. WETLANDS DECISIONS

#### 1. 145 Warren Street – cont'd NOI – renovation and additional units onto single-family home – DEP File #239-882

- Owner/Applicant: David Oliveri, Norton Point Warren St LLC Representative: John Rockwood, EcoTec, Inc.
- Request: Continue hearing to 2/18/21.
- 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
  - Demolition of existing detached garage, renovation of the existing single-family home and construction of 3 additional units on the lot.
  - Stormwater management includes several infiltration systems, both in and out of Commission jurisdiction. The proposed system also includes an overflow outlet with a flared end within the 25' Buffer Zone.
  - An increase of 5,376 s.f. of impervious area is proposed over existing conditions for the entire lot. This proposal represents a decrease in impervious area of 607s.f. from the currently approved plans. The new total increase of impervious area within Commission jurisdiction is 2,660 s.f.
  - Proposed to be removed within ConCom jurisdiction are 17 of trees (10 of those over 8 caliper inches) totaling 131 caliper inches.
  - Proposed to be removed from the mitigation planting area are invasive Norway maple saplings and bush honeysuckles.
  - The mitigation planting plan within jurisdiction includes 35 saplings (both canopy and understory), 30 shrubs, and 55 1-gallon perennials.
- Staff Notes:
  - No revised materials were received, and the applicant has requested a continuation.
- Staff Recommendations: Vote to accept continuation request to the 2/18/21 Conservation Commission meeting.

#### 2. 116 Upland Avenue – Compliance Discussion – enclosure of deck – DEP File #239-824

The location of this meeting/event 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/Section 504 Coordinator, Jini Fairley, at least two business days in advance (2 weeks for ASL or CART) of the meeting/event: [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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- Owner/Applicant: Ilya Zvenigorodskiy
- Request: Vote on plan to bring site into compliance.
- Jurisdiction: BLSF
- Performance Standards
  - **Bordering Land Subject to Flooding: 10.57**
    - Compensatory storage shall be provided for all flood storage volume that will be lost ... Such compensatory volume shall have an unrestricted hydraulic connection to the same waterway or water body.
    - Work shall not restrict flows so as to cause an increase in flood stage or velocity.
    - Work in those portions of bordering land subject to flooding found to be significant to the protection of wildlife habitat shall not impair its capacity to provide important wildlife habitat functions. ....
  - **City Floodplain. Sec. 22-22. Floodplain/Watershed Protection Provisions.**
    - (b)(1) Except as provided in subsections (b)(2) and (e) of this section, no building or other structure shall be erected, constructed, altered, enlarged or otherwise created for any residence or other purpose ... which will restrict floodwater flow or reduce floodwater storage capacity shall be permitted.
    - (b)(2) ... the conservation commission may issue an order of conditions for the following uses in the Floodplain/Watershed Protection District:
      - a) Any building or structure for which compensatory storage is provided ...
- Staff Notes:
  - Staff are awaiting the results of conversations between the homeowner and the Chair.
- Staff Recommendations: Vote on proposed plan to bring site into compliance with the Order of Conditions.

**3. 942-944 Watertown Street – Compliance Discussion – new duplex – DEP File #239-427**

- Owner/Applicant: Janet Edsall Fields Representative: Stephen Fields
- Request: Determine how unapproved changes made to site should be mitigated in order to bring the site into compliance for a Certificate of Compliance.
- Jurisdiction: Buffer Zone, Riverfront Area, BLSF, City Floodplain
- Performance Standards
  - **Riverfront Area: 10.58(4)**
    - c) No 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 ... to provide important wildlife habitat functions. ...
        - d. ... incorporating erosion and sedimentation controls ... to attenuate nonpoint source pollution.
  - **Bordering Land Subject to Flooding: 10.57**
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    - Work shall not restrict flows so as to cause an increase in flood stage or velocity.
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    - (b)(2) ... the conservation commission may issue an order of conditions for the following uses in the Floodplain/Watershed Protection District:
      - a) Any building or structure for which compensatory storage is provided ...
- Staff Notes:
  - The originally approved project involved the demolition of an existing single-family home and the construction of a duplex. There were a number of issues on site, including some that required the issuance of an Enforcement Order, and the permit was never closed out.

- The current owner and their representative have made it clear that this request for close-out is time sensitive and expect to have an as-built prepared for current site conditions prior to the 1/28/21 meeting.
  - Below is a timeline of events for filing 239-427:
    - July 1, 2004 – Order of Conditions issued for the demolition of the existing single-family home and construction of 2 townhomes, referencing July 7, 2004 plans.
    - July 13, 2004 – Order of Conditions is recorded at the Registry of Deeds, proof not forwarded to the Conservation Office.
    - January 13, 2005 – Enforcement Order issued for lack of compliance of the following and other issues. (Please see the full list of violations and requirements in packet materials for this agenda item.)
      - IMMEDIATELY remove the porta-potty from the floodplain.
      - IMMEDIATELY remove all fill from the floodplain – soil, equipment, materials
      - IMMEDIATELY construct the compensatory storage and have it certified by a
      - Unpermitted plan changes (subsequently approved through Minor Plan Change #1)
    - February 12, 2005 – Letter received from Frank Iebba stating that the compensatory storage has been provided per the approved plans (resolving some of the Enforcement Order issues).
    - March 31, 2005 – Revised plans approved by Engineering Department for work.
    - May 6, 2005 – Revised plans (approved by Engineering) approved as a minor plan change by the Commission. (resolving remaining Enforcement Order issues)
    - September 27, 2005 – Reduction in required “native shrubs” reduced from 48 to 25 approved as a minor plan change by the Commission.
    - September 28, 2005 – Date listed on plan that may be equivalent to an as-built but is not titled “as-built.”
    - December 20, 2005 – Request to remove all required plantings was denied by the Commission.
  - Since the approved work was finished, further changes have been made to the site where were not reviewed or approved by our office.
    - Installation of 56’ section of fence was added at the rear lot line along Cheesecake Brook.
    - A 12’x12’ brick patio was installed.
    - No shrubs remain from the required planting plan.
      - Staff are looking for the details of the modified approved planting plan.
      - Staff note that there was no perpetual condition for plant survival, but we do not have proof that plantings survived the required 2 growing seasons.
  - Commissioners should determine what steps are necessary to bring the site into compliance with the Wetlands Protection Act and Regulations.
    - Determine whether “recent” unpermitted changes require alteration and/or post facto permitting.
    - Determine when and how to close the file with a COC.
  - Staff Recommendations:
    - If as-built demonstrates that the originally proposed work was done in full compliance, the Commission should so note for the record.
    - The Commission should consider whether replacement plantings should be installed under the original OOC.
    - The Commission should consider whether the unpermitted fence meets new guidelines for fences in Flood Zone (Note: the fence is in RFA, but fences that do not bar wildlife are exempt from consideration under RFA regulations.). If the fence does not meet new guidelines for fences in Flood Zone, the Commission should determine a permissible alternative (removal or alteration) that meet guidelines for flood zone and RFA (wildlife).
    - The Commission should consider whether the unpermitted patio meets regulations for work in RFA and FZ. If the patio does not meet regulations, the Commission should determine a permissible alternative (removal or alteration).
    - The Commission should determine the nature of the application required, if any, that they need to receive to wrap this all up.
- 4. 42 Hyde Avenue – OOC Extension Request – addition onto single-family home – DEP File #239-786**
- Owner/Applicant: Adam Young and Esther Freeman Representative: none
  - Request: Issue an extension for the maximum 3 years.
  - Documents Presented: Site photos
  - Jurisdiction: Buffer Zone

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- Staff Notes
  - The OOC for this project was due to expire on 7/6/20, but because of the Governor’s order, all permits active at the start of the state of emergency are tolled until it is over.
  - COVID-19 has delayed the applicant in the work on their home. They are still in the process of construction but are looking for an extension to ensure that the permit does not expire while work is still occurring.
  - There is a 2-year survival requirement for mitigation plantings that needs to be met as well.
- Staff Recommendations: Vote to issue an extension for the maximum allowed 3 years.

**5. 73 Beaconwood Road – OOC Extension Request – demo single-family new duplex – DEP File #239-791**

- Owner/Applicant: Matthew Haney, PZ Realty Trust Representative: none
- Request: Issue an extension for the maximum 3 years.
- Documents Presented: “consolidated plan”
- Jurisdiction: Buffer Zone
- Staff Notes
  - Demolition of the house has occurred, since the work was entirely on one parcel and did not affect the wetland resource area.
  - The OOC is due to expire on April 6, 2021. If the COVID state of emergency is still in effect, the OOC will not expire. In response to Staff’s question about when the permit would expire, DEP noted:
    - “I get that question a lot. The short answer is that we don’t know yet, and we won’t until the Legislature ends the tolling with new legislation.*
    - The legislation which tolls expiration dates just says they “shall toll during the state of emergency”. It doesn’t say how we will re-enter the normal permit expiration world.*
    - Because of that unknown, I am encouraging applicants with permits that are about to expire (or would have expired, but for the COVID emergency) to apply for an extension now. In that way, they will not be potentially rushed to get an extension when the tolling is lifted. And Commission’s won’t be inundated with extension requests.*
    - That said, as you may be aware, Commissions are not compelled to approve extensions. And failure to approve an extension is not appealable to MassDEP.”*
  - The primary applicant states that City’s lack of stream maintenance in Cold Spring Park has raised the groundwater level, thereby flooding the subject lot. Applicant wishes to wait for City action in Cold Spring Park before initiating work. Staff do not know whether the City has committed to a specific stream cleaning plan or schedule.
  - Staff note that the site has been flooded for years, i.e., current conditions are not significantly different from those at the time of permitting, and so staff question the reason given for the extension request.
  - The current approved plans are more recent than the plans they originally approved. In the summer of 2019, the applicant submitted plans to Engineering and ISD from a new engineering firm; those plans did not match the plans approved by the ConCom. Staff worked for months with the applicant to produce a “consolidated plan” that reflected all approved plans. Staff approved the “consolidated plans” administratively.
  - Staff are aware the applicant has not yet secured an agreement from the owner/co-applicant of the road/driveway (Capasso) for the installation of the proposed culvert. The applicant requested of Conservation Staff that the culvert not be constructed. Staff noted that the culvert is conditioned in the OOC, to be installed as shown on the approved plans.
  - Since the project has two applicants/owners (Haney/PZ Realty Trust and Danato Capasso Trust) and affects two parcels, all conditions, modifications, and extensions will need to be approved by both parties and recorded as necessary. Staff will let the applicants know that the request for an extension must be supported by both applicants in writing before the Commission can vote on such a request.
- Staff Recommendations
  - Discuss the merits of the request.
  - Await a written request from both applicants.

**6. 62 Carlton Road – Minor Plan Change Request – new single-family home – DEP File #239-836**

- Owner/Applicant: Danius Kuper, Hillcrest Development Representative: none
- Request: Approve minor plan changes.
- Documents Presented: Colored plans, site photos
- 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.”
- Summary of Changes
  - (After-the-fact) The retaining wall on the rear right side of the house was divided into two retaining walls for structural and safety reasons. The total height of both walls stayed the same as in the proposed original wall.
  - (After-the-fact) The grading on the left -rear side of the house was significantly altered with the removal of the proposed and approved “mounding.”
  - (Proposed) Applicant is requesting to install 5’ high guard rails on the left and right-side slopes of the lot for safety reasons. The railing would have 4-5” of space at the bottom to allow for any possible wildlife movement. The proposed location of the guard rail is marked by red lines on each side of the lot on the as built plan in the packet.
- Staff Notes:
  - Reminder: The Commission’s jurisdiction ends at the 100’ buffer line, near the back wall of the house.
  - Staff noted the unpermitted changes during a recent site visit in response to a request to sign-off on a Certificate of Occupancy.
  - Staff noted some instability of vegetation around the ends of some of the retaining walls, but sod had only recently been installed, so determination of long-term stability is not known.
  - The applicant has noted that the “wildlife corridors” will be used for access for the extensive planting efforts and so will need to be revegetated and re-stabilized.
  - Staff note that the proposed guardrail on the left side of the house crosses the wildlife corridor.
  - Staff request of the applicant provide the details/specifications (materials, scale, design, etc.) of the proposed “guard rails.”
  - Having observed half a dozen small stumps near the pond, Staff request the applicant provide details regarding the cut saplings.
- Staff Recommendations
  - Await details/responses from the applicant.

**7. 11 Chesley Road – COC – new shed and driveway improvements – DEP File #239-626**

- Owner/Applicant: Ellen Silver Representative: none
- Request: Issue COC.
- Jurisdiction: Buffer Zone, Riverfront Area, City Floodplain
- Staff Notes: All required paperwork has been received. A site visit is scheduled for 1/22/21 to confirm compliance.
- Staff Recommendations: If site visit confirms compliance, vote to issue a complete Certificate of Compliance.

**8. 326 Fuller Street – COC – footbridges across stream – DEP File #239-857**

- Owner: Brae Burn Country Club Applicant: Sean McLaughlin, BBCC Representative: Sarah Stearns, Beals & Thomas
- Request: Issue COC.
- Jurisdiction: Buffer Zone, Riverfront Area, City Floodplain
- Staff Notes: All required paperwork has been received. A staff site visit on 10/23/20 confirmed compliance.
- Staff Recommendations: Vote to issue a complete Certificate of Compliance.

**II. CONSERVATION AREA DECISIONS**

**9. Trailhead Signs**

- Request: Provide direction on map color palette, map font size, and draft text.
- Documents Presented: Color/font options
- Staff Notes
  - A sample of existing, pastel and bright maps are provided to spur discussion.
  - Staff developed proposed text for trail head signs based on conversations in the previous ConCom meeting.
- Staff Recommendations: Provided consensus feedback to staff.

**III. ADMINISTRATIVE DECISIONS**

**10. Minutes of 1/7/21 to be approved**

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- Documents Presented: Draft minutes
- Staff Recommendations: Vote to accept the 1/7/21 minutes.

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

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**UPDATES**

**V. WETLANDS UPDATES**

- Riverwalk: Staff are investigating unpermitted tree cutting in Riverfront Area.

**VI. CONSERVATION AREA UPDATES**

- Houghton tree cutting: Staff are requesting quotes for removal of 5 hazard trees.

**VII. ISSUES AROUND TOWN UPDATES**

- Christina Street Bridge Feasibility Study: Conservation staff received 4 proposals for the Christina Street Bridge project and are in the process of reviewing them, along with other City staff.

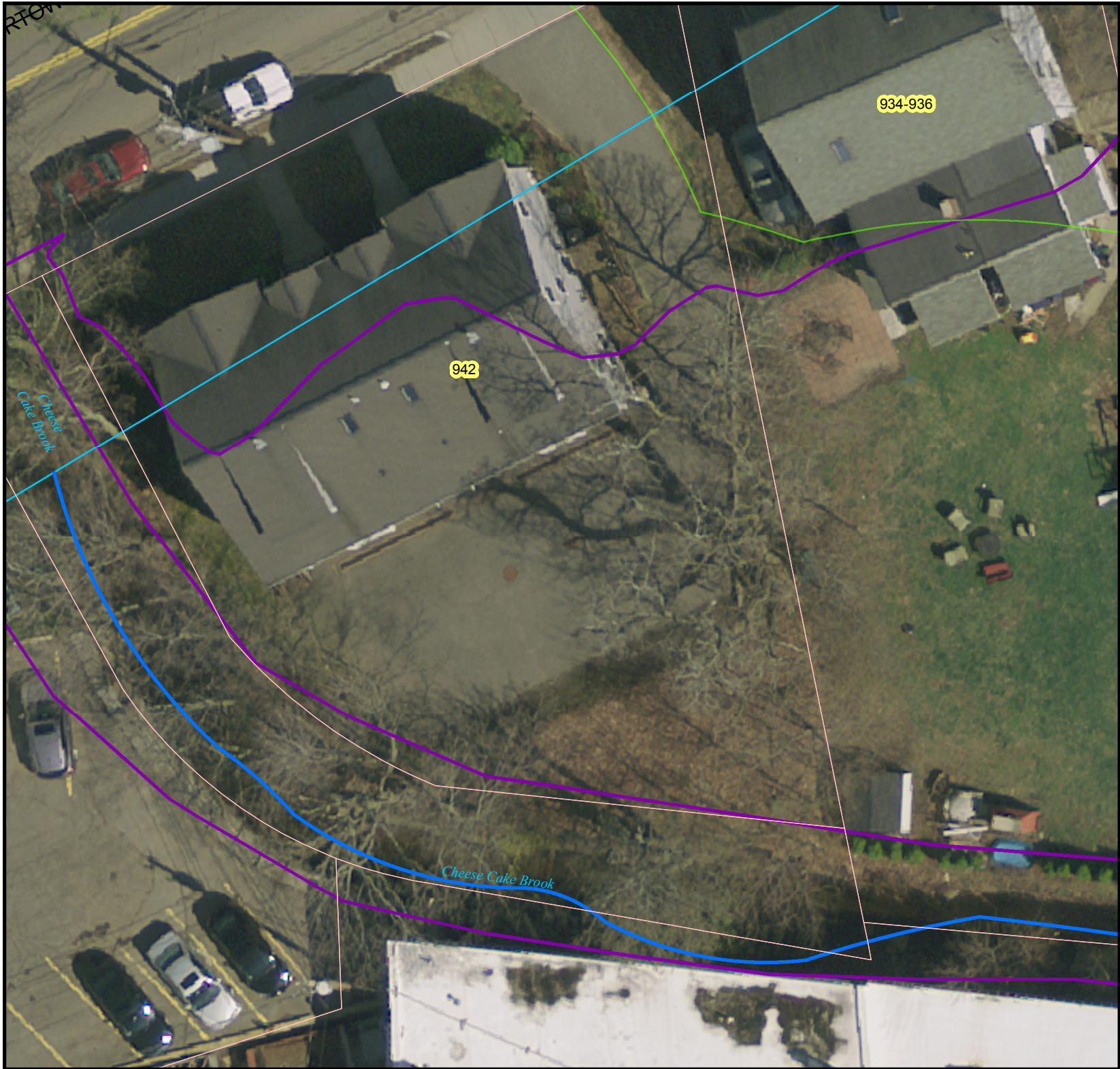
**VIII. ADMINISTRATIVE UPDATES**

- Environmental Science Program: Staff to provide update.
- 

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**ADJOURN**

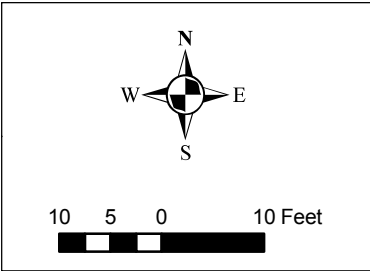




**942-944 Watertown St  
Areas of Jurisdiction**

**Newton, Mass.**

Map Date: 01-21-2021



**Legend**

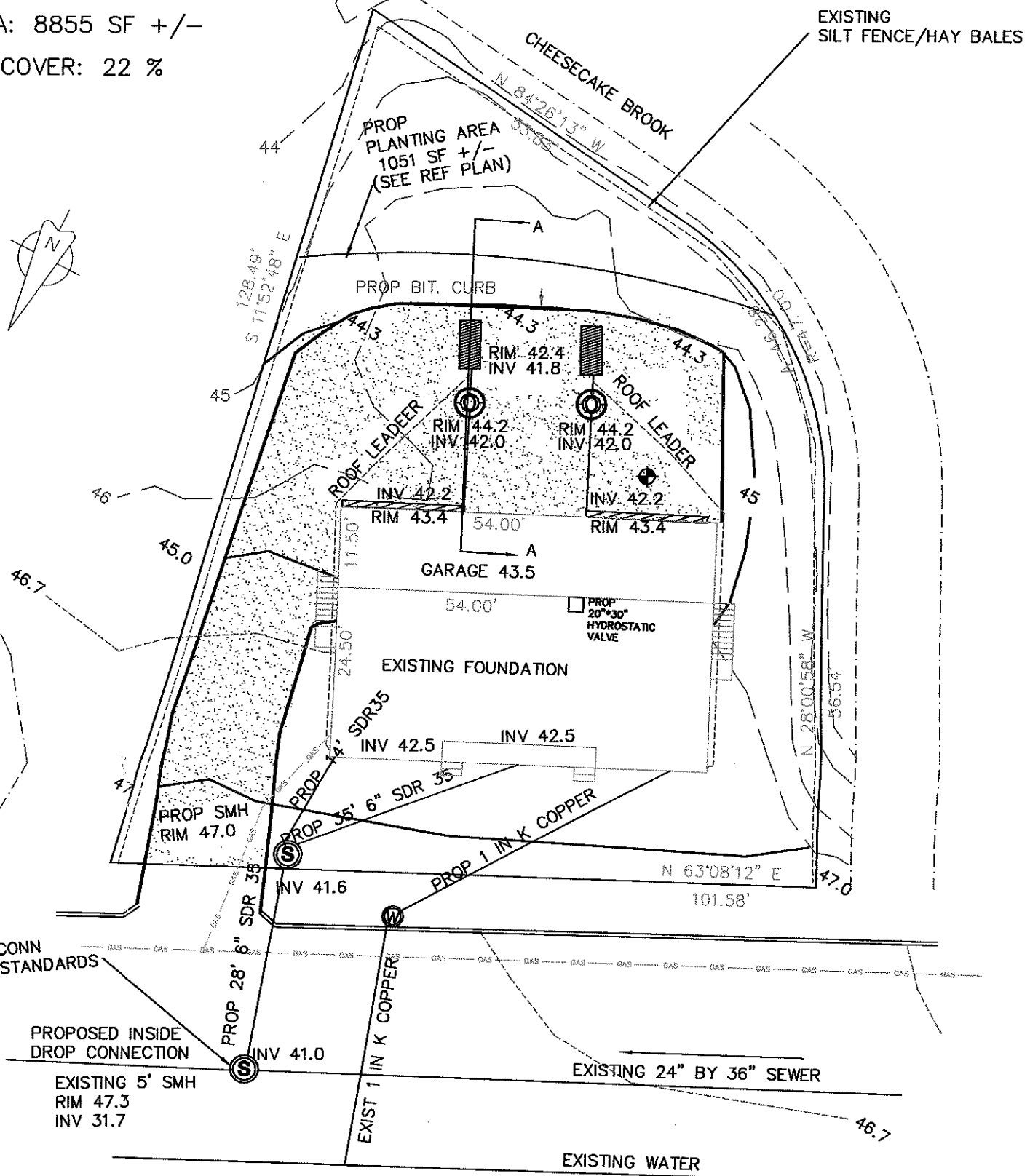
- Buffer Zone line
- Riverfront line
- Flood Plain

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.

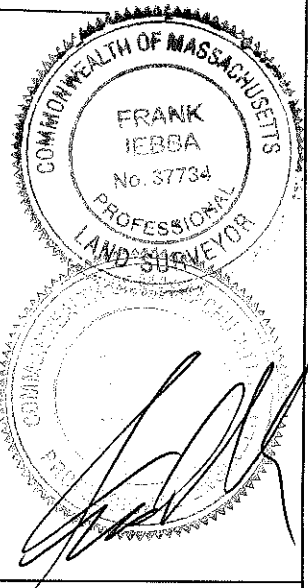


CITY OF NEWTON, MASSACHUSETTS  
 Mayor - Ruthanne Fuller  
 GIS Administrator - Douglas Greenfield

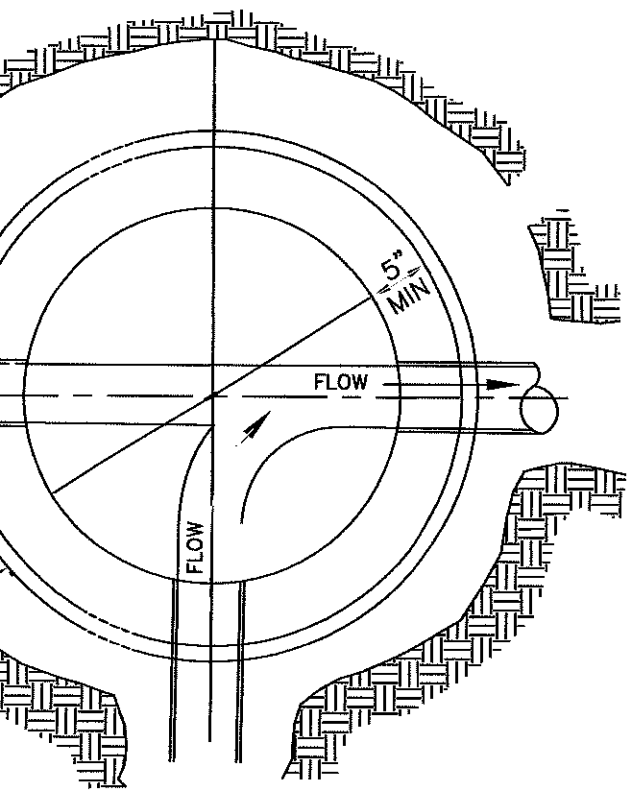
AREA: 8855 SF +/-  
 LOT COVER: 22 %



WATERTOWN ST



REFERENCE PLAN AND SOILS LOG FROM:  
 TOPOGRAPHIC PLAN OF LAND  
 NEWTON, MA  
 SHOWING PROP. CONDITIONS AT 942 WATERTOWN ST  
 AS REVISED JUNE 7, 2004  
 BY VTP ASSOCIATES INC.



PROPOSED UTILITY & DRAIN CONNECTIONS  
 942 WATERTOWN STREET  
 NEWTON, MA.

SCALE: 1 IN = 20 FT  
 JAN 27, 2005  
 MAR 7, 2005  
 MAR 31, 2005

**APPROVED**  
 CITY OF NEWTON  
 ENGINEERING DIV.  
*Maria Polyzos* Date 4/7/05

**INSPECTIONAL SERVICES**  
**CONSERVATION**

ESSEX ENGINEERING & SURVEY  
 PO BOX 620622 NEWTON LOWELL, MA  
 MA. 02462-0622

617-797-7342

ESSEX1@VERIZON.NET

*NEW RECORDS PLAN*

See items below with corresponding condition from Order.

1. PLAN CURRENTLY IN ENGINEERING DOES NOT MATCH THE APPROVED PLAN. SEE CONDITION BELOW FOR APPROVED PLAN.

“Plan entitled “Topographic Plan of Land, Newton, Massachusetts, showing proposed conditions at 942 Watertown Street”, 2 sheets, dated 3/3/02, most recently revised 6/7/04, prepared by VTP Associates, Inc., Signed and stamped by James J. Abely, PE, PLS. Also General Construction Sequence and Proposed Mitigation Planting Area Planting Plan from the NOI.”

2. PLAN CHANGED, BUT WAS NOT PRESENTED TO THE COMMISSION FOR ITS APPROVAL.

“26. Prior to the commencement of construction, applicant shall have in hand all other City permits, including, but not limited to, Building, Street Opening, Sidewalk Crossing and Utility Connection permits. Should the approved plans change as a result of the issuance of other permits, the Commission shall be notified and a new plan presented for review prior to commencement of construction.” (emphasis supplied)

3. NO EVIDENCE OF WRITTEN APPROVAL GIVEN TO CONSERVATION.

“27. The discrepancies identified in the City Engineer’s review memo with regard to the number of leaching facilities shall be clarified and a written approval from the City Engineer shall be presented to the Commission.”

4. NO PHOTOGRAPHS WERE SUBMITTED TO CONSERVATION.

“28. Prior to the commencement of demolition activities, the applicant shall take photographs of the laid-up stone walls (bank) of Cheesecake Brook adjacent to the property as evidence of their condition. Any damage to the walls shall be repaired to the satisfaction of the Department of Public Works by the applicant at his/her own expense. A post-construction inspection of the walls will take place prior to the issuance of a Certificate of Occupancy.”

5. COMPENSATORY STORAGE WAS NOT CONSTRUCTED, NOR CERTIFIED TO THE COMMISSION AS REQUIRED. SEE ALSO COMMENT #6 BELOW.

“29. Prior to the commencement of construction, the compensatory storage shall be constructed, surveyed and certified to the Commission.

6. THE ENTIRE FLOODPLAIN HAS BEEN FILLED WITH SOIL EXCAVATED FOR THE DWELLING BASEMENT AND GARAGE.”

7. MATERIAL AND EQUIPMWENT ARE BEING STORED IN THE FLOODPLAIN. A PORTA-POTTY IS LOCATED IN THE FLOODPLAIN.

“30. All dumpsters, soil and materials stockpiles shall be located out of the floodplain.”

8. NO APPROVED PLAN WAS SUBMITTED TO CONSERVATION.

“31. An Operations & Maintenance Plan for the on-site drainage system shall be prepared and approved by the City Engineer and is made a condition of this approval.”

9. NO PROOF OF RECORDING WAS PRESENTED TO CONSERVATION.

(Owner says she has it and will drop it off.)

10. DEP SIGN IS SPRAY PAINT ON PARTICLE BOARD AND DOES NOT COMPLY WITH THE REQUIREMENTS IN THE ORDER.

11. Also, no Building Permit was visible in the window of the building, the contractor listed on the Building Permit records is not the contractor now doing the work; the snow has not been removed from the sidewalk; erosion controls are deteriorating and should be replaced after the snow melts.

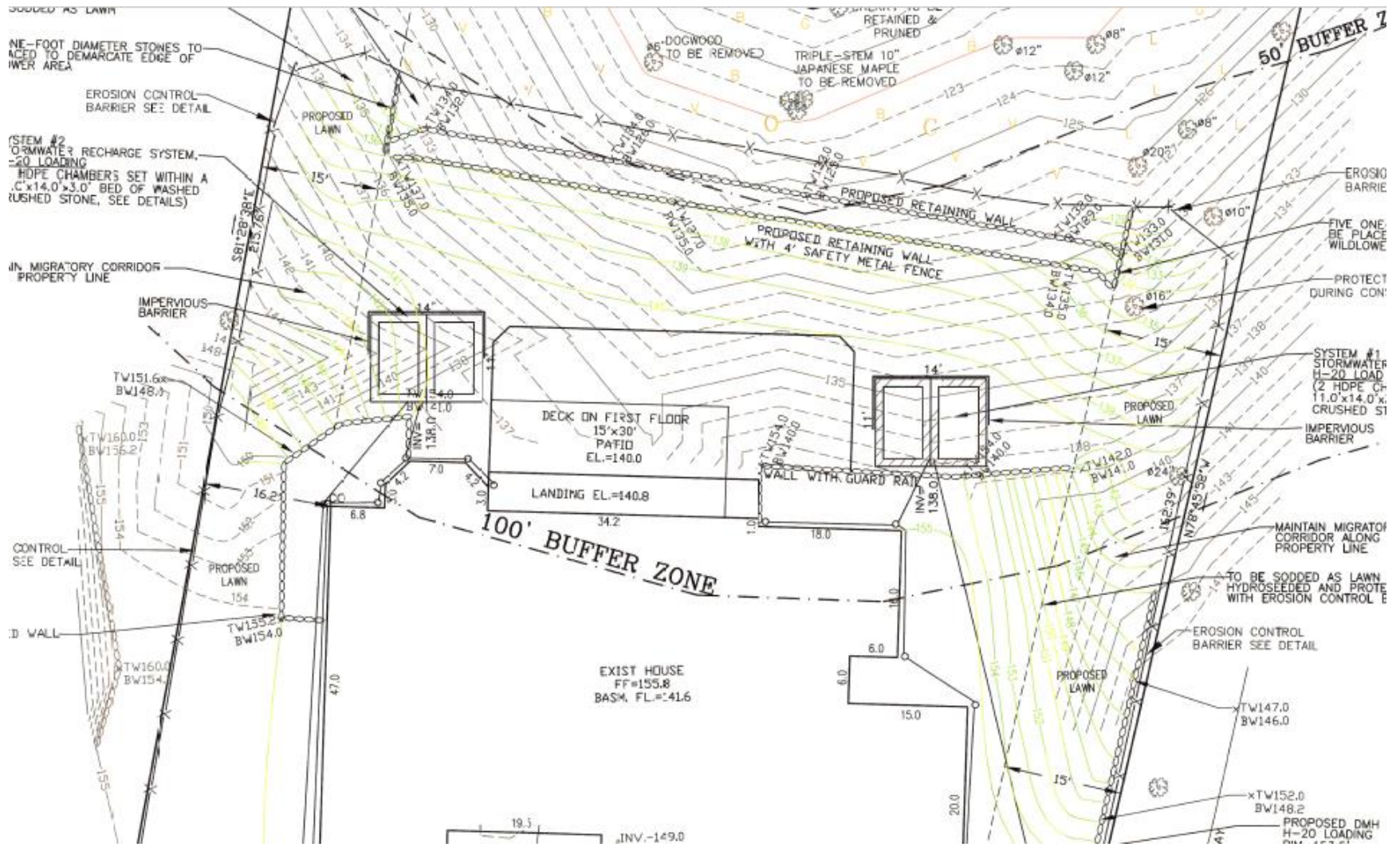
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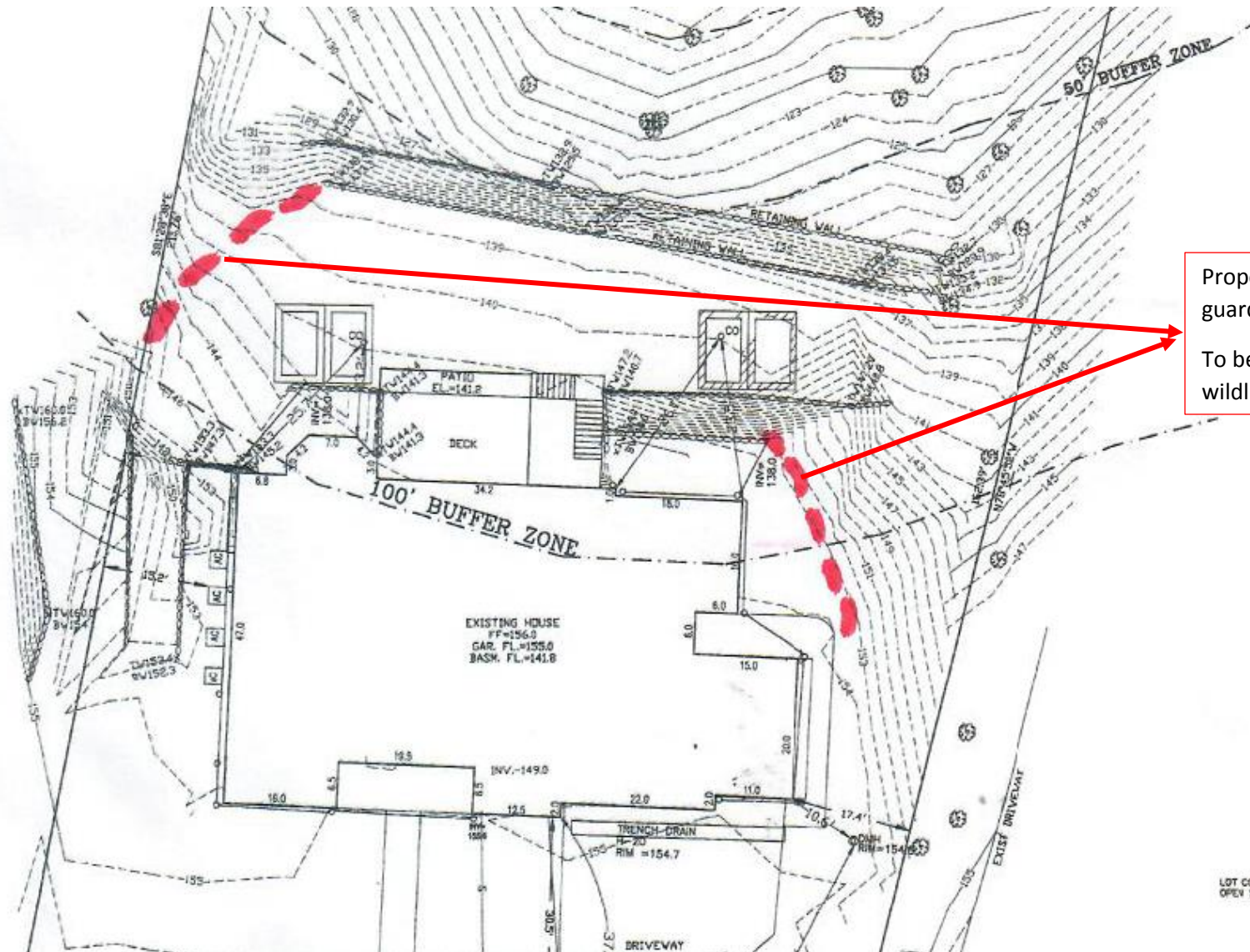
**ENFORCEMENT ORDER/ACTION REQUIRED OF OWNER:**

**ITEMS 1, 2 AND 3 SHOULD BE COMPLETED WITHIN THE WEEK (January 20). OTHER ITEMS WITHIN 2 WEEKS (January 27).**

1. IMMEDIATELY remove the porta-potty from the floodplain.
2. IMMEDIATELY remove all fill from the floodplain – soil, equipment, materials
3. IMMEDIATELY construct the compensatory storage and have it certified by a PLS and PE.
4. Submit photographs as required.
5. Submit the Operations & Maintenance Plan to the City Engineer for review and approval.
6. Resolve the plan differences and bring to the Commission at its next meeting the plan you wish to follow.
7. Submit proof of recording.
8. Erect a new DEP sign.

**TOTAL COMPLIANCE IS TO BE ACHIEVED BY 1/27/05 AT WHICH TIME THE OWNER SHOULD APPEAR BEFORE THE CONSERVATION COMMISSION AT 9:30 P.M. IN ROOM 209 AT CITY HALL.**





Proposed metal guardrails  
To be elevated for wildlife

LOT COVERAGE: 11  
OPEN SPACE: 84.1

(no trail)

*This nature reserve has been preserved to enhance  
wildlife habitat and water quality*

-----

*No trails have been established*

(trail)

*This is a nature reserve.*

*Stay on the trails.*

*Leash all dogs.*

*Remove dog waste.*

*No littering.*

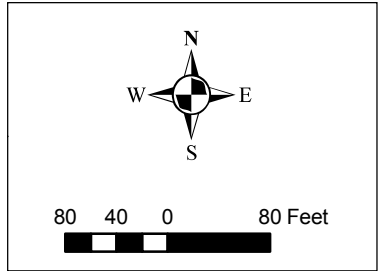
*No bicycling.*



**Primary/Bright Colors  
Larger font/symbols**

**Newton, Mass.**

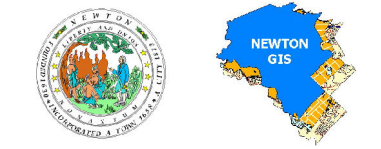
Map Date: 01-21-2021



**Legend**

- Boardwalk
- Walking Trail
- Water Body
- Wetlands
- Conservation Land
- Trailhead
- Parking
- Accessible Parking

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

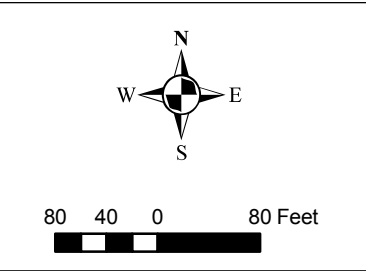




**Pastel Colors**  
**Smaller font/symbols**

**Newton, Mass.**

Map Date: 01-21-2021



**Legend**

- Boardwalk
- Walking Trail
- Water Body
- Wetlands
- Conservation Land
- Trailhead
- Parking
- Accessible Parking

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# CONSERVATION COMMISSION AGENDA

Date: January 7, 2021

Time: 7:02pm – 10:19pm

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

<https://us02web.zoom.us/j/8429428454>

**With a quorum present**, the meeting opened at 7:02 Dan Green presiding as Chair.

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

**Members Absent:** Judy Hepburn

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

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

## DECISIONS

### I. WETLANDS DECISIONS

#### 1. 122 Upland Avenue – RDA – new deck

- **Owner/Applicant:** George and Melissa Monokroussos **Representative:** Lulu Friedman, Didi Design Group
- **Request:** Issue DOA.
- **Documents Presented:** Colored plans, site photos, draft DOA
- **Jurisdiction:** BLSF (112' NAVD88), City Floodplain
- **Project Summary:** Construct a new 15' x 32' deck on the rear of house at the second story level. Only stairs and piers will be within the flood elevation.
- **Presentation (Melissa Monokroussos) and Discussion**
  - Applicant clarified that the deck is considered a second level deck (i.e., off the first floor but the home as a walk-out basement).
  - The proposed fill resulting from the new deck is roughly 18.5 cubic feet (including the stairs and piers), which is under 1 cubic yard.
  - All work is proposed to occur above an existing patio and a small portion of lawn.
  - The applicant is proposing to install a native planting bed along the edge of the existing patio and plans to install a rain garden in the future. Staff requested some further clarification on the proposed interest for the rain garden and planting strip.
  - Commissioners raised some concerns about a lowered bed around the patio serving as a tripping hazard.
  - Commissioners felt that focusing on the rain garden as compensatory storage and not conditioning the planting strip was most appropriate.
- **Vote:** To issue a negative 3 determination (with the following special conditions). [Motion: Susan Lunin; Second: Leigh Gilligan; Roll-call vote: Gilligan (aye), Green (aye), Lunin (aye), Zabel (aye), Cade (aye), Katz (aye). Vote 6:0:0]
  - A 15' x 32' deck with stairs may be constructed as per the approved plans.
  - The deck must remain in compliance with the Commission's Guidelines for Construction in Flood Zone, which prohibit enclosure of the space under the deck with skirting, mesh, lattice, etc. in any way that restricts or impedes the flow of floodwater (see the Guidelines for details). Such compliance must be confirmed for the completed deck through provision of photos to the Conservation Office.
  - A "rain garden" of at least 20 cubic feet of compensatory storage (roughly 5' x 8') must be installed and planted with native plants. Soil from the excavated area must be disposed of off-site and proof of disposal submitted to the Conservation Office. Recommended native species include: swamp milkweed, blue and red cardinal flower, butterfly weed, buttonbush, Lobelia, Joe-Pye weed, Back-eyed Susan, Clethra alnifolia, Chelone (turtlehead).

#### 2. 40 Albemarle Road – cont'd NOI – teardown/rebuild single-family home – DEP File #239-880

- **Owner/Applicant:** Jeremy Osinski and Megan McHugh **Representative:** John Rockwood, EcoTec, Inc.
- **Request:** Issue OOC.



**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)

The location of this meeting/event 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/Section 504 Coordinator, Jini Fairley, at least two business days in advance (2 weeks for ASL or CART) of the meeting/event: [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.

- Documents Presented: Colored plans, site photos, draft OOC
- Jurisdiction: Buffer Zone, Riverfront Area
- Project Summary
  - The demolition of the existing 1,047± square foot single-family house with one car garage and bulkhead and associated site features including paved driveway and front and side/rear walkways and stairs, and the removal of one 18" spruce tree and two fruit trees (3 trees removed in total).
  - The construction of a 2,027± square foot single-family house with a two-car garage, front porch, and bulkhead; paved driveway; and front walkway and stairs with associated grading, lawn, and landscaping.
  - The project will result in 901± s.f. increase in total impervious area on the site.
  - Drainage improvements proposed include a trench drain, manhole sump, and two infiltration systems to accommodate driveway and roof runoff.
  - Two mitigation planting areas with a total of 13 saplings, 54 shrubs, and several types of groundcover are proposed, totaling 1,890± s.f. (a 2:1 ratio for the increase in impervious area).
- Presentation (John Rockwood) and Discussion
  - Applicant's representative provided a rundown of the project summary (above).
  - Commissioners asked for further detail about infiltration systems and the representative provided a description and stated that the systems meet the City's requirements. This is confirmed by the comments received by Conservation staff from the Engineering Department.
  - Conservation staff clarified that the staff comment made on the 12/8/20 meeting agenda regarding the grading of the restoration areas was intended to result in beds that were substantially depressed. Applicant's representative stated the mitigation areas are not designed to be rain gardens.
    - Staff responded that there is concern about runoff from this lot adversely impact the flooding that this area regularly experiences; the regrading of the mitigation areas would allow for not only mitigating any potential runoff but providing further storage for potential floodwater.
    - This depressed grading would continue around the back edge of the property in a small swale to allow for further runoff is collected.
  - The applicant has made all requested changes based on Engineering's comments on the originally proposed and revised plans.
  - A sump pump is proposed, and the details of its connection have been provided and preliminarily approved by Engineering. Applicant's representative clarified the details of the sump for Commissioner's.
  - Staff noted that the patio (to be reinstalled in the rear yard once the infiltration system is installed) must be installed with the same spacing and bed material.
  - Commissioners and staff discussed the potential of saving the spruce, however the applicant and their representative stated their interest is in taking it down to avoid conflict with the proposed house and front walkway. There is also a drain line proposed from the infiltration under the driveway that would run within 5 feet of the tree.
- Public Comment
  - Sharon McGann (96 Nevada) – mentioned significant concerns about groundwater impact on her property which abuts the property in question. Concerns were also brought up about dogwood trees on her property and the impact of construction on them.
    - *Applicant's representative provided clarification on how the infiltration system works and Commissioners clarified that groundwater does tend to move towards water bodies, but no one can guarantee exactly what the groundwater does.*
  - Sharon McGann (cont'd) – asked how the removal of the trees proposed was determined and how it will impact the way stormwater interacts with the site.
    - *Applicant's representative stated that the trees needed to be removed due to the proximity to construction would put the trees at risk for major damage that would make them a hazard to the new structure. To be proactive, the trees are being removed, but a significant amount of vegetation is being replanted in the mitigation areas.*
  - Julie and Scott Minkin (abutter) – stated their love for the spruce tree but understand the reasonings provided for why it must come down. They brought up concerns about the impact on wildlife habitat, though they appreciate the mitigation plantings, and the groundwater/flooding impacts.
    - *Conservation staff stated that there have been discussions with two City Councilors regarding the area flooding experienced along Cheesecake Brook. While the City portion of the stream is maintained with semi-regular dredging, the DCR portion of the stream may not be as regularly maintained and may be*

causing issues with the outflow resulting in flooding. Discussions are to be started with the Utility Director, Ted Jerdee, regarding how maintenance can be better coordinated to help relieve flooding. Staff assured abutters that this project will not demonstrably change the flooding experienced in the area.

- Amy Guzman (abutter) – brought up concerns on how the removal of the large roots systems associated with the spruce and the replacement with a large number of smaller plants will impact the groundwater use in the area.
  - *Conservation staff clarified that the Commission does not have jurisdiction over groundwater technically. Trees do suck up water for use, but they do not provide much “protection” against post storm flooding as they do not absorb rapidly, as the water is usually moving quickly through the soil or over the ground. The regulations do take into consideration the removal of large trees when properly mitigated for, and that the Commission can condition the size of the trees to ensure that as much root area is maintained. Commissioners also added that the increase in leaf coverage from the mitigation plantings will perhaps serve the area better in terms of rain absorption.*
- Sharon McGann – requested more information regarding the limitations of the regulations for Riverfront Area that do not allow us to address flooding.
  - *Conservation staff provided further clarification on the difference between an area that floods and official Bordering Land Subject to Flooding. Staff further stated that ample mitigation is being provided for potential floodwater, though it is not necessary, through the depression of the planting areas.*
- Stephanie Rogers (101 Nevada Street) – raised a question regarding how we ensure compliance with the planting plans that are approved.
  - *Conservation staff provided detail regarding the Certificate of Compliance process and perpetual conditions. The homeowner also stated that they do have the best intentions in their planting plan and that they understand they need to be part of the neighborhood.*
- Councilor Emily Norton – raised concerns that regulations are not caught up with the impacts of climate change and that a project like this will impact the overall flooding in the area, though it may technically meet the regulations. She requested the vote be put off to allow for further discussion.
  - *Commissioners discussed earlier that additional flood storage is being provided generously and that the Commission can only implement the Wetlands Protection Act, which this homeowner is complying with.*
- Vote: To close the hearing and issue Newton’s standard Order of Conditions with the following special conditions. [Motion: Jeff Zabel; Second: Susan Lunin; Roll-call vote: Gilligan (aye), Green (aye), Lunin (aye), Zabel (aye), Cade (aye), Katz (aye). Vote 6:0:0]
  - A stabilized construction entrance must be created to minimize track of mud and silt onto the roadway.
  - The applicant must schedule and attend a pre-construction site visit.
  - A swale of at least 6 inches in depth and 1-2’ in width must be installed all along the northern property boundary to direct runoff to the smaller mitigation area fronting on Albemarle Road to alleviate runoff from the subject property to the adjacent property.
  - The patio, shown as to be replaced, must be installed on a fully pervious bed of pea stone with similar (1-2”) spacing between the stones to maximize infiltration.
  - The permanent mitigation landscape plantings within Commission jurisdiction must:
    - a. Be installed in compliance with the approved plans and condition #36 (desired changes must be approved by the Conservation office in advance)
    - b. Stabilize all exposed areas
    - c. Have a survival rate of 100 % of total number of trees (after 2 growing seasons)
    - d. Have a survival rate of 75 % of total number of medium-larger shrubs (after 2 growing seasons)
    - e. Have a survival rate of 75 % of total number of smaller shrubs (after 2 growing seasons)
  - The top of mulch within the permanent mitigation landscape planting areas must be and remain in perpetuity at least 6” below the top of the adjacent lawn and sidewalk to facilitate infiltration and preclude stormwater runoff from leaving the site. The permanent mitigation landscape planting areas must be bounded with stone posts. Bounds must be buried roughly 3.5 feet and protrude at least 4” above the ground.
  - Mulch applications shall diminish over time and eventually cease as ground cover species and shrubs spread (Note: This is due to be maintained as a naturalized area).
  - The required Riverfront mitigation areas shall be maintained in perpetuity in their predominantly natural condition and bounded as per the approved plans.
  - The approved stormwater Operations and Maintenance Plan is appended hereto and must be adhered to.

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**3. 145 Warren Street – NOI – renovation and additional units onto single-family home – DEP File #239-882**

- Owner/Applicant: David Oliveri, Norton Point Warren St LLC Representative: John Rockwood, EcoTec, Inc.
- Request: Issue OOC.
- Documents Presented: Colored plans, site photos, draft OOC
- Jurisdiction: Buffer Zone
- Project Summary
  - Demolition of existing detached garage, renovation of the existing single-family home and construction of 3 additional units on the lot.
  - Stormwater management includes several infiltration systems, both in and out of Commission jurisdiction. The proposed system also includes an overflow outlet with a flared end within the 25' Buffer Zone.
  - An increase of 5,376 s.f. of impervious area is proposed over existing conditions for the entire lot. This proposal represents a decrease in impervious area of 607s.f. from the currently approved plans. The new total increase of impervious area within Commission jurisdiction is 2,660 s.f.
  - Proposed to be removed within ConCom jurisdiction are 17 of trees (10 of those over 8 caliper inches) totaling 131 caliper inches.
  - Proposed to be removed from the mitigation planting area are invasive Norway maple saplings and bush honeysuckles.
  - The mitigation planting plan within jurisdiction includes 35 saplings (both canopy and understory), 30 shrubs, and 55 1-gallon perennials.
- Discussion
  - Applicant requested a continuation to the 1/28/21 Commission meeting in order to develop revised landscape plans and address Engineering Department concerns.
- Vote: To continue the hearing to 1/28/21. [Motion: Leigh Gilligan; Second: Ellen Katz; Roll-call vote: Gilligan (aye), Green (aye), Lunin (aye), Zabel (aye), Cade (aye), Katz (aye). Vote 6:0:0]

**4. 116 Upland Avenue – Compliance Discussion – enclosure of deck – DEP File #239-824**

- Owner/Applicant: Ilya Zvenigorodskiy
- Request: Vote on plan to bring site into compliance.
- Jurisdiction: BLSF
- Presentation (Ilya Zvenigorodskiy) and Discussion
  - Homeowner stated that the approved plans was intended to be enclosed by screening. The calculations for the net fill represented this screening.
  - The OOC stated: "To maintain the flood storage capacity of the site, the crawl space under the house may not be filled or enclosed or its grading altered." The homeowner states that by enclosing the area under the deck, he is not in violation of this condition.
  - The homeowner did clarify that he was in error in enclosing directly the open foundation areas (the foundation areas not surrounded by deck) and that he does proposed to removal all of the lath from 8' opening in the foundation to get to 47% open flow area, according to his calculations.
  - Staff admitted that they were in error in not clearly stating that the areas under the deck should also not be enclosed, as the enclosure of the deck space surrounding the foundation openings also encloses the crawl space.
  - DEP notes that "unrestricted hydraulic connection" (akin to that required for BVW replacement in 10.55(4)) must be provided for all areas serving as flood storage.
  - The new guidelines do state that there should be an even distribution of 50% open space to allow unimpeded flow of flood waters, as is the intention of the regulations.
  - Commissioners, after much discussion, expressed their frustration in the lack of technical solution being presented from the homeowner. They felt that they were explicitly clear in what they were expecting from the homeowner at this meeting.
  - Conservation staff clarified to the homeowner again that the conditions supersede any information on the plans.
  - Commissioners offered to connect with Ilya offline and continue the discussion to a future hearing at which Ilya will provide a technical solution.
- Consensus: To continue the discussion to a future meeting, to be determined by the homeowner and staff, at which the applicant will present a technical solution.

**5. Preliminary Regulatory Discussion – Addressing Long-Term Infiltration System Function**

- Request: Consider whether the ConCom wants to proactively investigate and address infiltration system function during frozen conditions and over time and/or whether a larger discussion with Engineering is in order.
- Jurisdiction: BLSF, RFA, BZ
- Discussion
  - Commissioners expressed an interest in an expert presentation to get more base information about the stormwater infrastructure systems they approve on a regular basis to have a better understanding.
  - Staff will reach out to industry contacts to organize a presentation.

## II. CONSERVATION AREA DECISIONS

### 6. Trailhead Signs

- Request: Improve wording and appearance
- Documents Presented: Photos
- Discussion
  - Appearance: A slightly larger font would be appropriate to make signs more accessible. Staff were informed by the production company that additional colors will not increase the price, so the next sign run will have a wider palette.
  - Wording on trailhead signs:
    - Staff stated, and Commissioners agreed, that the language on the non-trailed parcels does not need to be edited.
    - Commissioners expressed that while the nice language currently used is lovely, that simpler language in a more active voice would be clearer.
    - Commissioners floated the idea of including a QR code on the sign for translations of the sign language.
    - Commissioners requested that all our parcel names align with the Conservators names for parcels.
    - Commissioners are split on the bicycle prohibition language, but the consensus is that overall, the language should be included on the signs. Commissioners request that we keep in mind the potential for allowing bikes on certain trails on webster.
- Consensus: Staff will work on draft language and send it out to the Commission for approval at a future meeting and will begin to develop the more colorful maps.

### 7. Charles River Pathway Conservation Area Name Change

- Request: There is an interest in changing the name of the Charles River Pathway parcel to the Charles Riverwalk parcel to avoid confusion with DCR's Charles River Pathway.
- Discussion
  - Commissioners stated an interest in aligning the name of the parcel with the overall DCR Charles River Pathway Plan.
  - Staff do hope that this will be part of the larger DCR Charles River Pathway.
- Consensus: Staff will move forward with a name change to the "Riverwalk Conservation Area" and will reach out to the Conservators to coordinate the renaming.

### 8. Trail Counters

- Request: One of our volunteer stewards suggested placing trail counters at trail heads to get a sense of use and to support funding requests. "I wonder if you could buy 2 or so and stewards could set them up for about a month at their sites. It could give us all a sense of usage overall and how it varies by day of week, time, and weather. I wondered if you said "200K uses of Conservation lands each year" would that help the cause for the pieces of conservation land. Also, it could be used to assess the impact of improvements. Get a week of values before and after say the Dolan Pond improvements. Finally, it could give you a sense of where to target improvements. While all areas need maintenance, if a given piece of land has 10x users than another piece of land you might target trail improvements to the more popular one."
- Discussion
  - Staff felt unsure of how these devices would be used and requested Commissioners think about the potential.
- Consensus: Due to the late hour, it was determined that the discussion should be continued to the next meeting.

## III. ADMINISTRATIVE DECISIONS

### 9. Conservation Office Budget Review

- Request: Routine review of Conservation Commission funds, with a focus on Land Management funds.

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- Documents Presented: Budget graphics
- Discussion: A summary of FY 2020 spending, a summary of current FY 2021 spending, and a chart showing distribution of funding across conservation areas has been provided for the Commission to review and discuss.

#### 10. Minutes of 12/8/20 to be approved

- Documents Presented: Draft minutes
- Vote: To accept the 12/8/20 minutes as revised. [Motion: Susan Lunin; Second: Leigh Gilligan; Roll-call vote: Gilligan (aye), Green (aye), Lunin (aye), Zabel (aye), Cade (aye), Katz (aye). Vote 6:0:0]

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

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### UPDATES

#### V. WETLANDS UPDATES

#### VI. CONSERVATION AREA UPDATES

- Houghton Garden – Hydroraking: Hydroraking is completed! The site is being buttoned up for the winter months. Restoration planting and final pathway restoration will occur in the spring.
- Charles River Pathway – Stairs: Contract has been signed; work will start in the spring.

#### VII. ISSUES AROUND TOWN UPDATES

- OSRP approval: The state is awaiting a complete ADA inventory for every PRC parcel. PRC staff are working to complete this effort.
- Christina Street Bridge Feasibility Study: Proposals are due January 15<sup>th</sup>. We are still waiting for the MBTA access license.
- Climate action implementation rolls along! Interviews for the Energy Coach position have concluded, and the MOU between the City and the utilities has been signed and initiated.

#### VIII. ADMINISTRATIVE UPDATES

- Remote meeting requirements from 940 CMR 29.00 (Open Meeting Law)
  - 29.10(4)(a) Commission members must be clearly audible
  - 29.10(6)(b) When video technology is in use, the remote participant shall be clearly visible to all persons present in the meeting location. (N.B. Agents are not subject to Open Meeting Law so need not be visible.)
  - 29.10(7)(b) At the start of the meeting, the chair shall announce the name of any member who will be participating remotely
  - 29.10(7)(c) All votes must be by roll call
  - 29.10(7)(e) When feasible, the chair or, in the chair's absence, the person chairing the meeting, shall distribute to remote participants in advance of the meeting, copies of any documents or exhibits that he or she reasonably anticipates will be used during the meeting. If used during the meeting, such documents shall be part of the official record of the meeting and shall be listed in the meeting minutes and retained in accordance with M.G.L. c. 30A, § 22.

We can't require people to "sign-in" or identify themselves at in-person or remote public meetings.

We can require people to identify themselves if they wish to speak at a public hearing.

Agents of the Commission are not subject to Open Meeting Law, so members may contact the agents.

- Environmental Science Program: There continues to be discussion relating to the administration and support of the Environmental Science Summer Program; PRC has declined to absorb the program.
- 

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

#### 11. 6 Aspen Avenue – COC – new single-family home with septic – DEP File #239-122

- Applicant/Representative: Bridgett Dennison, Stiles & Associates Law
  - Request: Issue COC.
  - Presentation and Discussion: This is a very old permit that was never closed out. The open permit was discovered as the house is selling. An as-built was provided and site visit ensured the site is in compliance. The septic system was disconnected when the sewer was extended down Aspen Ave.
  - Vote: To issue a complete COC. [Motion: Ellen Katz; Second: Susan Lunin; Roll-call vote: Gilligan (aye), Green (aye), Lunin (aye), Zabel (aye), Cade (aye), Katz (aye). Vote 6:0:0]
- 

**ADJOURN at 10:19.** [Motion: Susan Lunin; Second: Ellen Katz; Roll-call vote: Gilligan (aye), Green (aye), Lunin (aye), Zabel (aye), Cade (aye), Katz (aye). Vote 6:0:0]

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