

CONSERVATION COMMISSION AGENDA

July 15, 2021

The Conservation Commission will hold this meeting as a virtual meeting on Thursday, July 15, 2021 at 7:00 pm. No in-person meeting will take place at City Hall.

All meeting documents are available at: <https://www.newtonma.gov/government/planning/boards-commissions/conservation-commission/meeting-documents>

Zoom access information for the July 15, 2021 Conservation Commission meeting will be posted at the following web address 48 hours in advance of the meeting.

<https://www.newtonma.gov/government/planning/boards-commissions/conservation-commission>

Please feel free to email jsteel@newtonma.gov and crundelli@newtonma.gov with any questions about filings prior to the meeting or access to the meeting.

NOTE: In addition to the documents presented in the Commission's packet (available on the Commission's website), full NOI plans and narratives are available on [the Commission's website](#).

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

DECISIONS

I. WETLANDS DECISIONS

1. **(7:00) 160 Pine Street – NOI – retaining wall replacement – DEP File #239-XXX**
 - Owner/Applicant: David Altman, Advantage Property Management Representative: Eric Denardo, Environmental Strategies and Management, Inc.
 - Request: Issue an OOC.
2. **(7:20) 942-944 Watertown Street – Compliance Discussion – new duplex – DEP File #239-427**
 - Owner/Applicant: Janet Edsall Fields Representative: Stephen Fields
 - Request: Approve the restoration plan.
3. **(7:40) Charles River Lower Basin – NOI – vegetation management – DEP File #239-XXX**
 - Owner/Applicant: Mass. Department of Conservation and Recreation Representative: Kara Sliwoski, SOLitude
 - Request: Issue an OOC.
4. **(8:20) 1897 Washington Street (Woodland Golf Club) – informal discussion**
 - Owner/Applicant: Steve Kohr, Woodland Golf Club Representative: none
 - Request: Determine if proposed "low-mow" area plan is appropriate.
5. **(8:40) 1 Malvern Terrace – OOC Extension – new single-family home – DEP File #239-808**
 - Owner: Mandayam Srinivasan Representative: none
 - Request: Issue OOC extension for 3 years.
6. **(8:50) 116 Upland Avenue – COC Request – teardown/rebuild SFH – DEP #239-824**
 - Owner: Ilya Zvenigorodskiy Representative: none
 - Request: Issue COC.

II. CONSERVATION AREA DECISIONS

III. ADMINISTRATIVE DECISIONS

7. **(9:00) Ban on Nip (alcohol) Sales – discussion regarding support letter for council docket**
8. **(9:10) Minutes of 6/24/21 to be approved**

IV. ISSUES AROUND TOWN DECISIONS

UPDATES

V. WETLANDS UPDATES

VI. CONSERVATION AREA UPDATES

VII. ISSUES AROUND TOWN UPDATES

VIII. ADMINISTRATIVE 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
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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: fairley@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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NOTE: Times listed are estimates. Items may be taken out of order at the Chair's discretion. Discussions of wetland cases may be limited by the Chair.

DECISIONS

I. WETLANDS DECISIONS

1. (7:00) 160 Pine Street – NOI – retaining wall replacement – DEP File #239-XXX

- **Owner/Applicant:** David Altman, Advantage Property Management **Representative:** Eric Denardo, Environmental Strategies and Management, Inc.
- **Request:** Issue an OOC.
- **Documents Presented:** Colored plans, site photos, draft OOC
- **Jurisdiction:** Buffer Zone, City Flood 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. ... 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."
 - **City Floodplain. Sec. 22-22. Floodplain/Watershed Protection Provisions.**
 - (b)(1) Except as provided in subsections (b)(2) and (e) of this section, no building or other structure shall be erected, constructed, altered, enlarged or otherwise created for any residence or other purpose ... which will restrict floodwater flow or reduce floodwater storage capacity shall be permitted.
 - (b)(2) ... the conservation commission may issue an order of conditions for the following uses in the Floodplain/Watershed Protection District:
 - a) Any building or structure for which compensatory storage is provided ...
- **Project Summary**
 - Replace an existing, failing wooden retaining wall with a Redi-Rock retaining wall (roughly 41 inches thick). The wall will be 4' high for roughly 24' feet and 7' high for roughly 57'.
 - Erosion controls are proposed between the wall and the stream, along with additional tree protection for the twin black locust.
- **Staff Notes**
 - As of the posting of this agenda, a DEP file number has not been received.
 - Staff feel that the plans remain deficient in terms of the location of the wetland resource areas and surrounding topography, but feel that with staff additions, they may be sufficient to allow work to proceed.



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- This application does not contain details about the anticipated methods and means of demolition and construction. The applicant is waiting to bring a contractor on board and will allow him/her to determine precise methods and means. The application specifies that:
 - Erosion controls and vegetation protection, and downstream stormwater catch basin protection will be installed.
 - All work to remove the existing timber will take place from atop the existing driveway as to not impact the area beyond the retaining wall.
 - Installation of the new Redi-Rock retaining wall will be in accordance with manufacturer’s specifications and in the same location as the existing timber wall.
 - Disturbed soils and vegetation within the limit of disturbance will be restored with seed.
- Without more detail about the process, it may be challenging to fully condition the project to ensure protection of the intermittent stream and the surrounding vegetation.
 - How extensive is the pavement removal going to be?
 - How extensive is the excavation associated with removal of the existing wall going to be?
 - Where will materials be stockpiled?
 - How will those stockpiles be protected?
 - Where are existing catch-basins (noted in the narrative)?
 - Is there an opportunity for improving stormwater runoff/treatment?
 - Is seed the most appropriate means of restoring the 3- swath along the base of the wall?
- The applicant team is claiming exemption from the Stormwater Standards. Staff don’t agree that the project is exempt, but agree that the “maintenance” nature of the project means that no significant alterations to the stormwater regime are required.
- Staff Recommendations:
 - Seek clarification on the process.
 - Ensure that plans are stamped and fully dated.
 - Catch-basins should be shown on the plans as to be protected.
 - If appropriate, vote to close the hearing and issue an Order of Conditions.

2. (7:20) 942-944 Watertown Street – Compliance Discussion – new duplex – DEP File #239-427

- Owner/Applicant: Janet Edsall Fields Representative: Stephen Fields
- Request: Approve the restoration plan.
- Documents Presented: none
- 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.
 - **10.58(5) RFA: Redevelopment within Previously Developed Riverfront Areas; Restoration & Mitigation**
 - ... work improves existing conditions.
 - Redevelopment means ... reuse of degraded or previously developed areas.
 - A previously developed riverfront area contains areas degraded prior to August 7, 1996....
 - Work to redevelop previously developed riverfront areas shall ...:
 - (a) At a minimum, work shall result in an improvement over existing conditions ...
 - (b) Stormwater management is provided according to standards
 - (c) Proposed work shall not be closer to the river than existing conditions or 100’, whichever is less
 - (d) Proposed work...shall be located... away from the river, except in accordance with 10.58(5)(f) or (g).

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- (e) proposed work shall not exceed the ... degraded area ... except in accordance with 10.58(5)(f) or (g).
- (f) despite what it says in 310 CMR 10.58(5)(c), (d), and (e), more alteration at the RFA outer boundary may be allowed if an applicant proposes restoration ... of at least 1:1 ...
- (g) despite what it says in 310 CMR 10.58(5)(c), (d), or (e), more alteration at the RFA outer boundary may be allowed if an applicant proposes mitigation ... of at least 2:1
- (h) The issuing authority shall include a continuing condition in the COC ...under 10.58(5)(f) or (g) prohibiting further alteration within the restoration or mitigation area....
- **Bordering Land Subject to Flooding: 10.57**
 - Compensatory storage shall be provided for all flood storage volume that will be lost ... Such compensatory volume shall have an unrestricted hydraulic connection to the same waterway or water body.
 - Work shall not restrict flows so as to cause an increase in flood stage or velocity.
 - Work in those portions of bordering land subject to flooding found to be significant to the protection of wildlife habitat shall not impair its capacity to provide important wildlife habitat functions.
- **City Floodplain. Sec. 22-22. Floodplain/Watershed Protection Provisions.**
 - (b)(1) Except as provided in subsections (b)(2) and (e) of this section, no building or other structure shall be erected, constructed, altered, enlarged or otherwise created for any residence or other purpose ... which will restrict floodwater flow or reduce floodwater storage capacity shall be permitted.
 - (b)(2) ... the conservation commission may issue an order of conditions for the following uses in the Floodplain/Watershed Protection District:
 - a) Any building or structure for which compensatory storage is provided ...
- **Project Summary:**
 - This application is an effort to bring the site into compliance with an old, expired OOC. Asphalt expansion, patio construction, and lack of mitigation plants all needed to be addressed in a new plan.
 - For Rear Enhancement Area project proposal
 - Install compost sock as shown on plans.
 - Remove fence panels and post and dispose of off-site.
 - Remove wooden retaining wall at fence; reuse wood for retaining wall repairs or dispose off-site.
 - Remove soil held by retaining wall, fill fence post holes, round off top of slope, remove excess soil from site
 - Remove patio blocks and underlying soils to match adjacent grades with loamy topsoil.
 - Mark out proposed lawn area, and seed/sod the area that was formerly patio.
 - Scalp existing lawn in areas to become enhancement plantings.
 - Remove and treat a limited number of winged euonymus shrubs and Norway maples.
 - Plant native species according to plan. To include: 14 hedge shrubs, 4 understory saplings, and 22 shrubs.
 - Water and mulch enhancement areas. 4:1 mixture of leaf mulch and natural colored bark mulch.
 - Install bounds around enhancement planting area.
 - Water regularly and once area is stable remove erosion controls.
 - For Front Pollinator Gardens
 - Remove existing landscape plants and grub root masses. Remove lawn.
 - Turn over soil to a depth of 6". Plant native species according to plan. To include (in each): 3 shrubs, and 12 perennials.
 - Water and mulch pollinator garden areas. 4:1 mixture of leaf mulch and natural colored bark mulch.
 - Install bounds.
 - Water regularly.
- **Staff Notes:**
 - The applicant should clarify where the euonymus and Norway maples proposed for removal and treatment are on the plan. No trees at this time are labelled as "TBR" on the plans; the label stating "this general area" does not provide enough specificity. Staff feel that if mature Norway maples are removed, canopy trees should be included in the rear enhancement area planting plant to provide mitigation for the canopy loss.
 - Staff feel that Thuja (arbor vitae) do not provide the same ecological benefits as Eastern Red Cedar and so the applicant (and Commission) must determine which is more appropriate for this setting/situation.
 - Staff question giving "credit" for the pollinator gardens that will be replacing existing landscaped beds. The Commission must clarify their intent/requirement for true mitigation for the unpermitted expansion of asphalt (beyond what was originally required under the original Order).

- Staff Recommendations: Discuss the above issues and if appropriate, vote to approve the restoration plan to allow the site to be brought into compliance.
- 3. (7:40) Charles River Lower Basin – NOI – vegetation management – DEP File #239-XXX**
- Owner/Applicant: Mass. Department of Conservation and Recreation Representative: Kara Sliwoski, SOLitude
 - Request: Issue an OOC.
 - Documents Presented: Plans, site photos, draft OOC
 - Jurisdiction: BVW, Bank, LUWW
 - Performance Standards
 - **BVW: 10.55(4)**
 - (a) work in a Bordering Vegetated Wetland shall not destroy or otherwise impair any portion of the BVW
 - (b) The ConCom may permit the loss of up to 5000 square feet of BVW when said area is replaced IF: ...
 - (c) The ConCom may permit the loss of a portion of BVW when; ...
 - (d) No project may be permitted which will have any adverse effect on specified habitat sites of rare species
 - (e) No work shall destroy or otherwise impair any Area of Critical Environmental Concern
 - **Bank: 310 CMR 10.54**
 - (a) Work on a Bank shall not impair the following:
 1. The physical stability of the Bank;
 2. The water carrying capacity of the existing channel within the Bank;
 3. Ground water and surface water quality;
 4. The capacity of the Bank to provide breeding habitat, escape cover and food for fisheries;
 5. The capacity of the Bank to provide important wildlife habitat functions. ...
 6. Work on a stream crossing ..
 - (b) Structures may be permitted in or on a Bank ...
 - (c) No project may be permitted which will have any adverse effect on specified habitat sites of Rare Species.
 - **LUWW: 10.56**
 - (a) Work shall not impair the following:
 1. The water carrying capacity within the defined channel, which is provided by said land in conjunction with the banks;
 2. Ground and surface water quality;
 3. The capacity of said land to provide breeding habitat, escape cover and food for fisheries; and
 4. The capacity of said land to provide important wildlife habitat functions. ...
 5. Work on a stream crossing ...
 - (b) The issuing authority may issue an Order to maintain or improve boat channels
 - (c) No project may be permitted which will have any adverse effect on rare species.
 - Project Summary
 - Management of invasive species within the Charles River through mechanical harvesting, hand-pulling, Sonar herbicide (active ingredient: fluridone), ProcellaCOR EC herbicide (florpyrauxifen-benzyl), Tribune herbicide (diquat), Clearcast herbicide (imazamox), and Red Eagle/Clipper herbicide (flumioxazin).
 - Conditional use of algaecides for the management of algae blooms, if necessary, in the event of a health hazard.
 - Staff Notes
 - As of the posting of this agenda, a DEP file number has not been received.
 - DCR is requesting a 5-year Order of Conditions for this project.
 - Three other communities (Cambridge, Boston, Watertown) in the Lower Basin are reviewing the same NOI (and one has required a 3rd party review).
 - In response to staff requests, the applicant has provided:
 - A map of “potential treatment areas” of invasive species found in the Newton stretch of the River.
 - A link to the MA GEIR and the information below about what species are targeted by each herbicide.
 - Sonar – curlyleaf pondweed, Eurasian watermilfoil, spiny naiad, fanwort, and less effectively, variable watermilfoil
 - ProcellaCOR – Eurasian watermilfoil and variable watermilfoil
 - Tribune – curlyleaf pondweed, Eurasian watermilfoil, spiny naiad, and variable watermilfoil
 - Clearcast – water chestnut

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- Flumioxazin – fanwort, water chestnut (also treats curlyleaf pondweed, Eurasian milfoil, spiny naiad, and variable milfoil though is not proposed as a treatment for these species)
- A note stating that information on each of the herbicides “inactive ingredients” is protected by federal law as confidential business information; however, all inert or inactive ingredients must be approved by the EPA before they can be used.
- A folder of information on ProcellaCOR noting its approval by EPA and its approved use in, e.g., Vermont.
- A rough timeline of the anticipated treatments for the next 5 years and note that all treatments would be taking place after July 1 due to restrictions by the Department of Marine Fisheries.
 - Assuming an OOC is issued for the Lakes Region promptly
 - 2021 August: ProcellaCOR spot treatment application for milfoil
 - 2022 July: Sonar whole river treatment
 - August: Sonar booster
 - 2023 July: Sonar whole river treatment
 - August: Sonar booster
 - 2024 July: ProcellaCOR and Sonar spot treatment for milfoil, fanwort, spiny naiad
 - 2025 July: ProcellaCOR and Sonar spot treatment for milfoil, fanwort, spiny naiad
 - Assuming an OOC is NOT issued for the Lakes Region until 2023
 - 2021 August: ProcellaCOR spot treatment application for milfoil
 - 2022 August: ProcellaCOR and Sonar spot treatment for milfoil, fanwort, spiny naiad
 - 2023 July: Sonar whole river treatment
 - August: Sonar booster
 - 2024 July: Sonar whole river treatment
 - August: Sonar booster
 - 2025 July: ProcellaCOR and Sonar spot treatment for milfoil, fanwort, spiny naiad
- The applicant has provided responses to the questions posed at the last public hearing (in italics):
 - How they are meeting the performance standards of each relevant wetland resource type.
 - *2 pages detail performance standards and how they are met – but the focus is on the fact that this is an Ecological Restoration Limited Project, so performance standards need not be met fully.*
 - What became of the comprehensive plans that were to have included more land-based management efforts, educational efforts, etc.?
 - *Land-based efforts are being managed as a separate project.*
 - Whether new mapping/threshold identification will be provided to the ConCom before treatment this year/every year.
 - *The Fall survey results will be provided in the year-end report and these results will impact the next season’s treatment plan. Treatment plans for each year will be determined finalized after a pre-management survey is conducted prior to implementation.*
 - DMF’s authority in Newton’s jurisdiction.
 - *SOLitude is still waiting to hear back from DMF staff, but it is assumed that their jurisdiction goes at least until the Watertown Dam due to the fish run.*
 - The thresholds for different treatments to be considered.
 - ***Sonar** – ... there is not specific threshold for that initial treatment. This treatment is designed to reduce, if not eliminate, a majority of the invasive species biomass within the river a whole. This has been done previously, in back to back years, at the Mystic River, as mentioned in the NOI narrative and was extremely successful in reducing the milfoil population throughout the river. As such, that is the general model we would anticipate to follow for the Charles. For any future spot-treatments with Sonar, those sites would have to have sufficient fanwort growth (i.e. enough to have cause for concern of easy spread), and be configured in a way that there would not be a high concern of easy dilution so the treatment could be effective.*
 - ***ProcellaCOR** – ... when any (and preferably only) milfoil growth is present. That does not necessarily mean that all areas of milfoil growth will be or need to be treated, but milfoil growth that is within an area of potential spread or recreational use will be focused on. ... the true*

threshold for ProcellaCOR use is likely to be tied to presence/absence in recreational use/trafficked areas.

- *Tribune – this is anticipated to only be utilized for spiny naiad growth it is anticipated that a presence/absence threshold will be utilized for recreational and high use areas where it is present.*
- ***Clearcast** – this is included solely for foliar water chestnut treatments if necessary. At this time, there is little to no water chestnut in the Lower Basin so there is no immediate plan to utilize this. However, if growth expands rapidly and subsequently cannot be managed via hand-pulling or mechanical harvesting (for access, density, or efficiency reasons), then Clearcast would be utilized for spot-treatments of the water chestnuts.*
- ***Flumioxazin** – this is currently the only contact herbicide that is effective on fanwort growth. It would be used in a spot-treatment capacity where Sonar spot-treatments are not appropriate due to dilution, etc. Fanwort is also typically more challenging to control than milfoil species, so again a presence/absence threshold is anticipated for high use areas. For water chestnut control, this option may be used in lieu of Clearcast, but would be dependent upon the size of the area as there is a significant price difference.*
- Why are three different herbicides needed for the same group of plants?
 - *The different herbicides proposed that target the same species are suited for different types of applications depending on abundance and density of targeted plants. Sonar is a systemic option for large scale applications. ProcellaCOR is generally used as a spot treatment. Tribune is a contact herbicide intended for use as a spot treatment on mainly spiny naiad or curlyleaf pondweed control, versus the milfoil species (for which ProcellaCOR is anticipated).*
- What is known about chemical interactions of the proposed herbicides?
 - *There is little to no anticipation that the proposed in-water herbicides will be used simultaneously.*
- Where launching will take place?
 - *Potential options include the various yacht clubs along the river, the MDC Boat Ramp on Nonantum Road, or any other boat ramp location. Locations will vary based on the treatment is taking place.*
- Where chemicals will be stored?
 - *No product is anticipated to be stored on-site.*
- Where water chestnuts will be disposed of?
 - *The project team will assess the area surrounding the harvesting location to determine if there is an appropriate onshore area where material can decompose without being reintroduced to the River. If there is not, or quantities are too large, material will be placed in a truck or dumpster for future removal off-site.*
- **New Staff Comments**
 - The peer review commissioned by Cambridge is due to be released shortly and should help inform Newton's OOC.
 - The four involved communities (and DCR) would be well-served by having consistent conditions. The Commission should consider continuing one more time to ensure that there is full coordination with Boston, Cambridge, and Watertown.
 - Additionally, the benefit of a shared third-party Environmental Monitor has been discussed. A shared Environmental Monitor could obviate concerns about accurate field identification of invasive species and mapping thereof and any appearances of conflict of interest resulting from the surveyors and the applicators being in the same company.
 - The applicant should clarify whether the map provided illustrates current conditions and possible treatments in 2021, or whether it is illustrating something else.
 - The draft calendar provided by SOLitute does not include mention of Tribune, Clearcast, or Flumioxazin. It should, especially since the response states that herbicides are not due to be use simultaneously.
 - The thresholds for applications provided are not very specific. They should be clarified.
 - Water chestnut disposal sites should be identified.

- Staff Recommendations: Address the above questions/concerns in conditions and when appropriate, vote to continue the hearing so as to be able to issue a Restoration Order of Conditions consistent the regulations and consistent with that of Boston, Cambridge, and Watertown. At such time, include conditions such as:
 - The monitoring and treatment requirements set by DMF shall be adhered to.
 - The application of different herbicides shall abide by the thresholds clearly identified in XXXX
 - The treatment schedule shall follow the timeline outlined in XXXX or shall be modified following review by the Conservation Commission in a public meeting and a majority vote of the Commission.
 - Pre-management surveys conducted prior to treatment must be provided to the Conservation Office prior to treatment.
 - End-of-year reports must be provided to the Conservation Commission no later than November 30th of each year following treatment.

4. (8:20) 1897 Washington Street (Woodland Golf Club) – informal discussion

- Owner/Applicant: Steve Kohr, Woodland Golf Club Representative: Brian Vinchesi, Irrigation Consulting, Inc.
- Request: Determine if proposed “low-mow” area plan is appropriate.
- Documents Presented: Sketch plan, seed mix details
- Jurisdiction: Buffer Zone, City flood zone (but note, there are no changes to land cover or grade involved with this project).
- Staff Notes
 - The owner has submitted a proposal for the low-mow areas required under the DOA (issued for the irrigation system work), but staff don’t feel comfortable approving it as submitted:
 - Low-Mow Area
 - The low-mow area around the brook would be 1’-2’ wide from the vertical edge of the brook and blend with the existing topography.
 - They propose to cut the low-mow area once a month at ~6”.
 - The area will be demarcated in the field with the use of a red line supplemented with training and education of the maintenance staff.
 - Planting Area
 - Will be seeded with the New England Wetland Plants FAC Wetland Meadow Mix.
 - Staff have some concerns about the proposed plan:
 - A 1-2’ buffer strip (which could end up being just 12” wide) may not be what the Conservation Commission had in mind. The literature indicates that for water quality, dense growth is important, and for wildlife habitat, diversity and some height are important. There appears to be room for a more generous low-mow buffer, particularly on the eastern side.
 - The seed mix area will not thrive or provide wildlife habitat value if mowed – the cold season grasses will dominate.
- Staff Recommendations: Determine if the proposed plan (or a modification there of) is appropriate.

5. (8:40) 1 Malvern Terrace – OOC Extension Request – new single-family home – DEP File #239-808

- Owner: Mandayam Srinivasan Representative: none
- Request: Issue OOC extension for 3 years.
- Documents Presented: summary plan, site photos
- Staff Notes:
 - The owner has faced a number of delays due to health issues, difficulties finding a contractor willing to build the sustainable design, and a contractor who poured an incorrect foundation that had to be corrected.
 - Foundation work has just recently been completed and the owner is looking for a full 3-year extension to complete construction of the home and installation of the required mitigation plantings.
- Staff Recommendations: If the Commission feels it is appropriate, vote to issue an Order of Conditions extension for 1-3 years.

6. (8:50) 116 Upland Avenue – COC Request – teardown/rebuild SFH – DEP #239-824

- Owner: Ilya Zvenigorodskiy Representative: none
- Request: Issue COC.
- Documents Presented: photos

- Staff Notes: All required COC materials have been received and a site visit on 5/21/21 confirmed compliance, including compliance with the required removal of the deck/crawlspace lath enclosing the flood storage area.
- Staff Recommendations: Vote to issue a Certificate of Compliance.

II. CONSERVATION AREA DECISIONS – None at this time.

III. ADMINISTRATIVE DECISIONS

7. (9:00) Ban on Nip (alcohol) Sales – discussion regarding support letter for council docket

- Documents Presented: Draft letter of support from entire Commission
- Staff Notes: Commissioner Ellen Katz drafted a letter to the City Council supporting the ban of nip alcohol bottles in the City of Newton for signing by the Commission. Jennifer suggested some edits.
- Staff Recommendations: Vote to sign the edited version of the letter supporting Councilor Norton’s docketed item regarding the ban on selling nip alcohol bottles in Newton.

8. (9:10) Minutes of 6/24/21 to be approved

- Documents Presented: Draft 6/24/21 minutes
- Staff Recommendations: Vote to accept the 6/24/21 minutes.

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

UPDATES

V. WETLANDS UPDATES

VI. CONSERVATION AREA UPDATES

- Stairs from the Greenway to the Riverwalk: The estimate from another contractor was \$174,000. We will need to find another solution.
- Riverwalk bike rack: An Eagle Scout may be interested in installing the rack on a platform and in doing other improvements to the site.

VII. ISSUES AROUND TOWN UPDATES

- Christina Street Bridge Feasibility Study: The report has been completed and is available at: <https://www.newtonma.gov/government/planning/transportation-planning/projects/christina-street-bridge>. The preferred option is a new pre-fab, single-span, truss bridge in the bridge’s current location. We await word on federal funding.
- OSRP: Final has been submitted to the state for approval. Requests have been entered for ARPA funds.
- Stormwater Ordinance: in final review by DPW and Law.

VIII. ADMINISTRATIVE UPDATES

- Budget increase received.
-

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

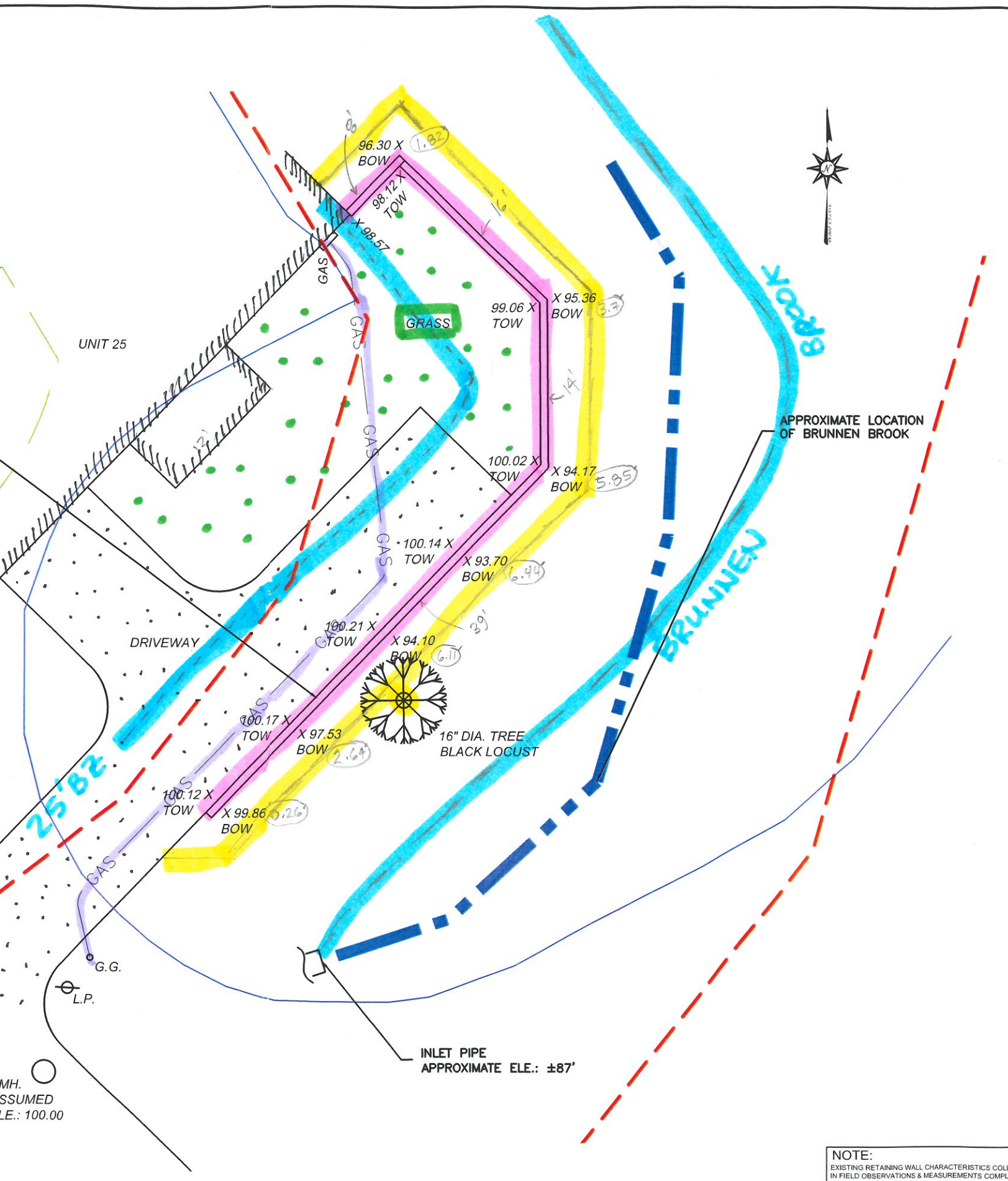
ADJOURN

Search by Address | 2 Fox Pl



Layers





APPROXIMATE LOCATION OF BRUNNEN BROOK

INLET PIPE APPROXIMATE ELE.: ±87'

MH. ASSUMED E.L.: 100.00

NOTE:
 EXISTING RETAINING WALL CHARACTERISTICS COLLECTED FROM
 IN FIELD OBSERVATIONS & MEASUREMENTS COMPLETED BY
 ES&M PERSONNEL ON MAY 12, 2021.

160 Pine Street aerial – illustration of retaining wall

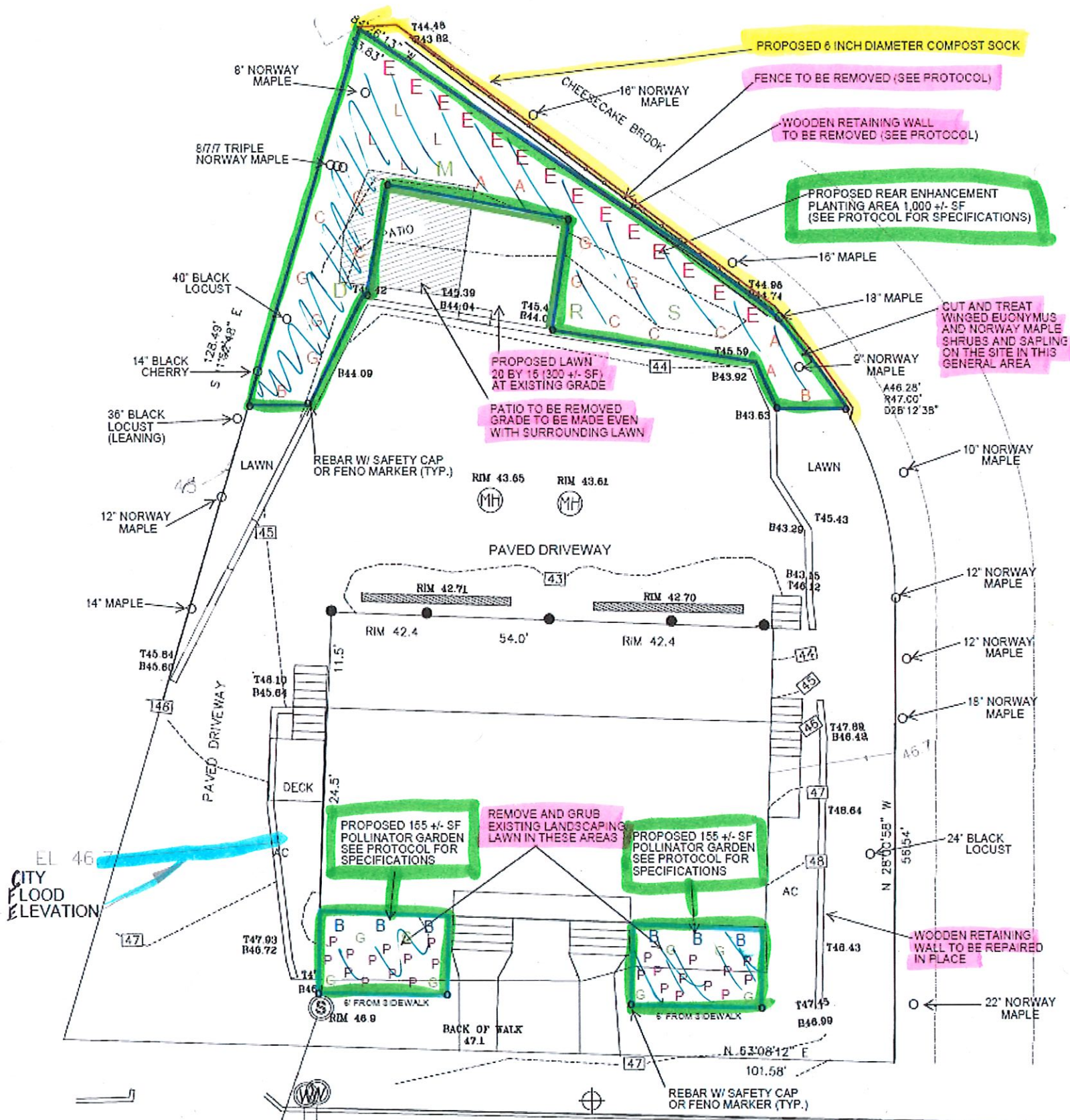


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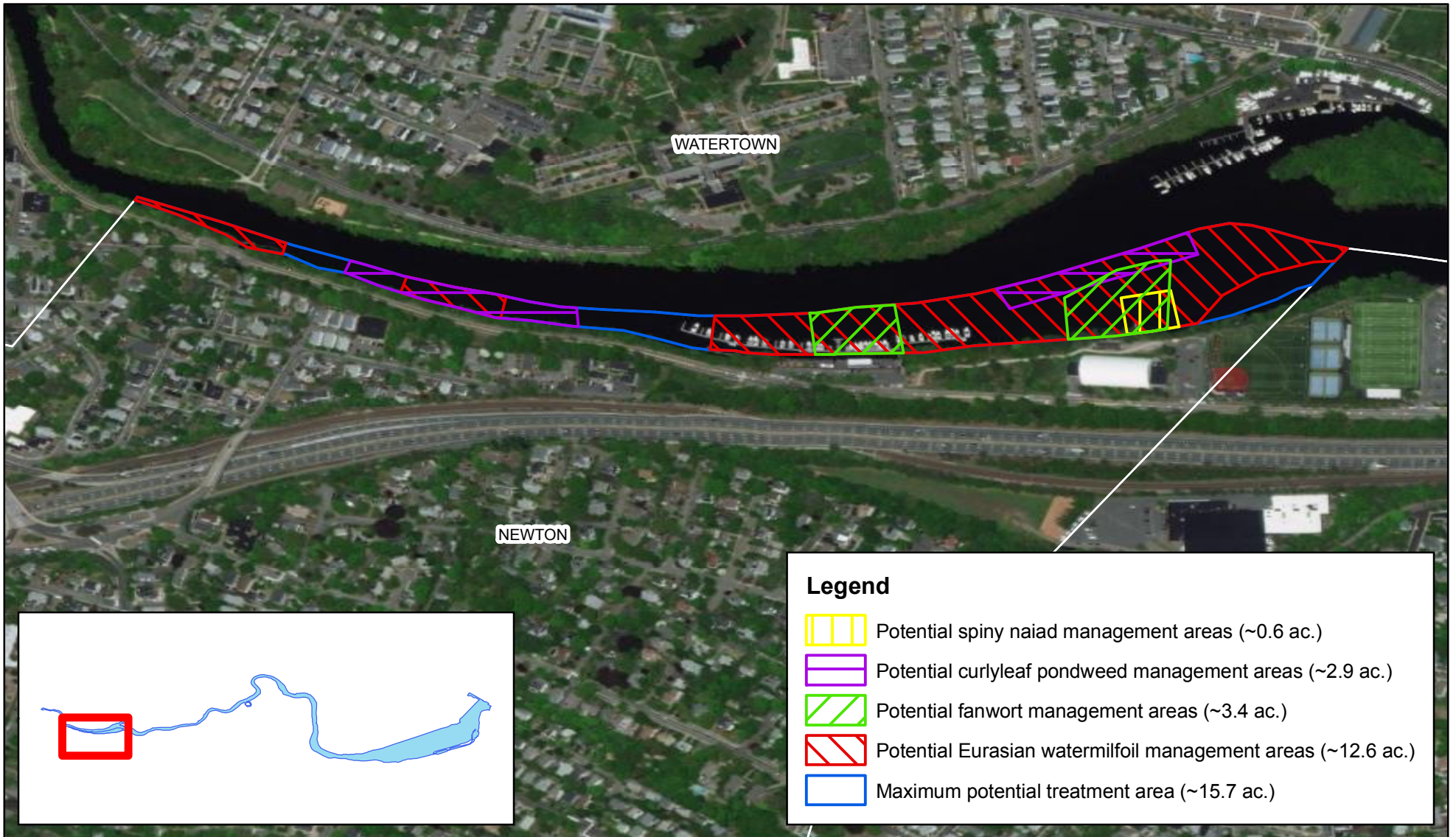
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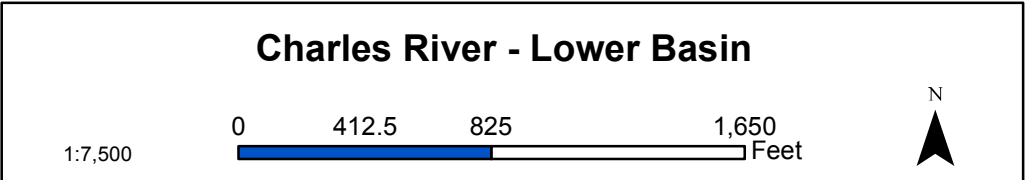


Planting Specifications for Rear Enhancement Planting Area (1,000 ± SF)	
<u>Plant Species and Size</u>	<u>Number</u>
Evergreen Shrub Hedge; 6 to 8' height; Row 4 to 5' apart	
E Eastern Red Cedar (<i>Juniperus virginiana</i>) <u>OR</u> Dark American Arborvitae (<i>Thuja occidentalis</i> 'Nigra')	14
Saplings; 5 to 6' in height; 15' on center (800± SF)	
S White Spruce (<i>Picea glauca</i>)	1
D Flowering Dogwood (<i>Cornus florida</i>)	1
M Sweetbay Magnolia (<i>Magnolia virginiana</i>)	1
R Redbud (<i>Cercis canadensis</i>)	1
Shrubs; 3' to 4' in height; 6' on center (800± SF)	
G Gray Dogwood (<i>Cornus racemosa</i>)	6
C Black Chokeberry (<i>Photinia melanocarpa</i>)	6
A American Cranberrybush (<i>Viburnum trilobium</i>)	4
L Common Spicebush (<i>Lindera benzoin</i>)	4
B Inkberry (<i>Ilex glabra</i>)	2

Planting Specifications for Each Pollinator Garden (155± square feet each)	
<u>Plant Species and Size</u>	<u>Number</u>
Shrubs, 2' to 4' in height; 7' on-center	
B Inkberry (<i>Ilex glabra</i>)	3
Perennials, 1 quart pot minimum, 3' to 4' on-center	
Get two (2) each of two of three listed species from each	
Bloom Timing listed below (Overall 12 Perennials Total)	
Early Season Bloom (Total 4)	
P Spiderwort (<i>Tradescantia ohiensis</i>)	
P Self Heal (<i>Prunella vulgaris</i>)	
P Red Columbine (<i>Aquilegia canadensis</i>)	
Mid-Season Bloom (Total 4)	
P Joe-Pye Weed (<i>Eutrochium purpureum</i>)	
P Purple Milkweed (<i>Asclepias purpurascens</i>)	
P Purple Coneflower (<i>Echinacea purpurea</i>)	
Late Season Bloom (Total 4)	
P Turtlehead (<i>Chelone glabra</i>)	
P Big-leaf Aster (<i>Eurybia macrophylla</i>)	
P Woodland Sunflower (<i>Helianthus divaricatus</i>)	
Grasses, 1 quart pot minimum, 6' to 7' on-center	
G Tufted Hair Grass (<i>Deschampsia cespitosa</i>)	4



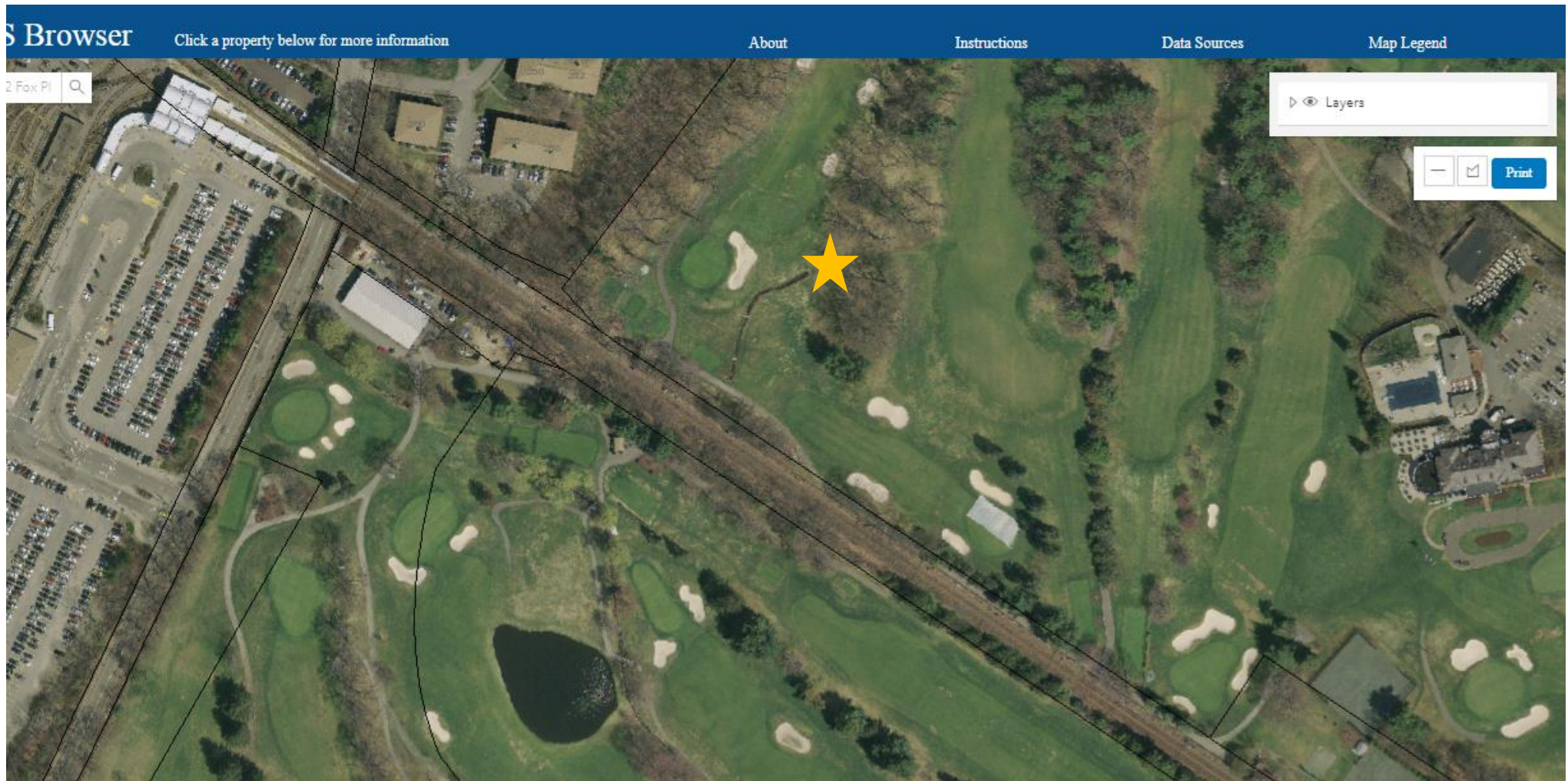
Charles River
Newton, Watertown,
Cambridge, & Boston, MA
Middlesex & Suffolk
Counties

Map Date: 06/28/21
Prepared by: KMS
Office: SHREWSBURY, MA

1897 Washington Street (Woodland Golf Club)

Aerial Showing "Low-Mow" and Planting Area Locations

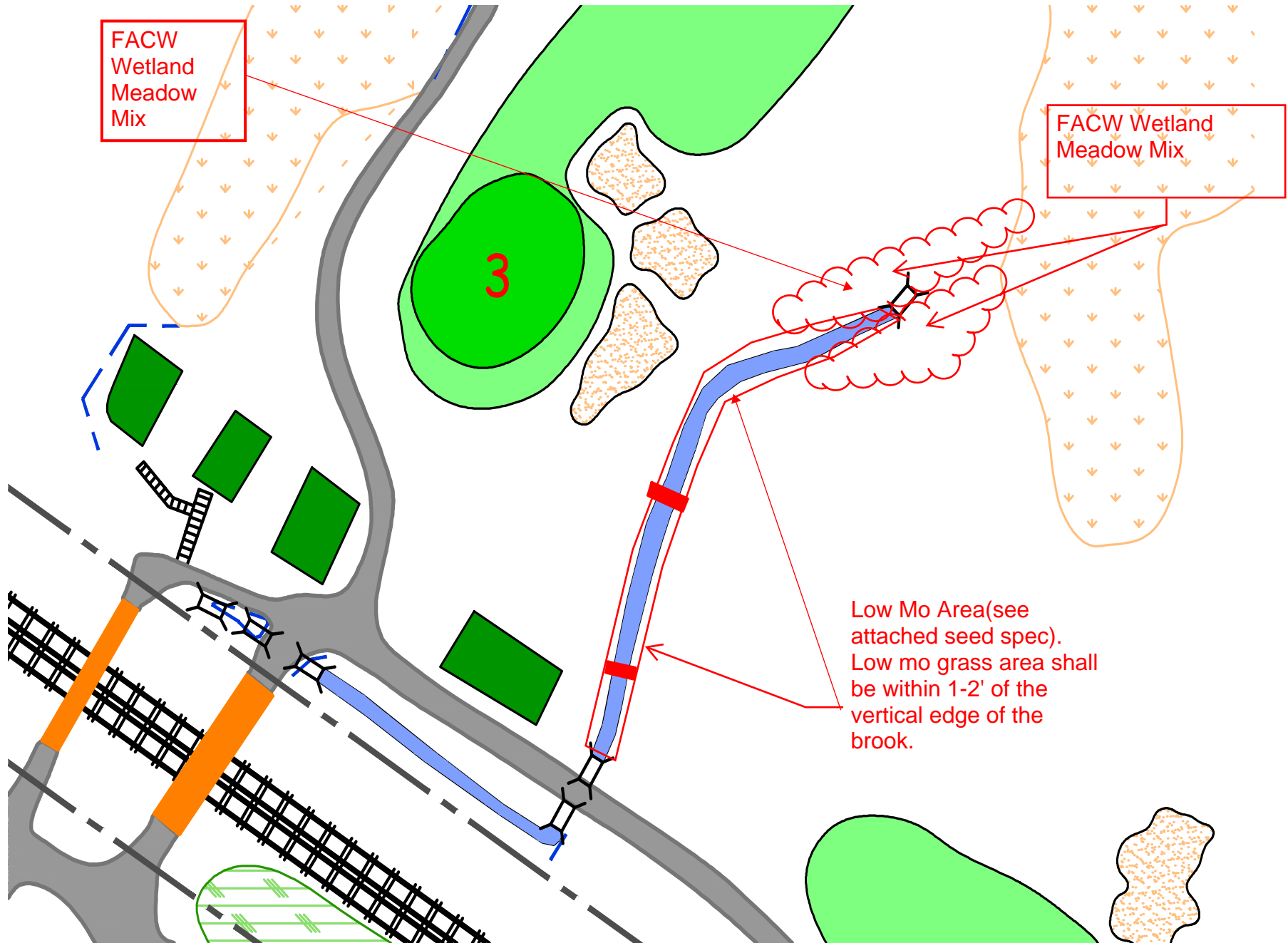


FACW
Wetland
Meadow
Mix

FACW Wetland
Meadow
Mix

3

Low Mo Area (see
attached seed spec).
Low mo grass area shall
be within 1-2' of the
vertical edge of the
brook.



NEW ENGLAND WETLAND PLANTS, INC

820 WEST STREET, AMHERST, MA 01002

PHONE: 413-548-8000 FAX 413-549-4000

EMAIL: INFO@NEWP.COM WEB ADDRESS: WWW.NEWP.COM

New England Erosion Control/Restoration Mix For Detention Basins and Moist Sites

Botanical Name	Common Name	Indicator
<i>Elymus riparius</i>	Riverbank Wild Rye	FACW
<i>Schizachyrium scoparium</i>	Little Bluestem	FACU
<i>Festuca rubra</i>	Red Fescue	FACU
<i>Andropogon gerardii</i>	Big Bluestem	FAC
<i>Panicum virgatum</i>	Switch Grass	FAC
<i>Vernonia noveboracensis</i>	New York Ironweed	FACW+
<i>Agrostis perennans</i>	Upland Bentgrass	FACU
<i>Bidens frondosa</i>	Beggar Ticks	FACW
<i>Eupatorium maculatum (Eutrochium maculatum)</i>	Spotted Joe Pye Weed	OBL
<i>Eupatorium perfoliatum</i>	Boneset	FACW
<i>Aster novae-angliae (Symphyotrichum novae-angliae)</i>	New England Aster	FACW-
<i>Scirpus cyperinus</i>	Wool Grass	FACW
<i>Juncus effusus</i>	Soft Rush	FACW+

PRICE PER LB. \$37.00 MIN. QUANTITY 3 LBS. **TOTAL:** \$111.00

APPLY: 35 LBS/ACRE :1250 sq ft/lb

The New England Erosion Control/Restoration Mix for Detention Basins and Moist Sites contains a selection of native grasses and wildflowers designed to colonize generally moist, recently disturbed sites where quick growth of vegetation is desired to stabilize the soil surface. It is an appropriate seed mix for ecologically sensitive restorations that require stabilization as well as long-term establishment of native vegetation. This mix is particularly appropriate for detention basins that do not hold standing water. Many of the plants in this mix can tolerate infrequent inundation, but not constant flooding. The mix may be applied by hand, by mechanical spreader, or by hydro-seeder. After sowing, lightly rake, roll or cultipack to insure good seed-to-soil contact. Best results are obtained with a Spring or late Summer seeding. Late Fall and Winter dormant seeding requires an increase in the application rate. A light mulching of clean, weed-free straw is recommended

New England Wetland Plants, Inc. may modify seed mixes at any time depending upon seed availability. The design criteria and ecological function of the mix will remain unchanged. Price is \$/bulk pound, FOB warehouse, Plus SH and applicable taxes.

June 28, 2021

Susan Albright, President
City Council
City of Newton
1000 Comm. Ave. Newton, MA 02459

June 28, 2021

Dear President Albright:

This letter is to ask the Newton City Council to ban the ~~small alcoholic, single-use 50ml~~ plastic bottles of ~~50ml serving size alcohol~~, commonly known as “nips.”

Due to their small size nip bottles cannot be recycled by the system which handles Newton’s recycling. These non-biodegradable plastic ~~receptacles containers~~ are not covered by the bottle bill. ~~Hence, and, without a deposit~~, there is no incentive for consumers to return them. Their small volume renders them “trash” almost immediately, so ~~The bottles are single-use plastic and, without proper disposal or deposits, they are frequently tossed aside. They~~ end up in berms, gutters, and water ways ~~and contribute to plastic pollution, where they constitute a significant portion of the plastic litter found during roadside and river cleanups.~~

Two attempts to ban nips at the state level failed; ~~w.~~ While legislation ~~has been~~was re-introduced this year, there is no guarantee it will be successful, as the bill (H2881) is stalled in committee.

Our City should act now and remove this ~~unnecessary~~, single-use plastic from the waste stream. ~~The City of Chelsea and the Town of Falmouth have~~ ~~has~~ successfully introduced a ban ~~on nips;~~ ~~the town of Falmouth has done so as well, and~~ several other municipalities are considering bans.

Thank you for your attention to this issue.

Sincerely,

Dan Green, Chair
Newton Conservation Commission

CONSERVATION COMMISSION MINUTES

Date: June 24, 2021

Time: 7:00pm – 10:30pm

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

<https://us02web.zoom.us/j/88083502310>

With a quorum present, the meeting opened at 7:00pm with Dan Green presiding as Chair.

Members Present: Leigh Gilligan, Judy Hepburn, Ellen Katz, Kathy Cade, and Susan Lunin (7:50pm).

Members Absent: Jeff Zabel

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. **(7:00) Crystal Lake – Left Beach Safety Enhancements – NOI – DEP File 239-XXX**
 - **Owner:** City of Newton **Representative:** Nicole Banks, Commissioner and Luis Perez Demorizi, Open Space Coordinator, Newton Parks, Recreation and Culture
 - **Request:** Issue OOC.
 - **Documents Presented:** Plans, site photos, draft OOC
 - **Jurisdiction:** Land Under Wetlands and Waterways
 - **Project Summary**
 - Remove 250 linear feet of existing, wooden sand-retaining timbers, along with the driven rebar anchoring system.
 - Remove 7 benches and their concrete footings.
 - Rake existing sand back toward the shore to fill where the timbers and benches were removed and to meet existing grade.
 - **Presentation (Luis Perez Demorizi and Nicole Banks) and Discussion**
 - Commissioner Banks gave brief introduction about the post-COVID seasonal re-opening of Crystal Lake and an update regarding a future wetland filing for the anticipated Levigston Cove renovations.
 - PRC staff provided background on the site and an overview on the proposed work. It was clarified that no equipment will enter the beach area and that the timbers and bench footings will be removed by hand or by hoisting them up using equipment staged in the grassy park area behind the retaining wall.
 - Commission staff asked for more detail about any proposed lifeguard chairs. PRC staff stated that they are unsure how the site will react to the removal of the benches and the timbers, so are they not sure how guard chairs will need to be placed in this area. They stated that they would file an NOI when they are ready to install them. Conservation staff stated that they would prefer to condition the installation of any guard chairs in this permit, so that PRC do not have to come back before the Commission. PRC staff did clarify that the chairs are removed in the winter, along with all beach apparatus. PRC staff stated that they secure them with chain or concrete blocks during the swim season so they won't get tipped over. In previous seasons chairs were chained to the benches. Commissioners suggested condition language allowing guard chairs, as many as deemed necessary, be secured in a manner approved by Conservation staff.
 - The Commission discussed the fact that this filing has not yet received a DEP File number and agreed that this permit, because of the public benefit it provides, should be voted on tonight, to be issued upon receipt of the DEP file number.
 - **Vote:** To close the hearing and issue an Order of Conditions upon receipt of the DEP file number with the following special conditions. [Motion: Kathy Cade; Second: Ellen Katz; Roll-call vote: Green (aye), Hepburn (aye), Cade (aye), Gilligan (aye), Katz (aye); Vote 5:0:0]
 - Plywood shall be placed in the construction access route wherever tree roots need protecting.



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

- Prohibitions include:
 - Work shall be limited to the Left Beach sandy area. No vegetation disturbance is permitted under this Order of Conditions.
 - No sand shall be added to the beach area without the filing of a new Notice of Intent.
 - No new construction of docks, boardwalks, or beach area may occur without the filing of a new Notice of Intent.
- All timbers, fasteners, benches, and footings shall be removed in their entirety for safety reasons.
- Timbers and benches may be removed with the help of an excavator, parked on the grassy land behind the retaining wall, either by pulling on straps installed by hand around the timbers and benches or by careful grabbing with a bucket with a “thumb”. At no point shall heavy equipment (other than the excavator’s bucket with a “thumb”) enter the beach area, enter the water, or disturb the sediments of Crystal Lake.
- Raking back of sand to fill holes and meet grade at the base of the retaining wall shall be undertaken by hand (not with an excavator or a bobcat).
- If any trees within the buffer zone within the project area die within 2 years of the start of construction or have been demonstrably harmed by construction activities, they shall be replaced at a ratio of 2:1 with native canopy saplings (of roughly 2 caliper inches).
- Any areas of the park (within Conservation Commission jurisdiction) that are disturbed by heavy equipment shall be appropriately reseeded/revegetated.
- Raking of sand by hand may continue to occur as needed to keep sand near the base of the retaining wall until a long-term management plan is submitted to the Conservation Commission for review and approval.
- 1-3 guard chairs may be placed in or near the water near the retaining wall. Chairs may be secured with augers and chain or other methods approved by Conservation Staff. All guard chairs shall be removed from the water at the end of each swimming season.

2. (7:20) 5 Hagen Road – NOI – fence replacement – DEP File #239-895

- Owner/Applicant: Harvey Aaron Representative: self
- Request: Issue an OOC.
- Documents Presented: Colored plans, site photos, draft OOC
- Jurisdiction: Buffer Zone, BLSF, City Flood Zone
- Project Summary
 - Replace roughly 80’ of existing damaged tongue and groove, wooden fencing within.
- Presentation (Harvey “Buz” Aaron) and Discussion
 - The homeowner provided a brief background on the condition of the fence and the reasons for replacement. This is a replacement project using the same style of fencing.
 - Staff noted that once the fence is raised 4-6” for wildlife passage, it will be almost entirely out of the flood zone.
 - The homeowner has concerns about appearance, as the existing sections of fencing to remain are not elevated, so there may be a mismatched look. Staff clarified that the sections “deeper” in the flood elevation should be elevated appropriately, specifically, the fence along the southern property line needs to be elevated 4-6” but most of the stretch along Parker Street need not be elevated. The homeowner will be installing a gate (2 4’ doors to make up 1 8’ panel) along Parker St. roughly 16’ from the corner; the Commission feels that it is appropriate for the panels after the gate to be elevated for flood water flow.
- Vote: To close the hearing and issue an Order of Conditions with the following special conditions. [Motion: Judy Hepburn; Second: Kathy Cade; Roll-call vote: Green (aye), Hepburn (aye), Cade (aye), Gilligan (aye), Katz (aye); Vote 5:0:0]
 - The applicant must schedule and attend a pre-construction site visit with the applicant, construction supervisor and Conservation agent.
 - Prohibitions: No tree removal or grading changes are approved under this Order of Conditions.
 - All new fence panels along the rear (southern) property line must be raised 4-6” above the ground to allow for wildlife passage and the free flow of the highest flood waters.
 - All fencing installed along the rear (southern) property line under this Order must remain in compliance with the City of Newton Conservation Commission’s Guidelines for Construction in Flood Zone.

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 or (617) 796-1253. The city’s TTY/TDD direct line is: 617-796-1089. For the Telecommunications Relay Service (TRS), please dial 711.

3. (7:35) Charles River Lower Basin – NOI – vegetation management – **DEP File #239-XXX**

- Owner/Applicant: Mass. Department of Conservation and Recreation (DCR) (Anne Carroll) Representative: Kara Sliwoski, SOLitude
- Request: Issue a Restoration OOC.
- Documents Presented: Narrative excerpts from NOI, plant survey plans, DCR's PowerPoint presentation
- Jurisdiction: BVW, Bank, LUWW – Ecological Restoration
- Project Summary
 - Management of invasive species within the Charles River through mechanical harvesting, hand-pulling, Sonar herbicide (active ingredient: fluridone), ProcellaCOR EC herbicide (florpyrauxifen-benzyl), Tribune herbicide (diquat), Clearcast herbicide (imazamox), and Red Eagle/Clipper herbicide (flumioxazin).
 - Conditional use of algaecides for the management of algae blooms, if necessary, in the event of a health hazard.
- Presentation (Anne Carroll, DCR, and Kara Sliwoski) and Discussion
 - DCR is requesting a 5-year Order of Conditions for this project, and four other communities (Cambridge, Boston, Watertown, Waltham) in the Lower Basin are reviewing the same NOI (and one may require and 3rd party review). DCR noted that they need the approval of all communities prior to initiating treatment activities.
 - DCR and SOLitude staff provided a background on the project goal (remove invasive and allow natives to thrive) and the overall vegetation management plan for the Charles River (chemical treatments for individual species in individual areas). There are a number of invasive species with large areas of coverage that need to be managed to ensure a healthy river ecosystem, the free flow of water, and recreational safety. Anne Carroll ran through all alternative means of aquatic invasive control, noting why each was dismissed as impractical for such a large area.
 - DCR hired SOLitude to conduct a vegetation survey in 2019 and draft a 5-year management plan. CRWA and CRC provided support and assistance.
 - DCR has implemented a public education and outreach regarding the spread of invasive species including public courses and signs at all public boat ramps on how to properly clean boats to stop the spread.
 - DCR noted that there were some problems acquiring the appropriate lists of relevant abutters from the 4 communities assessor's offices, which may explain why so many Newton residents were notified.
 - DCR's intention is to treat milfoil with ProcellaCOR this year, then treat milfoil and fanwort with a whole river application of Sonar.
 - DCR noted the success of a similar vegetation management program in the Mystic River. DCR has seen great efficacy of this style of low-dose whole river treatment with Sonar in the Mystic River. After a few years of such treatments, they have only needed to do some smaller (5-10 acres) spot treatments, and native plants are thriving.
 - Staff noted that a DEP file number has not been assigned and that a 3rd party peer review has been requested by Cambridge
 - Staff expressed concern that there still has not been presented a clear outline of the project, i.e., a clear illustration of what areas will be treated, for what species, throughout the 5 years. Until that information is provided, it will be hard to know what questions need to be asked or what conditions need to be placed.
 - Staff requested that the project team submit a clear illustration and narrative for all proposed work within Newton's jurisdiction detailing exactly what is being proposed and how it meets the performance standards of the regulations. This will allow staff and the Commission to determine whether the project is complying with limited project standards and what conditions would be appropriate for the work.
 - Commissioners stated that they feel this work needs to be done and are in support of the general goal, but based on the limited information presented they are not comfortable approving work.
 - DCR staff clarified that this season, only spot treatments for Eurasian milfoil with ProcellaCOR are anticipated. They are holding off on further treatment until the Lakes District (upstream) is treated, otherwise, invasive species will drift downstream, undoing any progress in the Lower Basin.
 - Staff and Commissioners confirmed that Lakes District treatment will need to be done under another wetland filing and would not qualify as an amendment to this Order.
 - DCR noted that treatments for each year will be based on both the end of year survey from the prior season, and the pre-management survey each year.
 - The project team noted that there will be a time of year restriction (no work until July 1st) put in place by the Dept. of Marine Fisheries because of fish runs in the Charles River. DMF will likely condition pre- and post-management surveys. The project team will forward along the letter with DMF recommendations when it is available.

- Commissioners asked about oxygen depletion due to large plant die-off. SOLitude staff clarified that ProcellaCOR is taken up very quickly, but the plants take 3-4 weeks to die off, and this slow speed allows for dissolved oxygen levels to be maintained. Sonar requires booster treatments, so has a similar slow die-off effect.
- Staff reiterated that they need to see more specific and more Newton-specific information in order to fully understand and condition the work being proposed within the Newton portion of the river. Staff requested a matrix illustrating the thresholds of different species of plants that would cause DCR to treat with different chemicals at different doses. Staff would also like a calendar and a map and a matrix, to provide a clear picture illustrating: “We will treat these species, in these polygons/areas, when they have reached these thresholds, with these doses of these herbicides.”
- Commissioners and staff agree that they are willing to let professionals do what they know best, but that it is the Commission’s job to ensure that there is a clear plan for what treatments are needed and when they will occur.
- Vote: To continue the hearing to 07/15/2021 to allow the applicant to provide: a DEP file number, the DMF report, a clear map, a matrix of plant densities and thresholds for chemical treatments, responses to all questions posed in the detailed agenda for this hearing, and responses to questions posed during the hearing, as well as to allow the 3rd party peer review from Cambridge to be received and addressed. [Motion: Susan Lunin; Second: Ellen Katz; Roll-call vote: Green (aye), Lunin (aye), Hepburn (aye), Cade (aye), Gilligan (aye), Katz (aye); Vote 6:0:0]

4. (8:05) 59 Selwyn Road – NOI – addition onto single-family home – DEP File #239-894

- Owner/Applicant: Dan and Irina Burmenko Representative: John Rockwood, EcoTec, Inc. Engineer: Sean Spruhan, Spruhan Engineering
- Request: Issue an OOC.
- Documents Presented: Colored plans, site photos, draft OOC
- Jurisdiction: Riverfront Area (Paul Brook), BLSF, City Flood Zone
- Project Summary
 - Demolish northern corner of house, existing rear deck structure with steps, and existing front stoop with stairs.
 - Construct a small area of new foundation for garage expansion; a new bay window; a larger, cantilevered second story; new front steps; and new rear deck with steps. Replace front walkway to align with new stoop and stairs.
 - Install 660 s.f. mitigation area with 3 saplings and 36 shrubs (of varying sizes).
 - Total increase in degraded RFA is 325 s.f. (IF the area under the cantilevered second floor addition does not count towards degraded area)
 - 55.83 c.f. of compensatory flood storage will be provided.
 - No trees are proposed to be removed, and tree protection is proposed for 1 tree on the lot and 2 street trees within jurisdiction (3 trees total).
- Presentation (John Rockwood) and Discussion:
 - The applicant’s representative provided background on the site and an outline of the proposed work. A net increase in compensatory storage is proposed at all elevations.
 - Commissioners asked for clarification of the proposed earthworks and the proposed cantilevered second floor. The project representative clarified the proposed foundation changes and that the area below the overhang will be loamed and seeded, so was not incorporated in the degraded area calculations.
 - Commissioners asked what would be happen to the existing foundation plantings. The project representative clarified that they are due to be removed.
 - Staff asked if the applicant plans to cut a broad swath of the front lawn to accomplish the proposed 30 c.f. of cut associated with the front walkway. The project representative clarified that there will be fill (currently lawn) removed on either side of the front pathway.
 - Staff asked if new walkway and driveway will require additional (unaccounted for) fill so that they will be a little above the new lawn grade (for drainage purposes). The project representative stated that the project would be built to the approved plans.
 - Staff expressed concerns with the shape of the planting area (so close to the house). The project team stated that they have chosen the plantings for the space proposed and that bounds have been included to prevent any mowing of the area. Commissioners agreed that the shape was awkward, but the area and species sufficient.
 - The project representative stated that the enhancement area will be lowered from existing grade to allow for the mulch surface to be level with the lawn and accept runoff from the lawn.

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 or (617) 796-1253. The city’s TTY/TDD direct line is: 617-796-1089. For the Telecommunications Relay Service (TRS), please dial 711.

- Public Comment:
 - Thomas Wilson (rear abutter) – stated that he had no concerns with the second story addition but felt that the proposed porch is too close to his property. As a 41-year resident of this neighborhood, he feels that the size of houses being approved around him are too large for the lot sizes. Commissioner’s responded that those concerns unfortunately are outside the regulatory purview of this body, but that thanked Thomas for his comments. Staff suggested Thomas reach out to the City’s Zoning team.
- Vote: To close the hearing and issue an Order of Conditions with the following special conditions. [Motion: Leigh Gilligan; Second: Kathy Cade; Roll-call vote: Green (aye), Lunin (aye), Hepburn (aye), Cade (aye), Gilligan (aye), Katz (aye); Vote 6:0:0]
 - A dewatering plan designed to limit and control any adverse impact on the wetlands resource area(s) must be presented to the Conservation Commission for review and approval, if necessary.
 - A concrete washout plan designed to limit and control any adverse on the wetlands resource area(s) must be presented to the Conservation Commission for review and approval.
 - The applicant must schedule and attend a pre-construction site visit with the applicant, construction supervisor and Conservation agent.
 - The roots, trunk, and branches of the street tree near the driveway shall be appropriately protected throughout construction.
 - The enhancement area shall be constructed approximately 3” below grade to allow for the addition of up to 3” of mulch such that the finish level of the mulch is at or below the grade of the adjacent lawn to allow runoff from the lawn to enter the enhancement area.
 - Landscape plantings within Commission jurisdiction must:
 - Stabilize all exposed areas.
 - Be installed in compliance with the approved plans (desired changes must be approved by the Conservation office in advance).
 - Have a survival rate of 100 % of total number of trees (after 2 growing seasons)
 - Have a survival rate of 80 % of total number of shrubs (after 2 growing seasons)
 - Mulch applications shall diminish over time and eventually cease as shrubs spread.
 - If any trees within the Riverfront Area within the project area die within 2 years of the start of construction or have been demonstrably harmed by construction activities, they shall be replaced at a ratio of 2:1 with native canopy saplings (of roughly 2 caliper inches).
 - Compensatory flood storage must be provided in its entirety as per the plans. Grading must be undertaken to ensure removal of more material than is being brought into the site. As built plans must confirm over-compensation of flood storage on site. The driveway, front walkway, and front lawn must be made roughly level with the sidewalk.
 - All structures must comply 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/addition/stairs through provision of photos to the Conservation Office.
 - The required Riverfront restoration and/or mitigation areas shall remain in perpetuity, bounded and maintained in their predominantly natural condition.
 - To maintain the flood storage capacity of the site, and to uphold DEP requirements for “unrestricted hydraulic connection”, there shall be no enclosure of the structure other than the minimal skirting allowed under the Conservation Commission’s guidelines for Construction in Flood Zone (approved 10/8/20).

5. (8:30) 240 Old Farm Road – NOI – teardown/rebuild single-family home – DEP File #239-893

- Owner: Merle/Phyllis Persky, Trustees, Persky Realty Trust Applicant and future owner: Andrey Agamov, 240 Old Farm Road LLC Representative: John Rockwood, EcoTec, Inc. Engineer: Richard Volkin, RAV & Assoc., Inc.
- Request: Issue an OOC.
- Documents Presented: Colored plans, site photos, draft OOC
- Jurisdiction: Buffer Zone, Riverfront Area (**Saw Mill Brook**)
- Project Summary
 - Demolish existing 1,240 s.f. single-family home and associated driveway, front walkway, rear wooden deck with stairs, rear crushed stone/paver/stone patio, and fencing.

- Construct new ~2,000 s.f. single-family home with associated driveway, front walk, and stormwater management systems (trench drain and infiltration chambers).
- Total increase of impervious area on site is 659 s.f.
- Install a 1350 s.f. of mitigation planting area on the west side of the stream. Stone bounds are proposed for the planting area.
- No trees are proposed to be removed and 5 trees are to be protected.
- Presentation (John Rockwood and Andrey Agamov) and Discussion:
 - The project representative provided a summary of the changes made to address Commission concerns including: reducing the fill brought on site, adding swales along the southern and northern property lines to capture run-off travelling towards the abutting lots, reducing the proposed impervious area expansion by 531 square feet, eliminating the rear deck, and eliminating the enhancement planting area on the east side of the stream.
 - Staff noted in the agenda comments that they anticipated future interests in increased lawn space.
- Public Comment:
 - Larry Pensack (side abutter) – asked for clarification regarding the fence removal proposed and how it will impact the landscaping that is currently in place. He feels removal of the fence will greatly impact the privacy his lot has thanks to the fence and plantings. He asked if there was any way to leave the fence or push it onto his property. It was noted in response that was an issue for him to discuss with the builder, and that if the fence were to be moved it would need to be approved by the Commission. Commissioners agreed that this is not an issue that they can provide comment on, but that the fence would need to be raised.
- Vote: To close the hearing and issue an Order of Conditions with the following special conditions. [Motion: Judy Hepburn; Second: Susan Green; Roll-call vote: Green (aye), Lunin (aye), Hepburn (aye), Cade (aye), Gilligan (aye), Katz (aye); Vote 6:0:0]
 - A dewatering plan designed to limit and control any adverse impact on the wetlands resource area(s) must be presented to the Conservation Commission for review and approval should dewatering prove necessary.
 - A concrete washout plan designed to limit and control any adverse on the wetlands resource area(s) must be presented to the Conservation Commission for review and approval.
 - The applicant must schedule and attend a pre-construction site visit with the applicant, construction supervisor and Conservation agent.
 - A stabilized driveway construction entrance(s) will be required for the duration of the construction and they shall provide a truck wash and prevent tracking of mud and silt onto City streets.
 - Any fence installed within Commission jurisdiction must be raised 4-6 inches to allow wildlife passage. If that fence also falls within flood zone (BLSF or City Ordinance Floodplain) it must comply with the Commission’s “Guidelines for Construction in Flood Zone.”
 - Landscape plantings within Commission jurisdiction must:
 - a. Stabilize all exposed areas
 - b. Be installed in compliance with the approved plans (desired changes must be approved by the Conservation office in advance)
 - c. Have a survival rate of 100 % of total number of trees (after 2 growing seasons)
 - d. Have a survival rate of 80 % of total number of shrubs (after 2 growing seasons)
 - e. Mulch applications shall diminish over time and eventually cease as ground cover species and shrubs spread.
 - If any trees within the wetland or buffer within the project area die within 2 years of the start of construction or have been demonstrably harmed by construction activities, they shall be replaced at a ratio of 2:1 with native canopy saplings (of roughly 2 caliper inches). This includes the 10” tree currently embedded in the rear yard fence.
 - The stormwater infiltration system must be installed as per the approved plans.
 - The City Engineer must inspect the infiltration system. The applicant must submit proof of inspection to the Cons. Office.
 - The required Riverfront Area mitigation planting areas shall remain bounded and be maintained in perpetuity in their predominantly natural condition.
 - The approved Operations and Maintenance Plan is appended hereto and must be adhered to.

6. (8:55) 99 Andrew Street – NOI – addition onto single-family home – DEP File #239-896

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 or (617) 796-1253. The city’s TTY/TDD direct line is: 617-796-1089. For the Telecommunications Relay Service (TRS), please dial 711.

- Owner/Applicant: Michael Rich Representative: Russ Waldron, Applied Ecological Sciences, Inc. Engineer: Dunn McKenzie
- Request: Issue an OOC.
- Documents Presented: Colored plans, site photos, draft OOC
- Jurisdiction: Buffer Zone, BLSF, City Flood Zone
- Project Summary
 - Demolish existing wooden deck and associated stairs.
 - Construct a 248 s.f. addition and a 796 s.f. deck (not exempt) with associated stairs. Addition and deck to be constructed on 32 helical piles. Entrenched silt fence and compost sock are proposed for erosion controls.
 - Remove 1 Japanese Maple. Plant 12 shrubs.
 - Remove ~16.7 c.f. of soil to compensate for addition and new deck fill (~15.2 c.f.).
- Presentation (Russ Waldron) and Discussion:
 - The project representative noted that a DEP File number had just been issued, 239-896.
 - The project representative provided background on the site and an overview of the proposed work. Revised calculations and revised plans were provided addressing staff comments.
 - The project representative clarified that the backyard is almost entirely shaded, so species were chosen that were shade tolerant, and their location was chosen for the amount of sunlight it gets.
 - All work is to be done by hand and a small, power machine that will set the helical piles for the deck. Access should not be an issue as the machine is no wider than a lawn mower.
 - Staff did note that the revised plan shows the compensatory flood storage in conflict with the existing fence line, so the compensatory flood storage location will be conditioned to ensure that it is located appropriately.
 - Commissioners reiterated staff concerns about the proposed arrowwood shrubs but stated that they understand that it is up to the applicant to meet the survival requirements or discuss species changes with staff.
- Vote: To close the hearing and issue an Order of Conditions with the following special conditions. [Motion: Ellen Katz; Second: Leigh Gilligan; Roll-call vote: Green (aye), Lunin (aye), Hepburn (aye), Cade (aye), Gilligan (aye), Katz (aye); Vote 6:0:0]
 - Landscape plantings within Commission jurisdiction must:
 - a. Be installed in compliance with the approved plans (desired changes must be approved by the Conservation office in advance).
 - b. Have a survival rate of 100 % of total number of shrubs (after 2 growing seasons).
 - If any trees within the wetland or buffer within the project area die within 2 years of the start of construction or have been demonstrably harmed by construction activities, they shall be replaced at a ratio of 2:1 with native canopy saplings (of roughly 2 caliper inches).
 - Compensatory flood storage must be provided in its entirety at the appropriate elevation by removing roughly 16 cubic feet of soil from the site. Soil may be removed from the lawn area or from under the new construction. This must be illustrated on the as-built plans.
 - To maintain the flood storage capacity of the site, and to uphold DEP requirements for “unrestricted hydraulic connection”, there shall be no enclosure of the structure other than the minimal skirting allowed under the Conservation Commission’s guidelines for Construction in Flood Zone (approved 10/8/20).

7. (9:20) 73 Beaconwood Road – Enforcement Order – removal of trees without appropriate pre-construction requirements met – DEP File #239-791

- Owner/Applicant: Matthew Haney, PZ Realty Second Owner: Capasso Realty Trust Representative: none this evening
- Request: Determine next steps to ensure compliance.
- Documents Presented: Letter from owner, survey plan
- Jurisdiction: Buffer Zone
- Violation Summary
 - Removal of 4 trees (cutting 3 and clean-up of 1 fallen tree) totaling 84 caliper inches prior to: any pre-construction site visit, proper demarcation of property lines between 77 and 73 Beaconwood, and proper erosion control installation. (see Condition 21)
 - Failure to install tree protections around the 1 street tree within jurisdiction. (Condition 23)
- Presentation (Conservation Staff) and Discussion:

- Staff summarized the letter from Matthew Haney dated 6/24/21 and received this afternoon (6/24/21). Mr. Haney asserts that the Enforcement Order is not valid as the trees removed were hazards and so exempt under 310 CMR 10.02 and that it is his intention to submit a revised plan through an RDA for permission to construct the duplex within Buffer Zone entirely on 73 Beaconwood (no longer doing any work on 77 Beaconwood).
 - Staff feel that, because trees were cut and gravel was brought onto site outside of the buffer zone, the OOC may not be able to be closed as “work never initiated”, but that all the work done is potentially exempt. So, if the Commission agrees that the OOC could be considered for closure as “work never initiated” upon receipt of a COC request from both (73 & 77) owners. Any request for a Certificate of Compliance must be signed by both owners and the reasoning a COC should be granted must be made clear. The Commission does not feel comfortable simply stating that no work has been initiated; the burden of proof is on the owner to prove that no work has been initiated. The Commission feels that a COC request could be submitted, but that all Enforcement Order requirements must be met.
 - The Commission needs to determine if the Enforcement Order should be released, or if it should remain open until work on the site is completed.
 - Commissioners asked what issue is really before us tonight. Staff clarified that the Commission should determine what the next steps are for the Enforcement Order and Commissioners stated that we should not be discussing a potential RDA filing.
 - Dante Capasso, owner of 77 Beaconwood, stated that he is ready to separate from Mr. Haney. He asked whether all the materials required by the Enforcement Order have been submitted. He noted that he is not sure if the trees that were cut were on his lot. Staff responded that the buffer zone line has not been staked with erosion controls as requested, though staff note that there has been no activity on site since the installation Enforcement Order was issued. Staff noted that the surveyed plan is not stamped or signed and is not dated appropriately so does not fully meet the requirements of the Enforcement Order. Commissioners agree that a signed, stamped, and appropriately dated plan is needed.
 - Consensus: A memo will be prepared by staff to inform the owner of the discussion that occurred at tonight’s meeting.
- 8. (9:30) 194 Dedham Street – COC Request – for an unpermitted tree removal and associated replanting – DEP #239-846**
- Owner: Ritchie and Denitsa Brown Representative: none
 - Request: Issue COC.
 - Documents Presented: none
 - Presentation: All required COC materials have been received and a site visit on 6/7/21 confirmed compliance.
 - Vote: To issue a Certificate of Compliance. [Motion: Susan Lunin; Second: Ellen Katz; Roll-call vote: Green (aye), Lunin (aye), Hepburn (aye), Cade (aye), Gilligan (aye), Katz (aye); Vote 6:0:0]
- 9. (9:35) 17 Wayne Road – cont’d NOI – teardown/rebuild single-family home – DEP File #239-892**
- Owner/Applicant: Jamie Ovadia Representative: Joyce Hastings, GLM Engineering Consultants, Inc.
 - Request: The project team requested on 6/24/21 to withdraw the Notice of Intent for work at 17 Wayne Road.
 - Documents Presented: Colored plans, site photos, draft OOC
 - Jurisdiction: Buffer Zone, Riverfront Area
 - Vote: To accept the withdrawal of the Notice of Intent for work at 17 Wayne Road. [Motion: Leigh Gilligan; Second: Susan Lunin; Roll-call vote: Green (aye), Lunin (aye), Hepburn (aye), Cade (aye), Gilligan (aye), Katz (aye); Vote 6:0:0]
- 10. (9:40) 942-944 Watertown Street – Compliance Discussion – new duplex – DEP File #239-427**
- Owner/Applicant: Janet Edsall Fields Representative: Stephen Fields
 - Request: Continue discussion to 7/15/21 to allow EcoTec to develop plans.
 - Documents Presented: none
 - Jurisdiction: Buffer Zone, Riverfront Area, BLSF, City Floodplain
 - Issue Summary:
 - The applicant had submitted a restoration planting plan for the lot, which included the action listed below, which was determined by the Commission to be insufficient mitigation.
 - Removal of the patio and fence.
 - 8 saplings: 5 *Thuja plicata* (Green Giant Arborvitae), 2 *Cornus alternifolia* (Pagoda Dogwood), 1 *Cornus Rasemosa* (Gray Dogwood). The applicant notes that they are proposing the arborvitae, despite

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Commissioner comments at the last meeting, as they provide screening and a clear barrier akin to a fence. They are willing to consider *Thuja occidentalis* "Nigra" (Dark American Arborvitae) instead of Green Giant.

- 21 shrubs (5 gal): 5 American Cranberry, 6 *Cornus* Ivory (red-twig), 7 Inkberry, 3 Snow Queen Hydrangeas.
- Lawn area to allow space for the tenant's children to play.
- Presentation: The homeowner hired EcoTec to develop the restoration planting plans for the lot. The project surveyor is refusing to produce an updated as-built based on assessments by EcoTec, so the development of restoration plans has been delayed.
- Consensus: To continue discussion to 7/15/21 meeting, with materials due 7/1/21.

II. CONSERVATION AREA DECISIONS – None at this time.

III. ADMINISTRATIVE DECISIONS

11. (9:45) Ban on Nip (alcohol) Sales – discussion regarding support letter for council docket

- Documents Presented: Letter from Commission member to Council, draft letter of support from entire Commission
- Staff Notes:
 - Commissioner Ellen Katz has submitted a letter to the City Council supporting the ban of nip alcohol bottles in the City of Newton.
 - Chelsea has implemented a similar ban and the appeal was dropped.
 - This ban has been docketed by the City Council (and forwarded to Programs and Services) and Commissioners feel that a letter from the full Commission would have great weight.
- Consensus: To draft a letter in support for the Commission vote on at the 7/15/21 meeting.

12. (9:55) Minutes of 6/3/21 to be approved

- Documents Presented: Draft 6/3/21 minutes
- Vote: To accept the 6/3/21 minutes as edited. [Motion: Leigh Gilligan; Second: Susan Lunin; Roll-call vote: Green (aye), Lunin (aye), Hepburn (aye), Cade (aye), Gilligan (aye), Katz (aye); Vote 6:0:0]

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

UPDATES

V. WETLANDS UPDATES

- Enforcement follow up needed: Newton Yacht Club, Saco Street Condos, CRCK docks.

VI. CONSERVATION AREA UPDATES

- Mark Neves' crews got around a few weeks ago on initial touches and continue their work!
- Stairs from the Greenway to the Riverwalk: Awaiting estimate from new contractor.
- Encroachments: 149 Harwich, 170 Suffolk, and 860 Newton are due to be addressed.
- Bees at Norumbega: Staff are working with the licensed beekeepers to ensure the site is in compliance with the license.

VII. ISSUES AROUND TOWN UPDATES

- Christina Street Bridge Feasibility Study: Draft report due soon! We have also received word that \$1.6 million for final design and construction was approved through the House Infrastructure Transportation Committee as part of the Surface Transportation Act and will be moving for a full vote in the House.
- ACROSS trails ground-truthing effort update due.
- Climate Action Plan implementation continues.
- OSRP Implementation: requests have been entered for ARPA funds.
- Stormwater Ordinance: in final review by DPW and Law.
- Flood Ordinance: The Commission will need to update it this year.

VIII. ADMINISTRATIVE UPDATES

- Budget discussions continue.
-

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

13. 33 Greenwood Street – Enforcement Order – limit of work violations – DEP File #239-848

- Owner/Applicant: Jeronimo Almeida, 33 Greenwood Realty, LLC Representative: none
- Staff Request: Determine if a notice of violation or an enforcement order should be issued to ensure the site is returned to compliance.
- Documents Presented: originally approved plans, site photos, draft EO
- Jurisdiction: Buffer Zone
- Violation Summary

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- Limit of work violation – unknown amount of vegetation clearing beyond the originally approved limit of work line (the erosion control boundary), extending into the wetland resource area (BVW). The erosion controls are currently roughly 45' from the corner of the deck but were originally approved to be roughly 10-12' from the corner of the deck. The wetland boundary is 27' from the corner of the deck.
- Filling of wetland – there appears to be fill that has been brought into the wetland resource area, potentially “filling” the wetland.

○ Discussion

- The applicant has submitted a restoration planting plan showing proposed regrading of the filled area and plantings to revegetate the impacted area.
- These plantings will not be counted towards the number of plants required under the OOC and will not be counted towards the survival percentages required of the site.
- The Commission feels that an additional sapling or 2 should be added to plan to fully vegetate the rear area. Suggested species included Tupelo and or Basswood (but no Red Maple).

- Vote: To approve the restoration plan prepared by Beals & Thomas, dated 6/23/21, with two additional saplings. [Motion: Ellen Katz; Second: Leigh Gilligan; Roll-call vote: Green (aye), Lunin (aye), Hepburn (aye), Cade (aye), Gilligan (aye), Katz (aye); Vote 6:0:0]

14. **Budget Update** – The City Council voted for a resolution to the Mayor’s proposed FY22 budget granting an additional \$25,000 to the Conservation Office budget for capital improvement projects, management of hazard trees, etc. The Mayor agreed to the budget increase.

15. **Martin Poetry Path Opening** – Staff showed photos of the path which is due to be officially “opened” 06/27/21.

16. **Pigeon Hill Pathway**

○ Discussion

- Staff provided an update on the status of the planning for the Pigeon Hill trail (Newton Lower Falls).
- DCR is not willing to take care and custody of the trail since it cannot be made fully accessible without a huge investment. The trail is now proposed to be built to FSTAG standards and the discussion is who will take care of the new trail (through care and custody agreements with MassDOT, the landowner). It has been suggested that either Park, Recreation & Culture and/or the Commission would be the appropriate custodian because of the natural nature of the trail. Maintenance, specifically of invasives, could be shared with PRC (4 “touches” each year by each department would result in 8 “touches” and good control of the knotweed. The annual maintenance contractor employed by Conservation only “touches” Conservation parcels 3-4 times per year.
- There are drainage concerns under the Mass Pike that DOT would have to address to avoid trail “washouts”.
- Commissioners asked if this was the most valuable trail connection for the Commission to be supporting. Staff noted that it will help connect the newly reconstructed Pony Truss trail and the Commonwealth Ave Carriageway.
- Commissioners agreed that this would be a good connection to support and that it would be a show of good grace after our budget increase.

17. **Countryside Water Tower Site** – The water tower has been demolished and the site is for sale. Since the parcel is contiguous with an established Conservation Restriction (The Gables) Commissioners wondered whether there was value in protecting this site and whether there were, in general, good lines of communication about “surplus” City properties. A staff site visit confirmed that the site is not ecologically healthy or important (it is mostly devoid of trees and has a lot of invasives coming in). Staff stated that there is not a well-defined process for discussion about surplus land disposal.

18. **Hazard Tree Mitigation**

○ Discussion

- Staff asked for clarification whether mitigation should be required for the removal of trees deemed a hazard.
- Some commissioners questioned burdening homeowners with replanting after a “natural” tree death.
- Other commissioners felt that since homeowners had experienced the benefits of a tree on their property, they should be encouraged (not required) to replace trees for the good of the environment.
- John Rockwood, EcoTec, Inc. stated that Needham has a policy on this that Newton could use as a template. He forwarded this document along to staff.

- Consensus: Staff will draft a tree removal policy to present to the Commission at the 7/15/21 meeting.

ADJOURN at 10:30pm. [Motion: Susan Lunin; Second: Leigh Gilligan; Roll-call vote: Green (aye), Lunin (aye), Hepburn (aye), Cade (aye), Gilligan (aye), Katz (aye); Vote 6:0:0]

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