

# DETAILED CONSERVATION COMMISSION AGENDA

Date: Thursday, December 9, 2021

Time: 7:00pm

Place: This meeting will be held as a virtual meeting via Zoom.



**Mayor**  
Ruthanne Fuller

**Director  
Planning &  
Development**  
Barney Heath

**Chief  
Environmental  
Planner**  
Jennifer Steel

**Assistant  
Environmental  
Planner**  
TBD

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

**Associate  
Member**  
Sonya McKnight

**Contact  
Information**  
1000 Comm. Ave.  
Newton, MA 02459

T 617/796-1120  
F 617/796-1142

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

[jsteel@newtonma.gov](mailto:jsteel@newtonma.gov)

The Conservation Commission will hold this meeting as a virtual meeting (with closed captions); no in-person meeting will take place at City Hall.

Zoom access information for the meeting will be posted 48 hours in advance of the meeting at: <https://www.newtonma.gov/government/planning/boards-commissions/conservation-commission>

Please contact [jsteel@newtonma.gov](mailto:jsteel@newtonma.gov) or 617-796-1134 with any questions.

**NOTE:** In addition to the documents presented in the Commission's packet (available on the Commission's website), full application 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. Discussion may be limited by the Chair.

## DECISIONS

### I. WETLANDS DECISIONS

**1. (7:00) 100 Boulder Road – NOI (cont'd) – addition, deck, patio to a single-family home – DEP file #239-908**

- Owner/Applicant: Amir Nashat
- Representative: Rich Kirby, LEC, Inc.
- Request: Continue to January 6, 2022
- Documents Presented: none
- Jurisdiction: Flood Zone (114' NAVD88), Riverfront Area, Buffer Zone to Bank
- Staff Recommendations: Vote to accept request to continue to January 6, 2022.

**2. (7:05) 44 Brandeis Road – NOI – addition to a single-family home – DEP file #239-???**

- Owner: Michael Landzberg
- Representative: Tim McGuire, Goddard Consulting, Inc.
- Request: Issue OOC for proposed addition.
- Documents Presented: Colored plans, site photos
- Jurisdiction: BLSF (10.57)
- Performance Standards:
  1. Compensatory storage shall be provided for all flood storage volume that will be lost ...
  2. Work shall not restrict flows so as to cause an increase in flood stage or velocity.
  3. Work in those portions of bordering land subject to flooding found to be significant to the protection of wildlife habitat shall not impair its capacity to provide important wildlife habitat functions.

(c) ... no project may be permitted which will have any adverse effect on specified wildlife habitat sites of rare ....
- Project Summary:
  - Construct a single-story addition and driveway extension on the southwest side of the existing house.
  - The addition will result in 282 cubic feet of fill. The applicant will grade the site to provide 798 cubic feet of compensatory storage on-site, a surplus of 516 cubic feet storage on-site.
- Staff Notes:
  - This appears to be a very simple project.
  - Staff's only concerns are that:
    - No erosion control or limit of work line or erosion control detail are shown.

- The proposed grading in the front yard will disturb an existing mature shrub and the roots of a mid-sized tree.
- The cut and fill table shows a cut from 121-122', but there is not a corresponding grade change line on the plan. Cut and fill calcs and or site grading should be revised to ensure accuracy.
- Staff Recommendations: Once above issues are addressed and revised plans have been submitted as appropriate, vote to close the hearing and issue an Order of Conditions with the following special conditions.
  - The addition shall be slab-on-grade construction; there will not be a basement below the addition.
  - Compensatory flood storage must be provided in its entirety as per the grading shown on the approved plans.

**3. (7:25) 45 Buswell Park – NOI – patio expansion and rain garden – DEP file #239-909**

- Owner: Brittany and Dustin Bennett
- Representative: Rob Gemma, MetroWest Engineering, Inc.
- Request: Issue OOC for the proposed hardscape expansion and rain garden installation.
- Documents Presented: Colored plans, site photos
- Jurisdiction: Land Under Water (not to be touched); City Flood Zone; Buffer Zone to Bank of an Intermittent Stream
- Performance Standards:
  - 10.53(1). "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." enhancing to the maximum extent practicable a 100-foot naturally vegetated buffer
- Project Summary: The owner would like to: (1) expand an existing patio -- adding 578 sf of impervious area to the Buffer Zone, (2) install a 553 sf (18 cy) rain garden to handle runoff from the rear roof, new synthetic turf, and patio, and (3) install a stone bridge over the stream channel, (4) install native plants along the property line and new hardscape, and (5) remove invasives on the far side of the stream.
- Staff Notes:
  - Engineering has approved the proposed stormwater management system sizing.
  - The Operations and Maintenance Plan submitted indicates that all maintenance reports should be submitted annually to the Engineering Division of the Weston Department of Public Works. This must be corrected.
  - There is no laydown or stockpiling area identified on the plan. This should be addressed.
  - Some fill associated with the grading for the patio is within the City Flood Plain and appears to be at elevation 89-90'. The cuts associated with the rain garden appear to be at 87-88' and 88-89'. The City Flood Plain Ordinance requires foot-for-foot compensation of fill in the City Flood Plain ("Compensatory storage shall mean a volume not previously used for flood storage, and shall be incrementally equal to the theoretical volume of flood water at each elevation which would be displaced by the proposed project."). The discrepancy should be rectified.
  - The applicant should submit the written approval from Newton DPW for the proposed coring into the wall of Hyde Brook for the overflow drain pipe.
  - The number of plants shown on the plan within the Buffer Zone do not appear to comport with the numbers shown in the planting schedule. The plans should be vetted and any discrepancy rectified.
  - There are 44 shrubs proposed in the Buffer Zone, but no shrubs proposed along the stream. All the shrub plantings appear to be for screening, not ecosystem enhancement. The planting plan should likely be revised.
  - The stream edge was due to have been planted under previous OOCs and should be planted under this filing.
  - Invasives removal is indicated on the plan, but there is no mention of it in the narrative and no details on the plan. Removal targets and strategies must be clarified (is the intention to remove all the Norway maple trees, or just a shrub or two?). To accompany invasive removal, there should likely be some replacement plantings of native species to enhance the area and jumpstart restoration.
  - There is a small tree that will be removed for the installation of the patio. This should be noted on the plan and potentially accounted for/reflected in the mitigation planting plan.
  - The roots of one large tree just off the property may be adversely affected by the grading/excavation for the proposed rain garden. This should be addressed.
- Staff Recommendations: Once above issues are addressed, and revised plans have been submitted as appropriate, vote to close the hearing and issue an Order of Conditions with the following special conditions.
  - The stormwater management system must be installed as per the approved plans.
  - Landscape plantings within Commission jurisdiction must:

- Be installed in compliance with the approved plans (desired changes must be approved by the Conservation office in advance)
- Stabilize all exposed areas
- Be installed on or before \_\_\_\_\_
- Have a survival rate of \_\_\_\_\_ % of total number of trees (after 2 growing seasons)
- Have a survival rate of \_\_\_\_\_ % of total number of shrubs (after 2 growing seasons)
- Have a survival rate of \_\_\_\_\_ % aerial coverage of all other plants (after 2 growing seasons)
- Mulch applications shall diminish over time and eventually cease as ground cover species and shrubs spread.
- Be bounded.
  - Bounds shall be iron pipe or 4"x4"x36" stone or concrete post with at least 6" above grade.
  - Bounds shall be placed at every boundary corner and be no more than \_\_\_\_\_ feet (20?) apart.
- To protect the full suite of benefits of area wetlands, wildlife, and native insects and pollinators, no herbicides and pesticides shall be used.
- To protect wetland wildlife, exterior lighting shall:
  - be "dark sky" compliant -- i.e., shielded to prevent any "up lighting" and "backlighting", focused, and directed so as to not illuminate any part of the wetland.
  - have limited blue content to decrease skyglow and disruption of diurnal animals
  - have no spotlights or floodlights shall be directed at Hyde Brook.
  - be switched off when not in active use

**4. (7:50) 40 Albemarle Road – OOC minor plan change request – modify mitigation planting area – DEP #239-880**

- Owner: Jeremy Osinski
- Representative: Jeremy Osinski
- Request: Accept proposed changes to the mitigation planting area and landscaping as a minor plan change.
- Documents Presented: Colored plans
- Jurisdiction: Riverfront Area, 100-Foot Buffer Zone to Bank
- Performance Standards:
  - 10.58(4) enhancing to the maximum extent practicable a 100-foot naturally vegetated buffer
  - 10.58(5) establishment of permanent mitigation (1:1) and restoration (2:1) planting areas.
- Project Summary: The owner would like to: (1) move the shed, (2) install a retaining wall, (3) reconfigure the hardscape (patio and walkway), and (4) reconfigure the mitigation/restoration planting area.
- Staff Notes:
  - Staff sent initial comments to the owner noting
    - Concerns about breaking up the restoration area
    - Concerns about installing a retaining wall and a shed in what was to have been the restoration area
    - Interest in maximizing the restoration area along the street frontage
    - Interest in providing utilitarian boundaries and pathways
  - Staff reminded the owner about prior obligations of:
    - The patio being "on a fully pervious bed of pea stone with similar (1-2") spacing between the stones to maximize infiltration."
    - "A swale of at least 6 inches in depth and 1-2' in width must be installed all along the northern property boundary"
    - "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"
  - The owner responded with revised plans reflecting:
    - Some reshaping of the restoration/mitigation planting areas
    - Reversing the swing of the proposed gates to limit impact on plantings
    - Reducing the angle on the retaining wall
  - Staff is not comfortable with the restoration area being diminished and divided to accommodate expanded/altered site development and the precedent such change would set.
- Staff Recommendations: Discuss the proposed changes and determine what if any changes are appropriate and whether they should be approved as minor plan changes or whether an amended OOC would be required.

**5. (8:10) 22 Hollywood Drive – Request to Close Enforcement Orders – planting plan, bounding – DEP #239-271 & 239-368**

- Owner: Jamie Mackay

- Representative: John Rockwood
- Request: Close 3 outstanding Enforcement Orders
- Documents Presented: Colored plans, site photos
- Jurisdiction: BVW and 100-Foot Buffer Zone to BVW
- Site History:
  - 1993 RDA → positive DOA → OOC 239-271 SFH → 1994 COC
  - 1995 EO #1 (issued to Stumpo and Boston Edison for extra decks, drainpipes, fill in BVW, natural area alteration, etc.
  - 1999 OOC 239-368 pool with fenced natural area to be maintained in perpetuity
  - 1999 EO #2 (issued to Avi Fogel) for natural area alteration, etc.
  - 2002 remedial planting plan approved
  - 2003 EO #3 (issued to Bob Carp) fill, planting, fencing, land agreement with Cornerstone
  - Law Department involvement
  - 2018 owner Bob Carp sought “expedited” closure of Enforcement Orders and open Orders of Condition
  - 2018 owner Amy Carp conducted a file review and was asked to develop an “application” package documenting site compliance and seeking closure of EOs and OOCs.
  - 2019 a 'friendly' EO #4 as the mechanism to allow for the conduct of the approved Restoration Plan ("Response to Outstanding Enforcement Orders, 22 Hollywood Drive, Newton, Massachusetts," prepared by EcoTec, Inc., dated June 17, 2019). The plan called for:
    - Relocation of the chain-link fence;
    - Removal of hazard trees;
    - Placement of logs in the area as habitat;
    - Pruning of maple trees to promote light penetration into the area;
    - Removal and treatment of invasive vines and shrubs; and
    - Planting of 160 understory trees and shrubs within ten habitat areas within the subject area.
  - Fall of 2019 and fall of 2020 works was done according to the approved plan.
  - 2021 owner Jamie Mackay seeks closure of E.O.s.
- Staff Notes:
  - Staff do not feel that a deed restriction (cited in older EOs) is necessary.
  - Invasive species in the subject area have been dramatically reduced compared to adjacent untreated areas. This has allowed native volunteer species an opportunity to try to become established in the area.
  - Staff applaud the efforts of the owners to remove invasives and install natives.
  - 96 shrubs (60%) were observed to be alive in Nov. 2021. Staff believe that a few more shrubs should be installed along the lawn-restoration area line, with photographic proof of proper installation, but with no long-term survival requirements.
  - Staff noted a tree stump but have no record of a permit for the removal of that tree. Commissioners should discuss whether a replacement sapling would be appropriate.
  - To facilitate tree removal and pruning, the chain-link fence was entirely removed from the site, however staff feel that given the openness of the site, a fence (e.g., split rail) is necessary to define the extent of “lawn” and the edge of the restoration area should still be required.
  - Once EOs are closed, old OOCs must be closed with requests for COCs.
- Staff Recommendations: Discuss and determine whether memo(s) of clarification or closure should be granted.

**6. (8:35) 36 Parsons Street – COC Request – SFH teardown/construct duplex – DEP #239-854**

- Owner: Arto Dermovsesian Applicant: John Rockwood, EcoTec, Inc. Representative: John Rockwood
- Request: Issue a complete COC.
- Documents Presented: site photos
- Jurisdiction: RFA and Flood Zone
- Staff Notes:
  - The work under 239-854 was permitted to remove unauthorized fill from the 100-year floodplain that occurred during work under 239-728.
  - The plant materials within the enhancement area were removed, the area was re-graded, and the plant materials were replanted or replaced. VTP Associates, Inc. surveyed the area:
    - 41.64 cubic feet (1.54 cy) of excess flood storage at the lower increment 41-42’

- 20.48 cubic feet (0.76 cy) of shortfall at the higher increment 42-42.5. Staff feel this is close enough.
- All required COC materials have been received. A staff site visit on 11/24/21 found compliance with the OOC but for some use of the spaces between the plants for play or storage.
- Staff Recommendations: Vote to issue a complete Certificate of Compliance with a cover letter explaining how the restoration area must be maintained.

**7. (8:40) 36 Parsons Street – COC Request – excess fill removed – DEP #239-728**

- Owner: Arto Dermovsesian Applicant: John Rockwood, EcoTec, Inc. Representative: John Rockwood
- Request: Issue a complete COC.
- Documents Presented: site photos
- Jurisdiction: RFA and Flood Zone
- Staff Notes: All required COC materials have been received. A staff site visit on 11/24/21 found general compliance with the OOC.
- Staff Recommendations: Vote to issue a complete Certificate of Compliance.

**8. (8:45) 10 Gambier Street – COC Request – disconnect cesspool, connect to sewer – DEP #239-608**

- Owner: Owen Hughes Applicant: Owen Hughes Representative: Verne Porter
- Request: Issue a complete COC.
- Documents Presented: site photos
- Jurisdiction: Buffer Zone
- Staff Notes: All required COC materials have been received. A staff site visit on 8/4/21 found general compliance with the OOC and memorandum regarding cutting back Japanese knotweed.
- Staff Recommendations: Vote to issue a complete Certificate of Compliance.

**II. CONSERVATION AREA DECISIONS**

**9. (8:50) Honeybee data collection.**

- Should we ask Mark to purchase a DNA testing kit for his Old Deer Park honey to identify pollen used by his honeybees.

**III. ADMINISTRATIVE DECISIONS**

**10. (9:05) Minutes of 11/18/21 to be approved**

- Documents Presented: Draft 11/18/21 minutes as edited by Ellen Katz
- Staff Recommendation: Vote to approve the 11/18/21 minutes.

**IV. ISSUES AROUND TOWN DECISIONS**

**11. (9:10) Discussion of installing signs along South Meadow Brook**

- Request: Consider installing identification signage along South Meadow Brook to promote understanding & protection.
- Staff Notes:
  - The Commission should consider this opportunity in the context of other initiatives, e.g., mapping buried streams, ACROSS trails (ground-truthing?), and other possible educational priorities (tree planting, etc.)
  - The Commission should consider this opportunity in the larger context of all major watersheds in the City for a concerted educational effort and roll-out.
  - Perhaps a summer intern could research strategic locations where signs might be installed, and signage used by other communities, such as Concord.

**UPDATES**

**V. WETLANDS UPDATES**

- Parks and Rec’s upcoming projects: Gath Pool, Crystal Lake accessibility and Left Beach improvements, Warren House fields, and NSHS/Brown/Oak Hill fields.

**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**

115 915 NAVD88  
115 Profile NAVD88  
121.5 CNVD.

\*PROPERTY IS LOCATED WITHIN A FLOODPLAIN  
FLOODPLAIN ELEV=122.0 (FEMA/CITY OF NEWTON)

**CUT/FILL CALCULATIONS**

	CUT	FILL
ELEV 119-120	35 C.F.	0 C.F.
ELEV 120-121	501 C.F.	39 C.F.
ELEV 121-122	262 C.F.	243 C.F.

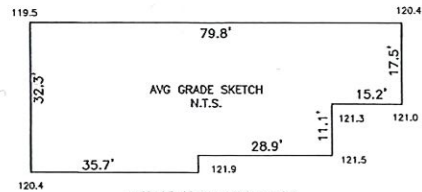
FROM WHERE?

**ZONING INFORMATION**

ZONE: SR-3  
PLAN DATED: 1955  
DEED REFERENCE: BOOK 1567 PAGE 65

	EXISTING	PROPOSED	REQUIRED
BUILDINGS	1,952 S.F.	2,283 S.F.	
STRUCTURES	2,242 S.F.	2,574 S.F.	
DRIVE	532 S.F. ±	612 S.F. ±	
	2,774 ±	3,186 S.F. ±	
LOT COVERAGE	18.1%	21.2%	(30% MAX.)
OPEN SPACE	74% ±	70% ±	(50% MIN.)

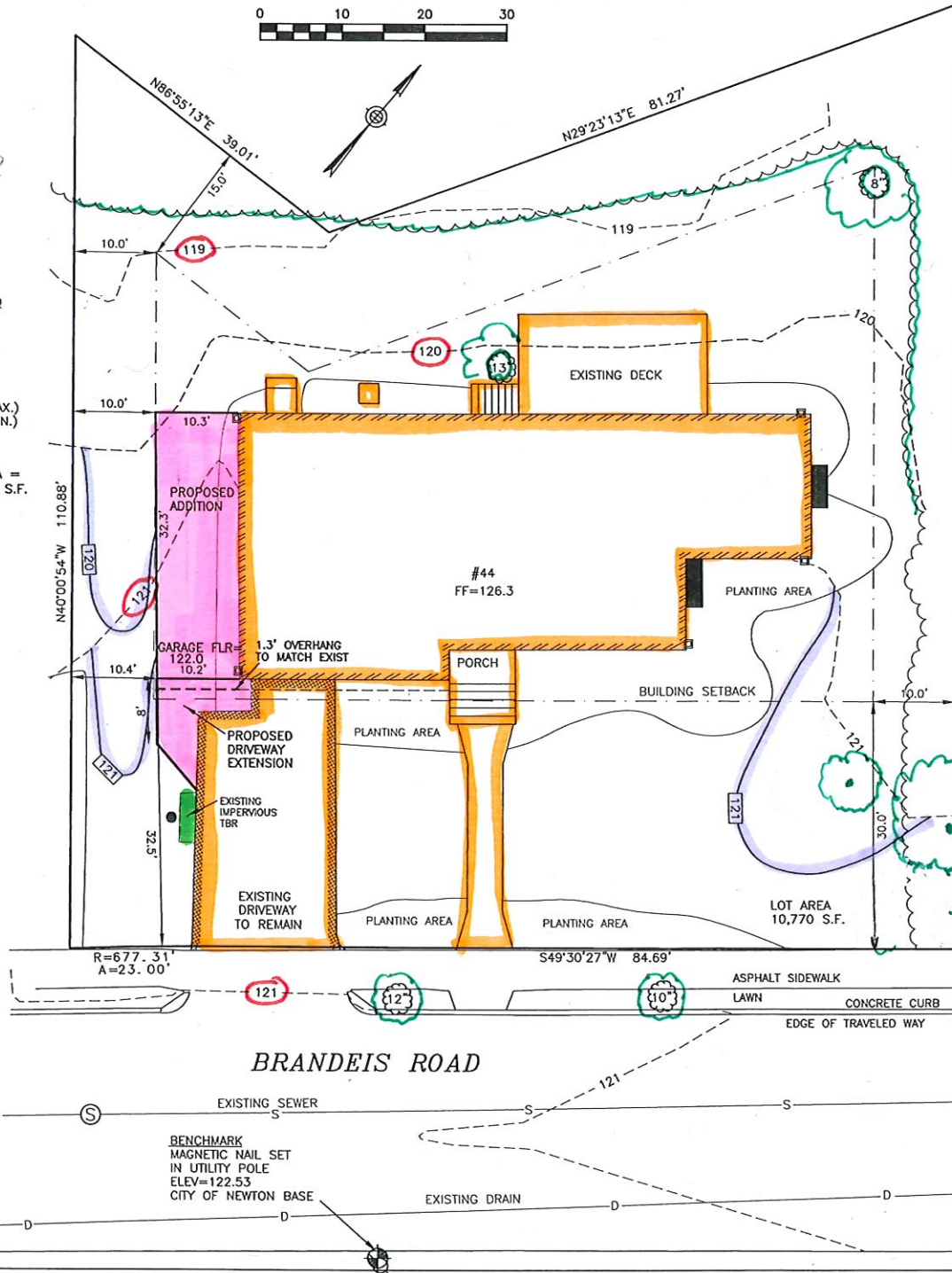
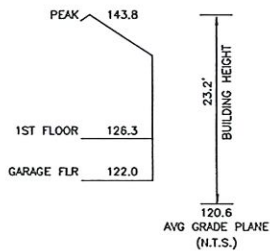
IMPERVIOUS INCREASE CALCULATION  
PROPOSED IMPERVIOUS AREA - EXISTING IMPERVIOUS AREA =  
{12,283} + {612} - ({1,952} + {532} + {12}) = 399 S.F.  
< 400



AVERAGE GRADE CALCULATION:  
[SEC 1.5.4(F)]

AVG =  $\sum[(E1+E2)/2] / P$   
AVG = 26,589.85 / 220.5 = 120.6  
GRADES REFER TO LOWEST POINT WITHIN 6' OF BUILDING  
NOT INTENDED FOR F.A.R. CALCULATION

**BUILDING HEIGHT CALCULATION**



ESTABLISHED 1916  
**EMB**  
EVERETT M. BROOKS CO.  
SURVEYORS & ENGINEERS  
49 LEXINGTON STREET  
WEST NEWTON, MA 02465

(617) 527-8750  
info@everettbrooks.com

**LEGEND**

- UTILITY POLE
- WATER GATE
- ✕ HYDRANT
- GAS GATE
- ⊙ SEWER MANHOLE
- ⊙ DRAIN MANHOLE
- CATCH BASIN
- TREE
- TREE
- ⊙ LIGHT POLE
- ⊙ SIGN
- 71.4 X SPOT ELEVATION
- 71 — PROPOSED CONTOUR
- - 71 - - EXISTING CONTOUR
- D - DRAIN LINE
- W - WATER LINE
- S - SEWER LINE
- G - GAS LINE
- X - FENCE



**PLAN OF LAND IN  
NEWTON, MA**

44 BRANDEIS ROAD  
PROPOSED ADDITIONS

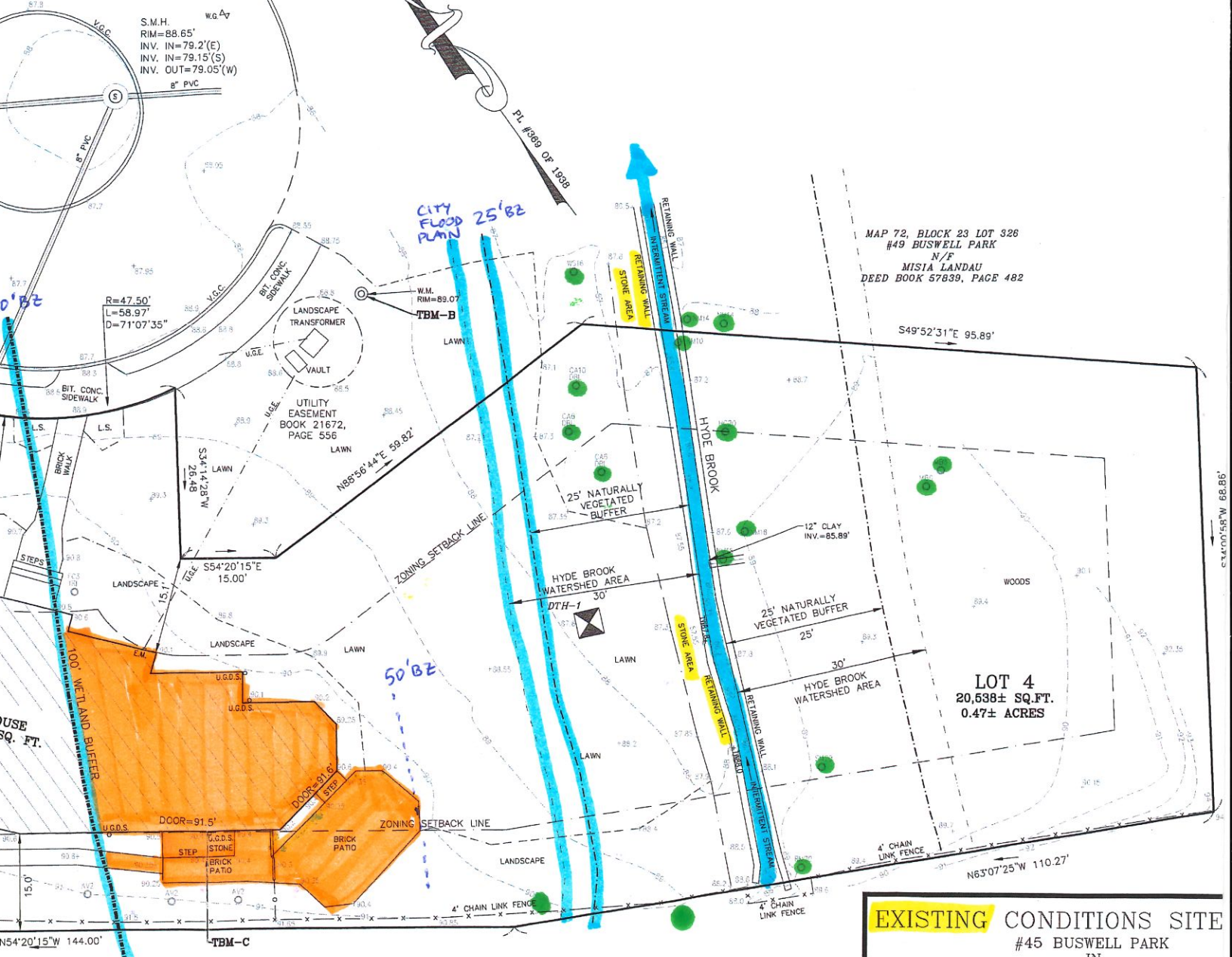
SCALE: 1 IN. = 20 FT.  
DATE: OCTOBER 7, 2021  
DRAWN: LNS/ES  
CHECK: BB & MSK

REVISIONS:

NO.	DESCRIPTION

PROJECT NO. 26426

**BUSWELL PARK**  
(PUBLIC-40' WIDE)



MAP 72, BLOCK 23 LOT 326  
#49 BUSWELL PARK  
N/F  
MISIA LANDAU  
DEED BOOK 57839, PAGE 482

**LOT 4**  
20,538± SQ.FT.  
0.47± ACRES

**DESCRIPTION**  
VITAE  
PPLE  
CYPRESS  
CHESTNUT  
RY  
Y MAPLE  
Y SPRUCE  
MAPLE  
MAPLE  
ORE  
SPRUCE  
E  
UPLE  
TION

MAP 72, BLOCK 23 LOT 63  
#34 HYDE AVENUE  
N/F  
PETER B. MARK & LYNN R. GOLDSMITH  
DEED BOOK 59220, PAGE 54

**ZONING:**

SINGLE RESIDENCE 2 -SR2  
MINIMUM AREA= 15,000 SQUARE FEET  
MINIMUM FRONTAGE= 100 FEET  
SETBACKS:  
FRONT YARD= 30 FEET  
SIDE YARD= 15 FEET  
REAR YARD= 15 FEET  
MAXIMUM HEIGHT= 36 FEET OR 2.5 STORIES  
MAXIMUM LOT COVERAGE= 20%  
MINIMUM OPEN SPACE= 65%  
MAXIMUM BUILD FACTOR= 25



*Robert A. Gemma*  
11/18/12

FOR METROWEST ENGINEERING, INC. DATE  
ROBERT A. GEMMA, P.L.S. # 37046  
P.E. # 31967 (CIVIL)



**EXISTING CONDITIONS SITE**  
#45 BUSWELL PARK  
IN  
NEWTON, MASS  
(MIDDLESEX COUNTY)

PREPARED FOR:  
BRITTANY J. & DUSTIN K. BENNETT  
45 BUSWELL PARK  
NEWTON, MA 02458

PROPERTY OF:  
BRITTANY J. & DUSTIN K. BENNETT  
45 BUSWELL PARK  
NEWTON, MA 02458

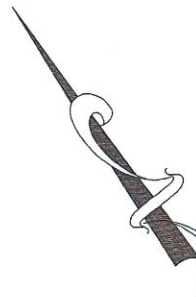
ENGINEERS & SURVEYORS:  
**MWE** METROWEST ENGINEERING, I  
75 FRANKLIN STREET  
FRAMINGHAM, MA 01702  
TELE: (508)628-0063  
EMAIL: INFO@MWEENGINEERING

SHEET C1		DATE: NOVEMBER 1
CALC'D BY: PHA	FIELD BK: 718	CAD FILE: BENNETT_S1
DRAFTER: PHA/JTS	PROJECT: NWT_BUS	DWG FILE: SP111821.dwg

# BUSWELL PARK

(PUBLIC-40' WIDE)

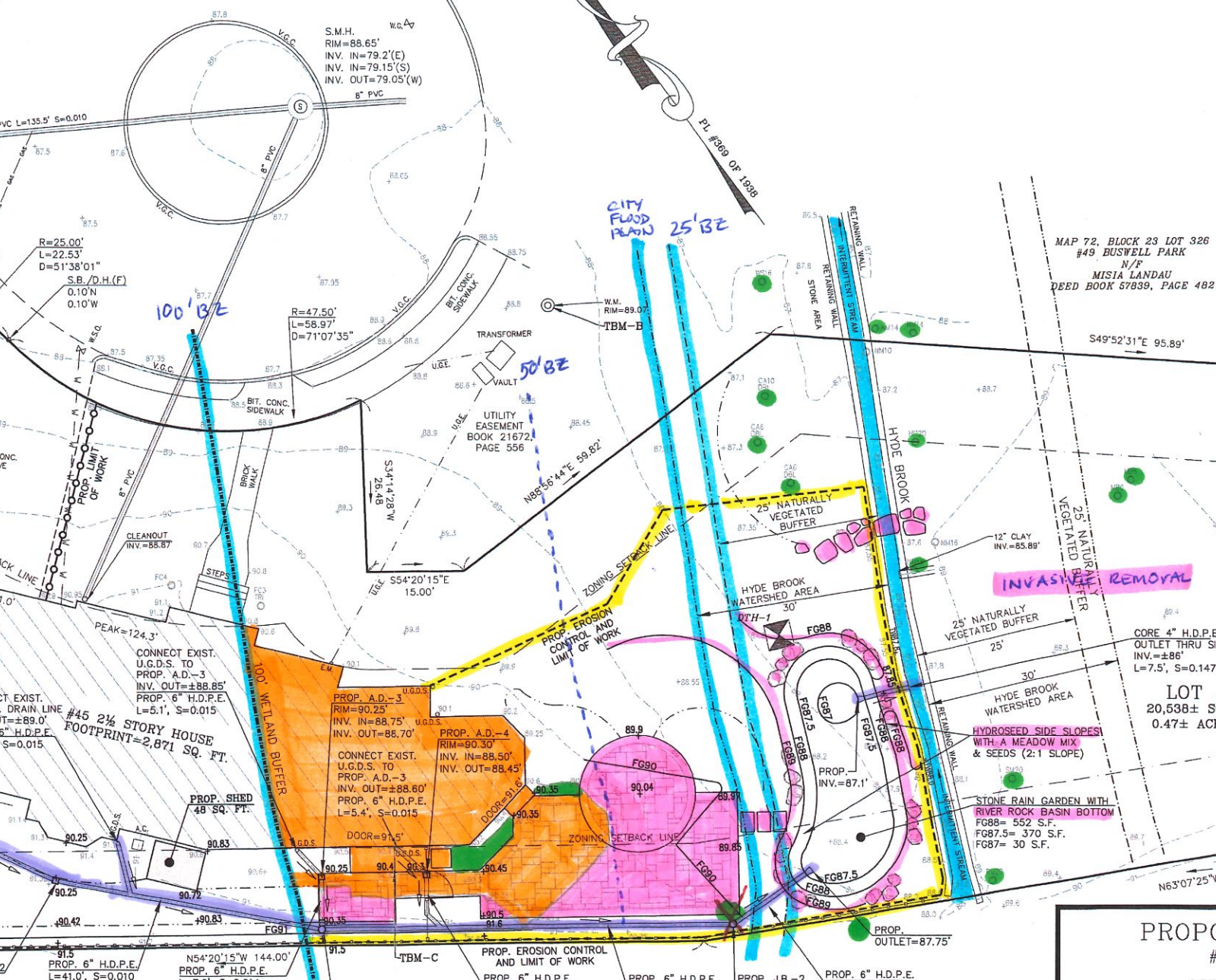
S.M.H.  
RIM=88.65'  
INV. IN=79.2'(E)  
INV. IN=79.15'(S)  
INV. OUT=79.05'(W)



FL #369 OF 1988

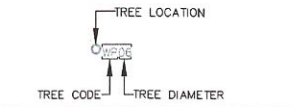
MAP 72, BLOCK 23 LOT 326  
#49, BUSWELL PARK  
N/F  
MISIA LANDAU  
DEED BOOK 67839, PAGE 482

S49°52'31"E 95.89'



## TREE DESCRIPTION LEGEND

CODE	DESCRIPTION
AV	ARBORVITAE
CA	CRABAPPLE
FC	FALSE CYPRESS
HC	HORSE CHESTNUT
MB	MULBERRY
NM	NORWAY MAPLE
NS	NORWAY SPRUCE
RM	RED MAPLE
SM	SUGAR MAPLE
SYM	SYCAMORE
WS	WHITE SPRUCE
DBL	DOUBLE
TRI	TRIPLE
QUAD	QUADRUPLE



## ZONING:

SINGLE RESIDENCE 2 -SR2  
MINIMUM AREA= 15,000 SQUARE FEET  
MINIMUM FRONTAGE= 100 FEET  
SETBACKS:  
FRONT YARD= 30 FEET  
SIDE YARD= 15 FEET  
REAR YARD= 15 FEET  
MAXIMUM HEIGHT= 36 FEET OR 2.5 STORIES  
MAXIMUM LOT COVERAGE= 20%  
MINIMUM OPEN SPACE= 65%  
MAXIMUM BUILD FACTOR= 25

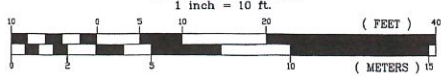
## APPROXIMATE EARTHWORK CALCULATIONS:

RAIN GARDEN  
TOTAL CUT= 18 C.Y.  
TOTAL FILL= 15 C.Y.  
NET EARTHWORK= 3 C.Y. (CUT)



FOR METROWEST ENGINEERING, INC. DATE  
ROBERT A. CEMMA, P.L.S. # 37046  
P.E. # 31967 (CIVIL)

## GRAPHIC SCALE



PROPO #4  
NE (M)

PREPARED FOR:  
BRITTANY J. &  
45 BUSWELL P  
NEWTON, MA 0

PROPERTY OF:  
BRITTANY J. &  
45 BUSWELL P  
NEWTON, MA 0

ENGINEERS &  
SURVEYORS:  
**MWE**

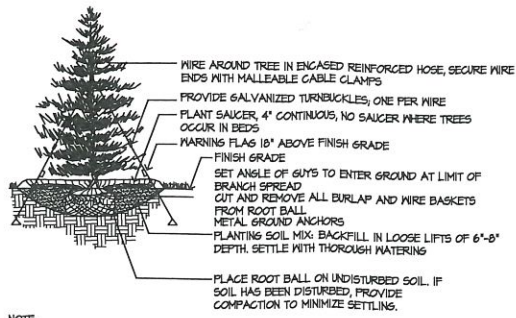
SHEET C4

CALC'D BY: RAG FIELD B  
DRAFTER: JTS PROJECT



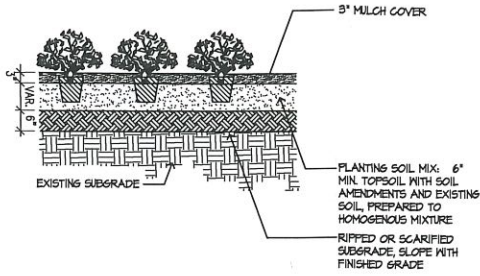
PLANT SCHEDULE - BUFFER AREAS

SYMBOL	BOTANICAL NAME	COMMON NAME	QUANTITY	SIZE
<b>SHRUBS</b>				
AV	AZALEA VISCOSUM	SWAMP AZALEA	4	3 GAL.
CA	CLETHRA ALNIFOLIA 'RUBY SPICE'	'RUBY SPICE' SWEET PEPPERBUSH	4	3 GAL.
FG	FOTHERGILLA GARDENII	DWARF FOTHERGILLA	10	3 GAL.
IG	ILEX GLABRA 'SHAMROCK'	'SHAMROCK' INKBERRY	8	3 GAL.
IT	ITEA VIRGINICA 'LITTLE HENRY'	'LITTLE HENRY' SWEETSPIRE	4	3 GAL.
RM	RHODODENDRON MAXIMUM	ROSEBAY RHODODENDRON	7	3-4' HT.
			44	
<b>PERENNIALS AND GROUND COVERS</b>				
AC	AQUILEGIA CANADENSIS	COLLIMBINE	17	1 GAL.
AM	ACHILLEA MILLEFOLIUM	YARROW	12	1 GAL.
CV	CAREX VARIETIES	CAREX VARIETIES	265	3" POT.
HY	HELICHERA VARIETIES	CORAL BELLS	26	1 GAL.
IV	IRIS VERSICOLOR	BLUEFLAS IRIS	20	1 GAL.
LS	LOBELIA SIPHILITICA	GREAT BLUE LOBELIA	15	1 GAL.
OC	OSMUNDA CINNAMONNEA	CINNAMON FERN	78	1 GAL.



- NOTE:
1. TREE SHALL BEAR SAME RELATIONSHIP TO FINISHED GRADE AS IT BORE TO NURSERY OR FIELD GRADE
  2. GUY WIRES SHALL BE INSTALLED ON AN AS NEEDED BASIS

2 EVERGREEN TREE PLANTING  
NOT TO SCALE



4 PERENNIAL / GROUNDCOVER PLANTING  
NOT TO SCALE

NOTES:

1. ALL MATERIALS SHALL CONFORM TO THE GUIDELINES ESTABLISHED BY THE AMERICAN NURSERY AND LANDSCAPE ASSOCIATION.
2. ALL PLANTS SHALL BEAR THE SAME RELATIONSHIP TO FINISH GRADE AS TO ORIGINAL GRADES BEFORE DIGGING.
3. ALL PLANTS TO BE BALLED IN BURLAP OR CONTAINERIZED.
4. MULCH FOR PLANTED AREAS TO BE AGED PINE BARK, PARTIALLY DECOMPOSED, DARK BROWN IN COLOR AND FREE OF WOOD CHIPS THICKER THAN 1/4 INCH.
5. PLANTINGS PROPOSED IN BUFFER AREAS SHALL BE NATIVE / NON-INVASIVE SPECIES. FINAL SELECTION OF PLANT SPECIES SHALL OCCUR AT THE TIME OF PLANT PURCHASE, DEPENDING ON AVAILABILITY.

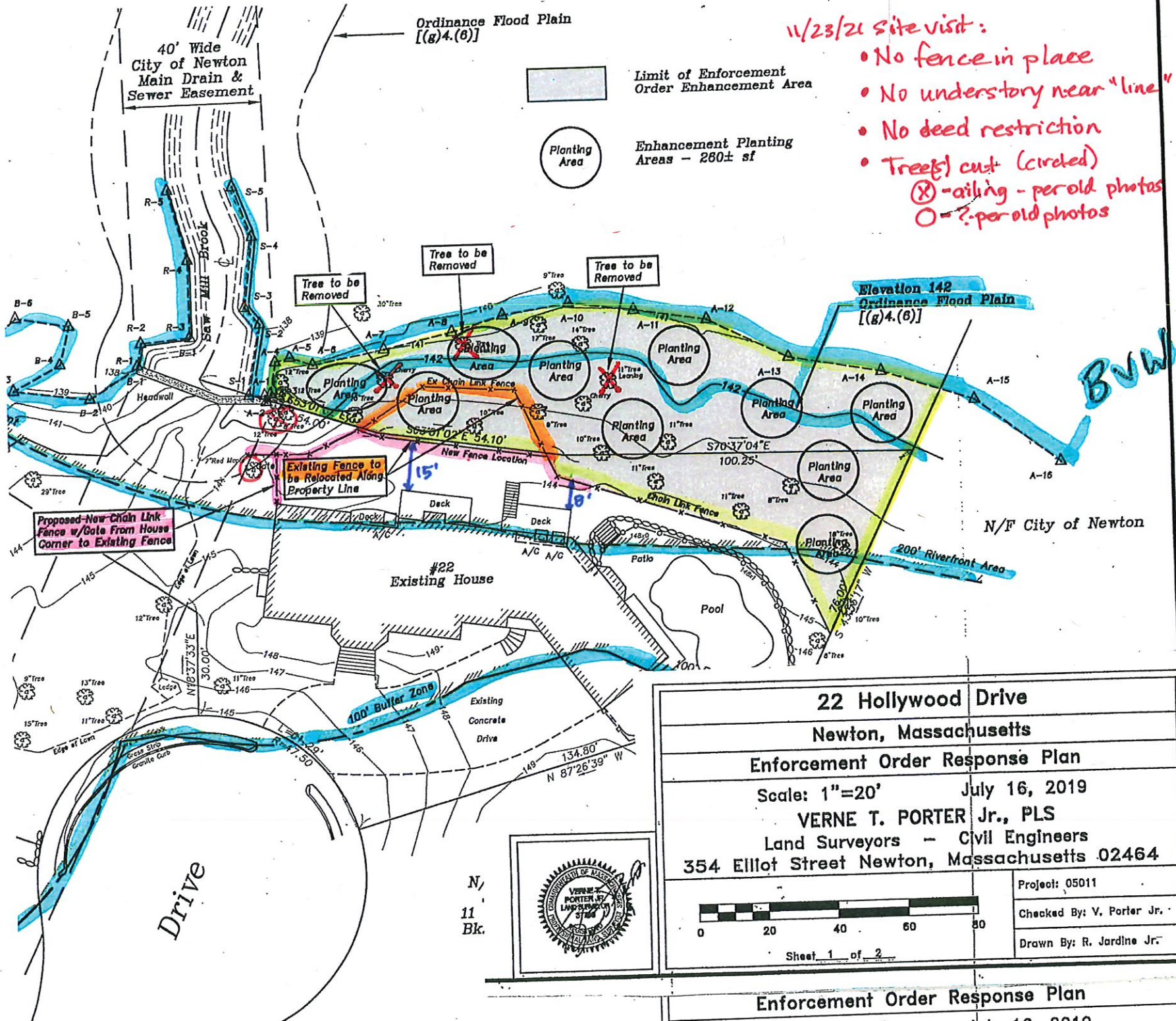


**EXISTING CONDITIONS NOTE:**  
EXISTING SITE DATA SHOWN HEREON TAKEN FROM SURVEY PLAN ENTITLED "EXISTING CONDITIONS SITE PLAN" PROVIDED BY METROWEST ENGINEERING, INC. AND FROM FIELD OBSERVATIONS AND MEASUREMENTS PERFORMED BY THE MACDOWELL COMPANY, LLC. THIS INFORMATION, AS PROVIDED HEREON, IS SCHEMATIC IN NATURE, AND IS FOR DESIGN PURPOSES ONLY. THIS PLAN IS NOT INTENDED FOR CONSTRUCTION.

**OWNERSHIP AND USE OF DOCUMENTS:**  
DRAWINGS AND SPECIFICATIONS, AS INSTRUMENTS OF PROFESSIONAL SERVICE AND SHALL REMAIN THE PROPERTY OF THE MACDOWELL COMPANY, LLC. THESE DOCUMENTS ARE NOT TO BE USED, IN WHOLE OR IN PART, FOR ANY OTHER PROJECT OR PURPOSES, OR BY ANY OTHER PARTIES, THAN THOSE PROPERLY AUTHORIZED BY CONTRACT. WITHOUT SPECIFIC WRITTEN AUTHORIZATION BY THE MACDOWELL COMPANY, LLC.








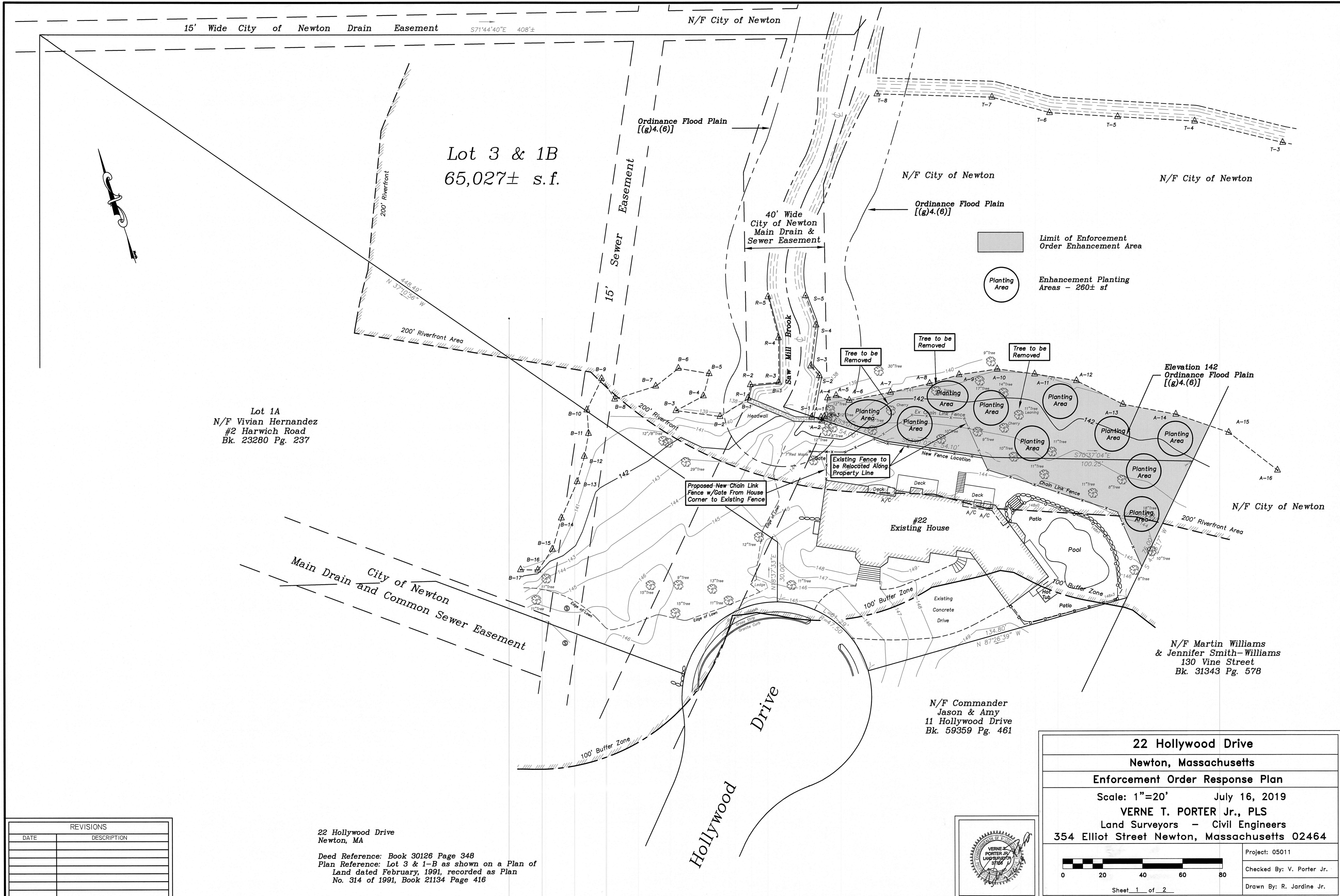
11/23/21 site visit:

- No fence in place
- No understory near "line"
- No deed restriction
- Trees cut (circled)
  - ⊗ - ailing - per old photos
  - - ? - per old photos

<b>22 Hollywood Drive</b>	
<b>Newton, Massachusetts</b>	
<b>Enforcement Order Response Plan</b>	
Scale: 1"=20'	July 16, 2019
<b>VERNE T. PORTER Jr., PLS</b>	
Land Surveyors - Civil Engineers	
354 Elliot Street Newton, Massachusetts 02464	
	
Sheet 1 of 2	
Project: 05011	
Checked By: V. Porter Jr.	
Drawn By: R. Jardine Jr.	



N,  
11  
Bk.



Limit of Enforcement Order Enhancement Area  
 Enhancement Planting Areas - 280± sf

Lot 1A  
 N/F Vivian Hernandez  
 #2 Harwich Road  
 Bk. 23280 Pg. 237

Proposed New Chain Link Fence w/Gate From House Corner to Existing Fence

Existing Fence to be Relocated Along Property Line

Existing House

N/F Martin Williams & Jennifer Smith-Williams  
 130 Vine Street  
 Bk. 31343 Pg. 578

N/F Commander Jason & Amy  
 11 Hollywood Drive  
 Bk. 59359 Pg. 461

22 Hollywood Drive  
 Newton, MA  
 Deed Reference: Book 30126 Page 348  
 Plan Reference: Lot 3 & 1-B as shown on a Plan of Land dated February, 1991, recorded as Plan No. 314 of 1991, Book 21134 Page 416

REVISIONS	
DATE	DESCRIPTION

**22 Hollywood Drive**

**Newton, Massachusetts**

**Enforcement Order Response Plan**

Scale: 1"=20'      July 16, 2019

**VERNE T. PORTER Jr., PLS**  
Land Surveyors - Civil Engineers  
354 Elliot Street Newton, Massachusetts 02464

Sheet 1 of 2

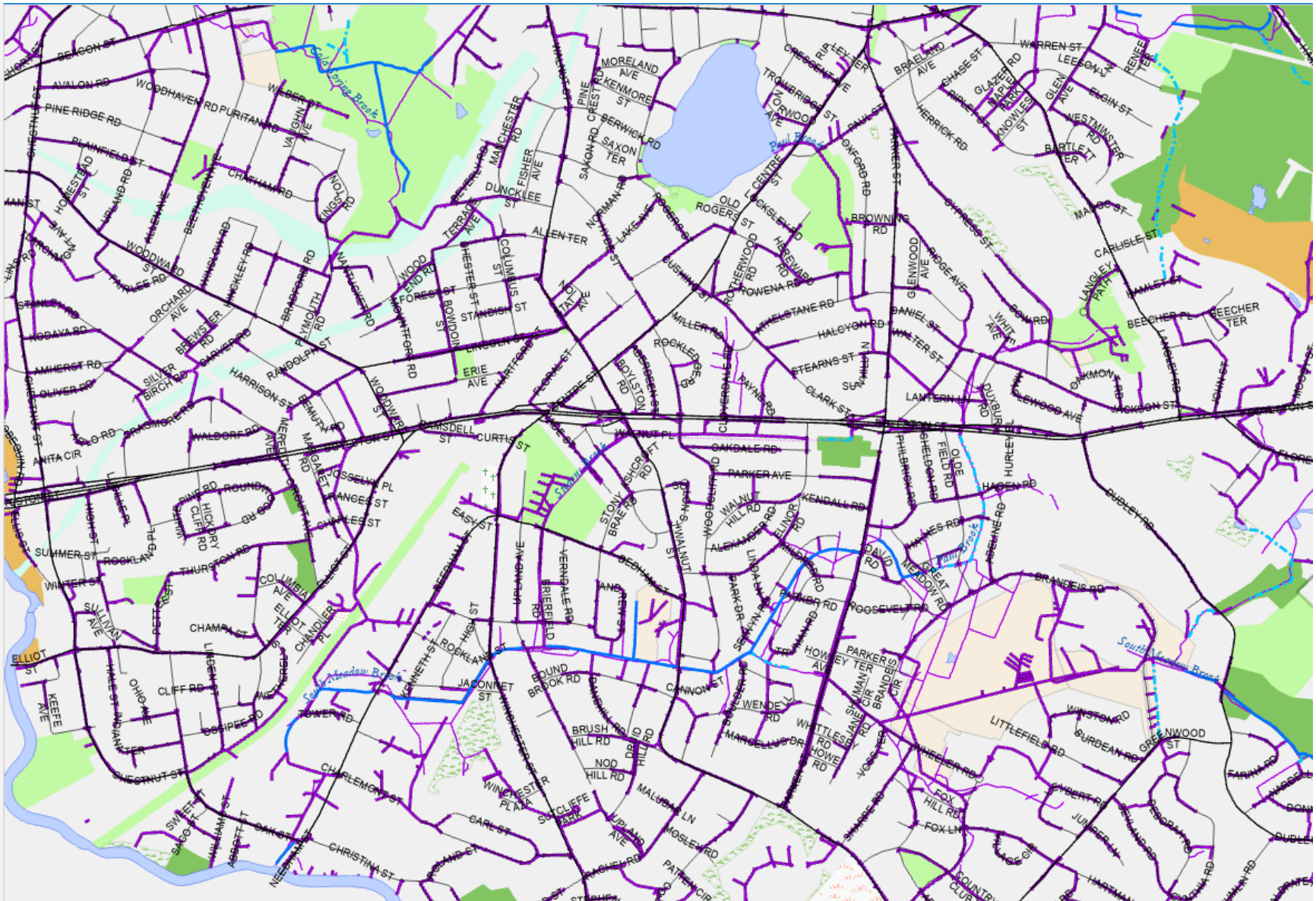
Project: 05011

Checked By: V. Porter Jr.

Drawn By: R. Jardine Jr.



Paul and South Meadow Brook





# DRAFT CONSERVATION COMMISSION MINUTES

Date: Thursday, November 18, 2021

Time: 7:00pm

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

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

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

**Members Absent:** Sonya McKnight (associate member)

**Staff Present:** Jennifer Steel

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

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## DECISIONS

### I. WETLANDS DECISIONS

#### 1. (7:00) 5 Harwich Road – NOI – Addition to a single-family home and deck – DEP #239-907

- **Owner:** Nicolas Acquavella and Morelia Blanco
- **Applicant:** Nicholas Acquavella and Morelia Blanco
- **Representative:** John Rockwood, EcoTec, Inc.
- **Request:** Issue an OOC for the proposed work.
- **Documents Presented:** Plans, site photos, draft OOC
- **Jurisdiction:** Buffer Zone to BVW (Note: City Floodplain is on-site but out of work zone)
- **Project Summary**
  - Install entrenched silt fence and compost sock and tree protection for street trees. No trees will be removed.
  - Remove the existing post-supported three-season porch (16' from BVW)
  - Construct a one-story addition with full basement and new 4-foot-wide cantilevered egress deck (addition 12' from BVW, deck 6' from BVW). Deck will be underlain with crushed stone
  - Install 2 bounded mitigation areas: one 750 sf area for habitat enhancement, one native hedge (350 sf) to serve as a barrier to encroachment.
  - Impervious area will be increased by 244 sf. Currently 212 sf of three-season porch and 150 sf of elevated deck and stairs are in the 25' Buffer Zone. Under proposed conditions 315 sf of addition and 299 sf of elevated deck and stairs will be in the 25' Buffer Zone.
- **Presentation (John Rockwood, Nicolas Acquavella) and Discussion:**
  - John Rockwood summarized the proposal. Jennifer Steel showed colored plans and site photos. Steel noted shortcomings of the plans:
    - lack of a north arrow,
    - lack of dated signatures,
    - inaccurate grading lines at the rear of the property -- the 142' and 143' contour lines do not seem to comport with the LIDAR topo on the City's GIS or staff's experience at the site. The discrepancy, however, is outside the area of proposed work.
  - Steel noted that the full basement addition will likely be in groundwater and that a dewatering plan must be submitted for review and approval.
  - Steel noted that the plan indicates stockpiling and concrete washout in the same location. They should be separated since they may occur simultaneously.
  - Steel noted that the proposed work meets the "performance standard" for work in the 100-foot Buffer Zone.
  - There was considerable discussion about the fact that the new addition and deck would increase non-conformance with the Commission's 25- Foot Naturally Vegetated Buffer (NVB) policy. Some commission members were uncomfortable with that, others felt that the project purpose (expansion to accommodate a large family) warranted the minor increased intrusion into the NVB, that larger alternatives had been considered and rejected, and that the wetland would remain intact. The conclusion of many was the record should be clear that this decision will not set a precedent for future cases.



**Mayor**  
Ruthanne Fuller

**Director  
Planning &  
Development**  
Barney Heath

**Chief  
Environmental  
Planner**  
Jennifer Steel

**Assistant  
Environmental  
Planner**  
TBD

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

**Associate  
Member**  
Sonya McKnight

**Contact  
Information**  
1000 Comm. Ave.  
Newton, MA 02459

T 617/796-1120  
F 617/796-1142

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

[jsteel@newtonma.gov](mailto:jsteel@newtonma.gov)



- There was concern that deer might browse the mitigation plantings, but since survival is required, the Commission decided against proscribing *how* to protect the plantings.
- **Vote:** to close the hearing and issue an OOC with the following special conditions. [Motion: Cade; Second: Gilligan; Roll-call vote: Lunin (aye), Cade (aye), Green (nay), Hepburn (nay), Katz (aye), Gilligan (aye), Zabel (aye); Vote: 5:2:0]
  - Revised or new plans must be submitted prior to the start of work, including:
    - a. Revised plans with a north arrow and dated signatures.
    - b. Revised plans with a concrete washout area separate from the soil stockpile area.
    - c. 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.
  - All invasive shrubs on the lot shall be removed and treated. Any “voids” left by invasive removal shall be in-filled with additional (beyond those shown on the approved plans) native shrubs designated by the wetland scientist and approved by the Chief Environmental Planner.
  - Final site grading shall be the same as original site grading. The lawn area around the house shall not be elevated or retained with a retaining wall.
  - Landscape plantings in each of the two enhancement planting areas 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 80 % of total number of shrubs (after 2 growing seasons).
    - d. Have a survival rate of 80 % aerial coverage 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).
  - To protect the water quality of area wetlands, fertilizers shall be of low-nitrogen content and be used in moderation
  - To protect the full suite of benefits of area wetlands, wildlife, and native insects and pollinators, no herbicides and pesticides shall be used.
  - To protect wetland wildlife, exterior lighting shall:
    - a. be “dark sky” compliant -- i.e., shielded to prevent any “up lighting” and “backlighting”, focused, and directed so as to not illuminate any part of the wetland
    - b. have limited blue content to decrease skyglow and disruption of diurnal animals
    - c. be switched off when not in active use
    - d. not exceed the illumination shown on the approved photometric plan sheet

**2. (7:30) 100 Boulder Road – NOI – tear down/rebuild single family home DEP file #239-???**

- Owner/Applicant: Amir Nashat
- Representative: Rich Kirby, LEC, Inc.
- Request: Issue an OOC approving the proposed work
- Documents Presented: Colored plans, original plans, site photos, draft OOC
- Jurisdiction: Flood Zone (114’ NAVD88), Riverfront Area, Buffer Zone to Bank, Newton Conservation Commission’s 25-Foot Naturally Vegetated Buffer (NVB) Policy.
- Project Summary
  - Construct a 565± sf addition on 1,350± sf dwelling on pier footings.
  - Replace the existing paved driveway and brick walkway with a pervious paver driveway and walkway. The driveway will be located farther from South Meadow Brook than the existing driveway.
  - Construct a deck off the rear of the dwelling above the flood elevation so only footings and stairs will displace flood storage.
  - Construct a patio off the rear of the deck at existing grade.
  - Total degraded area within RFA will increase 965 sf.
  - Plant 53 native shrubs and 40 native ferns to restore 1,054 sf of lawn and enhance 1,155 sf of RFA
  - Provide 795 cf of compensatory flood storage by removing material from around the house (a 7.2 : 1 ratio).
- Presentation (Rich Kirby, Brian Timm (engineer), Amir Nashat and Discussion
  - Rich Kirby walked the Commission through the proposed project.
  - Jennifer Steel showed site photos and noted her concerns with the application. Discussion ensued.
    - Wetland Jurisdiction.

- The application describes the wet area behind the back yard as “A non-jurisdictional Isolated Vegetated Wetland (IVW).” The “IVW” is the current low point of the surrounding areas. Original grades would likely have provided a connection to the stream but were altered with fill. Staff noted that this wet area is connected to South Meadow Brook by an admittedly man-made channel – Amir Nashat stated that he installed the channel to regulate the water level at the rear of the lot and alleviate local area flooding that was killing trees. The “IVW” has wetland vegetation and is connected by the channel to a jurisdictional stream. Staff feel, therefore, that the “IVW” could well qualify as a “BVW”.
- The application states that “Bank-MAHW line to South Meadow Brook occurs along the bottom of the concrete embankment” Staff feel that based on fairly regular high flow events (noted by the owner), that this elevation may be too low and asked whether “top of slope” should be used instead.
- Staff and several Commissioners noted the Commission’s “25-Foot Naturally Vegetated Buffer (NVB) Policy” and the how this proposal does not comply with or address it.
- Lot Coverage/“Degraded” Area
  - All of the existing dwelling, deck, patio, driveway, walkways, etc. qualify as “degraded” in the language of the Regulations. The expanded deck and patio would increase the degraded area on the lot by 965 sf.
  - Staff and Commissioners noted their concerns with the scale of the addition, deck, and patio on such a small lot so close to South Meadow Brook. There was not an alternatives analysis presented that considered a reduction in the proposed degraded area, (i.e., a smaller addition, or smaller or relocated deck and patio) as a way of reducing impact. The redevelopment portions of the project meet the performance standards in 310 CMR 10.58(5), but the expansion of degraded area does not appear to meet the performance standards under 310 CMR 10.58(4).
- Stormwater Management
  - Steel noted that Engineering had stated that a pervious paver driveway qualifies as impervious and so infiltration will be required. “Currently the City of Newton Engineering Division does not consider pervious pavers as pervious. There is concern that over time the pavers will become clogged either due to improper maintenance or a lack of maintenance. In addition, during winter months it is likely that the areas that would normally allow runoff infiltration will be frozen reducing the ability to mitigate stormwater runoff.” Therefore, stormwater infiltration will need to be supplied.
- Restoration and Enhancement`
  - The application states this project will: restore 1,054 sf of lawn and enhance 1,155 sf of RFA, but:
    - Some of the “restoration area” is a very narrow strip along the stream (some of which was already due to have been planted with native shrubs under a prior OOC) which runs counter to the Commission’s Mitigation/Restoration Planting Area Guidelines.
    - All of the “enhancement area” is currently densely vegetated with many natives. The plans imply that all but 2 existing shrubs and small trees will be replaced with new plant stock. Rich Kirby indicated that that there was no intention to remove any native plants.
    - The planting schedule does not include any canopy trees.
  - Commissioners noted their appreciation for the owners’ efforts to install native plants.
- Staff notes indicated that there is no area identified for laydown or stockpiling on the plans and that 2 prior OOCs have not been closed out with recorded COCs.
- Vote: to accept a request to continue the hearing to December 9, 2021, with revised materials due by noon on Monday, November 29th. [Motion: Gilligan; Second: Katz; Roll-call vote: Lunin (aye), Hepburn (aye), Green (aye), Cade (aye), Katz (aye), Gilligan (aye), Zabel (aye); Vote: 7:0:0]

### **3. (8:15) 16 Cross Street – COC Re-Sign Request – addition – DEP #239-257**

- Owner: Jonathan Katz
- Request: Issue COC.
- Staff Notes: There is a Certificate of Compliance in the paper files, but apparently it was never recorded. The Registry will not record a photocopy. A staff site visit on 11/9/21 confirmed continued compliance with the OOC.
- Staff Recommendations: Vote to issue a re-sign of the original Certificate of Compliance.
- Vote: to issue a re-sign of the original Certificate of Compliance. [Motion: Lunin; Second: Zabel; Roll-call vote: Lunin (aye), Hepburn (aye), Green (aye), Cade (aye), Katz (aye), Gilligan (aye), Zabel (aye); Vote: 7:0:0]

**4. (8:20) 177 Waban Street – COC Request – tree cutting – DEP #239-821**

- Owner: Stephen Deveaux    Applicant: Deborah Deveaux    Representative: Jim DeVillis
- Request: Issue COC.
- Staff Notes: All required COC materials have been received. A staff site visit on 9/7/21 found general compliance with the OOC, and tremendous expansion of native plantings throughout the lot beyond the original project area.
- Vote: to issue a complete Certificate of Compliance. [Motion: Zabel; Second: Gilligan; Roll-call vote: Lunin (aye), Hepburn (aye), Green (aye), Cade (aye), Katz (aye), Gilligan (aye), Zabel (aye); Vote: 7:0:0]

**5. (8:30) 55 Bernard Street – violation – unpermitted tree cutting in RFA – DEP #239-871**

- Owner: Ivan Brown    Representative: Ivan Brown
- Request: Remedy violation
- Presentation (Jennifer Steel, Ivan Brown) and Discussion:
  - Staff received a call about tree cutting close to the river. Staff made a site visit and found that 2 large trees were being cut. The tree company represented stated that the trees were “dead” and “cracked” and hazardous, but staff observed buds on the cut twigs.
  - Ivan Brown noted his interest in bringing the site into compliance.
  - Commissioners familiar with the site noted that it had been densely treed and remained relatively so. They recommended a planting plan (illustrating the driplines of mature trees) be submitted for the January 12<sup>th</sup> Commission meeting with at least 8 rhododendrons, 2 native understory trees, and 1 native canopy tree to be installed in the spring of 2022.
- Consensus: to require a planting plan be submitted for the January 12<sup>th</sup> Commission meeting as described above.

**6. (8:55) 409 Crafts Street – OOC Resign Request – DEP #239-906**

- Owner: Chris Attardo
- Request: Issue a resigned COC; the original was lost prior to recording.
- Staff Notes: This is a purely administrative action.
- Vote: to issue a re-signed OOC. [Motion: Zabel; Second: Gilligan; Roll-call vote: Lunin (aye), Hepburn (aye), Green (aye), Cade (aye), Katz (aye), Gilligan (aye), Zabel (aye); Vote: 7:0:0]

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

**III. ADMINISTRATIVE DECISIONS**

**7. (9:05) Minutes of 10/28/21 to be approved**

- Documents Presented: Draft 10/28/21 minutes as edited by Ellen Katz
- Vote: to approve the 10/7/21 minutes. [Motion: Gilligan; Second: Katz; Roll-call vote: Lunin (aye), Hepburn (aye), Green (aye), Cade (aye), Katz (aye), Gilligan (aye), Zabel (aye); Vote: 7:0:0]

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

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**UPDATES**

**V. WETLANDS UPDATES**

**VI. CONSERVATION AREA UPDATES**

- The Ira Wallach Old Deer Park Trail is getting closer to actualization. Dan Green is working to get a plaque on a post. Jennifer Steel will work to get trail marking posts in place.
- The beehives have been removed from Norumbega Conservation Area.
- Judy Hepburn asked that the trails in northwest quadrant of Webster Conservation Area be re-established to provide access to the geologically important cliffs. She noted that in years past it was a popular rock-climbing spot.

**VII. ISSUES AROUND TOWN UPDATES**

- City Council voted to approve a ban on nips bottles. Ellen Katz thanked the Commission for supporting the recently enacted ban on “nip” bottles, which will help limit plastic waste on our streets and in our waterways.
- The required update to our City Floodplain Ordinance has been pushed out another year into the future by FEMA.

**VIII. ADMINISTRATIVE UPDATES**

- The candidate for Assistant Planner has verbally accepted the offer.

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

**ADJOURN at 9:10.** [Motion: Lunin; Second: Zabel; Roll-call vote: Lunin (aye), Hepburn (aye), Green (aye), Cade (aye), Katz (aye), Gilligan (aye), Zabel (aye); Vote: 7:0:0]