

CONSERVATION COMMISSION AGENDA

Date: Tuesday, December 20, 2022

Time: 7:00pm

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

The Conservation Commission will hold this meeting as a virtual meeting; 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>

Contact 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

A. WETLANDS DECISIONS

1. **7:00 – 65 Harwich Rd – Notice of Violation – demo/construction of SFH -- DEP #239-743**
 - Owner/Applicant. Chitra Uppaluri
 - Representatives. Rich Kirby, LEC
2. **7:20 – 37 Truman Rd – NOI – demo/construction of SFH -- DEP #239-944**
 - Owner/Applicant. David Koren and Refael Baranets
 - Representatives. John Rockwood, EcoTec
 - Request. Issue OOC.
3. **7:50 – 81 Albemarle Rd – NOV – asphalt paving not in compliance -- DEP #239-762**
 - Owner/Applicant. Chirag Bhatt and Heena Pandya
 - Representatives. same
 - Request. Discuss possible paths to compliance.
4. **8:10 – 31 Greenwood Rd – Request for COC – existing barn converted to SFH -- DEP #239-849**
 - Owner/Applicant. Anne Greer
 - Request. Issue COC.
5. **8:15 – 230 Lake St – Request for COC – sewer line added in Buffer Zone -- DEP #239-938**
 - Owner/Applicant. Karen Ayas
 - Request. Issue COC.
6. **8:20 – Watertown Dam -- informal presentation by Charles River Watershed Association (CRWA)**
 - Representative. Robert Kearns
 - Proposed Project Summary. CRWA is currently leading an effort to remove the dam.
 - Request. Listen to presentation; consider supporting CRWA efforts.

B. **8:50 – CONSERVATION AREA DECISIONS** – none at this time

C. **8:50 – ADMINISTRATIVE DECISIONS**

D. **8:55 – ISSUES AROUND TOWN DECISIONS** – none at this time

UPDATES

E. **8:55 – WETLANDS UPDATES**

F. **8:55 – CONSERVATION AREA UPDATES**

G. **8:55 – ADMINISTRATIVE UPDATES**

H. **8:55 – ISSUES AROUND TOWN 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
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Planner**
Ellen Menounos

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**Associate
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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

A. WETLANDS DECISIONS

1. 7:00 – 65 Harwich Rd – Notice of Violation – demo/construction of SFH -- DEP #239-743

- Owner/Applicant. Chitra Uppaluri
- Representatives. Rich Kirby, LEC
- Site History.
 - An OOC was issued to the developer on September 25, 2015.
 - A COC was issued to the developer on September 9, 2016.
 - Now there is a different owner.
 - A Notice of Violation (NOV) was sent on 10/19/22:
 - stating that the removal of the fence and the natural vegetation in the 25' buffer zone was unpermitted alteration
 - noting that there were requirements for tree preservation.
 - requesting a plan by 11/30/22, for restoring the site to the originally approved conditions, including a fence and bounds along the 25-foot buffer zone line, a native naturalized planting area behind the fence, and native trees on the remainder of the site, as noted in the OOC. Approved plan would need to be implemented by 5/30/22.
- Request. Discuss possible remedies to bring the site into compliance.
- Documents in packets. Locus map, highlighted plan
- Additional documents presented at meeting. Site photos.
- Jurisdiction. BZ
- Performance Standards.
 - **Buffer Zone** 10.53(1): General Provisions: "... the Issuing Authority shall impose conditions to protect the interests of the Act for adjacent Resource Area..." "... ensure that adjacent wetland resource areas are not adversely affected during or after completion ..."
- Staff Notes.
 - Staff confirmed that: (1) the mature trees that were due to have been preserved were preserved, (2) the fence required in the Order of Conditions has been removed, and (3) lawn has been extended into what was due to have been the protected 25' Naturally Vegetated Buffer.
 - Staff have not been able to access the back yard to confirm the presence of the bounds shown on the as-built plan.
 - The owner has indicated that they would like to consider alternatives to the original required fence and bounds.
 - If a new plan is proposed, it should be noted that the wetland line from the original filing



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was not confirmed with soil samples and so the wetland line may, in fact, be closer to the house than shown on the old plan, and so may alter the Commission's assessment of the 25' Naturally Vegetated Buffer.

- Staff Recommendation.
 - Once an appropriate rectification plan has been provided and approved, staff recommend issuing an Enforcement Order to ensure that approved remedial work will be completed.

2. 7:20 – 37 Truman Rd – NOI – demo/construction of SFH -- DEP #239-944

- Owner/Applicant. David Koren and Refael Baranets
- Representatives. John Rockwood, EcoTec
- Proposed Project Summary.
 - A single-family house with attached garage and other site features would be demolished, and a new SFH with two-car garage and accessories would be constructed.
 - The larger proposed house has a smaller foundation than the existing house, with the balance of the house supported on piers above the floodplain;
 - The proposed degraded area in the Riverfront Area would increase by 482± sf
 - Stormwater improvements and mitigation plantings are proposed to address project-related impacts.
 - Proposed enhancement planting area is 1,600± sf and includes 83 native plants (including 16 evergreen trees and 7 deciduous canopy trees).
- Request. Issue OOC.
- Documents in packets. Locus map, highlighted plans.
- Additional documents presented at meeting. Site photos.
- Jurisdiction. RFA, BLSF, BZ to Paul Brook.
- Performance Standards.
 - **RFA: Redevelopment in Previously Developed Riverfront Areas; Restoration & Mitigation: 10.58(5)**
 - ... 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).
 - (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**
 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.
 - **Buffer Zone 10.53(1): General Provisions:** "... the Issuing Authority shall impose conditions to protect the interests of the Act for adjacent Resource Area..." "... ensure that adjacent wetland resource areas are not adversely affected during or after completion ..."
- Staff Notes.
 - The entire site is within the Flood Zone.
 - The plans indicate that "net cutting" will result from a slightly smaller foundation (with the remainder of construction on piers) and lowering the back yard.
 - The entire site is within Riverfront Area.
 - The 11,757± sf parcel is previously developed and partially degraded.
 - The project will increase degraded area by 482 sf.
 - According to 310 CMR 10.58(5), this project must:
 - (a) result in an improvement over existing conditions – Staff feel that the Commission should consider greater tree preservation

- (b) manage stormwater according to standards – true/done
- (c) work shall not be closer to the river than existing – the patio is a bit closer and so should be reconfigured.
- (d) work...shall be located... away from the river – true/done
- (e) work shall not exceed the ... degraded area ... except with restoration of at least 1:1 or mitigation of at least 2:1 – Staff were just made aware of DEP’s interpretation that conversion of impervious areas to lawn canNOT count as “restoration” or “mitigation”. Staff feel that the mitigation planting plan does not sufficiently mitigate for the proposed removal of trees AND the expansion of the degraded area.
- (h) If there is restoration or mitigation, there must be a continuing condition in the OOC and COC prohibiting further alteration within the restoration or mitigation area.

- The plan proposes to protect 2 trees. -- Staff feel that the tree protection illustrated on the plans is not sufficient to provide real protection and should be expanded.
- The plan proposes to remove 4 large deciduous canopy trees (totaling 115”), 8 hemlocks (totaling 49”), and 2 dead hemlocks. An arborist’s report indicates that all these trees are “failing”. -- Staff feel that some of the 4 large deciduous canopy trees slated for removal are contributing significant value as canopy and habitat and could/should be protected. This could be accomplished by moving the infiltration system to the northeast and adjusting the proposed grading.
- The proposed planting area is 20’ wide. -- Staff note that this does not protect the full 25’ of the Commission’s desired Naturally Vegetated Buffer.

- The Details Sheet should be amended to include a title for the leaching galley.
- Stormwater is due to be addressed with two leaching galleys fed by drain lines.
- An O&M plan has been received. Engineering comments on O&M plan as follows:
 - The O&M plan includes details that apply during the construction period. The plan should only include items associated with the Operation and Maintenance of physical on-site components that require routine maintenance to ensure proper operation.
 - The O & M Plan does not specify the depth of debris in both the drainage manhole and trench drain that would trigger the need to clean these structures.
- Staff have concerns that the proposed infiltration/leaching system could be in groundwater.
 - The bottom of the stream channel (culvert invert) is 104.6.
 - Usually ground water is above the elevation of an adjacent stream.
 - Test pit data doesn't note the elevation of any mottling.
 - Their ESHGW is a foot or two above observed water, but is well below the stream channel bottom.
 - Test pit data doesn't note the date of the test or the licensed soil evaluator. We are in the season of especially low groundwater AND in a severe drought (down over 12" for the year).
- Staff Recommendation. Seek plan modifications that resolve the concerns above and any others raised at the hearing.

3. 7:50 – 81 Albemarle Rd – NOV – asphalt paving not in compliance -- DEP #239-762

- Owner/Applicant. Chirag Bhatt and Heena Pandya
- Representatives. same
- Request. Discuss possible paths to compliance.
- Documents in packets. Sketch of permitted driveway superimposed on picture of driveway as it has been installed.
- Additional documents presented at meeting. None
- Staff Notes.
 - Not all necessary paperwork was received for this COC request—the applicant’s engineer died and did not create an as-built.
 - A site visit on 11/15/22 found that the site was in substantial compliance with the approved plans except for the driveway which was installed larger than the layout on the approved plan.
 - The OOC expired on 9/21/21 and so cannot be amended or extended.
 - At the 12/1/22 meeting the Commission noted that there were two options for the applicant/owner to bring the site into compliance with the regulations.
 - Remove the excess asphalt
 - Submit an NOI for the driveway expansion and the installation of a permanently bounded mitigation planting area of at least 2:1.
 - Staff issued a memo to the applicant/owner informing them of an enforcement action and its requirement to bring the site into compliance by July 2023 with one of the two options identified.
- Staff Recommendation.

- To ensure completion of the work, staff recommend that unless asphalt is removed right away, an Enforcement Order should be issued, regardless of the path chosen.
- Staff recommend that:
 - If the owners are going to remove the excess asphalt, an EO should suffice
 - If the owners are going to install a permanently bounded mitigation planting area, an EO and possibly an NOI/OOC should be required.

4. 8:10 – 31 Greenwood Rd – Request for COC – existing barn converted to SFH -- DEP #239-849

- Owner/Applicant. Anne Greer
- Request. Issue COC.
- Documents in packets. None
- Additional documents presented at meeting. None
- Staff Notes.
 - All necessary paperwork was received for this COC request.
 - A site visit on 9/20/22 found that the site was in substantial compliance with the approved plans.
- Staff Recommendation. Issue COC.

5. 8:15 – 230 Lake Ave – Request for COC – sewer line added in Buffer Zone -- DEP #239-938

- Owner/Applicant. Karen Ayas
- Request. Issue COC.
- Documents in packets. None
- Additional documents presented at meeting. None
- Staff Notes.
 - Adequate paperwork was received for this COC request.
 - A site visit on 12/6/20 found that the site was in substantial compliance with the approved plans.
- Staff Recommendation. Issue COC.

6. 8:20 – Watertown Dam -- informal presentation by Charles River Watershed Association (CRWA)

- Representative. Robert Kearns
- Proposed Project Summary. There is interest in removing the Watertown Dam. CRWA is currently leading the effort.
- Request. Listen to presentation and consider supporting efforts to remove the Watertown Dam.
- Documents in packets. Locus map.
- Additional documents presented at meeting. Robert Kearns' short presentation.
- Jurisdiction. Not relevant at this point in time, but should removal come to pass, the Commission will need to permit work in Land Under Water, Bank, RFA, BLSF, BVW, and BZ.
- Performance Standards. Not relevant at this point in time.
- Staff Notes. There is interest in removing the Watertown Dam to restore ecological integrity and connectivity.
- Staff Recommendation. Ask a lot of questions and provide preliminary feedback.

B. 8:50 – CONSERVATION AREA DECISIONS – none at this time

C. 8:50 – ADMINISTRATIVE DECISIONS

7. Minutes to be approved

- Documents in packets. Draft 12/1/22 minutes as edited by Jeff Zabel.
- Staff Recommendation. Vote to approve the 12/20/22 minutes.
- Volunteer. Who will volunteer to review the 12/20/22 minutes?

D. 8:55 – ISSUES AROUND TOWN DECISIONS – none at this time

UPDATES

E. 8:55 – WETLANDS UPDATES

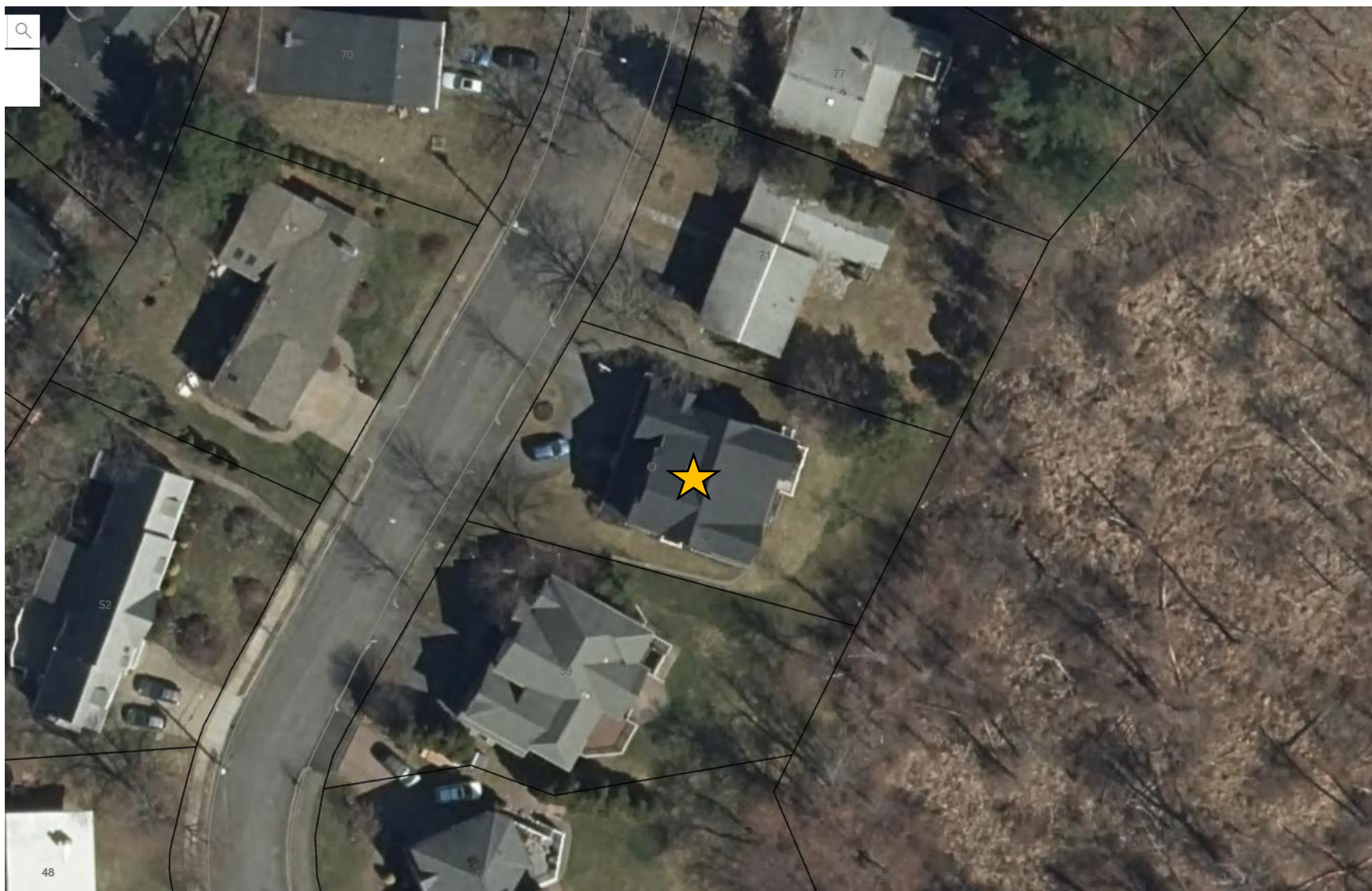
F. 8:55 – CONSERVATION AREA UPDATES

G. 8:55 – ADMINISTRATIVE UPDATES

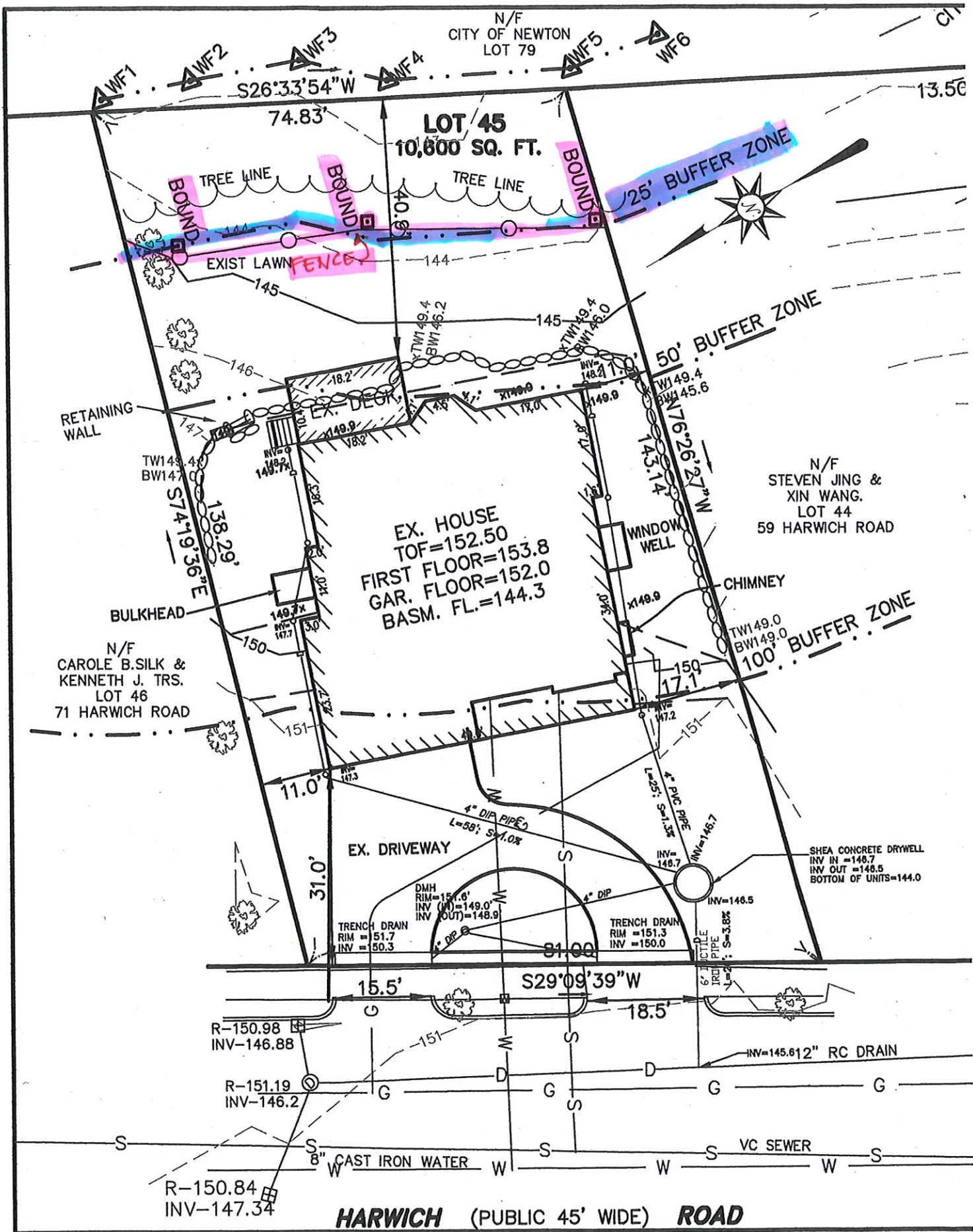
H. 8:55 – ISSUES AROUND TOWN UPDATES

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

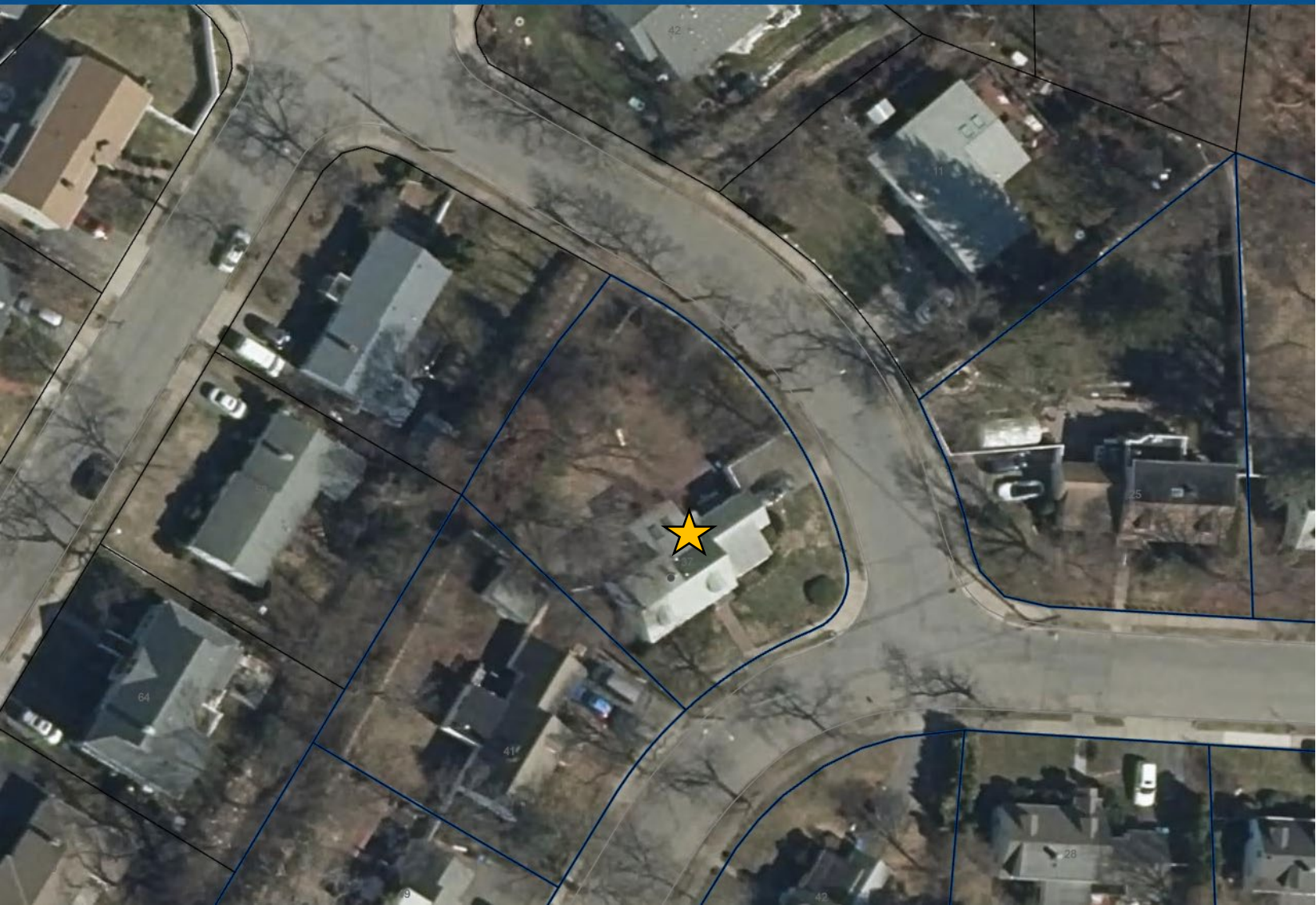
65 Harwich Rd



65 Harwich Rd - approved plan at time of COC.



37 Truman Rd



37 Truman Rd - 27 trees and 56 shrubs are proposed.

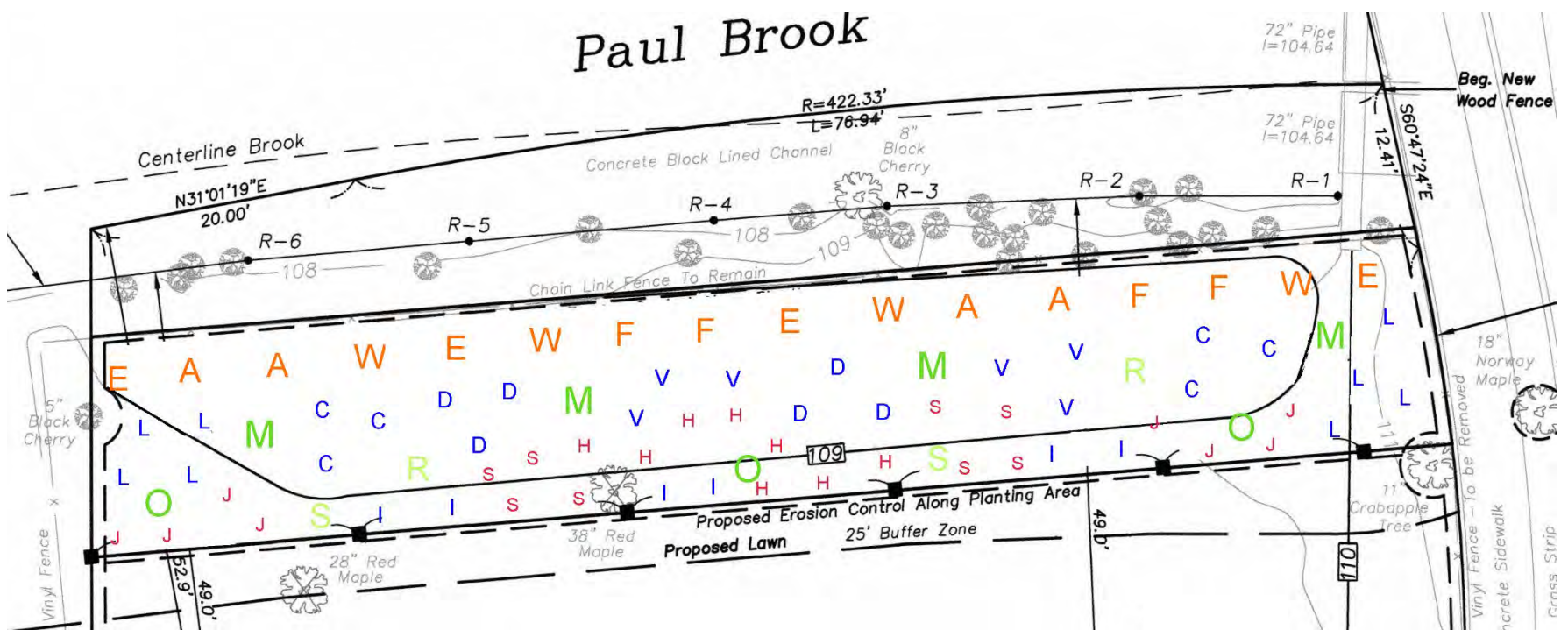
**PLANTING SCHEMATIC FOR ENHANCEMENT PLANTING AREA
37 TRUMAN ROAD, NEWTON**

PREPARED BY ECOTEC, INC.
DECEMBER 1, 2022

Enhancement Planting Area (1,600± S.F.)

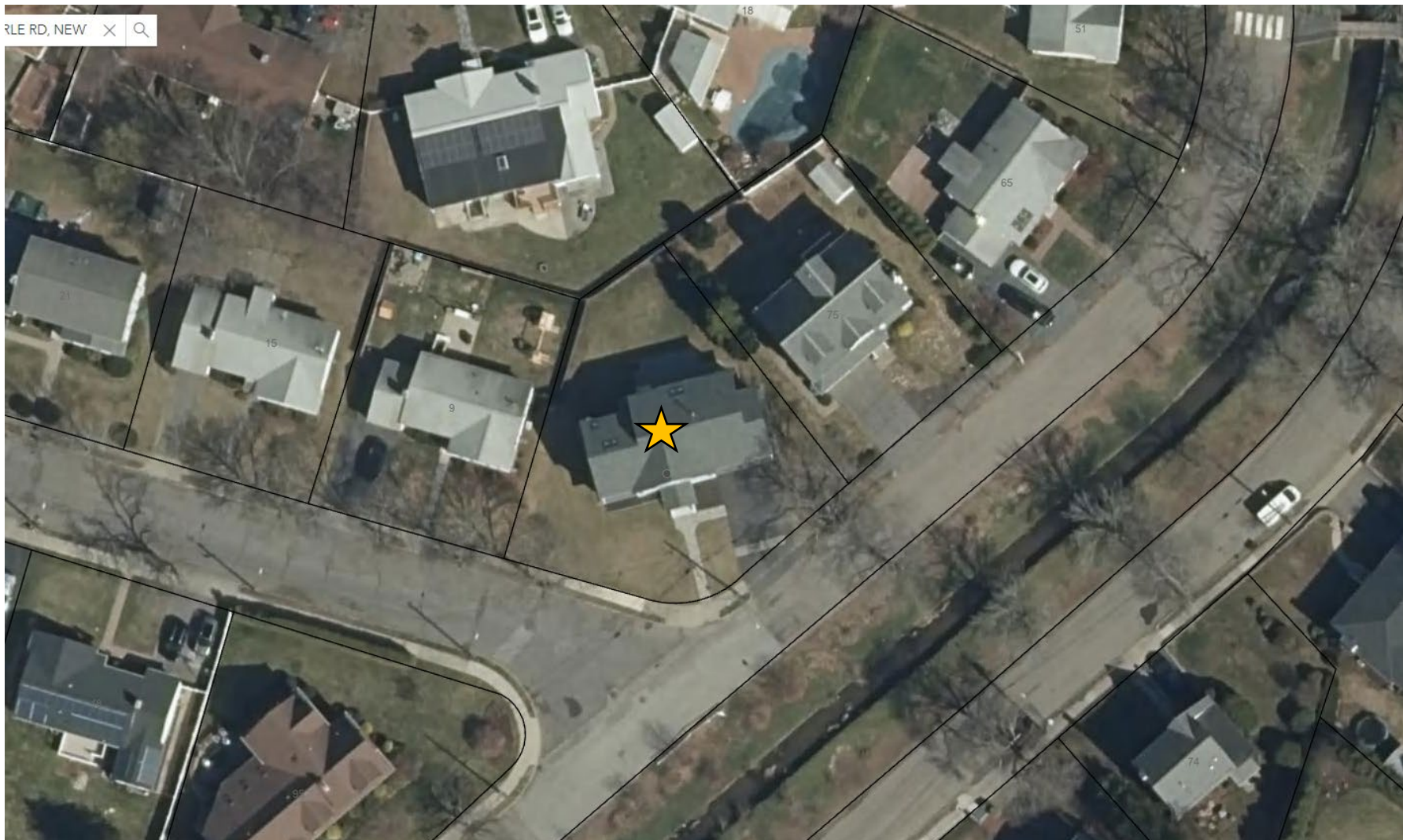
Stratum; Species; Size; Spacing	Number
Mixed Evergreen Hedge; 6-8' Height (4 to 5" Caliper); 6+' Spacing in Row	16
E Eastern White Pine (<i>Pinus strobus</i>)	4
A Atlantic White Cedar (<i>Chamaecyparis thyoides</i>)	4
W White Spruce (<i>Picea alba</i>)	4
F Balsam Fir (<i>Abies balsamea</i>)	4
Canopy Saplings; 3" caliper; 15' on-center	7
O Northern Red Oak or Pin Oak (<i>Quercus rubra</i> or <i>palustris</i>)	3
M Red Maple (<i>Acer rubrum</i>)	4
Understory Saplings; 2" caliper; 15' on-center	4
R Eastern Redbud (<i>Cercis canadensis</i>)	2
S Sweetbay Magnolia (<i>Magnolia virginiana</i>)	2
Shrubs (Evergreen and Deciduous); 3-4' height; 7' on-center	32
L Mountain Laurel (<i>Kalmia latifolia</i>)	8
C Serviceberry (<i>Amelanchier canadensis</i>)	6
D Silky Dogwood (<i>Cornus amomum</i>)	6
V American Cranberrybush (<i>Viburnum trilobum</i>)	6
I Inkberry (<i>Ilex glabra</i>)	6
Small Shrubs; 18-24" height; 8' on center (clumps of 2 or 3)	24
H Northern Bush Honeysuckle (<i>Diervilla lonicera</i>)	8
S Shrubby Cinquefoil (<i>Potentilla fruticosa</i>)	8
J Common Juniper (<i>Juniperus communis</i>)	8

- The existing diseased Eastern Hemlocks will be removed from the site and the roots grubbed.
- The erosion control barrier of staked 12" compost sock will be installed at the fence.
- The area will be graded as shown on proposed plan; a minimum of 6" of loamy topsoil will be required to remain or be applied to the area as part of the proposed grading.
- Substitutions are subject to approval by Conservation Staff.
- Plants must be natives; cultivars and varietals will not be accepted.
- All excess soil must be removed and disposed of off-site.
- After planting, the area will be mulched with a 3" thick layer of a 4:1 mixture of decomposed leaf compost and natural bark mulch.
- After planting the plants must be watered in well and watered periodically until they are established.
- The required stone bounds with City of Newton medallions.

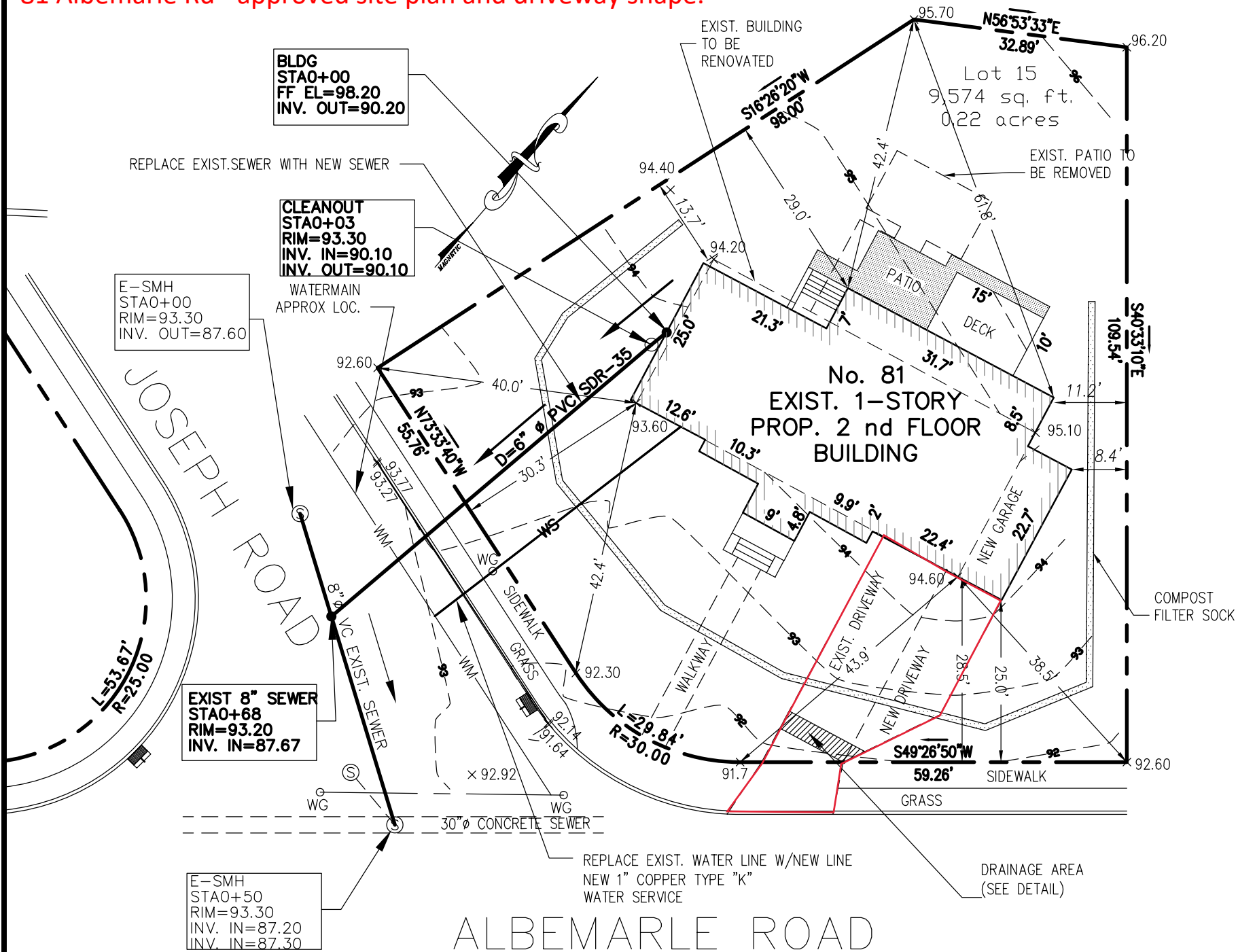


Note: The locations of the individual saplings and shrubs are shown for permitting and review purposes; the locations of the plantings in the field will be based on this plan subject to the discretion of the qualified wetland scientist. The planting area will be monitored annually for two growing seasons after it is established. A brief report will be provided to the Commission in a timely manner after each annual inspection. A Request for a complete Certificate of Compliance will be made following the second annual inspection.

81 Albemarle Rd



81 Albemarle Rd - approved site plan and driveway shape.



SITE PLAN

SCALE 1"=20'

Marle Rd
Massachusetts
Google
Street View - Oct 2020

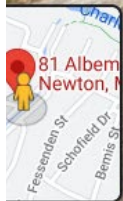
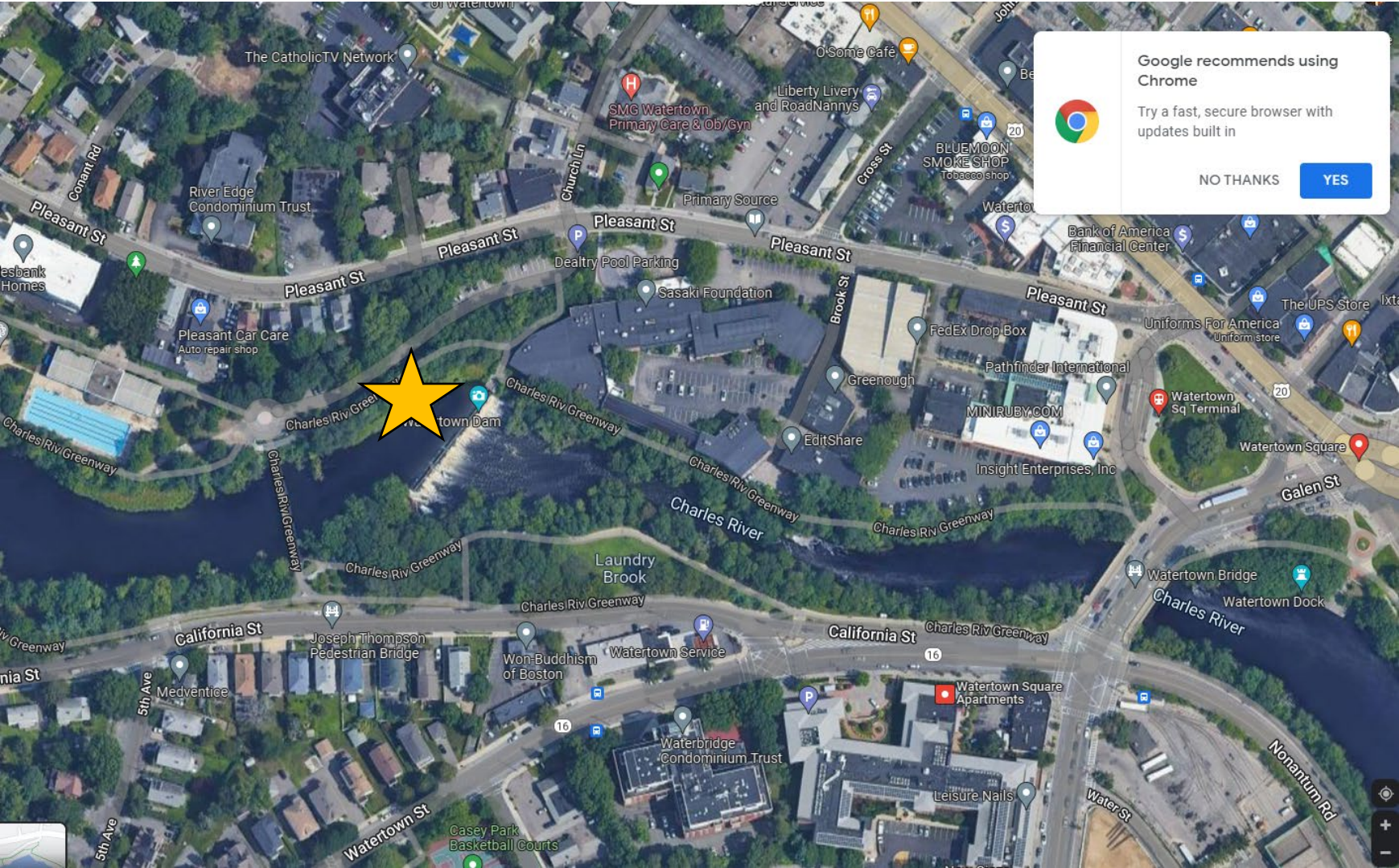


Image capture

Watertown Dam



CONSERVATION COMMISSION MINUTES

Date: Thursday, December 1, 2022

Time: 7:01pm – 9:43pm

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

With a quorum present, the meeting opened at 7:01 pm with Dan Green presiding as Chair.

Members Present: Dan Green (Chair), Susan Lunin (Vice-Chair), Kathy Cade, Judy Hepburn, Jeff Zabel, Ellen Katz

Members Absent: Leigh Gilligan, Associate Member Sonya McKnight

Staff present: Jennifer Steel, Ellen Menounos

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

DECISIONS

A. WETLANDS DECISIONS

1. 7:00 – 264-266 Lagrange Street – RDA – teardown/rebuild of a duplex

- Owner/Applicant. 264-266 Lagrange Street LLC
- Representatives. John Rockwood, EcoTec
- Proposed Project Summary.
 - Overall: The 10,096± sf parcel is developed with a two-family house, paved driveway, walkways, three small understory trees, and lawn and landscaping. The project entails demolition of the existing two-family house, driveway and walkways, and the 3 understory trees, and construction of a two-family house, driveways, walkways, patios, a stormwater management system, and the establishment of four understory saplings.
 - Work within the 100' Buffer Zone: Demolition of a small portion of the existing house, driveway, walkway, and stairs/landing and the removal of two understory trees. The construction of two new paved driveways with trench drains, two new front walkways, utilities, stormwater management system, and the establishment of four native 1.5" caliper understory saplings and 16 native shrubs, and associated grading, lawn, and landscaping. The existing Lagrange Street concrete sidewalk will be replaced as required by the City.
 - Impervious area within the 100' Buffer Zone will increase by 1,100± sf from 565± to 1,665± sf, mostly due to the larger driveways.
- Request. Issue a Negative 3 and Negative 6 Determination.
- Documents in packets. Locust map, highlighted plans.
- Additional documents presented at meeting. Site photos.
- Jurisdiction. Buffer Zone to BVW
- Presentation (Staff and John Rockwood) and Discussion.
 - Staff summarized the project (see above).
 - Only the outer portion of the 100-foot Buffer Zone is affected. The plantings proposed are sufficient compensation for the expanded footprint of impervious area.
- Vote to close the hearing and issue a Negative 3 and a Negative 6 Determination with the following conditions. [Motion: Kade, Second: Lunin, Roll-call vote: Lunin (aye), Green (aye), Hepburn (aye), Zabel (aye), Katz (aye), Cade (aye). Vote: 6:0:0]
 - Driveway runoff shall be treated and infiltrated; roof runoff shall be collected and infiltrated.
 - The Applicant shall establish four native saplings (two flowering dogwoods and two redbuds) as shown on the approved site plan. Additionally, the Applicant shall establish 16 2'-3' tall native shrubs (two inkberry and two common juniper near each flowering dogwood sapling and two shrubby cinquefoil and two Virginia rose near each redbud sapling).
 - Photos of the finished project shall be submitted to the Conservation Office.

2. 7:20 – 130R Wheeler Rd (filed as 140 Brandeis Rd) NSHS – NOI – replacement of synthetic turf fields and resurfacing of track at Winkler Stadium, NSHS – DEP #239-942

- Owner/Applicant. Newton Public Schools/Parks, Recreation & Culture



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- Representatives. Luis Perez Demorizi, Greg Mellett
- Proposed Project Summary.
 - Remove and replace the existing artificial turf field and infill material to limit of curb (230' x 380') at Winkler Stadium
 - Add new crushed stone as necessary to attain level and even turf base surface
 - Resurface the 6-lane running track at Winkler Stadium – power-wash, repair top course, add new polyresin (“rubber”) topcoat
 - Inspect existing field manholes and in-line catch basins for debris, clean as necessary.
 - Fence and protect existing scoreboard, netting system, flagpole and adjacent trees during construction.
- Request. Issue an OOC.
- Documents in packets. Highlighted plans.
- Additional documents presented at meeting. Aerial photo, site visit photos.
- Jurisdiction.
 - Buffer Zone.
 - Note: Work will be just outside Bordering Land Subject to Flooding and City Floodplain
 - The current FEMA flood profiles show the flood elevation:
 - above the Olde Field Rd culvert as 116.1' NAVD88 (122.6' CNVD)
 - above the Great Meadow Rd culvert as 115.6' NAVD88 (122.1' CNVD)
 - The new draft FEMA flood maps show the flood elevation right up to the outer edge of the track.
 - Staff believe the accurate floodplain elevation is 115.6' NAVD88 (122.1' CNVD) as per the draft FEMA maps – i.e., right at the outer edge of the existing track.
- Presentation (Staff and Luis Perez Demorizi) and Discussion.
 - Staff summarized the project (see above).
 - Only a very small sliver of the Buffer Zone will be (temporarily) disturbed by this project, and the final “land cover” will be the same as the existing “land cover”.
 - At the time of initial installation of the artificial turf there was a great deal of discussion about water quality. The Commission’s OOC was appealed by 14 Newton Petitioners who believed that the Commission’s conditions did not go far enough in ensuring that leachate from the fields would not harm the wetlands. DEP issued a superseding OOC (S-OOC) with testing requirements and “snout” catch basins. The petitioners appealed the S-OOC. Ultimately, the S-OOC was recognized as the final permit of record with the conditions for testing and maintenance.
 - The design of the field is essentially a large infiltration basin. The existing artificial turf system includes 1 ¼ - 2” of loose rubber and sand infill, 9-12” of crushed stone (as a base material) with 40% void space for stormwater storage, and an underdrain system with a 0.5% slope to encourage infiltration and maximize stormwater storage in the field. When the infiltration capacity is exceeded, runoff is collected in the underdrain system and discharges to an 84” culvert below the field (and will continue to do so).
 - The new in-fill will be Thermoplastic Elastomer (TPE) and so should not create the same concerns about groundwater contamination by zinc, cadmium, chromium, and lead as the crumb rubber in-fill from the original installation did.
 - The carpet is now made with a nominally PFAS-free extrusion technique.
 - The Contractor shall clean out the underdrain piping system during installation and shall clean the trench drain system biennially during regular field “grooming” efforts.
 - The applicants noted that Newton DPW is due to scope and line the 84-inch culvert in the very near term.
 - The Commission discussed at length whether a third-party peer review should be required to test the new carpet and infill materials and/or the existing and created stormwater quality to be able to address potential concerns about PFAS. Ultimately, it was determined that:
 - Since baseline conditions are not well established,
 - Since the Commission’s purview is wetland and water quality not human health,
 - Since the existing conditions (with known hazardous materials) were tested by SAK when the original artificial turf field was installed and all tests returned non-reportableresults, and
 - Since the new materials will be tested by the City’s consultant at the factory and immediately prior to installation, the Commission would not require additional testing.
- Vote to close the hearing and issue an Order of Conditions with the following site-specific conditions. [Motion: Green, Second: Lunin, Roll-call vote: Lunin (aye), Green (aye), Hepburn (aye), Zabel (aye), Katz (abstain), Cade (aye). Vote: 5:0:1]
 - CDM Smith shall collect the samples of both carpet and infill at the factory and when the product is delivered to the site. Samples shall be submitted to a private laboratory for verification testing of chemical constituents. Newton Parks, Recreation & Culture shall submit to the Conservation Office the results of said testing.

- Owner/Applicant. Parks, Recreation and Culture
- Representatives. Luis Perez Demorizi (Newton PRC), Cassie Bethoney and Farah Dakkak (Weston & Sampson)
- Proposed Project Summary. Boardwalk and regrading/resurfacing of the Marty Sender Path from Islington Road to the pump station.
- Request. Provide preliminary feedback.
- Documents in packets. Locus map.
- Additional documents presented at meeting. Applicant presentation materials.
- Jurisdiction. Buffer Zone and Flood Zone.
- Presentation (Staff and Cassie Bethoney and Farah Dakkak) and Discussion.
 - Staff introduced the project (see above).
 - Cassie Bethoney and Farah Dakkak ran through a short PowerPoint presentation summarizing project goals, the components of the project, anticipated materials (stone dust and boardwalk), etc.
 - The project will:
 - Abide by new/draft FEMA flood maps/elevations.
 - Remove invasives in the immediate vicinity of the trail.
 - Have suitable piers/foundations based on the currently unknown soil conditions.
 - Close the short connector trail to Lyons Field that is often flooded.
 - Construction must be completed by June 30, 2023.

4. 8:10 – 160 Charlemont Street/56 Christina Street -- informal presentation – Pending 40B development

- Owner/Applicant. Northland Development
- Representatives. Steve Buchbinder (attorney), Peter Standish (Northland Development)
- Proposed Project Summary. 40B development where HC Starck buildings are, along the Christina Street Rail Bridge alignment.
- Request. Provide feedback on preliminary presentation.
- Documents in packets. Locus map.
- Additional documents presented at meeting. Applicant presentation.
- Jurisdiction. Riverfront Area.
- Presentation (Staff and Peter Standish) and Discussion.
 - Staff introduced the project (see above).
 - Peter Standish ran through a short PowerPoint presentation summarizing project goals, the components of the project, and anticipated environmental and open space improvements.
 - Only a small portion of the 6.99-acre site is within Riverfront Area.
 - There will be no activity on the co-owned northern parcel (149 Charlemont Street) that includes wetlands, Buffer Zone, and Flood Zone (elevation 90’).
 - The overall project will create 410 apartments, 1.7 acres of new open/pervious space, and a new stormwater management system.
 - Process
 - The project is before the ZBA. To-date there has been no real opposition to the project. The applicant team anticipates wrapping up with the ZBA in March or April 2023 and concurrently securing a wetland permit.
 - According to the Wetlands Protection Act, “No such notice shall be sent before all permits, variances, and approvals required by local by-law with respect to the proposed activity, which are obtainable at the time of such notice, have been obtained ...”, and
 - According to 310 CMR 10.05(4)(e), “The requirement under M.G.L. c. 131, § 40 to obtain or apply for all obtainable permits, variances and approvals required by local by-law with respect to the proposed activity shall mean only those which are feasible to obtain at the time the Notice of Intent is filed.”
 - Public Comment:
 - Hong Lu asked whether the project had been approved by Mass Housing. It has been.
 - Lucie Chasky asked questions about coordination with the Barry Price Center on issues of accessibility and accommodating low-income supportive housing options. The applicants said they would be in discussions with the Price Center.
 - Jay Werb asked about flooding from the north (South Meadow Brook) as illustrated by the Charles River Watershed Association’s flood model. The applicants said they would look into the matter.

5. 8:40 – 81 Albemarle Rd – COC – asphalt paving not in compliance -- DEP #239-762

- Owner/Applicant. Chirag Bhatt and Heena Pandya

- Request. Issue COC.
- Documents in packets. Sketch of permitted driveway superimposed on a picture of driveway as it has been installed.
- Additional documents presented at meeting. None
- Presentation (Staff) and Discussion.
 - Not all necessary paperwork was received for this COC request—the applicant’s engineer died and did not create an as-built.
 - A site visit on 11/15/22 found that the site was in substantial compliance with the approved plans except for the driveway which was installed larger than the layout on the approved plan.
 - The OOC expired on 9/21/21 and so cannot be amended or extended.
 - The Commission felt that there were two options for the applicant/owner to bring the site into compliance with the regulations.
 - Remove the excess asphalt
 - Submit an NOI for the driveway expansion and the installation of a permanently bounded mitigation planting area of at least a 2:1 ratio.
- Vote to have Staff issue a memo to the applicant/owner informing them of an enforcement action and its requirement to bring the site into compliance by July 2023 with one of the two options identified. [Motion: Zabel, Second: Katz, Roll-call vote: Lunin (aye), Green (aye), Hepburn (aye), Zabel (aye), Katz (aye), Cade (aye). Vote: 6:0:0]

B. 9:00 – CONSERVATION AREA DECISIONS – none at this time

C. 9:00 – ADMINISTRATIVE DECISIONS

6. Minutes to be approved

- Documents in packets. Draft 11/3/22 minutes as edited by Susan Lunin.
- Vote to approve the 11/3/22 minutes as edited by Susan Lunin. [Motion: Cade, Second: Green, Roll-call vote: Lunin (aye), Green (aye), Hepburn (aye), Zabel (aye), Katz (aye), Cade (aye). Vote: 6:0:0]
- Volunteer. Who will volunteer to review the 12/1/22 minutes? Jeff Zabel.

D. 9:05 – ISSUES AROUND TOWN DECISIONS – none at this time

UPDATES

E. 9:50 – WETLANDS UPDATES

- PESA Ruling – allows enforcement of an old violation if new notice is given within 3 years of the date of transfer of the deed.
- 158 Otis -- John Rockwood is working on a site restoration plan. He requested an extension to 12/20/22.
- 65 Harwich -- Rich Kirby is working on a site restoration plan. He requested an extension to 12/20/22.
- DCR – Enforcement Orders (EOs) have been passed along to the appropriate people. No response to date.
- 34 Hyde Ave – homeowner has been non-responsive to staff’s memo. Staff will follow-up.

F. 9:50 – CONSERVATION AREA UPDATES

- 85 Dudley Rd – The City issued a call for Expressions of Interest and received nine. A decision is supposed to be made by December 31, 2022.
- New maps – Conservation staff are redoing all Conservation parcel maps to:
 - Create new trailhead signs,
 - Create a detailed “Field Book” to support land management efforts, and
 - Create new on-line and printable maps.

Ellen Menounos shared a mock-up of one trailhead sign to show the proposed colors, layout, and use of icons.

G. 9:50 – ADMINISTRATIVE UPDATES – none at this time

H. 9:50 – ISSUES AROUND TOWN UPDATES

- City Flood Ordinance – Staff have drafted a revised version of Newton’s Floodplain Ordinance and have sought information from DCR regarding the draft, the due date, etc.
- Christina St Bridge – Money has been provided by an earmark. Along with contributions from Northland Development, this project could be constructed.
- Stormwater projects – To assist with planning for compliance with its MS4 permit requirements, Newton DPW solicited suggestions for Parks and Conservation parcels that could accommodate green stormwater systems. The list of potential sites is long (mostly Parks parcels).

OTHER TOPICS NOT REASONABLY ANTICIPATED BY THE CHAIR 48 HOURS BEFORE THE MEETING 9:43

- DEP file #239-815 – Needham Street and Bridge Reconstruction – The applicants never asked for a 5-year OOC and need a 3-year extension to allow for construction to be completed and plantings to prove themselves.
 - Vote to have issue a 3-year extension. [Motion: Cade, Second: Lunin, Roll-call vote: Lunin (aye), Green (aye), Hepburn (aye), Zabel (aye), Katz (aye), Cade (aye). Vote: 6:0:0]
- Fence around/within Old Deer Park.
 - The Commission has requested an opening in the fence along Hammond Pond Parkway to allow access to the Ira Wallach plaque and trail.
 - There was then a request to make that a gated opening.
 - Staff were asked to remove a tree that fell and damaged the Hammond Pond Parkway fence and make the fence line intact again.
 - Staff made a site visit and: (1) found significant fence damage in not just one, but two places along Hammond Pond Parkway, (2) noted the added challenge (and expense) of installing a gate near the new trail entrance, (3) noted no chain link fencing on any other Conservation parcels along Hammond Pond Parkway, and (4) noted the ecological partitioning of the Old Deer Park caused by the existing “internal” fence.
 - Using an arial photo of the site, the Commission discussed the matter and came to the consensus that if expenditures were to be made on the fence, they should be to remove the fence from: (1) the east-west northern boundary and (2) the north-south western boundary along Hammond Pond Parkway. They felt the fence along the Green Line should remain, as should the fence along the eastern boundary shared with private property owners. The Commission tasked staff with getting a cost estimate for said removal, acknowledging that removal may need to be done in phases as the budget allows.

ADJOURN at 9:43 [Motion: Cade, Second: Zabel, Roll-call vote: Lunin (aye), Green (aye), Hepburn (aye), Zabel (aye), Katz (aye), Cade (aye). Vote: 6:0:0]