



Ruthanne Fuller
Mayor

City of Newton, Massachusetts
 Department of Planning and Development
 1000 Commonwealth Avenue Newton, Massachusetts 02459

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Barney S. Heath
Director

Conservation Commission Wetland Application Coversheet/Checklist

Date	1/3/2023
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Fill in all white cells completely

Parcel		Applicant name	Frank & Kyra van den Bosch
Address	70 Suffolk Road	Address	70 Suffolk Road
Sec/Block/Lot	63-016-0007	Email	fvandenbosch@sky.com
Book & Page	Bk79518 Pg394	Phone	kvandenbosch@sky.com 772-643-5221
Owner name	Frank & Kyra van den Bosch	Representative	Andrea Kendall
Address	70 Suffolk Road	Address	LEC Environmental Consultants, Inc. 100 Grove Street, Suite 302
Email	fvandenbosch@sky.com	Email	Worcester, MA 01605
Phone	kvandenbosch@sky.com 772-643-5221	Phone	akendall@lecenvironmental.com; 508-753-3077
Legal Ad Payor	Please identify which party will pay for the Legal Ad.		LEC Environmental Consultants, Inc.
Wetland type	N/A	sf/cf affected	Relevant Perf. Standards 10. _____
Wetland type		sf/cf affected	Relevant Perf. Standards 10. _____
Wetland type		sf/cf affected	Relevant Perf. Standards 10. _____

Components of a Complete NOI Application

State Form: NOI Form 3	Included? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Engineered Plan* title(s)	Site Plans, 70 Suffolk Road, Newton, MA Site Plans, 70 Suffolk Road, Chestnut Hill
Plan date	December 22, 2022 January, 3, 2023
Plan stamped by	Brian Nelson, PE Dan Gordon, RLA
	MetroWest Engineering, Inc. Dan Gordon Landscape Architects
*if legible, plans should be 11"x17"	
Narrative	Included? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Proof that all relevant perf. standards are met	Included? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Locus map	Included? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Delineation lines (backup material)	Included? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Fees	
● Fee Transmittal form	Included? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
● City portion of state filing fee <u>\$67.50</u>	Included? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
● City's separate filing fee <u>\$50</u>	Included? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Abutter Information	
● Certified abutters list (within 100')	Included? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
● Newton's Abutter notification form	Included? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
● Affidavit & proof -- bring to hearing	<i>Present them at the hearing</i>
Other Attachments, e.g.	
Planting Plan	Included? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Applicable
Floodplain analysis	Included? <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Not Applicable
Stormwater analysis	Included? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Applicable
Riverfront Area Alternatives Analysis	Included? <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Not Applicable
Restoration or mitigation summary	Included? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Applicable
Phasing/Sequencing plan, O&M plan, etc.	Included? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Applicable

Conservation Commission Wetland Permit Process

RDA	NOI	Steps in Permitting Process		
1.	1.	Get a certified list of all abutters within 100' of property lines from the Newton Assessor's Office.		
	2.	Submit applications by noon of the Tuesday deadline (16 days before the desired hearing) to: <ol style="list-style-type: none"> a. <u>Newton Conservation Commission</u>: <ul style="list-style-type: none"> • Complete NOI or RDA application packet via electronic submission through NewGov. For NOIs use the application checklist to ensure completeness. <ul style="list-style-type: none"> • Application coversheet, state forms, narrative, photocopies of checks, ALL attachments • Plans (11"x17" format, if legible) stamped by engineer if any aspect of the project requires engineering. • Application fees via mail to Newton Conservation Office, 1000 Commonwealth Ave., Newton, MA 02459. For NOIs use the application checklist to ensure completeness. <ul style="list-style-type: none"> • Check to City of Newton for city portion of the state filing fee • \$50 check to City of Newton for city filing fee b. <u>Mass DEP Northeast Regional Office</u>: Wetlands Division, 150 Presidential Way, Woburn, MA 01801 (1 paper copy) <ul style="list-style-type: none"> • Complete NOI or RDA application packet (hard copy) AND Photocopy of the two state filing fee checks c. <u>DEP Lock Box</u>: Box 4062, Boston MA 02211 <ul style="list-style-type: none"> • Check to Commonwealth of Mass. for state portion of the state fee <u>AND Fee transmittal form</u> 		
			<i>The Conservation Agent will determine application completeness and assign a public hearing/meeting date and time.</i>	
	3.	Once you have the date and time of the hearing, using the City's " Notification to Abutters Form ", notify all abutters within 100' of the property line via certified mail, certificate of mailing, or hand delivery with signatures.		
			<i>The Conservation Agent will place a legal ad in the Boston Herald and the Applicant will receive an email with instructions to pay.</i>	
	4.	Stake the project. 2 weeks in advance of the public hearing, stake all proposed structures, erosion control barriers, stormwater systems, etc. within Con Com jurisdiction.		
			<i>The Conservation Agent will perform a site visit before the public hearing to confirm existing conditions and proposed work. If you wish to be informed of the time of the visit, please contact the Con Com office.</i>	
			<i>One week prior to the meeting, when the agenda is posted, the Conservation Agent will send all Applicants detailed Conservation staff notes and recommendations (from the Conservation Commission's detailed agenda).</i>	
	5.	Applicants may submit revised materials (via NewGov) by the Tuesday prior to the meeting (to be reviewed and discussed at the meeting) or may request a continuation to a future Conservation Commission meeting.		
	2.	6.	Attend the public hearing/meeting. The applicant or representative is expected to provide proof of abutter notification , briefly present the project , and answer any questions about possible impacts on wetlands . At the end of the hearing, the Con Com will either: <ul style="list-style-type: none"> • Issue a Determination of Applicability ("negative" determination means no further permitting is needed), • Issue an Order of Conditions (OOC) approving or denying the project, or • Approve a continuation of the public hearing, to allow time for additional information to be provided. 	
	3.	7.	Receive and read the decision and understand the conditions. Contact the Con Com if you have any questions. Some conditions are temporary (such as maintaining erosion controls), and some are perpetual (such maintaining restoration planting areas or limiting the use of fertilizers and outdoor lighting).	
			8.	Wait-out the 10-Day appeal period. A decision of the Con Com can be appealed to MassDEP by any abutter, applicant, or 10-citizen group within 10 business days of the decision.
			9.	Record the Order at the Registry of Deeds. Provide proof of recording to the Conservation office.
		10.	Install MassDEP file number sign and erosion controls.	
		11.	Schedule and attend a pre-construction site visit. Contact the Conservation office to schedule the site visit.	
4.	12.	Execute the project. The project must be completed within 3 years, unless an extension of the permit is issued.		
		13.	Request a Certificate of Compliance (COC) via NewGov. Once the project is complete and all conditions have been satisfied, request a COC from the Conservation office by submitting: (1) DEP Form 8a , (2) a stamped as-built plan , and (3) a letter from the engineer stating that everything is in substantial compliance with the approved plans and OOC.	
		<i>The Con Com will perform a site visit to ensure compliance, and will issue a COC if appropriate.</i>		
		14.	Record the Certificate of Compliance (COC) at the Registry of Deeds to remove the cloud from the title. Provide proof of recording to the Conservation office.	



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
MassDEP File Number
Document Transaction Number
Newton
City/Town

A. General Information (continued)

6. General Project Description:

The Applicants propose to improve existing site amenities and install an in-ground swimming pool, pool house, and related site appurtenances, including stormwater management. Additional mitigation includes invasive plant species management, buffer zone and BVW enhancement plantings and removal of three wooden footbridges from the Bank to intermittent stream and open water BVW area. Portions of the proposed activities, including enhancement activities, are located within the 100-foot Buffer Zone to BVW, BVW, and Bank.

7a. Project Type Checklist: (Limited Project Types see Section A. 7b.)

- 1. Single Family Home
- 2. Residential Subdivision
- 3. Commercial/Industrial
- 4. Dock/Pier
- 5. Utilities
- 6. Coastal engineering Structure
- 7. Agriculture (e.g., cranberries, forestry)
- 8. Transportation
- 9. Other

7b. Is any portion of the proposed activity eligible to be treated as a limited project (including Ecological Restoration Limited Project) subject to 310 CMR 10.24 (coastal) or 310 CMR 10.53 (inland)?

1. Yes No If yes, describe which limited project applies to this project. (See 310 CMR 10.24 and 10.53 for a complete list and description of limited project types)

2. Limited Project Type

If the proposed activity is eligible to be treated as an Ecological Restoration Limited Project (310 CMR10.24(8), 310 CMR 10.53(4)), complete and attach Appendix A: Ecological Restoration Limited Project Checklist and Signed Certification.

8. Property recorded at the Registry of Deeds for:

Southern Middlesex	N/A
a. County	b. Certificate # (if registered land)
79518	394
c. Book	d. Page Number

B. Buffer Zone & Resource Area Impacts (temporary & permanent)

- 1. Buffer Zone Only – Check if the project is located only in the Buffer Zone of a Bordering Vegetated Wetland, Inland Bank, or Coastal Resource Area.
- 2. Inland Resource Areas (see 310 CMR 10.54-10.58; if not applicable, go to Section B.3, Coastal Resource Areas).

Check all that apply below. Attach narrative and any supporting documentation describing how the project will meet all performance standards for each of the resource areas altered, including standards requiring consideration of alternative project design or location.



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B. Buffer Zone & Resource Area Impacts (temporary & permanent) (cont'd)

For all projects affecting other Resource Areas, please attach a narrative explaining how the resource area was delineated.

Resource Area	Size of Proposed Alteration	Proposed Replacement (if any)
a. <input checked="" type="checkbox"/> Bank	<u>25± (temp-footbridge removal)</u> 1. linear feet	<u>25± (in-situ restoration)</u> 2. linear feet
b. <input checked="" type="checkbox"/> Bordering Vegetated Wetland	<u>--</u> 1. square feet	<u>7,136± (restoration plantings)</u> 2. square feet
c. <input type="checkbox"/> Land Under Waterbodies and Waterways	<u>1. square feet</u> <u>3. cubic yards dredged</u>	<u>2. square feet</u>

Resource Area	Size of Proposed Alteration	Proposed Replacement (if any)
d. <input type="checkbox"/> Bordering Land Subject to Flooding	<u>1. square feet</u> <u>3. cubic feet of flood storage lost</u>	<u>2. square feet</u> <u>4. cubic feet replaced</u>
e. <input type="checkbox"/> Isolated Land Subject to Flooding	<u>1. square feet</u> <u>2. cubic feet of flood storage lost</u>	<u>3. cubic feet replaced</u>
f. <input type="checkbox"/> Riverfront Area	1. Name of Waterway (if available) - specify coastal or inland	

2. Width of Riverfront Area (check one):

- 25 ft. - Designated Densely Developed Areas only
- 100 ft. - New agricultural projects only
- 200 ft. - All other projects

3. Total area of Riverfront Area on the site of the proposed project: _____ square feet

4. Proposed alteration of the Riverfront Area:

a. total square feet	b. square feet within 100 ft.	c. square feet between 100 ft. and 200 ft.
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5. Has an alternatives analysis been done and is it attached to this NOI? Yes No

6. Was the lot where the activity is proposed created prior to August 1, 1996? Yes No

3. Coastal Resource Areas: (See 310 CMR 10.25-10.35)

Note: for coastal riverfront areas, please complete **Section B.2.f.** above.



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C. Other Applicable Standards and Requirements

- This is a proposal for an Ecological Restoration Limited Project. Skip Section C and complete Appendix A: Ecological Restoration Limited Project Checklists – Required Actions (310 CMR 10.11).

Streamlined Massachusetts Endangered Species Act/Wetlands Protection Act Review

- Is any portion of the proposed project located in **Estimated Habitat of Rare Wildlife** as indicated on the most recent Estimated Habitat Map of State-Listed Rare Wetland Wildlife published by the Natural Heritage and Endangered Species Program (NHESP)? To view habitat maps, see the *Massachusetts Natural Heritage Atlas* or go to http://maps.massgis.state.ma.us/PRI_EST_HAB/viewer.htm.

- a. Yes No **If yes, include proof of mailing or hand delivery of NOI to:**

**Natural Heritage and Endangered Species Program
Division of Fisheries and Wildlife
1 Rabbit Hill Road
Westborough, MA 01581**

- 2021 _____
b. Date of map

If yes, the project is also subject to Massachusetts Endangered Species Act (MESA) review (321 CMR 10.18). To qualify for a streamlined, 30-day, MESA/Wetlands Protection Act review, please complete Section C.1.c, and include requested materials with this Notice of Intent (NOI); *OR* complete Section C.2.f, if applicable. *If MESA supplemental information is not included with the NOI, by completing Section 1 of this form, the NHESP will require a separate MESA filing which may take up to 90 days to review (unless noted exceptions in Section 2 apply, see below).*

- c. Submit Supplemental Information for Endangered Species Review*

- Percentage/acreage of property to be altered:
 - (a) within wetland Resource Area _____ percentage/acreage
 - (b) outside Resource Area _____ percentage/acreage
- Assessor’s Map or right-of-way plan of site

- Project plans for entire project site, including wetland resource areas and areas outside of wetlands jurisdiction, showing existing and proposed conditions, existing and proposed tree/vegetation clearing line, and clearly demarcated limits of work **
 - (a) Project description (including description of impacts outside of wetland resource area & buffer zone)
 - (b) Photographs representative of the site

* Some projects **not** in Estimated Habitat may be located in Priority Habitat, and require NHESP review (see <https://www.mass.gov/ma-endangered-species-act-mesa-regulatory-review>).

Priority Habitat includes habitat for state-listed plants and strictly upland species not protected by the Wetlands Protection Act.

** MESA projects may not be segmented (321 CMR 10.16). The applicant must disclose full development plans even if such plans are not required as part of the Notice of Intent process.



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C. Other Applicable Standards and Requirements (cont'd)

(c) MESA filing fee (fee information available at <https://www.mass.gov/how-to/how-to-file-for-a-mesa-project-review>).
 Make check payable to “Commonwealth of Massachusetts - NHESP” and **mail to NHESP** at above address

Projects altering 10 or more acres of land, also submit:

(d) Vegetation cover type map of site

(e) Project plans showing Priority & Estimated Habitat boundaries

(f) OR Check One of the Following

1. Project is exempt from MESA review.
 Attach applicant letter indicating which MESA exemption applies. (See 321 CMR 10.14, <https://www.mass.gov/service-details/exemptions-from-review-for-projectsactivities-in-priority-habitat>; the NOI must still be sent to NHESP if the project is within estimated habitat pursuant to 310 CMR 10.37 and 10.59.)

2. Separate MESA review ongoing. a. NHESP Tracking # _____ b. Date submitted to NHESP _____

3. Separate MESA review completed.
 Include copy of NHESP “no Take” determination or valid Conservation & Management Permit with approved plan.

3. For coastal projects only, is any portion of the proposed project located below the mean high water line or in a fish run?

a. Not applicable – project is in inland resource area only b. Yes No

If yes, include proof of mailing, hand delivery, or electronic delivery of NOI to either:

South Shore - Cohasset to Rhode Island border, and the Cape & Islands:

North Shore - Hull to New Hampshire border:

Division of Marine Fisheries -
 Southeast Marine Fisheries Station
 Attn: Environmental Reviewer
 836 South Rodney French Blvd.
 New Bedford, MA 02744
 Email: dmf.envreview-south@mass.gov

Division of Marine Fisheries -
 North Shore Office
 Attn: Environmental Reviewer
 30 Emerson Avenue
 Gloucester, MA 01930
 Email: dmf.envreview-north@mass.gov

Also if yes, the project may require a Chapter 91 license. For coastal towns in the Northeast Region, please contact MassDEP’s Boston Office. For coastal towns in the Southeast Region, please contact MassDEP’s Southeast Regional Office.

c. Is this an aquaculture project? d. Yes No

If yes, include a copy of the Division of Marine Fisheries Certification Letter (M.G.L. c. 130, § 57).



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

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Newton

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C. Other Applicable Standards and Requirements (cont'd)

Online Users:
Include your document transaction number (provided on your receipt page) with all supplementary information you submit to the Department.

- 4. Is any portion of the proposed project within an Area of Critical Environmental Concern (ACEC)?
 a. Yes No If yes, provide name of ACEC (see instructions to WPA Form 3 or MassDEP Website for ACEC locations). **Note:** electronic filers click on Website.
 b. ACEC

- 5. Is any portion of the proposed project within an area designated as an Outstanding Resource Water (ORW) as designated in the Massachusetts Surface Water Quality Standards, 314 CMR 4.00?
 a. Yes No
- 6. Is any portion of the site subject to a Wetlands Restriction Order under the Inland Wetlands Restriction Act (M.G.L. c. 131, § 40A) or the Coastal Wetlands Restriction Act (M.G.L. c. 130, § 105)?
 a. Yes No
- 7. Is this project subject to provisions of the MassDEP Stormwater Management Standards?
 a. Yes. Attach a copy of the Stormwater Report as required by the Stormwater Management Standards per 310 CMR 10.05(6)(k)-(q) and check if:
 - 1. Applying for Low Impact Development (LID) site design credits (as described in Stormwater Management Handbook Vol. 2, Chapter 3)
 - 2. A portion of the site constitutes redevelopment
 - 3. Proprietary BMPs are included in the Stormwater Management System.
 b. No. Check why the project is exempt:
 - 1. Single-family house
 - 2. Emergency road repair
 - 3. Small Residential Subdivision (less than or equal to 4 single-family houses or less than or equal to 4 units in multi-family housing project) with no discharge to Critical Areas.

D. Additional Information

- This is a proposal for an Ecological Restoration Limited Project. Skip Section D and complete Appendix A: Ecological Restoration Notice of Intent – Minimum Required Documents (310 CMR 10.12).

Applicants must include the following with this Notice of Intent (NOI). See instructions for details.

Online Users: Attach the document transaction number (provided on your receipt page) for any of the following information you submit to the Department.

- 1. USGS or other map of the area (along with a narrative description, if necessary) containing sufficient information for the Conservation Commission and the Department to locate the site. (Electronic filers may omit this item.)
- 2. Plans identifying the location of proposed activities (including activities proposed to serve as a Bordering Vegetated Wetland [BVW] replication area or other mitigating measure) relative to the boundaries of each affected resource area.



Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
WPA Form 3 – Notice of Intent
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

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D. Additional Information (cont'd)

- 3. Identify the method for BVW and other resource area boundary delineations (MassDEP BVW Field Data Form(s), Determination of Applicability, Order of Resource Area Delineation, etc.), and attach documentation of the methodology.

- 4. List the titles and dates for all plans and other materials submitted with this NOI.
 - 70 Suffolk Road, Chestnut Hill, MA, issued for Permitting
 - a. Plan Title
 - Dan Gordon Landscape Architects and MetroWest Engineering, Inc.
 - c. Signed and Stamped by
 - January 3, 2023
 - 1/64" = 1'
 - d. Final Revision Date
 - e. Scale

 - Hydrologic Analysis prepared by MetroWest Engineering, Inc.
 - December 2022
 - f. Additional Plan or Document Title
 - g. Date

- 5. If there is more than one property owner, please attach a list of these property owners not listed on this form.

- 6. Attach proof of mailing for Natural Heritage and Endangered Species Program, if needed.

- 7. Attach proof of mailing for Massachusetts Division of Marine Fisheries, if needed.

- 8. Attach NOI Wetland Fee Transmittal Form

- 9. Attach Stormwater Report, if needed.

E. Fees

- 1. Fee Exempt: No filing fee shall be assessed for projects of any city, town, county, or district of the Commonwealth, federally recognized Indian tribe housing authority, municipal housing authority, or the Massachusetts Bay Transportation Authority.

Applicants must submit the following information (in addition to pages 1 and 2 of the NOI Wetland Fee Transmittal Form) to confirm fee payment:

<u>40649</u>	<u>12/31/2022</u>
2. Municipal Check Number	3. Check date
<u>eDEP</u>	
4. State Check Number	5. Check date
<u>LEC Environmental Consultants, Inc.</u>	
6. Payor name on check: First Name	7. Payor name on check: Last Name



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Bureau of Resource Protection - Wetlands

WPA Form 3 – Notice of Intent

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Provided by MassDEP:

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Document Transaction Number

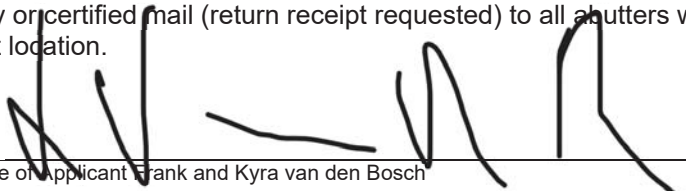
Newton

City/Town

F. Signatures and Submittal Requirements

I hereby certify under the penalties of perjury that the foregoing Notice of Intent and accompanying plans, documents, and supporting data are true and complete to the best of my knowledge. I understand that the Conservation Commission will place notification of this Notice in a local newspaper at the expense of the applicant in accordance with the wetlands regulations, 310 CMR 10.05(5)(a).

I further certify under penalties of perjury that all abutters were notified of this application, pursuant to the requirements of M.G.L. c. 131, § 40. Notice must be made by Certificate of Mailing or in writing by hand delivery or certified mail (return receipt requested) to all abutters within 100 feet of the property line of the project location.


1. Signature of Applicant Frank and Kyra van den Bosch

12-21-22
2. Date

3. Signature of Property Owner (if different)

4. Date


5. Signature of Representative Andrea Kendall, LEC Environmental Consultants, Inc.

12/29/2022
6. Date

For Conservation Commission:

Two copies of the completed Notice of Intent (Form 3), including supporting plans and documents, two copies of the NOI Wetland Fee Transmittal Form, and the city/town fee payment, to the Conservation Commission by certified mail or hand delivery.

For MassDEP:

One copy of the completed Notice of Intent (Form 3), including supporting plans and documents, one copy of the NOI Wetland Fee Transmittal Form, and a **copy** of the state fee payment to the MassDEP Regional Office (see Instructions) by certified mail or hand delivery.

Other:

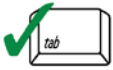
If the applicant has checked the "yes" box in any part of Section C, Item 3, above, refer to that section and the Instructions for additional submittal requirements.

The original and copies must be sent simultaneously. Failure by the applicant to send copies in a timely manner may result in dismissal of the Notice of Intent.



Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
NOI Wetland Fee Transmittal Form
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40
 City of Newton Floodplain Ordinance 22-22

Important: When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



A. Applicant Information

1. Location of Project:

70 Suffolk Road	Newton
a. Street Address	b. City/Town
eDEP submittal	\$42.50
c. Check number	d. Fee amount

2. Applicant Mailing Address:

Frank and Kyra	van den Bosch	
a. First Name	b. Last Name	
c. Organization		
70 Suffolk Road		
d. Mailing Address		
Newton	MA	02159
e. City/Town	f. State	g. Zip Code
772-643-5221	N/A	fvandenbosch@sky.com +kvandenbosch@sky.com
h. Phone Number	i. Fax Number	j. Email Address

3. Property Owner (if different):

Same as Applicant	
a. First Name	b. Last Name
c. Organization	
d. Mailing Address	
e. City/Town	f. State
g. Zip Code	
h. Phone Number	i. Fax Number
j. Email Address	

B. Fees

Fee should be calculated using the following process & worksheet. **Please see Instructions before filling out worksheet.**

Step 1/Type of Activity: Describe each type of activity that will occur in wetland resource area and buffer zone.

Step 2/Number of Activities: Identify the number of each type of activity.

Step 3/Individual Activity Fee: Identify each activity fee from the six project categories listed in the instructions.

Step 4/Subtotal Activity Fee: Multiply the number of activities (identified in Step 2) times the fee per category (identified in Step 3) to reach a subtotal fee amount. Note: If any of these activities are in a Riverfront Area in addition to another Resource Area or the Buffer Zone, the fee per activity should be multiplied by 1.5 and then added to the subtotal amount.

Step 5/Total Project Fee: Determine the total project fee by adding the subtotal amounts from Step 4.

Step 6/Fee Payments: To calculate the state share of the fee, divide the total fee in half and subtract \$12.50. To calculate the city/town share of the fee, divide the total fee in half and add \$12.50.

To calculate filing fees, refer to the category fee list and examples in the instructions for filling out WPA Form 3 (Notice of Intent).



Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
NOI Wetland Fee Transmittal Form
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40
 City of Newton Floodplain Ordinance 22-22

B. Fees (continued)

Step 1/Type of Activity	Step 2/Number of Activities	Step 3/Individual Activity Fee	Step 4/Subtotal Activity Fee
1(a): work on a single-family lot	1	\$110.00	\$110.00
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
Step 5/Total Project Fee:			\$110.00
Step 6/Fee Payments:			
Total Project Fee:			\$110.00
			a. Total Fee from Step 5
State share of filing Fee:			\$42.50
			b. 1/2 Total Fee less \$12.50
City/Town share of filing Fee:			\$67.50
			c. 1/2 Total Fee plus \$12.50

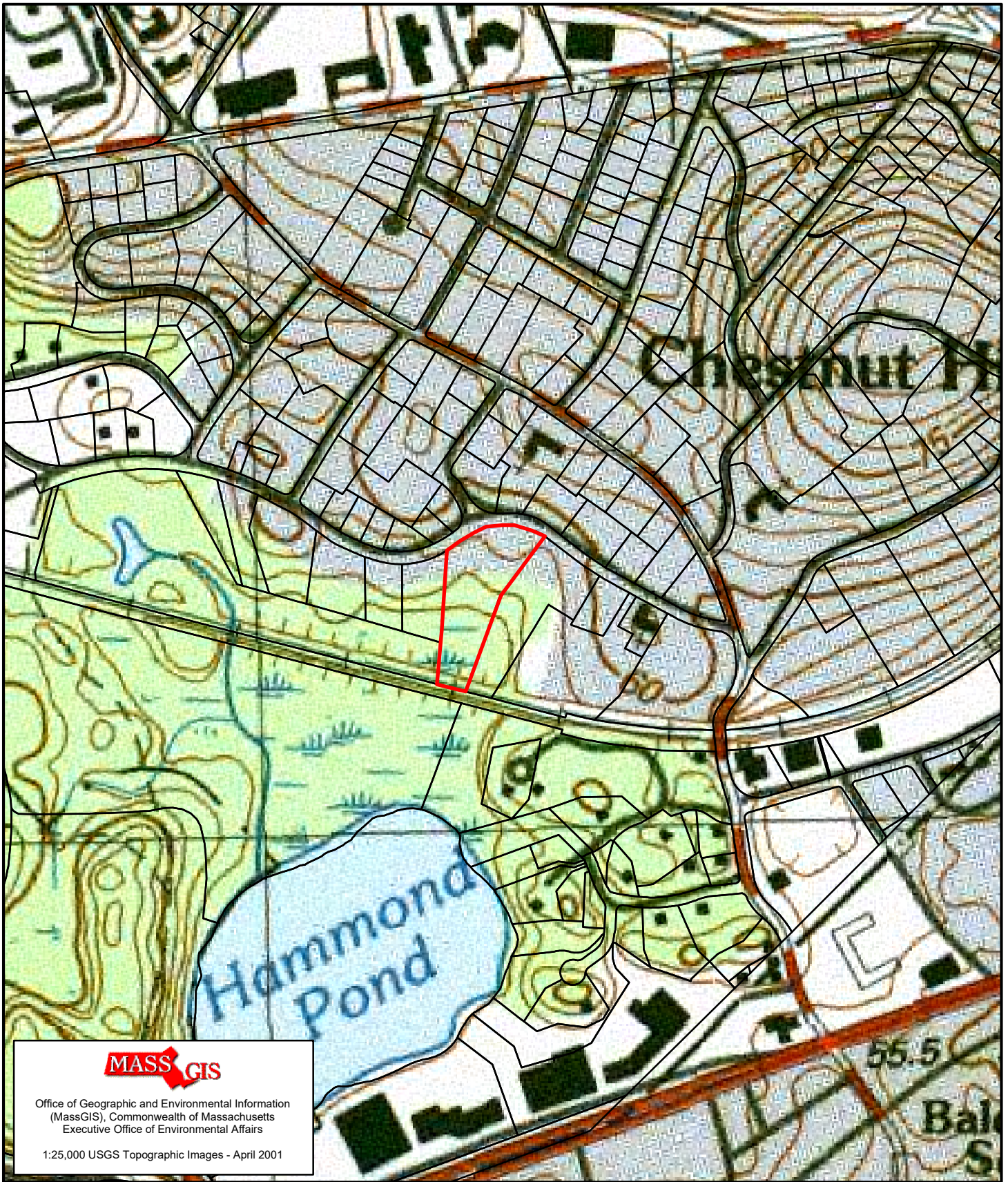
C. Submittal Requirements

- a.) Complete pages 1 and 2 and send with a check or money order for the state share of the fee, payable to the Commonwealth of Massachusetts.

Department of Environmental Protection
 Box 4062
 Boston, MA 02211

- b.) **To the Conservation Commission:** Send the Notice of Intent or Abbreviated Notice of Intent; a **copy** of this form; and the city/town fee payment.

To MassDEP Regional Office (see Instructions): Send a copy of the Notice of Intent or Abbreviated Notice of Intent; a **copy** of this form; and a **copy** of the state fee payment. (E-filers of Notices of Intent may submit these electronically.)

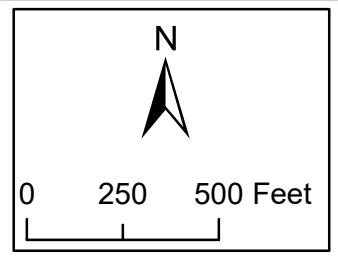


MASS GIS
Office of Geographic and Environmental Information
(MassGIS), Commonwealth of Massachusetts
Executive Office of Environmental Affairs
1:25,000 USGS Topographic Images - April 2001

LEC
Environmental Consultants, Inc.
Wakefield, MA
781.245.2500
www.lecenvironmental.com

Figure 1: USGS Topographic Map
70 Suffolk Road
Newton, MA

January 3, 2023

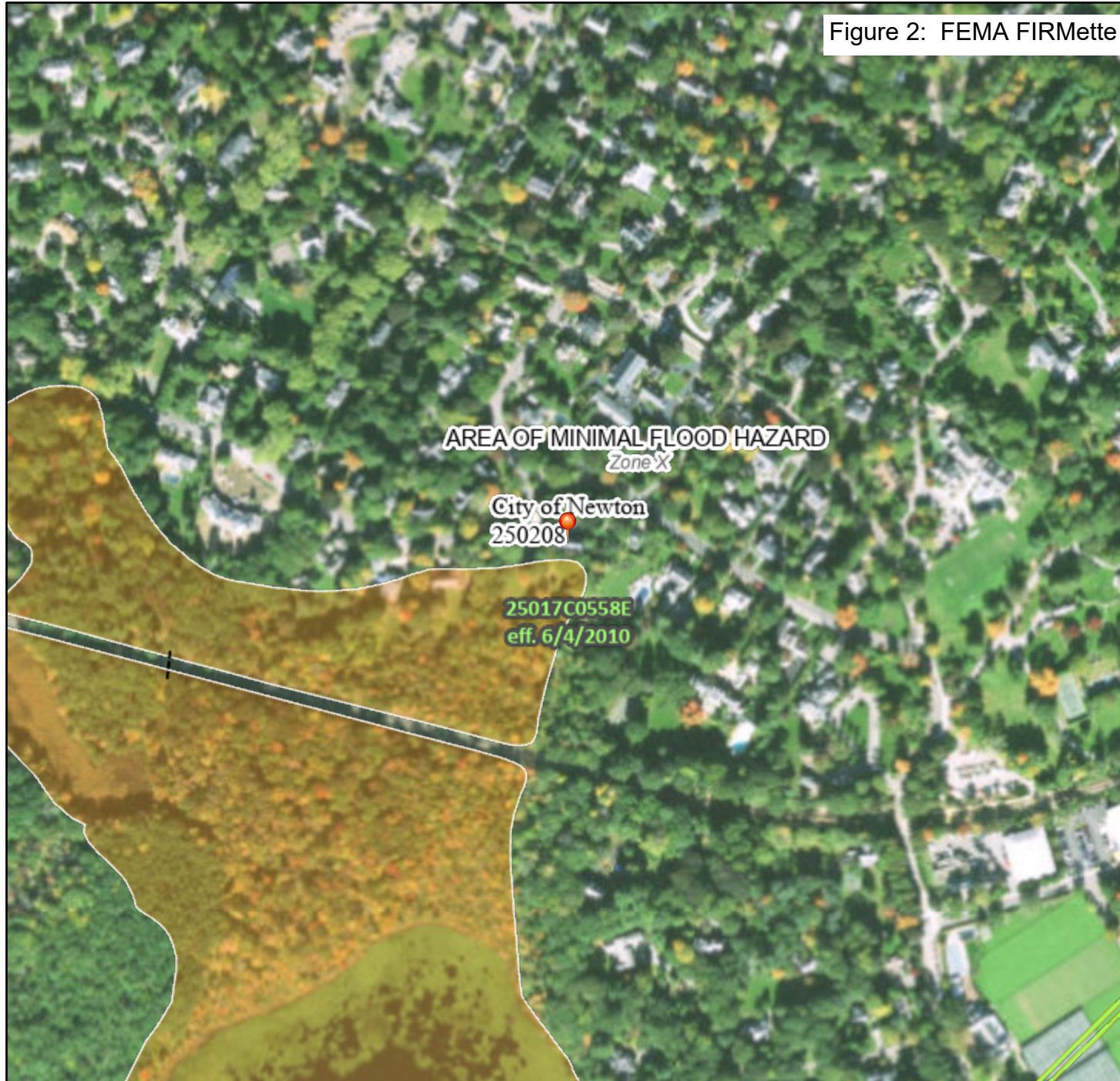


National Flood Hazard Layer FIRMMette



71°10'26"W 42°19'56"N

Figure 2: FEMA FIRMMette



Legend

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

SPECIAL FLOOD HAZARD AREAS		Without Base Flood Elevation (BFE) <i>Zone A, V, A99</i>
		With BFE or Depth <i>Zone AE, AO, AH, VE, AR</i>
		Regulatory Floodway
OTHER AREAS OF FLOOD HAZARD		0.2% Annual Chance Flood Hazard, Areas of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile <i>Zone X</i>
		Future Conditions 1% Annual Chance Flood Hazard <i>Zone X</i>
		Area with Reduced Flood Risk due to Levee. See Notes. <i>Zone X</i>
		Area with Flood Risk due to Levee <i>Zone D</i>
OTHER AREAS		NO SCREEN Area of Minimal Flood Hazard <i>Zone X</i>
		Effective LOMRs
		Area of Undetermined Flood Hazard <i>Zone D</i>
GENERAL STRUCTURES		Channel, Culvert, or Storm Sewer
		Levee, Dike, or Floodwall
OTHER FEATURES		20.2 Cross Sections with 1% Annual Chance
		17.5 Water Surface Elevation
		Coastal Transect
		Base Flood Elevation Line (BFE)
		Limit of Study
		Jurisdiction Boundary
MAP PANELS		Digital Data Available
		No Digital Data Available
		Unmapped

The pin displayed on the map is an approximate point selected by the user and does not represent an authoritative property location.

This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on **12/16/2022 at 4:34 PM** and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.



MASS GIS
 Office of Geographic and Environmental Information
 (MassGIS), Commonwealth of Massachusetts,
 Executive Office of Environmental Affairs
 MassGIS USGS Ortho Imagery (2021)

Legend

- * NHESP Certified Vernal Pool
- * NHESP Potential Vernal Pool
- NHESP Estimated Habitats of Rare Wildlife (2021)
- ▨ NHESP Priority Habitats of Rare Species (2021)

LEC

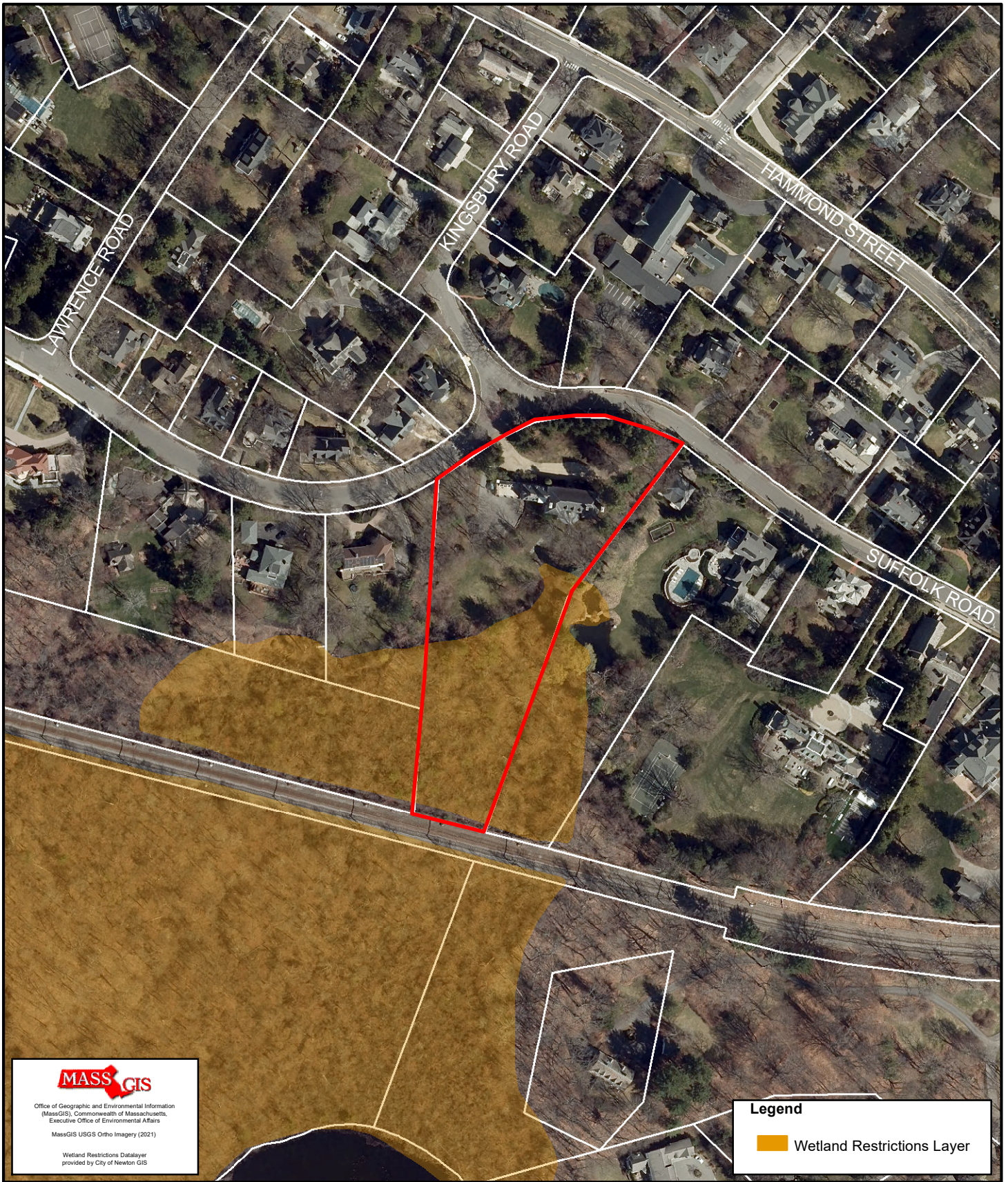
Environmental Consultants, Inc.
 Wakefield, MA
 781.245.2500
 www.lecenvironmental.com

Figure 3: MassGIS Orthophoto & NHESP Map
 70 Suffolk Road
 Newton, MA


January 3, 2023

N

0 100 200 Feet

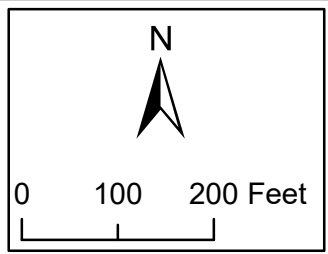


MASS GIS
 Office of Geographic and Environmental Information
 (MassGIS), Commonwealth of Massachusetts,
 Executive Office of Environmental Affairs
 MassGIS USGS Ortho Imagery (2021)
 Wetland Restrictions Dataslayer
 provided by City of Newton GIS

Legend
 Wetland Restrictions Layer

LEC
 Environmental Consultants, Inc.
 Wakefield, MA
 781.245.2500
 www.lecenvironmental.com

Figure 4: Wetland Restrictions Map
 70 Suffolk Road
 Newton, MA
 January 3, 2023



Abutters List[print this list](#)

Date: September 08, 2022

Subject Property Address: 70 SUFFOLK RD Newton, MA
Subject Property ID: 63-016-0007

Search Distance: 100 Feet

Prop ID: 63-016-0003
Prop Location: 32 SUFFOLK RD Newton, MA
Owner: GILBANE THOMAS F III
Mailing Address:

32 SUFFOLK RD
CHESTNUT HILL, MA 02467

Prop ID: 63-016-0005
Prop Location: 46 SUFFOLK RD Newton, MA
Owner: KARGER WESLEY TR
Co-Owner: NATURE PRESERVATION TRUST
Mailing Address:

75 PARK PLAZA STE 2
BOSTON, MA 02116

Prop ID: 63-016-0007-A
Prop Location: 90 SUFFOLK RD Newton, MA
Owner: WEERESINGHE ANTHONY M
Co-Owner: WEERESINGHE CINDY T
Mailing Address:

90 SUFFOLK RD
CHESTNUT HILL, MA 02467

Prop ID: 63-016-0008-A
Prop Location: SUFFOLK RD Newton, MA
Owner: CITY OF NEWTON
Co-Owner: PARKLAND
Mailing Address:

1000 COMM AVE
NEWTON, MA 02459

Prop ID: 63-025-0011
Prop Location: 39 KINGSBURY RD Newton, MA
Owner: VINEYARD PHYLLIS R
Mailing Address:
39 KINGSBURY RD
CHESTNUT HILL, MA 02467

Prop ID: 63-025-0012
Prop Location: 95 SUFFOLK RD Newton, MA
Owner: SHERMAN HANS M
Co-Owner: SHERMAN SARAH MORELAND
Mailing Address:
95 SUFFOLK RD
CHESTNUT HILL, MA 02467

Prop ID: 63-025-0013
Prop Location: 111 SUFFOLK RD Newton, MA
Owner: NADEL ERIC S
Mailing Address:
111 SUFFOLK RD
CHESTNUT HILL, MA 02467

Prop ID: 63-026-0004
Prop Location: 47 SUFFOLK RD Newton, MA
Owner: KOHLBERG PAMELA
Mailing Address:
47 SUFFOLK RD
CHESTNUT HILL, MA 02467

Prop ID: 63-026-0005
Prop Location: 65 SUFFOLK RD Newton, MA
Owner: MORGAN RICHARD
Co-Owner: MORGAN ADRIENNE
Mailing Address:
65 SUFFOLK RD
CHESTNUT HILL, MA 02467

Prop ID: 63-026-0006-A

Prop Location: 30 KINGSBURY RD Newton, MA
Owner: BURNES KENNETT F & BARBARA J
Mailing Address:
30 KINGSBURY RD
CHESTNUT HILL, MA 02467

Prop ID: 63-026-0009
Prop Location: 365 HAMMOND ST Newton, MA
Owner: PARISH CHURCH OF THE REDEEMER
Co-Owner: AT CHESTNUT HILL
Mailing Address:
365 HAMMOND ST
CHESTNUT HILL, MA 02467

Prop ID: 63-037-0002
Prop Location: LONGWOOD RD Newton, MA
Owner: ELDERBERRY LLC
Co-Owner: C/O NCP MANAGEMENT CO
Mailing Address:
PO BOX 590179
NEWTON CENTRE, MA 02459

Prop ID: 63-037-0030
Prop Location: BOYLSTON ST OFF Newton, MA
Owner: CITY OF NEWTON
Co-Owner: PARKS
Mailing Address:
1000 COMM AVE
NEWTON, MA 02459

**Notification to Abutters under the
Massachusetts Wetlands Protection Act and
Newton Wetlands Protection Ordinance
(to be provided 7 days prior to the public hearing)**

In accordance with the Massachusetts Wetlands Protection Act (MGL Ch. 131, Sec. 40) and the Newton Floodplain Protection Ordinance (Sec. 22-22. Floodplain/Watershed Protection Provisions), you are hereby notified of the following.

The applicant has filed a **Wetlands Protection Act Notice of Intent** with the Newton Conservation Commission.

Applicant: Frank and Kyra van den Bosch

Project Location: 70 Suffolk Road

Project Site Section-Block-Lot: 63-016-0007

Project Description: improve existing site amenities and install an in-ground swimming pool, pool house, and related site appurtenances

A Public Hearing will be held remotely via Zoom.

During the COVID-19 outbreak, Gov. Baker issued an Emergency Order on March 12, 2020, allowing public bodies greater flexibility utilizing technology in the conduct of public meetings under the Open Meeting Law. The City of Newton implemented remote participation procedures allowed under Gov. Baker's Emergency Order for all boards, committees, and commissions.

The Public Hearing will be held remotely on (date and time): <Date>, 2023 - 7:00 p.m.

The Zoom link for the public hearing will be posted on the Conservation Commission website "Meeting Documents" tab 48 hours in advance of the hearing (<https://www.newtonma.gov/government/planning/boards-commissions/conservation-commission/meeting-documents>).

Printed notice will be published in the Boston Herald at least five (5) days in advance of the hearing.

Copies of the Notice of Intent:

Can be found on the Newton Conservation Commission's website "Meeting Documents" tab: <https://www.newtonma.gov/government/planning/boards-commissions/conservation-commission/meeting-documents>)

Can be requested from the Northeast Regional Office of the Department of Environmental Protection by calling 978-694-3200.

Questions can be directed to:

The Newton Conservation Commission by calling 617-796-1134 or emailing jsteel@newtonma.gov or emenounos@newtonma.gov.

AFFIDAVIT OF SERVICE

Under the
Massachusetts Wetlands Protection Act (M.G.L. c. 131, s. 40)
and its implementing *Regulations* (310 CMR 10.00)

I, Sharon A. Sullivan, on behalf of Frank and Kyra van den Bosch, hereby certify under the pains and penalties of perjury that on <Date>, 2023 I gave notification to abutters in compliance with the *Massachusetts Wetlands Protection Act* (M.G.L. c. 131, s. 40) and its implementing *Regulations* (310 CMR 10.00):

A Notice of Intent Application under the *Massachusetts Wetlands Protection Act* by LEC Environmental Consultants, Inc., on behalf of Frank and Kyra van den Bosch, with the City of Newton Conservation Commission on January 4, 2023 for property located at 70 Suffolk Road (Parcel ID: 63-016-0007), Newton, Massachusetts.

The form of notification, and a list of the abutters to whom it was given and their addresses, are attached to this Affidavit of Service.

Sharon A. Sullivan

Sharon A. Sullivan
Permitting Technician

X/X/2023

Date

Notice of Intent Application



January 4, 2023

Subject Property

70 Suffolk Road
 Property ID: 63016 0007
 Newton, Massachusetts

Applicants and Property Owners

Frank & Kyra van den Bosch
 70 Suffolk Road
 Chestnut Hill, MA 02467

In Conjunction with:

Dan Gordon Landscape Architects
 267 Washington Street, #6
 Wellesley, MA 02481

and

MetroWest Engineering, Inc.
 75 Franklin Street
 Framingham, MA 01702

LEC Environmental Consultants, Inc.

100 Grove Street
 Suite 302
 Worcester, MA 01604
 508-753-3077
www.lecenvironmental.com



January 4, 2023

Electronic Delivery (via NewGov)

Newton Conservation Commission
City of Newton
100 Commonwealth Avenue
Newton Centre, MA 02459

**Re: Notice of Intent Application and
Wetland Resource Area Analysis
70 Suffolk Road (Property ID: 63016 0007)
Chestnut Hill, Massachusetts**

[LEC File #: vdBF\21-568.04]

Dear Members of the Conservation Commission:

On behalf of the Applicants and Property Owners, Frank and Kyra van den Bosch, LEC Environmental Consultants, Inc., (LEC) is filing the enclosed Notice of Intent (NOI) Application and *Wetland Resource Area Analysis* with the Newton Conservation Commission to improve existing site amenities and install an in-ground swimming pool, pool house, and related site appurtenances associated with an existing single-family dwelling at 70 Suffolk Road in the Chestnut Hill section of Newton, Massachusetts. The proposed activities are located within the 100-foot Buffer Zone to Bordering Vegetated Wetland (BVW). The Applicants propose to implement erosion controls and stormwater management to minimize the potential for impacts to the resource areas. Additional mitigation includes BVW and Bank restoration and native enhancement plantings to improve conditions in the Buffer Zone.

LEC was retained to identify Wetland Resource Areas protectable under the *Massachusetts Wetlands Protection Act* (M.G.L. c. 131, s. 40, the *Act*) and its implementing Regulations (310 CMR 10.00, the *Act Regulations*). Dan Gordon Landscape Architects and MetroWest Engineering, Inc. have prepared the *Site Plans for 70 Suffolk Road, Chestnut Hill, Massachusetts*, dated January 3, 2023. In addition, MetroWest Engineering, Inc. has prepared the Hydrologic Analysis Report, dated January 3, 2023 and Kray A. Small has prepared the Arborist Report, dated December 7, 2022.

A check made payable to the City of Newton in the amount of Sixty-Seven Dollars and Fifty Cents (\$67.50) for the purpose of filing this NOI Application under State guidelines, as well as a check made payable to City of Newton in the amount of Fifty Dollars (\$50.00) for the city filing fee, have been mailed to the Newton Conservation Commission. In addition, electronic payment to the Commonwealth of Massachusetts in the amount of Forty-Two Dollars and Fifty Cents (\$42.50) has been made via eDEP. It is our understanding that the Conservation Commission will legally post the NOI Application and required public hearing so as to appear on the Conservation Commission’s next available agenda.

LEC Environmental Consultants, Inc.					www.lectenvironmental.com
12 Resnik Road Suite 1 Plymouth, MA 02360 508.746.9491	380 Lowell Street Suite 101 Wakefield, MA 01880 781.245.2500	100 Grove Street Suite 302 Worcester, MA 01605 508.753.3077	P.O. Box 590 Rindge, NH 03461 603.899.6726	680 Warren Avenue Suite 3 East Providence, RI 02914 401.685.3109	
PLYMOUTH, MA	WAKEFIELD, MA	WORCESTER, MA	RINDGE, NH	EAST PROVIDENCE, RI	



Thank you for your consideration of this Application. We look forward to meeting with you at the February 9, 2023 Public Hearing, or January 19, 2023 Public Hearing if available. Should you have any questions, please do not hesitate to contact me in our Worcester office at 508-753-3077 or at akendall@lecenvironmental.com.

Sincerely,

LEC Environmental Consultants, Inc.

A handwritten signature in black ink that reads "Andrea Kendall".

Andrea Kendall, PWS

Senior Environmental Scientist

cc: DEP, Northeast Region
Dan Gordon Landscape Architects
MetroWest Engineering, Inc.
Frank and Kyra van den Bosch

alk: projects\21-568.04\NOI Report.doc

- i. WPA Form 3 – Notice of Intent
- ii. WPA Appendix B – Wetland Fee Transmittal Form
- iii. Affidavit of Service
- iv. Letter to Abutters
- v. Abutter Notification Form
- vi. Certified List of Abutters

Wetland Resource Area Analysis and Report

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Literature Cited**Appendices**

Appendix A

Locus Maps

Figure 1: USGS Topographic Quadrangle

Figure 2: FEMA Flood Insurance Rate Map

Figure 3: MassGIS Orthophoto & NHESP Estimated Habitat Map

Figure 4: MassGIS Orthophoto & Wetlands Restriction Map

Appendix B

Arborist Report, prepared by Kray Small, dated December 7, 2022

Attachments

Site Plans for 70 Suffolk Road, Chestnut Hill, Massachusetts, prepared by Dan Gordon Landscape Architecture and MetroWest Engineering, Inc., dated January 3, 2023

Hydrologic Analysis Report, prepared by MetroWest Engineering, Inc., dated January 3, 2023

1. Introduction

On behalf of the Applicants and Property Owners, Frank and Kyra van den Bosch, LEC Environmental Consultants, Inc., (LEC) is filing the enclosed Notice of Intent (NOI) Application and *Wetland Resource Area Analysis* with the Newton Conservation Commission under the *Massachusetts Wetlands Protection Act* (M.G.L. c. 131, s. 40, the *Act*), its implementing *Regulations* (310 CMR 10.00, the *Act Regulations*), and the City of Newton 25-Foot Naturally Vegetated Buffer Policy (*NVB Policy*, adopted June 20, 2019). The Applicants are filing this NOI Application to improve existing site amenities and install an in-ground swimming pool, pool house, and related site appurtenances. The proposed activities are located within the 100-foot Buffer Zone to Bordering Vegetated Wetlands (BVW) and includes BVW and Bank restoration.

As part of this filing, the Applicants propose to implement mitigation measures, including the installation of erosion controls, stormwater management, invasive species management, re-vegetation of BVW with native plantings, and bank restoration. Dan Gordon Landscape Architects and MetroWest Engineering, Inc. have prepared the *Site Plans for 70 Suffolk Road, Chestnut Hill, Massachusetts*, dated January 3, 2023. In addition, MetroWest Engineering, Inc. has prepared the Hydrologic Analysis Report, dated January 3, 2023.

2. General Site Description

The 3.47± acre property is located south of Beacon Street, east of Hammond Pond Parkway, and north of Boylston Street (Route 9), within the Chestnut Hill neighborhood of east-central Newton, Massachusetts (**Appendix A, Figure 1**). Single-family dwellings and residential development occur to the north, east, and west, and the MBTA Green Line and the Webster Conservation Area occur immediately to the south and southwest, respectively. Undeveloped forested areas containing forested uplands, wetlands, streams, and a pond (Hammond Pond) are associated with the Webster Conservation Area and adjacent open space areas owned by the Commonwealth of Massachusetts.

The northern portion of the property contains an 8,815± sf single-family dwelling accessed from Suffolk Road via a peastone circular driveway (**Appendix A, Figure 3**). A paved driveway extends south off the peastone driveway and provides access to a

lower parking court and three-bay garage located in the rear of the dwelling. Site topography generally descends from Suffolk Road to the south and east. Immediately beyond the developed footprint of the house, the land descends moderately and then gently towards the lower rear yard generally comprised of lawn and wetland areas. Overall, there is a 22±-foot grade change between the northern and southern portions of the Site. A set of granite steps occurs on the hillside and provides access from the upper rear yard to the lower rear yard. The dwelling is immediately surrounded by lawn, landscaped areas, and trees, including ornamental and/or native specimens of Norway maple (*Acer platanoides*), red maple (*Acer rubrum*), sugar maple (*Acer saccharum*), box-elder maple (*Acer negundo*), eastern white pine (*Pinus strobus*), mugo pine (*Pinus mugo*), Japanese yew (*Taxus cuspidata*), concolor fir (*Abies concolor*), American elm (*Ulmus americana*), honeylocust (*Gleditsia triacanthos*), black birch (*Betula nigra*), eastern redcedar (*Juniperus virginiana*), European beech (*Fagus sylvatica*), cypress (*Cupressus* sp.), littleleaf linden (*Tilia cordata*), eastern hemlock (*Tsugas canadensis*), crabapple (*malus* sp.), yellowwood (*Cladrastis* sp.), and northern red oak (*Quercus rubra*). A Massachusetts Certified Arborist reviewed the condition of trees proximate to the project area and prepared a tree assessment report (**Appendix B**).

The main hydrologic feature includes a westerly flowing intermittent stream and associated Bordering Vegetated Wetland (BVW) located within the southern and southeastern portion of the Site. A portion of the BVW is inclusive of lawn and a footpath (i.e., 7,136± SF). This footpath extends around the stream and inundated portions of the BVW via three at-grade wooden footbridges.

Under existing conditions, there is little to no management or treatment of stormwater runoff. Stormwater runoff from the existing asphalt driveway/parking court is collected via a single catch basin and discharged through a pipe onto the adjacent lawn. The majority of rooftop runoff is similarly collected in the parking court catch basin. The remaining rooftop runoff daylight to the eastern hillside and flows towards the off-site wetland. In addition, stormwater runoff from Suffolk Road is piped on site and discharged into the BVW proximate to wetland flag 6.

According to the City of Newton's GIS datalayer, a Wetlands Restriction Order applies to a portion of the BVW as depicted on Figure 4. Activities within this portion of the BVW would be subject to the provisions of the Inland Wetlands Restriction Act (310 CMR 13.00).

2.1 **Natural Heritage and Endangered Species Program Designation**

According to the 15th Edition (August 1, 2021) of the Natural Heritage Endangered Species Program (NHESP) *Massachusetts Natural Heritage Atlas*, the site is not located within *Estimated Habitat of Rare Wildlife* or *Priority Habitat of Rare Species*. In addition, there are no mapped Certified or Potential Vernal Pools on or in proximity to the site.

2.2 **Floodplain Designation**

According to the June 4, 2010 *Federal Emergency Management Agency Flood Insurance Rate Maps* for the City of Newton, Massachusetts (Map No: 25017C0558E, the southern portion of the property is located within Zone X (shaded): – *0.2% Annual chance Flood Hazard, Areas of 1% annual chance flood with average depths less than one foot or with drainage areas of less than one square mile (Appendix A, Figure 2)*. The remainder of the property is located within Zone X (unshaded): *Area of minimal flood hazard*.

3. **Wetland Boundary Determination Methodology**

LEC conducted a site evaluation on December 20, 2021 to identify and characterize existing protectable Wetland Resource Areas located at the site and to delineate the outermost resource area, BVW. The extent of Wetland Resource Areas was determined through observations of existing plant communities and hydrologic indicators in accordance with the *Act* and its implementing *Regulations*.

LEC delineated the BVW with sequentially numbered, blaze orange surveyor’s tape labelled 1 through 8.

4. **Wetland Resource Areas**

Wetland Resource Areas associated with the property include BVW, Bank to Intermittent Stream, and Land Under Water. The 100-foot Buffer Zone and 25-foot Naturally Vegetated Buffer is measured from the outermost resource area, BVW. These Wetland Resource Areas are further described below.

4.1

Bordering Vegetated Wetlands

BVW is defined at 310 CMR 10.55(2) as: *freshwater wetlands which border on creeks, rivers, streams, ponds, and lakes...Bordering Vegetated Wetlands are areas where the soils are saturated and/or inundated such that they support a predominance of wetland indicator plants...The boundary of Bordering Vegetated Wetlands is the line within which 50% or more of the vegetational community consists of wetland indicator plants and saturated or inundated conditions exist.*

A BVW occurs within the southern portion of the property and is primarily characterized as a forested/scrub-shrub wetland. An approximately 7,136± SF portion of the BVW is characterized as lawn (Photos 1 and 2). As noted above, an unimproved footpath and three (3) wooden footbridges provide a looped access route from the lawn around the stream and open water sections of the BVW.



Photo 1. Northerly view of lawn within BVW.



Photo 2. Southerly view of lawn within BVW and adjacent forested BVW.

Vegetation within the forested/scrub-shrub wetland includes a canopy of red maple (*Acer rubrum*) with individuals of eastern white pine (*Pinus strobus*), red oak, and willow (*Salix* sp.). The sapling/shrub layer includes redosier dogwood (*Cornus sericea*), glossy buckthorn (*Frangula alnus*), European/common buckthorn (*Rhamnus cathartica*), nannyberry (*Viburnum lentago*), northern arrowwood (*Viburnum dentatum*), elderberry (*Sambucus nigra*), multiflora rose (*Rosa multiflora*), privet (*Ligustrum* sp.), honeysuckle (*Lonicera* sp.), and specimens from the canopy. Landscape cultivars are also present within the wetland adjacent to the stream. The ground cover includes sensitive fern (*Onoclea sensibilis*), sphagnum moss (*Sphagnum* sp.), skunk cabbage (*Symplocarpus foetidus*), and individuals of purple loosestrife (*Lythrum salicaria*) and common reed (*Phragmites australis*) and specimens from the overstory. The lawn contains individual red maple trees with shallow roots and sphagnum moss.

LEC inspected soils within the wetland using a hand-held, Dutch-style auger. Within the lawn portion of the BVW, LEC observed a 5-inch thick, mucky fine sandy loam (A-Horizon) with a soil matrix color of 10YR 3/1. The A-Horizon is underlain by a sandy loam Bg-Horizon a soil matrix color of 2.5Y 5/2 measuring greater than 6-inches thick and redoximorphic features with a color of 10YR 4/6 (Photos 3 and 4). This soil profile is considered 'hydric' in accordance with the *Field Indicators Guide* and meets the criteria for S5.



Photo 3. Views of upper (A Horizon) (left) and lower (B Horizon) (right) soil profile.

4.2

Bank to Intermittent Stream and Land Under Water

According to the *Act Regulations* [310 CMR 10.54 (2) (c)], Bank is the first observable break in slope or the mean annual flood level, whichever is lower. The lower boundary of a Bank is the mean annual low flow level.

LUW is defined at 310 CMR 10.56(2) as the land beneath any creek, river, stream, pond or lake. Said land may be composed of organic muck or peat, fine sediments, rocks or bedrock.

An intermittent stream is located within the southern portion of the property within the BVW (Photo 4). The Bank is associated with the intermittent stream and the LUW is located within the Bank. The Bank is mucky and partially vegetated and generally occurs along a gradual break in topography. Three wooden footbridges extend over the stream (Photo 5) or open water BVW and sit on the mucky Bank.



Photo 4. View of intermittent stream and open water area of BVW.



Photo 5. View of wooden footbridge over intermittent stream.

4.3 **100-Foot Buffer Zone**

The 100-foot Buffer Zone contains portions of the existing dwelling, parking court, masonry retaining walls, granite steps, lawn, landscaped areas, and naturalized vegetated areas. Plan sheet NOI-9 provides a table documenting the area calculations of land use within the 100-foot Buffer Zone.

4.4 **25-Foot Naturally Vegetated Buffer (NVB) Policy**

Lawn and naturalized vegetated areas occur within the 25-foot Naturally Vegetated Buffer. Plan sheet NOI-9 provides a table documenting the area calculations of land use within the 25-foot NVB.

5. Proposed Activities

Within the 100-foot Buffer Zone, the Applicants propose a series of site improvements and addition of features accessory to the existing single-family dwelling. These activities are described in further detail below and include an in-ground swimming pool and associated pool house, new garage, new terraces and pathways (hardscape), extensive landscaping, implementation of a stormwater management program, Buffer Zone mitigation, and BVW and Bank restoration. Removal of existing hardscape (e.g., pavement, retaining walls, granite steps) and portion of a house structure are also proposed.

5.1 In-Ground Swimming Pool, Spa, and Pool House

An in-ground swimming pool and spa surrounded by coping, lawn, stone pads, and/or stone terrace, and associated pool house, is planned within the backyard southwest of the reconfigured driveway/parking court. A masonry wall will extend along the southern boundary of the pool area. Opportunities to locate the pool and associated pool house further from the resource area were assessed but limited due to the location of the property boundary, site grades, and existing site development. Utilities, including water, sewer, gas, and electric will service the pool house and pool equipment via underground conduits and lines extending from the dwelling. A new walkway comprised of masonry, steps, and stone steppers will extend from the house to the pool area.

5.2 New Garage and Driveway Modifications

A one-car attached garage is proposed in the rear of the house adjacent to the existing house and garage and located within existing pavement and sloped landscape area. The existing paved driveway will be realigned (shifted west) and regraded and the overall footprint of the parking court will be reduced. Slight modifications to the existing peastone driveway alignment are also proposed.

5.3 Enhanced Landscape Site Amenities/Improvements

Miscellaneous landscape and site amenities/improvements are planned immediately surrounding the dwelling. A portion of the existing sun room off the rear of the house will be removed and a new stone terrace will span the rear house face up to the proposed garage addition. The terrace will be surrounded by lawn, landscaping, and a perimeter masonry wall. The existing granite steps on the hillside will be removed and the hillside regraded to a uniform slope and planted with a low-maintenance fescue. New access from the house to the lower yard will be provided east of the house and terrace and will include stone steppers and steps transitioning to lawn. Within the front of the house, a new stone dust path will provide pedestrian access to the house from Suffolk Road.

A portion of the rear yard will be regraded and reestablished as lawn and demarcated by a row of hedges to the south and landscaping to the southeast. The new slope beyond the hedges will be planted with a low-maintenance fescue.

In order to accommodate the improvements described above, select trees and other landscaping will be removed. The tree compensation table located on Plan Sheet-9 (NOI-9) identifies the trees to be removed, their overall health or invasive species status,

diameter at breast height (DBH), location within the Buffer Zone (i.e., 25', 50', or 100'), and associated requirements for compensation. As noted on this table, within the NVB, one (1) dead tree, five (5) trees in poor health, and two (2) trees in good health will be removed. Of the thirty-five (35) trees to be removed within the 100-foot Buffer Zone (i.e., 25 to 100 foot Buffer Zone), fourteen (14) are dead, in poor health, in fair health, invasive, and/or hazard and the remaining twenty-one (21) trees are in good health.

A comprehensive replanting plan has been developed that exceeds the requirements of the *Mitigation/Restoration Planting Consolidated Guidelines* by more than 3:1. A total of 188.5 inches of new trees will be planted within the Buffer Zone to compensate for the removal of 59 inches of non-invasive trees that are in good health and \geq 8-inch DBH (refer to plan sheet NOI-9).

6. Mitigation Measures

The Applicants intend to implement erosion controls to mitigate for any potential impacts to the resource areas; provide stormwater management for existing and additional impervious area resulting from proposed site improvements, provide a Buffer Zone Mitigation Plan, and BVW and Bank restoration. A description of each of these mitigating measures is provided below.

6.1 Erosion and Sedimentation Control

The Applicants propose to implement an erosion control program to protect the adjacent resource areas and abutting properties from sedimentation during construction activities. The plan for the control of potential impacts to the adjacent Wetland Resource Area is based on DEP guidelines and will be comprised of staked, 18-inch diameter compost filter tubes (Filter Mitt). The compost filter tubes will be installed along the Limit-of-Work line and all erosion control measures will remain in place until disturbed areas are permanently stabilized. The location of the proposed erosion controls, detail, and associated erosion control notes regarding site housekeeping are shown on the *Site Plans*.

6.2 Stormwater Management

While stormwater management is not required for single-family dwelling projects, the Applicants will mitigate stormwater runoff resulting from the site development. Details of the system design and supporting calculations are provided in the *Hydrologic Analysis*

Report prepared by MetroWest Engineering, Inc. Runoff from the development, including rooftop runoff, will be collected in area drains, catch basins, or slot drains, and directed to one of two subsurface infiltration systems. Any overflow from the infiltration system will discharge onto planting areas via a level spreader.

6.3 **Buffer Zone Mitigation**

Within the 25-foot Naturally Vegetated Buffer, the overall footprint of lawn will be reduced and converted to naturalized or landscaped areas. Except for the row of hedges intended to demarcate the lawn/patio area from the naturalized areas, the plantings will be comprised of native and/or wildlife beneficial plantings. The regraded slopes south of the lawn/patio and open lawn will be planted with a low-maintenance fescue (sod). In addition, new trees and an assortment of shrubs, perennials, and groundcover will supplement the existing overstory to the east. Overall, the extent of plantings/naturalized areas within the NVB will increase from 5,321sf to 8,600 sf. A de-minimus (22sf) increase of impervious surface results from the new stone steps. As such, the overall footprint of lawn will be reduced and converted to naturalized or landscaped areas planted with some native and/or wildlife beneficial plantings.

Additional Buffer Zone plantings beyond the NVB are proposed and include a selection of trees, shrubs, perennials, groundcovers, and ferns.

6.4 **BVW and Bank Restoration**

The 7,136± SF of lawn within BVW will be vegetatively restored with native wetland plants comprised of trees, shrubs, ferns, sedges, and forbs. Within the sunnier areas of the BVW, 2,500 forbs and shrubs and three (3) black tupelo (*Nyssa sylvatica*) trees will be planted. Within the shadier portions of the BVW, 500 ferns and forbs will be planted. To maintain a stabilized ground surface during plant installation and preserve the existing native wetland groundcover, where present, the lawn will remain in place. An annual mowing plan will be implemented in order to maintain the meadow habitat and deter encroachment of invasive shrubs such as glossy buckthorn and multiflora rose.

In addition, the wooden footbridges will be removed by hand and the Bank will be planted with forbs and/or ferns.

6.5 **Invasive Plant Management**

Invasive species located along the hillside east of the residence and within BVW along the perimeter of the lawn will be managed in accordance with the Commission’s policy for invasive plant control. Invasive species to be managed include herbaceous plants (purple loosestrife and phragmites), vines (English ivy (*Hedera helix*) and oriental bittersweet, and shrubs (Japanese barberry, multiflora rose, Japanese honeysuckle, winged euonymus (*Euonymus occidentalis*), and glossy buckthorn).

7. **Regulatory Performance Standards**

7.1. **100-Foot Buffer Zone (310 CMR 10.53(1))**

As identified in 310 CMR 10.53(3)(1), “the issuing authority should consider the characteristics of the buffer zone, such as the presence of steep slopes, that may increase the potential for adverse impacts on resource areas. Conditions may include limitations on the scope and location of work in the buffer zone as necessary to avoid alteration of resource areas. The issuing authority may require erosion and sedimentation controls during construction, a clear limit of work, and the preservation of natural vegetation adjacent to the resource area and/or other measures commensurate with the scope and location of the work within the buffer zone to protect the interests of the Act.”

The overall character and function of the previously developed/disturbed buffer zone will be improved following site improvements as a result of: 1) improved stormwater management (infiltration systems); 2) conversion of lawn to a naturalized condition (i.e., fescue sod); and 3) new plantings. As required, the limit of work will be clearly demarcated to protect adjacent resource areas. Following construction of stormwater BMPs, the buffer zone’s capacity to protect the interests of the Act will be improved beyond existing conditions.

7.2 **25-Foot Naturally Vegetated Buffer Policy**

According to the Policy [Section IIV], to fully protect Newton’s wetland resources, it is the policy of the Newton Conservation Commission to ensure that a 25-foot Naturally Vegetated Buffer (25-foot NVB) of native trees, shrubs, and low-growing vegetation is maintained or established to the maximum extent feasible immediately upgradient of the edge of a resource area subject to protection under the Massachusetts Wetlands Protection Act. M.G.L. c 131 §40.

The Policy [Section V] further states if the Commission accepts and allows an exemption to this policy, it may require the applicant to:

- *Restore more natural vegetation elsewhere that will result in a net ecological benefit;*
- *Remove or reduce disturbances adversely affecting the wetland resource area; and/or*
- *Meet other conditions, safeguard, and limitation that the Commission determines will result in improved protection of the wetland resource area.*

When compared to existing conditions, the character of the resulting 25-foot NVB will be improved under proposed conditions. As noted above, a diverse mix of native trees, shrubs, and groundcover will be planted within existing naturalized areas and a low maintenance fescue will be established within former lawn areas. Except for preserving a portion of the existing lawn and establishment of a row of yew hedges to formally demarcate the usable outdoor living space, there is substantial improvement to the 25-foot NVB. Of the existing 9,869 sf within 25-foot NVB, 87% (8,600 sf) will be planted/naturalized. In comparison, 54% (5,321 sf) of the 25-foot NVB is planted/naturalized under existing conditions. The additional mitigation associated with invasive species management, restoring 7,136± SF of BVW by installing native wetland plants within existing lawn, and Bank restoration from the removal of the wooden footbridges, results in a substantial net ecological benefit. As such, we respectfully request that the Commission accept an exemption to the Policy due to the nature and extent of additional mitigation provided.

At full maturity, the new trees will provide food, shelter, escape cover, nesting, roosting, and/or perching for the local wildlife. The proposed shrub and groundcover within BVW and Buffer Zone will diversify the habitat and serve to augment food sources, escape cover, and shelter for birds, mammals, reptiles, and amphibians. As such, the value of the NVB and BVW will increase by promoting the growth of native species.

8. Summary

On behalf of the Applicants and Property Owners, Frank and Kyra van den Bosch, LEC is filing the enclosed NOI Application with the Newton Conservation Commission to improve existing site amenities and install an in-ground swimming pool, pool house,

garage, and related site appurtenances located, in part, within the 100-foot Buffer Zone. Erosion controls are proposed along the Limit-of-Work line to protect the wetland resource areas during construction, and stormwater management, invasive species management, Bank restoration, and native plantings within 100-foot Buffer Zone, 25-foot Naturally Vegetated Buffer, and BVW are proposed. The proposed project, including the proposed mitigating measures, meets the performance standards enumerated in the pertinent Statutes and Regulations. As a result, the Applicants request that the Commission issue an Order of Conditions approving the project.

Massachusetts Department of Environmental Protection, Division of Wetlands and Waterways 1995. *Delineating Bordering Vegetated Wetlands Under the Massachusetts Wetlands Protection Act, A Handbook*. 89 pp.

Massachusetts Natural Heritage and Endangered Species Program Atlas of Estimated Habitat of State-listed Rare Wetlands Wildlife, 2021. Natural Heritage & Endangered Species Program, Massachusetts Division of Fisheries & Wildlife, Route 135, Westborough, MA 01581, www.state.ma.us/dfwele/dfw

Massachusetts Wetlands Protection Act (M.G.L. c. 131, §. 40), www.state.ma.us/dep
Massachusetts Wetlands Protection Act Regulations (310 CMR 10.00),
www.state.ma.us/dep

National Flood Insurance Program, Federal Emergency Management Agency Flood Insurance Rate Map (Map Nos.: 25017C0558E), City of Newton, Massachusetts, June 4, 2010.

New England Hydric Soils Technical Committee. April 2019, 4th ed., *Field Indicators for Identifying Hydric Soils in New England*, New England Interstate Water Pollution Control Commission, Lowell, MA.

Newton Conservation Commission 25-Foot Naturally Vegetated Buffer (NVB) Policy, adopted on June 20, 2019

Newton Conservation Commission, Invasive Plant Control, adopted on September, 18, 2014

Newton Conservation Commission, Mitigation/Restoration Planting (Trees, Shrubs, and Herbaceous Plants) Consolidated Guidelines, revised March 7, 2022

Northcentral and Northeast 2016 Regional Wetland Plant List (*Lichvar, R. W., D.L. Banks, W.N. Kirchner, and N.C. Melvin, Phytoneuron 2016-30: 1-17*; https://cwbi-app.sec.usace.army.mil/nwpl_static/data/DOC/lists_2016/Regions/pdf/reg_NCNE_2016v1.pdf