

CONSERVATION COMMISSION AGENDA

Date: Thursday, September 28, 2023

Time: 7:00pm

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

This will be a virtual meeting via Zoom. No in-person meeting will take place at City Hall.

Click here to join by Zoom: <https://newtonma-gov.zoom.us/j/81407039225>

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) 109 Harwich Rd – NOI – SFH demo and construction – DEP #239-963

- Owner/Applicant. Northeast Venture Group (David Corey)
- Representatives. John Rockwood, Eco-Tec Inc

2. (7:30) 74 Bowen St – RDA – addition in outer Buffer Zone

- Owner/Applicant. Bowen St Investments LLC (Haim Senior)
- Representatives. John Rockwood, Eco-Tec Inc

3. (8:00) 55 Bernard St – COC – application filed in response to Enforcement Order – DEP #239-871

- Owner/Applicant. Ivan Brown
- Representatives. None

4. (8:15) 25 Bernard Street – OOC Extension Request – demo/construction of a single-family home – DEP #239-883

- Owner/Applicant. Albert Chin
- Representatives. John Rockwood, Eco-Tec Inc

B. CONSERVATION AREA DECISIONS

5. Old Deer Park beekeeper license extension for Mark Lewis

- Issue Summary. Mark Lewis' license expired yesterday (on 9/27/2022) and so a new license must be granted for him to maintain bee hives.
- Representatives. Mark Lewis

C. ADMINISTRATIVE DECISIONS

D. ISSUES AROUND TOWN DECISIONS

UPDATES / DISCUSSION

E. WETLANDS

F. CONSERVATION AREAS

G. ADMINISTRATIVE MATTERS

H. ISSUES AROUND TOWN

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

ADJOURN



Mayor
Ruthanne Fuller

**Director
Planning &
Development**
Barney Heath

**Chief
Environmental
Planner**
Jennifer Steel

**Assistant
Environmental
Planner**
Ellen Menounos

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

**Associate
Member**
Sonya McKnight

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

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

www.newtonma.gov

jsteel@newtonma.gov

Reasonable accommodations will be provided to persons with disabilities requiring assistance. If you need a reasonable accommodation, please contact the city of Newton's ADA/Sec. 504 Coordinator, Jini Fairley, at least two business days in advance of the meeting: jfairley@newtonma.gov or (617) 796-1253. For Telecommunications Relay Service, please dial 711 or call City Hall's TTY/TDD line at 617-796-1089.

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DECISIONS

A. WETLANDS DECISIONS

1. (7:00) 109 Harwich Rd – NOI – SFH demo and construction – DEP #239-963

- Owner/Applicant. Northeast Venture Group (David Corey)
- Representatives. John Rockwood, Eco-Tec Inc
- Request. Issue OOC.
- Project Summary.
 - Demolish and construct a single-family home.
 - Impervious area will increase 746 sf.
 - Install a 1,491 sf bounded enhancement planting area (2:1) -- 10 saplings and 46 shrubs – and monitor for 2 years.
 - Edge of lawn will not move as a result of the project. There is a 6' drop just beyond limit of work, beyond the edge of lawn.
 - A stormwater management system and an O&M plan have been proposed to mitigate the increase in impervious area.
 - Remove 5 trees within the 100' BZ (an arborist's report was included with the application): 23" crabapple, 13" magnolia, 14" red maple, and 13" Norway maple. 2 of the 5 are within the 25' NVBZ.
 - Bald Pate Meadow Conservation Area and wetland is behind the property to the south (Wetlands Restriction #7 at 142' elevation.)
- Documents in packets. Highlighted plans, planting plan, draft special conditions.
- Additional documents presented at meeting. Site photos
- Jurisdiction. Buffer Zone to BVW
- Performance Standards.
 - **10.53(1)**. "For work in the Buffer Zone subject to review under 310 CMR 10.02(2)(b)3., the Issuing Authority shall impose conditions to protect the interests of the Act identified for the adjacent Resource Area. ... where prior development is extensive, may consider measures such as the restoration of natural vegetation adjacent to a Resource Area to protect the interest of [the Act]. ... The purpose of preconstruction review of work in the Buffer Zone is to ensure that adjacent Resource Areas are not adversely affected during or after completion of the work."
- Staff Notes.
 - For such a tight site, compost sock is not sufficient and should be replaced with entrenched sediment fence.



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- The infiltration area will be greatly compacted and so should be over-dug prior to installation of the infiltration stone and chambers.
- Both test pits are labeled as Test Pit 2 on the plan
- Trees on the plan are identified with a number but are not labeled with size or species, so cross referencing the arborist's report was challenging.
- Tree protection for trees to remain should be enlarged and strengthened. For both trees to be protected, the arborist's narrative provides only 5 feet of protection from the trunk (far less than the "Critical Root Zone").
 - "The CRZ of this plant shall be protected by a snow fence at least 4' in height and staked every 5'. The protected area will be reduced and semi-circumvent the stem and extend 5'. In addition, a wood carpet of wood chips 6" to 12" may be placed to mitigate soil compaction further than 5' from the stem.
 - Protection should be expanded and protection from compaction should be mandatory and should be noted on the plans.
- It is unclear from the narrative how many and what size of Norway maples are proposed to be removed from within the enhancement planting area.
- The planting plan does not identify the size of trees to be installed.
- The street trees are not likely to survive the replacement of the sidewalk – replacement should be considered early on.
- Staff Recommendation.
 - Address the issues above. When ready, vote to close the hearing and issue an Order of Conditions.

2. (7:30) 74 Bowen St – RDA – addition in outer Buffer Zone

- Owner/Applicant. Bowen St Investments LLC (Haim Senior)
- Representatives. John Rockwood, Eco-Tec Inc
- Request. Issue DOA Negative 3, Negative 6
- Project Summary (work within 100-foot Buffer Zone).
 - The 100-foot Buffer Zone extends across the back yard and the rear 25 feet of the house
 - No work will occur within 68' of the stream
 - A small sliver of a small addition (with associated foundation rehabilitation) is within the Buffer Zone
 - 2 old wood retaining walls and crumbling stairs will be removed and replaced with new stairs
 - A concrete landing will be converted to a permeable paver area
 - Grading will create a swale to keep stormwater on site
 - Erosion controls, orange snow fence, soil stockpile area, concrete washout area, and construction entrance have all been proposed on the plans
 - No drainage system is required or proposed. Per Newton Engineering, an engineering review and a minor Stormwater permit will be required because a retaining wall is being proposed.
- Documents in packets. Highlighted plans, draft cover letter
- Additional documents presented at meeting. Site photos
- Jurisdiction. Buffer Zone to intermittent stream at Newton Centre Playground
- Performance Standards.
- Staff Notes.
 - This project was initiated with two administrative approvals.
 - 6/20/2023: Roof, siding, door, and window replacement (since there were no land-disturbing activities proposed).
 - 8/9/2023: Removal of 40" Honey Locust based on arborist's report: "The tree is comprised of several co-dominant leaders. The larger of the co-dominants has 2 opposing fissures, either side of the stem. A deep pocket of decay makes up another co-dominant and has plant life growing out of the crotch. Numerous dead branches are still connected to the main stems, leaders, and the canopy is very weak even for this species.
 - Of the proposed activities within the Buffer Zone, several are exempt under Wetlands Protection Act: bulkhead, AC pads and condensers, pervious paver landing.
 - Impervious area in the BZ will increase by 34 sf.
 - 3 new saplings required in the 6/20/2023 Admin Approval were to be planted the week of September 11, but Staff didn't see any new plantings during the site visit. The Commission can modify the replacement planting requirement, since the tree has yet to be removed (removal is now due on October 3, 2023).
- Staff Recommendation.
 - Vote to close the meeting and issue a negative 3 and negative 6 Determination.

3. (8:00) 55 Bernard Street – COC – application filed in response to Enforcement Order – DEP #239-871

- Owner/Applicant. Ivan Brown
- Representatives. None
- Request. Issue COC.
- Project History.
 - Administrative approval was granted for the tear-down/re-build of a SFH entirely outside RFA and FZ
 - Unpermitted tree cutting (of 12 “dead” trees) and grading in RFA and FZ resulted in an Enforcement Order. Not all trees were actually dead, though some were undoubtedly ailing.
 - The EO spurred a 2020 NOI filing for the project to address grading (flood storage capacity) and planting (to mitigate for the cut trees).
 - A restoration planting plan was approved for 8 “islands” and bank plantings of native species and bank with 16 canopy trees, 4 understory trees, and 96 shrubs. Additionally, 10 spruce trees and 8 rhododendrons were required (and had already been installed along the side property lines).
 - All required plants were installed as per the plans.
 - A February 2021 site visit confirmed substantial compliance.
 - In November 2021 unpermitted cutting of ailing trees occurred. Further restoration plantings were required by the Commission.
 - The owner has been working with a landscaper to install (and replace) required plants (in a slightly modified layout).
- Documents in packets. None
- Additional documents presented at meeting. Site photos
- Jurisdiction. RFA, FZ
- Staff Notes.
 - The site is stable, well-maintained, and planted areas are mostly filled as per the plans.
 - The owner has been very cooperative with staff requests to plant more shrubs and trees in “blank” spaces if/as they occur.
 - The remaining canopy trees are not in ideal health.
- Staff Recommendation: Issue a COC for the work completed to-date along with a request to install 4 native canopy trees (pin or northern red oak, recommended).

4. (8:15) 25 Bernard Street – OOC Extension Request – demo/construction of a single-family home – DEP #239-883

- Owner/Applicant. Albert Chin
- Representatives. John Rockwood, Eco-Tec Inc
- Request. Extend OOC for 1 year.
- Project Summary.
 - Demo/construction of a single-family home, with mitigation plantings (56 shrubs)
 - 16 shrubs died and should be replaced.
- Documents in packets. None
- Additional documents presented at meeting. Site photos
- Jurisdiction. Buffer Zone, Riverfront Area
- Staff Notes.
 - The first plant monitoring report was submitted along with an extension request.
 - The wetlands consultant has recommended the following:
 - Dead or dying shrubs to be removed
 - 16 new shrubs to be planted in fall of 2023 or spring of 2024 in place of those or in other gaps:
 - 2 each of the following larger shrubs (3-4’ height) species: American witch-hazel (*Hamamelis virginiana*), gray dogwood (*Cornus racemosa*), mountain laurel (*Kalmia latifolia*), inkberry (*Ilex glabra*);
 - 3 each of the following smaller shrubs (18-24” height) species: sweet fern (*Comptonia peregrina*), northern bush honeysuckle (*Diervilla lonicera*); and
 - 2 18-24” high common juniper (*Juniperus communis*).
- Staff Recommendation. Vote to issue a 1-year permit extension to 2/22/25 to allow the in-fill plants to thrive.

B. CONSERVATION AREA DECISIONS

5. Old Deer Park beekeeper license extension for Mark Lewis

- Issue Summary. Mark Lewis’ license expired yesterday (on 9/27/2022) and so a new license must be granted for him to maintain bee hives.

- Representatives. Mark Lewis
- Request. Extend license for 3 years.
- Documents in packets. Apiary policy. Draft License for signature.
- Additional documents presented at meeting. None
- Staff Notes.
 - Mr. Lewis has been very compliant with all Commission requirements.
 - Mr. Lewis would like a 3-year license so that he can plan ahead and invest in things like a more permanent sign.
- Staff Recommendation. Vote to grant Mark Lewis a 3-year license.

C. ADMINISTRATIVE DECISIONS – none at this time

6. Minutes to be approved

- Documents in packets. Draft 9/7/2023 minutes
- Vote to approve the 9/7/2023 minutes reviewed by Ellen Katz
- Volunteer. Who will volunteer to review the 9/28/2023 minutes?

D. ISSUES AROUND TOWN DECISIONS – none at this time

UPDATES / DISCUSSION

E. WETLANDS

- Potential Updates
 - Countryside School
 - 56 Greenwood St – COC request
 - 16 Grace Rd – COC request
 - 288 Mill St -- planting plan

F. CONSERVATION AREAS

G. ADMINISTRATIVE MATTERS

- Hosting a home efficiency friend-raiser
 - Newton’s Energy Coach has asked if anyone would be interested in hosting a peer-to-peer event/social gathering (i.e., cocktail hour, weekend snack event, potluck dinner, etc.) to allow neighbors to meet up, learn about the “[4 Our Future campaign](#)”, and be inspired to take home energy action. The host would simply provide the space and invite their community. Someone from the “4 Our Future” group could be a VIP or expert at the event, give an introduction to the topic, facilitate conversation, etc. and be around to socialize and answer further questions.
- Follow-up conversation about the Commission’s activities/role in the community
 - Are there Commissioners who would like to take on any special projects or roles such as public education, boy scout liaison, etc.?
 - Should we have a formal priority setting session once a year?
 - Roles: Rotate roles every year? Have different members try being Chair on a preset schedule (training and confidence boost)? Associate member roles?
- Committee Liaison Updates

H. ISSUES AROUND TOWN – none at this time

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

ADJOURN

109 Harwich Rd



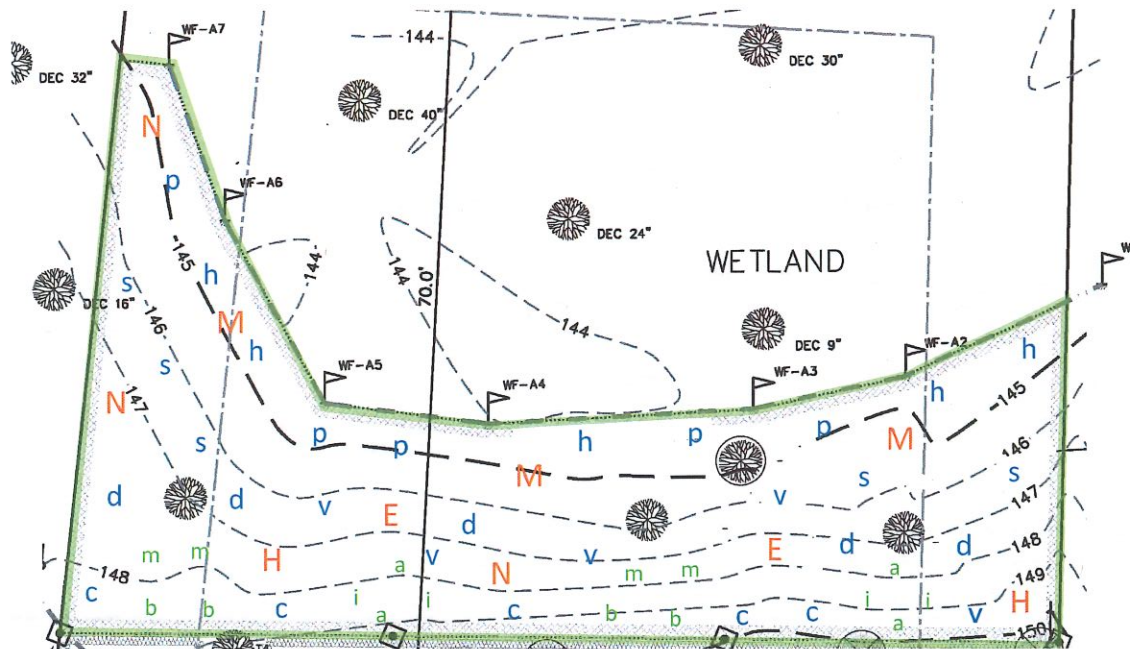
**PLANTING SCHEMATIC FOR
ENHANCEMENT PLANTING AREA
109 HARWICH ROAD, NEWTON**

PREPARED BY ECOTEC, INC.
SEPTEMBER 9, 2023

Enhancement Planting Area (1,491± S.F.)

Stratum; Species; Size; Spacing	
Saplings; as noted; 12' on-center	10
E Balsam Fir (<i>Abies balsamea</i>) or Atlantic White Cedar (<i>Chamaecyparis thyoides</i>)	2
N Northern Red Oak (<i>Quercus rubra</i>)	3
M Red Maple (<i>Acer rubrum</i>)	3
H Shag-bark Hickory (<i>Carya ovata</i>) or Pin Oak (<i>Quercus palustris</i>)	2
Shrubs; 3-4' height; 7' on-center	30
c Chokecherry (<i>Prunus virginiana</i>)	5
s Serviceberry (<i>Amelanchier canadensis</i>)	5
v American Witch-hazel (<i>Hamamelis virginiana</i>)	5
d Gray Dogwood (<i>Cornus racemosa</i>)	5
h Highbush Blueberry (<i>Vaccinium corymbosum</i>)	5
p Sweet Pepper-bush (<i>Clethra alnifolia</i>)	5
Small Shrubs; 18-24" height; four clusters of four on slope	16
a Pink Azalea (<i>Rhododendron periclymenoides</i>)	4
m Maple-leaf Viburnum (<i>Viburnum acerifolium</i>)	4
b Northern Bush Honeysuckle (<i>Diervilla lonicera</i>)	4
i Inkberry (<i>Ilex glabra</i>) or Sheep Laurel (<i>Kalmia angustifolia</i>)	4

- The wire fence and stakes at the northern edge of the planting area will be removed.
- The Norway maple and common buckthorn saplings/shrubs and oriental bitter-sweet vines/ground cover in the area will be cut and blotted with glyphosate or triclopyr. Such invasives species treatment will continue through the two-year monitoring period and will be detailed in the annual monitoring reports.
- The dead 18" deciduous tree will be cut to 10' height for safety purposes.
- Plant substitutions are subject to approval by Conservation Staff.
- Plants must be natives; cultivars and varieties will not be accepted.
- All excess soil must be removed and disposed of off-site.
- After plantings, the existing leaf litter will be used to mulch the plantings.
- The plants must be watered in well and watered periodically until they are established.



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 overseeing wetland scientist.

Findings and Conditions of the Newton Conservation Commission
DEP #239-0963, 109 Harwich Rd, teardown/rebuild single-family home

Findings (considered as and given equal status as site-specific conditions)

Site: 109 Harwich Rd

Applicant: Northeast Venture Group (David Corey)
220 North Main Street, Ste 201, Natick MA 01760
dcorey@northeastventuregroup.com | 774-278-0257

Owner: The Phillip A. Szathmary Trust and The Judy Szathmary Trust
(Phillip and Judy Szathmary, Trs)
109 Harwich Rd, Newton MA 02467
pszath@verizon.net | 617-244-9513

Representative: John Rockwood, Eco-Tec Inc
102 Grove St, Worcester MA, 01605
jrockwood@ecotecinc.com |

Date of Issuance: September 29, 2023

Existing Conditions: Single family home backs up to wetland resource

Approved Project Purpose:

- Construct new single-family home

Approved Project Summary:

- Demolish and construct a single-family home.
- Impervious area will increase 746 sf.
- Remove 5 trees within the 100' BZ (an arborist's report was included with the application): 23" crabapple, 13" magnolia, 14" red maple, and 13" Norway maple. 2 of the 5 are within the 25' NVBZ.
- Install a 1,491 sf bounded enhancement planting area (2:1) -- 10 saplings and 46 shrubs -- and monitor for 2 years.
- Edge of lawn will not move because of the project.
- A stormwater management system and an O&M plan have been proposed to mitigate the increase in impervious area.

Final Approved Plans

- Topographic Site Plan, Newton, Massachusetts Showing Existing Conditions at #109 Harwich Road, Sheet 1 of 1, Scale 1" = 10', prepared by VTP Associates, Inc., dated September 8, 2023, Stamped and Signed by Joseph T. Porter, PLS
- Topographic Site Plan, Newton, Massachusetts Showing Proposed Conditions at #109 Harwich Road, Sheet 1 of 2, Scale 1" = 10', prepared by VTP Associates, Inc., dated September 8, 2023, Stamped and Signed by Joseph T. Porter, PLS and Marc Besio, PE
- Details, Newton, Massachusetts Showing Proposed Conditions at #109 Harwich Road, Sheet 2 of 2, Scale NTS, prepared by VTP Associates, Inc., dated September 8, 2023, Stamped and Signed by Joseph T. Porter, PLS and Marc Besio, PE

Plan Revisions

- Any required or desired changes to the above approved plans shall be requested via new proposed plans and a memo indicating all proposed plan changes. Relatively minor changes resulting in the same or decreased impacts may be administratively approved. If the project purpose or scope changes substantially, the Commission may require an amended OOC or new Notice of Intent.
- The Newton Conservation Commission retains the right to require the submittal of additional information or impose additional conditions deemed necessary to ensure the protection of wetland resource areas.

Jurisdiction and Reasons for Approval (Impact Analysis)

- Buffer Zone: The site is already extensively developed with a house and lawn on what is clearly a man-made plateau of fill above the subject wetland. The house will increase in size, but no hardscape is proposed within the 25-Foot Naturally Vegetated Buffer Zone and the project will not alter grades or the extent of the plateau. The mitigation measures proposed and the conditions imposed by the Conservation Commission will limit potential impacts on wildlife (e.g., light, noise, and waste) and improve stormwater quality (by virtue of the infiltration system), thereby protecting the functions and values of the wetland.

Limit of Work: The sediment control line shall be the limit of work, but for work in the mitigation planting area.

Findings and Conditions of the Newton Conservation Commission
DEP #239-0963, 109 Harwich Rd, teardown/rebuild single-family home

Work shall be immediately halted on the site if an Agent of the Commission or DEP determines that any of the work is not in compliance with this Order of Conditions or Special Conditions.

Responsibility: Should any damage occur during the project, the applicant or any successor shall be responsible for the full cost of restoration of the wetland to the satisfaction of the Commission.

In case of emergencies, problems, or questions, contact: Jennifer Steel: 617-796-1134.

Findings and Conditions of the Newton Conservation Commission
DEP #239-0963, 109 Harwich Rd, teardown/rebuild single-family home

Site-Specific Conditions Prior to the Start of Work

21. Revised civil plans must be submitted to the Conservation Office for review and approval including:
 - a. A dewatering plan designed to limit and control any adverse impact on the wetlands resource area.
 - b. A concrete washout plan designed to limit and control any adverse on the wetlands resource area.
 - c. Entrenched sediment fence instead of the compost sock. Where tree roots are to be protected, the sediment fence shall not be entrenched, but shall be anchored with compost sock.
 - d. A note requiring over-digging of the the infiltration area prior to installation of the infiltration stone and chambers to address the compaction associated with construction.
 - e. Tree protection for trees to remain that is enlarged and strengthened with mandatory 8" of wood chips and plywood.
22. A revised planting plan must be submitted identifying the size of trees to be installed.

Conditions Prior to the Start of Work

23. Prior to the start of any building, ground, or vegetation disturbance on the site, to ensure that the plans that will be executed have been approved by the Conservation Office, a pdf of the final construction civil and landscape plans and a memo enumerating every/any change from the approved plans referenced in this Order must be submitted to the Conservation Office via the NewGov system. The Conservation Office will review and approve the changes if/as appropriate.
24. The applicant must schedule and attend a pre-construction site visit with the applicant, construction supervisor and Conservation agent, to review and provide the following.
 - a. A signed Certificate of Understanding (attached to the Order of Conditions cover letter).
 - b. Contact information (for working and non-working hours) for those responsible for site compliance.
 - c. The anticipated timeline.
 - d. Proof of Recording the Order (Note: the proof of recording must be submitted to the Conservation Office through the City's online permitting system.)
 - e. DEP File number sign (minimum size 2'x2', clearly visible from the street)
 - f. Sedimentation/erosion controls (properly installed in the correct locations)
 - g. Protection of all trees and shrubs that are due to remain within the limit of work and as necessary outside the limit of work. This may include orange snow fence installed at the dripline, mulch and plywood sheets over the roots, and/or boards tied to the trunk.
25. To ensure broad understanding of and compliance with this Order, the applicant must:
 - a. Ensure that all personnel performing the permitted work are aware of the permit's terms and conditions.
 - b. Include this document in all contracts, subcontracts, and specifications associated with the proposed work. Thereafter, the contractor will be held jointly liable for any violation of this Order.

Site-Specific Conditions During Work

26. The mitigation planting plan must be installed as per the plans and:
 - a. Be designed and maintained to replicate to the maximum extent practical a diverse ecological system, provide habitat for native species, and keep invasive species in check.
 - b. Include 10 native trees
 - c. Include 46 native shrubs
 - d. Existing leaf litter must be used to mulch the plantings to minimize aggressive weed growth.
 - e. Include bounds, as shown on the plans, with bounds that: (1) are 1" capped iron pipe or 4"x4"x36" stone or concrete post, (2) have instructive language regarding the required protection, (3) have at least 6" maintained above grade, and (4) are placed at every boundary corner and never more than 20 feet apart.
27. If either of the trees intended to be protected within the project area die within 2 years of the start of construction as a result of the construction or have been demonstrably harmed by construction activities, they shall be replaced at a ratio of 2:1 with native canopy saplings (of roughly 2 caliper inches).
28. If the street tree dies or is demonstrably harmed as a result of the sidewalk replacement work, the applicant shall be replaced with a 2" native canopy tree approved by the City Tree Warden.

Conditions During Work

29. A copy of the approved plans and Order of Conditions shall be always on-site and available. All contractors must adhere to the approved plan and conditions.
30. Erosion controls:
 - a. Erosion controls must be inspected and maintained during construction; any breach shall be remediated.
 - b. An adequate supply of extra erosion control materials shall be stored on-site.
 - c. City streets shall be kept clean and catch basins in the immediate area shall be protected from sediment.
 - d. Erosion control shall remain in place until the Conservation Office provides written authorization for removal.
31. "Good housekeeping practices" shall be implemented at all times, including:
 - a. appropriate limits to stormwater discharges
 - b. appropriate stockpile area management
 - c. appropriate limits to vehicle refueling, washing, etc.
 - d. appropriate litter management
 - e. appropriate controls for tire tracking
32. The Applicant must inform the Commission of any violation of this Order and any other project related spill or accident that may impact wetland resource areas as soon as possible and at least by the end of the business day and must take appropriate action to mitigate impacts from such spill or accident.

Site-Specific Perpetual Conditions (they shall not expire upon the issuance of a Certificate of Compliance)

33. To protect the water quality of area wetlands, fertilizers shall be of low-nitrogen content and be used in moderation.
34. To protect the full suite of benefits of area wetlands, wildlife, and native insects and pollinators, no pesticides shall be used.
35. To protect wetland wildlife, exterior lighting shall:
 - a. be "dark sky" compliant -- i.e., shielded to prevent any "up-lighting" and "backlighting", focused, and directed so as not to illuminate any part of the wetland.
 - b. have limited blue content to decrease skyglow and disruption of diurnal animals
 - c. be switched off when not in active use
 - d. not exceed the illumination shown on the approved photometric plan sheet

Conditions After Work has been Completed

36. No Certificate of Occupancy shall be approved by Conservation without written approval from the Conservation Office or a Certificate of Compliance.
37. The applicant must apply for a Certificate of Compliance in accordance with DEP Condition #12, by submitting:
 - a. A completed "Request for Certificate of Compliance (WPA Form 8A)."
 - b. An as-built plan signed and stamped by a professional engineer and/or land surveyor registered in Massachusetts. This plan must include all structures, hardscape, grading (topography), mature trees, landscape features and plantings.
 - c. A written statement from a Professional Engineer registered in Massachusetts certifying that the work has been completed in substantial compliance with this Order of Conditions and the approved plans referenced herein (or approved revisions). If the completed work differs from that in the approved plans and conditions, the report must specify how the project differs.
 - d. As-built plan and letter from a landscaper certifying compliance with the approved planting scheme.

74 Bowen St

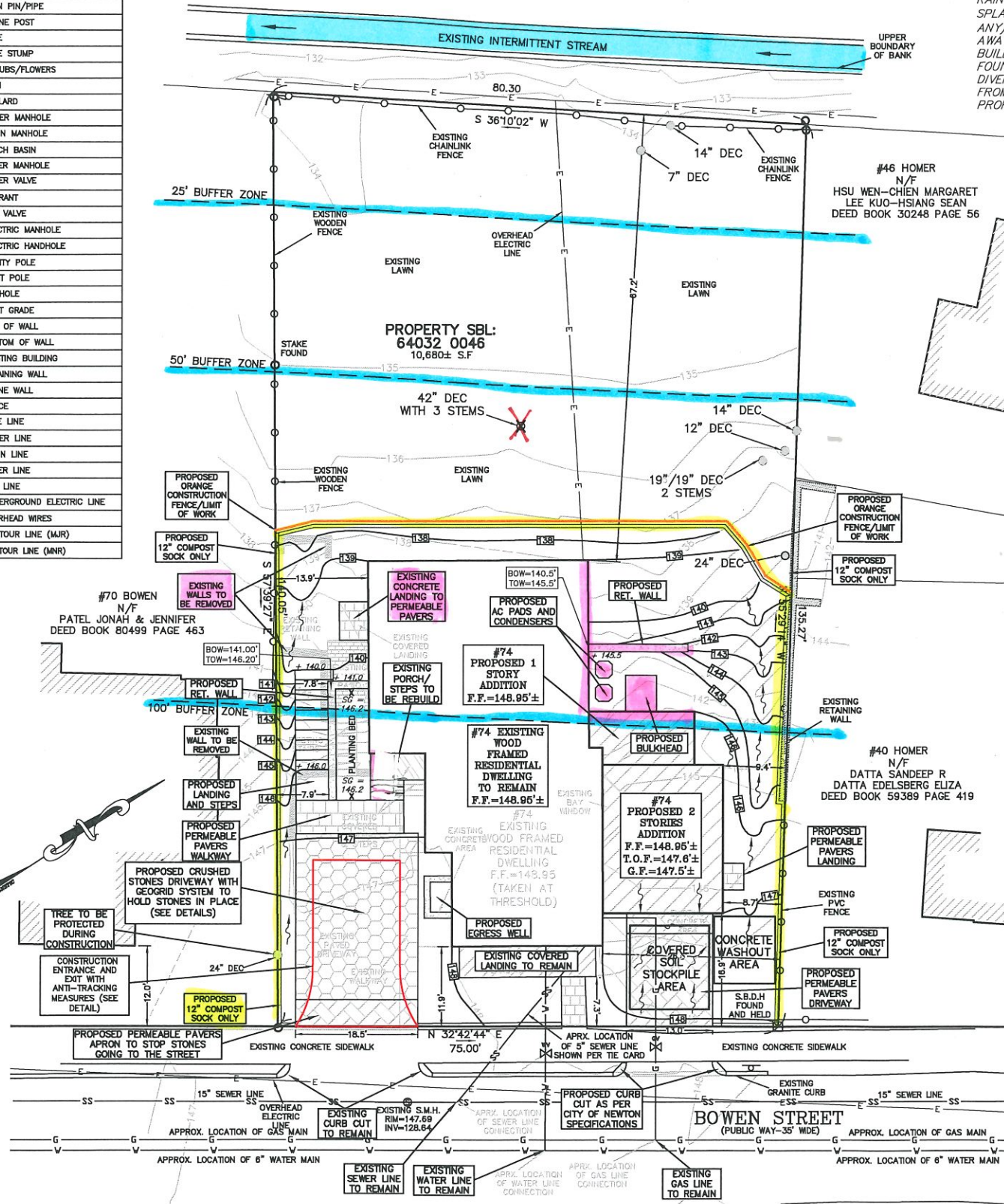


LEGEND

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[Symbol]	BOTTOM OF WALL
[Symbol]	EXISTING BUILDING
[Symbol]	RETAINING WALL
[Symbol]	STONE WALL
[Symbol]	FENCE
[Symbol]	TREE LINE
[Symbol]	SEWER LINE
[Symbol]	DRAIN LINE
[Symbol]	WATER LINE
[Symbol]	GAS LINE
[Symbol]	UNDERGROUND ELECTRIC LINE
[Symbol]	OVERHEAD WIRES
[Symbol]	CONTOUR LINE (MJR)
[Symbol]	CONTOUR LINE (MNR)

N/F
CITY OF NEWTON
PLAYGROUND DEPT

NOTE: TO ENSURE RAIN WATER SPLASH ANY) IS AWAY FROM BUILDING FOUNDATION DIVERTED FROM NEAR PROPER

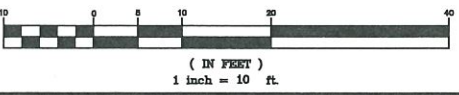


NOTE: CONTRACTOR TO ENSURE THAT THE BUILDING FOOTPRINT REPRESENTED ON THIS PLAN IS THE SAME AS THE PROPOSED ARCHITECTURAL /STRUCTURAL PLANS AND INCORPORATES ALL OVERHANGS, CANTILEVERS AND ANY COMPONENT THAT IS SUBJECT TO ZONING RESTRICTIONS. IF THIS IS FOUND NOT TO BE THE CASE THE CONTRACTOR MUST CONTACT THE ENGINEER /SURVEYOR AND REQUEST A REVISED PLAN WHICH MUST BE RESUBMITTED TO I.S.D. CITY OF NEWTON

NOTE: ANY PROPOSED RETAINING WALL GREATER THAN 4- FEET IN HEIGHT NEED TO BE DESIGNED BY A STRUCTURAL ENGINEER AND APPROVED BY THE INSPECTIONAL SERVICES DEPARTMENT.

NOTE: ANY PROPOSED RETAINING WALLS SHALL BE DESIGNED BY OTHERS.

GRAPHIC SCALE



ZONING LEGEND

ZONING DISTRICT: SINGLE-RESIDENCE 2 (SR2) (LOT CREATED BEFORE 12/01/1953)

	REQUIRED	EXISTING	PROPOSED
MIN. AREA	10,000 S.F.	10,680± S.F.	10,680± S.F.
MAX LOT COVERAGE	30%	17.09%	21.73%
MIN OPEN SPACE	50%	75.02%	68.37%
MIN. FRONTAGE	80'	75'	75'
FRONT (MIN)	25' (ZONING)	7.3'	15.2'
	11.8' (AVERAGE)		
SIDE (MIN.)	7.5'	13.9'	8.7'
REAR (MIN)	15'	67.2'	67.2'
MAX. BLDG. HEIGHT	36'	34.07±	32.44±

NOTE: SPRUHAN ENGINEERING, P.C., ACCEPTS NO LIABILITY FOR GROUND WATER OR OTHER SURFACE WATER IN BASEMENT

NOTE: ANY PROPOSED RETAINING WALL IN SETBACK SHALL NOT EXCEED 4 FEET IN HEIGHT IN REFERENCE TO EXISTING GRADES.



Ruthanne Fuller
Mayor

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Barney S. Heath
Director

Sept 21, 2023

Bowen Street Investments LLC
Haim Senior
275 Grove St, Ste 2-400
Auburndale, MA 02466

RE: 74 Bowen St, Determination of Applicability, approval for garage and home accessories in outer Buffer Zone

Dear Haim,

Enclosed is the Newton Conservation Commission's Determination of Applicability under the Wetlands Protection Act, MGL Ch. 131, s. 40 and the Newton Floodplain/Watershed Protection Ordinance, Section 22-22. The Determination is "Negative-Conditional", i.e., the Commission has determined that **by following the referenced plan(s) and conditions, no adverse alteration of the wetland resource area will occur and no further wetland filing is needed.**

Project summary (Work within the 100' Buffer Zone):

- The portion of an addition and grading and landscaping that are within the Buffer Zone
- The removal of a large tree from within the Buffer Zone

Approved plans

- "Proposed Zoning, Layout and Materials, 74 Bowen Street, Newton, MA," Sheet 2 or 4, Scale 1" = 10', prepared by Spruhan Engineering, P.C., dated September 7, 2023, Signed and Stamped by Christopher C. Charlton, PLS and Edmond T. Spruhan, P.E.
- "Civil Plan, 74 Bowen Street, Newton, ma ," Sheet 3 or 4, Scale 1" = 10', prepared by Spruhan Engineering, P.C., dated September 7, 2023, Signed and Stamped by Christopher C. Charlton, PLS and Edmond T. Spruhan, P.E.

Conditions

- Erosion controls must be properly installed and maintained.
- The swale near the southern property line must be executed as shown on the plans to ensure that no runoff leaves the site
- The removal of the large mature tree must be mitigated with the installation of ___ native canopy saplings (of 1.5 caliper inches) and ___ native shrubs planted near the rear of the property (as per a plan to be submitted to the Conservation Office for review and approval) on or before ____.

If you have any questions regarding this Determination, please contact me.

Sincerely,

Jennifer Steel

Jennifer Steel, Chief Environmental Planner

CC: Wetlands Division, DEP – NERO

CONSERVATION COMMISSION MINUTES

Date: Thursday, September 7, 2023

Time: 7:02 – 9:13 pm

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

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

Members Present: Dan Green (Chair), Susan Lunin (Vice-Chair), Ellen Katz, Judy Hepburn (note: a power outage caused J. Hepburn to miss the meeting from 8:35-8:55), Jeff Zabel, Sonya McKnight (Associate Member)

Members Absent: Leigh Gilligan, Kathy Cade

Staff present: Jennifer Steel, Ellen Menounos

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

UPDATES

A. CONSERVATION AREA UPDATES

1. Webster Woods -- informational presentation and discussion

- Owner/Applicant. City of Newton (due to be Conservation Commission)
- Representatives. Andrew Lee (Law Department)
- Request. Have the Commission receive a summary of the docket item regarding a Confirmatory Deed that corrects the boundaries and area of land taken by eminent domain.
- Summary. The eminent domain taking protected all the land at the rear of 300 Hammond Pond Parkway, as intended, but the acreage of that land is less than originally thought.
- Documents in packets. Docket item, survey plan
- Additional documents presented at meeting. none
- Presentation and Discussion.
 - Andrew Lee summarized the situation for the Commission.
 - In 2019, the City took the rear portion of 300 Hammond Pond Parkway for conservation purposes. They relied on the metes and bounds and survey commissioned by Boston College (BC) (then the owner) and recorded at the South Middlesex Registry of Deeds.
 - The eminent domain taking protected all the land intended to be protected. The City thought that in so doing it was taking 17.4 acres.
 - The City discovered that the original survey was incorrect. A new survey corrected the metes and bounds and determined that 14.7 acres were actually taken - 2.7 fewer acres than stated in the original survey. Roughly 2.9 acres shown on the original survey is Department of Conservation and Recreation land (i.e., already protected) and roughly 0.2 acres shown on the original survey is land associated with the Cohen Conservation Area (also land already protected).
 - The Mayor has asked City Council (first via a standing committee) to sign the Confirmatory Order of Taking (clarifying the record title) and then have it recorded.



Mayor

Ruthanne Fuller

Director

Planning &

Development

Barney Heath

Chief

Environmental

Planner

Jennifer Steel

Assistant

Environmental

Planner

Ellen Menounos

Conservation

Commission

Members

Kathy Cade

Dan Green

Judy Hepburn

Ellen Katz

Susan Lunin

Jeff Zabel

Leigh Gilligan

Associate

Member

Sonya McKnight

Contact

Information

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- Lunin (a member of the Community Preservation Committee) asked if there was confidence in the new survey. Lee responded affirmatively.
- Steel asked if this would have any bearing on the pending litigation. Lee noted that he is not involved with the litigation about the value of the land.

DECISIONS

B. WETLANDS DECISIONS

2. Newton Conservation Areas -- OOC Extension – trails OOC -- DEP #239-708

- Owner/Applicant. Newton Conservation Commission and Newton Parks Recreation & Culture Department
- Representatives. Jennifer Steel, Conservation Staff
- Request. Extend the OOC
- Project Summary. This OOC allows for routine trail maintenance and improvement.
- Documents in packets. Special conditions from the OOC.
- Additional documents presented at meeting. None
- Presentation (staff) and Discussion.
 - Staff think it prudent to extend this OOC to facilitate routine maintenance and Eagle Scout projects.
 - Hepburn asked about the requirement to side-cast cut wood and branches in light of the many new invasive insects. The Commission noted their understanding of the concern, but rather than amend the Order of Conditions, opted to ask staff make a note for the file stating that if invasive insects are known to be present, staff will ensure that proper off-site disposal is undertaken.
- Vote to approve a 3-year extension. [Motion: Katz. Second: Zabel. Roll-call vote: Katz (aye), Zabel (aye), Green (aye), Lunin (aye), Hepburn (aye). Vote: 5:0:0.]

3. 149 Pleasant St – OOC Extension Request – Solar canopy over Mason Rice School Parking Lot – DEP File #239-844

- Owner/Applicant. City of Newton, Public Buildings Department
- Representatives. Bill Ferguson
- Request. Issue a 3-yr OOC extension to allow the project to proceed, if possible.
- Project Summary. At Mason Rice Elementary, install two solar canopies supported by columns, install new electrical conduits to connect the canopies to the grid with associated trenching, remove 2 trees, plant 29 trees in the adjacent Newton Center Playground area.
- Documents in packets. Site plan
- Additional documents presented at meeting. Request letter from Bill Ferguson
- Jurisdiction. RFA, BZ
- Presentation (staff) and Discussion.
 - This site (one site of many canopy installations) has been indefinitely postponed due to price increases and contract challenges.
 - The City still hopes to install a solar canopy at this site and is working with a new vendor who may be able to start construction within the coming year.
- Vote to approve a 3-year extension. [Motion: Zabel. Second: Lunin. Roll-call vote: Katz (aye), Zabel (aye), Green (aye), Lunin (aye), Hepburn (aye). Vote: 5:0:0.]

4. 145 Warren St – OOC Extension Request – Renovations to existing SFH and construction of 4 new units -- DEP #239-0882

- Owner/Applicant. David Oliveiri, Civico Development
- Representatives. Michael Pace, Sustainable Comfort

- Request. Issue a 3-yr OOC extension
- Project Summary. Expansion of SFH into 5 attached units
- Documents in packets. Highlighted plans
- Additional documents presented at meeting. None
- Jurisdiction. Buffer Zone
- Presentation (staff) and Discussion.
 - The applicant recently requested an OOC re-sign. At that time, the staff site visit noted some issues of non-compliance. The property has since been brought into compliance and conditions requiring: (1) grubbing of the unpermitted stumps, (2) adding two native canopy saplings to the planting area, and (3) restoring the soils prior to plant installation were added to the re-issued OOC.
 - The permit is due to expire 2/22/2024, construction is still underway, and none of the required mitigation plantings have been installed, so an extension is necessary. Time is required to allow for completion of the construction and survival of the mitigation plantings.
- Vote to issue a 3-yr OOC extension. [Motion: Katz. Second: Lunin. Roll-call vote: Katz (aye), Zabel (aye), Green (aye), Lunin (aye), Hepburn (aye). Vote: 5:0:0.]

5. 56 Greenwood St – landscaping and utilities for a SFH – COC Request -- DEP #239-0768

- Owner/Applicant. Gene Spivak
- Representatives. None
- Request. Issue a COC
- Project Summary. The house was significantly renovated, a new front walkway was installed, the driveway was reconstructed, and utilities were installed.
- Documents in packets. Comparison of approved and as-built plans
- Additional documents presented at meeting. Site photos
- Jurisdiction. BZ
- Presentation (staff) and Discussion.
 - Staff noted the following facts.
 - Only the “front right corner” of the property is within Con Com jurisdiction (Buffer Zone).
 - The OOC is due to expire in January 2024 (the applicant already received one 3-yr extension and the “COVID bump”).
 - The approved plans required more trees to the right of the house, less hardscape, and replacement of the street tree.
 - The surveyor’s as-built plan shows hardscape, but not jurisdictional wetland line or plants.
 - Katz noted that the shrub in the front is ailing (likely an amalanhier with cedar-apple rust).
 - Commissioners felt that the owners should install all required plants and that the plants must survive 2 years. They noted that a permit extension would be necessary.
- Consensus. Do not issue a COC at this time. Staff will contact the owner and note:
 - The expanded hardscape was not approved by the Commission.
 - 6 arbor vitae and 3 hornbeams must be planted as per the approved plans.
 - A native maple must be installed along the street (or in the owner’s front yard) as per the approved plans.
 - The owner must seek an extension of the Order of Conditions to allow the plants to be installed and thrive for 2 years.

6. 288 Mill St – OOC Extension Request – additions, walls, plantings – DEP #239-0888

- Owner/Applicant. Erik (Ned) Nedeau and Lisa Sampson

- Representatives. Self
- Request. Extend OOC to allow for installation and survival of the required mitigation plantings
- Project Summary. The addition at the rear of the house was completed by the prior owners, but the mandatory 770 sf of mitigation planting and corrective grading at the rear fence line were outstanding.
- Documents in packets. None
- Additional documents presented at meeting. Original approved plans, staff-created proposed planting plan, site photos
- Jurisdiction. RFA, BZ
- Presentation (staff) and Discussion.
 - At the 7/27/23 meeting the Commission reviewed recent site visit photos. Staff issued a status letter before the property was sold indicating the need for an extension and compliance.
 - The new owner stated that he had pulled back much of the recent fill from the fence and in so doing had created a rock-line-defined area in which he wanted to install the mitigation plants. He also noted that he had loamed portions of the back yard. He submitted a series of preliminary mitigation planting plans that staff reviewed and revised.
 - Green summarized the Riverfront Area mitigation regulations, the intention of those regulations, and the Commission's Mitigation Planting Policy.
 - Staff presented a sketch of a more-or-less rectangular mitigation planting area at the rear of the site that would comply with the Commission's Mitigation Planting Area Guidelines. The owner was not apparently enthusiastic about it. He opted to consider the Commissioners' comments and provide a revised planting plan in advance of the coming meeting.
 - Staff noted that the owner's proposed selection of shrubs and groundcovers was mostly fine (though some species would like more moisture than the site will provide) and that he could purchase the stock now with the anticipation of planting this fall, weather permitting, and a planting plan was approved.
- Consensus. Await a revised planting plan from the owner.
- Vote to issue a 3-year OOC extension. [Motion: Lunin. Second: Katz. Roll-call vote: Katz (aye), Zabel (aye), Green (aye), Lunin (aye), Hepburn (aye). Vote: 5:0:0.]

7. 148 Pine Street – COC Request – demolition of existing duplex and construction of 3 single-family homes – DEP File #239-856

- Owner/Applicant. Vincent Mastroianni
- Representatives. None
- Request. Issue COC
- Project Summary. Demolish existing duplex and construct 3 single-family homes
- Documents in packets. Approved plan
- Additional documents presented at meeting. None
- Jurisdiction. Buffer Zone and City Flood Zone
- Presentation (staff) and Discussion.
 - All required paper work was submitted and a staff site visit confirmed complete compliance.
- Vote to issue a COC. [Motion: Zabel. Second: Katz. Roll-call vote: Katz (aye), Zabel (aye), Green (aye), Lunin (aye), Hepburn (aye). Vote: 5:0:0.]

8. 16 Grace – COC Request – tear down rebuild SFH – DEP File #239-837

- Applicant. Craig Halajian, developer and Peter Nolan, engineer
- Representatives. None
- Request. Issue COC

- Project Summary. Tear-down/rebuild SFH
- Documents in packets. Approved site/planting plan
- Additional documents presented at meeting. As-built plan and site photos
- Jurisdiction. Riverfront Area
- Presentation (staff) and Discussion.
 - Only the “front right corner” of the lot (the driveway and some of the front yard) are in ConCom jurisdiction
 - This project was not constructed according to the approved plans, but the engineer and City officials failed to catch the deviations earlier in the process.
 - The developer chose to expand the driveway with a large area of pavers and a paver walkway, but never received permission from the Conservation Office.
 - Newton Engineering approved the modified plans (i.e., plans showing an expanded driveway/paver area)
 - ISD issued a temporary Certificate of Occupancy.
 - A site engineer issued an as-built plan (stamped by Peter Nolan) that did not comport with the approved plan.
 - A site engineer issued a letter (stamped by Edmond Spruhan) stating substantial compliance with the OOC had been achieved.
 - Based in part on the engineer’s letter of substantial compliance, Conservation staff issued a status letter stating that “The site appears to be in substantial compliance with that permit, the approved plans, and all special conditions.” And “The only outstanding condition at this time is the two-year survival requirement for the required plantings”.
 - The site was due to have had 127 sf of net new hardscape in RFA. It now has 1209 sf of net new hardscape in RFA.
 - The site was due to have had 1 Japanese maple, 1 arbor vitae, 3 hollies, 13 inkberries, and 130 sf of perennials in RFA. The site now has 1 ornamental deciduous tree, 8 spruce, 2 hydrangea, 2 inkberries, and 0 sf perennials. The front yard is now turf.
- Consensus.
 - Commissioners felt that since the developer built more than was approved and the site engineer misrepresented “substantial compliance”, the developer and site engineer should be asked to propose a solution that will ensure that the site complies with the wetland regulations. That proposal could then be presented to the homeowner. Because of the City’s administrative errors, the Commission said that it would consider a plan other than the approved plan (e.g., one that might locate some of the required native plants just outside the Riverfront Area), but that the Riverfront Area requirements must be upheld.

9. 5 Wyoming St – Work Never Initiated COC Request – Addition to existing SFH – DEP File #239-853

- Owner/Applicant. Bill Farnsworth
- Representatives. None
- Request. Issue COC
- Project Summary. Addition to existing SFH
- Documents in packets. None
- Additional documents presented at meeting. None
- Jurisdiction. RFA
- Staff Notes. A staff site visit confirmed that no work had occurred on the site
 - Staff has not yet conducted a final site visit.

- Vote to issue a COC. [Motion: Lunin. Second: Zabel. Roll-call vote: Katz (aye), Zabel (aye), Green (aye), Lunin (aye). Vote: 4:0:0.]

C. CONSERVATION AREA DECISIONS – none at this time

D. ADMINISTRATIVE DECISIONS

10. Minutes to be approved

- Documents in packets. Draft 8/17/2023 minutes
- Vote to approve the 8/17/2023 minutes [Motion: Zabel. Second: Katz. Roll-call vote: Katz (aye), Zabel (aye), Green (aye), Lunin (aye), Hepburn (aye). Vote: 5:0:0.]
- Katz volunteered to review the 9/7/2023 minutes.

E. ISSUES AROUND TOWN DECISIONS – none at this time

UPDATES / DISCUSSION

F. WETLANDS

G. CONSERVATION AREAS

- Mark Lewis, beekeeper at Old Deer Park. Mark had a good year with his bees. He will need to renew his license to operate. He received the results of the honey and pollen tests, identifying the species of flowers that his bees are feeding on; staff will share the report with the Commission.
- Vandalism at Norumbega Conservation Area. Staff apprised the Commission of the recent fire, beer can litter, and tree uprooting event that occurred at the top of the recently restored slope of Norumbega. Police have been undertaking some patrols, have used drones, and will approach neighbors. Kathy Cade has sent a message to the local FaceBook group seeking information. Staff will look into security cameras that are well-camouflaged.
- Conservation Area Trailhead Signs
 - Issue. New 16”x 24” signs are nearing completion and will be sent for fabrication soon.
 - Documents in packets. Pdf of example sign.

H. ADMINISTRATIVE MATTERS

- The Commission as a resource (rather than a purely regulatory body). Staff introduced the notion that the Commission tends to focus on reacting to wetland permits; it could strive to become more of a voice of environmental protection and undertake more diverse proactive efforts. Staff asked that Commissioners consider what efforts they might like to take on, such as the following.
 - Public outreach, public education materials, and policies, e.g.:
 - Meaningful environmental restoration, e.g., Lasell Pond
 - Norway maples
 - Sprinklers with sensors
 - Rodenticides
 - Flooding
 - Providing project-inspired advocacy-oriented information, e.g.,
 - Artificial turf
 - Dam removal
 - Conservation Area management
 - Environmental restoration
 - Public education (kiosks at Dolan, Norumbega, Houghton)
 - Addressing off-leash dogs and mountain bikes

- Coordinating with Scouts
- Committee Liaison Updates
 - Newton Commonwealth Golf Course Foundation – New buildings are being planned.
 - Community Preservation Committee – The bid for reconstructing Gath Pool came in higher than hoped, so portions of the Albemarle fields project may be scaled down or postponed.
 - Farm Commission – No updates at this time.

ISSUES AROUND TOWN – none at this time

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

ADJOURN Vote to adjourn at 9:13 [Motion: Hepburn. Second: Zabel. Roll-call vote: Katz (aye), Zabel (aye), Green (aye), Lunin (aye), Hepburn (aye). Vote: 5:0:0.]

Newton Conservation Commission Policy

Apiaries on Newton Conservation Land

Approved March 11, 2021. Revised August 26, 2021

Background and Purpose

The Newton Conservation Commission must balance the sometimes-competing interests of passive activities, educational efforts, and healthy native ecosystems in its open spaces. One such balance is between maintaining healthy populations of native pollinators while allowing beekeepers to maintain a reasonable number of hives on Conservation parcels. A few honeybee hives on public land may provide ecological and educational benefits; however, a high intensity of beekeeping may crowd out native pollinators in a dense suburban context such as we have in Newton. Carefully balancing these considerations, the Conservation Commission may grant licenses to Newton residents who wish to establish honeybee hives on Conservation land. This policy provides a framework by which the Conservation Commission may evaluate such applications.

Licensing

A license for a small apiary on conservation land may be granted to a hobbyist beekeeper. A license for a larger apiary may be granted if there is a public purpose that is ecological, scientific, or educational. To facilitate planning and oversight, the Commission requires all licensed beekeepers to come before the Commission annually (usually in the summer) to give status updates and discuss their interests in for applying for license renewals.

Applicability

This policy applies to land managed by the Conservation Commission under the Conservation Commission Act (MGL Ch. 40 §8C), not to other public land or to private property.

Definitions

Apiary – a location with one or more colonies of honeybees in proximity

Beekeeper – a person who owns or has charge of one or more colonies of honeybees.

Beekeeping – the establishment and maintenance by a person or group of an apiary

Colony – an aggregate of honeybees consisting principally of workers, but having, when perfect, one queen and, seasonally, drones, brood (eggs, larva, pupae), combs, honey, and the receptacle inhabited by the honeybees

Dead out – a hive in which the entire bee colony has died

Flyway – flight path of honeybees when they leave and return to the entrance of their hive.

Hive or Beehive – the man-made structure which contains one (1) colony of honeybees

Honeybee – all life stages of the domestic honeybee, *Apis mellifera*

Licensed Beekeeper – A Beekeeper with a license to establish an apiary on conservation land.

Nuc – abbreviation of **nucleus colony**; a partial hive used as a temporary holding area, such as when splitting a colony to prevent swarming.

Requeening – to replace the queen of a colony.

Robbing – the pilfering of honey from a weak colony by other honeybees or insects.

Super – an individual component of hive; generally, a box made of wood or plastic in which honeybees build out honeycomb frames for brood or honey storage

Swarming – natural proliferation of honeybees by the division of one colony into two or more colonies and the search of the new colony for shelter

Temporary – 90 days or less

Hobbyist Apiary

A Newton resident may wish to establish a small apiary on conservation land because their home is not a suitable venue for beekeeping. In that case, the Conservation Commission may license a hobbyist apiary on conservation land if all of the following conditions are met.

- 1. Eligibility.** (1) The beekeeper is a Newton resident; (2) with at least three years of recent beekeeping experience or the beekeeper will be actively assisted by a mentor with such experience; and (3) the beekeeper does not have any other beehives in the city.
- 2. Application.** The beekeeper must submit to the Conservation Commission a complete application form indicating name, address, phone number, email, sketch plan locating the desired hive(s), and beekeeping experience, with similar information for a mentor if applicable.
- 3. Non-Transferrable License.** Permission shall be granted in the form of a license to a specific beekeeper who is responsible for the apiary, in a specific location. Neither permission nor the license are transferrable to another beekeeper or to another location. The license may be granted for three years and may be renewed at the end of the term. The Commission may revoke permission and remove an apiary from Conservation Land at any time and for any reason.
- 4. Registration and Inspection.** All Licensed Beekeepers must register their beehives with the Massachusetts Department of Agriculture and have their beehives inspected annually by submitting a request to the Massachusetts MDAR Apiary Program.
- 5. Apiary Location.**
 - a. With the application, the beekeeper shall submit a sketch plan showing the approximate location of the hive(s).
 - b. The apiary location shall not be placed within 20 feet of an established trail or other public gathering spot or amenity, shall not interfere with public enjoyment of the conservation land, and shall not be placed within 300 feet of another known beehive.
 - c. All hives will be located at least five feet (5') from the property line of the conservation land.
 - d. If a hive is less than 20 feet (20') from developed land adjacent to the conservation parcel:
 - i. The main hive entrance must face away from the property line; and
 - ii. The beekeeper shall establish and maintain an approved flyway barrier parallel to the property line and extending ten feet (10') beyond the colony in each direction so that bees are diverted to fly at an elevation of at least six feet (6') above ground level over the property lines in the vicinity of the apiary.
- 6. Apiary Design.**
 - a. All bee colonies shall be kept in hives with removable combs.
 - b. A hive, including the attached honey supers, shall not exceed twelve (12) cubic feet.

- c. Size and stability of hives shall not pose a hazard to the beekeeper or the public.
- d. Hives must be installed on sturdy stands so that the bottom board is at least 18 inches above grade.

7. Apiary Installation.

- a. The beekeeper shall meet on site with conservation staff prior to installation
- b. The apiary must be clearly and visibly labeled throughout the year stating the name of the beekeeper(s) and the best contact information. Such signage may include but is not limited to:
 - i. Information painted on the side of the hive and/or
 - ii. A small weatherproof sign atop a short post.
- c. No native vegetation or soil will be disturbed in the establishment or operation of the apiary. No permanent structure or fencing is allowed without permission.

8. Colony Density. The licensed apiary shall comprise no more than two hives year-round. One additional nucleus colony, not to exceed 4 cubic feet, is permitted for a period not to exceed 90 days.

9. Water. When the outdoor temperature is above 50 degrees, the beekeeper shall ensure that a convenient source of water is available to the honeybees so that the honeybees will not congregate at swimming pools, bibcocks, pet water bowls, birdbaths or other water sources where they may cause human, bird or domestic pet contact. The water shall be maintained so as not to become stagnant.

10. Maintenance and Best Practice Requirements.

- a. All Licensed Beekeepers must follow the must the Massachusetts Beekeepers Association Best Management Practices. The Best Management Practices can be found at: <http://www.mass.gov/eea/docs/agr/programs/bmp/bee-bmps.pdf>.
- b. All bee colonies shall be kept in sound and usable condition.
- c. The apiary must be maintained in a clean and sanitary way that does not attract wildlife or pests.
- d. Hives shall be maintained so as to discourage robbing and swarming behaviors. The beekeeper shall ensure that no bee comb or other materials that might encourage robbing are left on the apiary site. Upon their removal from the hive, all such materials shall be promptly removed from the site and disposed of in a sealed container or placed within a building or other bee-proof enclosure.
- e. Where any colony exhibits unusually aggressive characteristics by stinging or attempting to sting without due provocation or exhibits other undesirable "colony temperament", the beekeeper shall immediately seek technical assistance in writing from the MA Dept. of Agricultural Resources Apiary Specialist and will abide by the recommendations of the Specialist, including requeening if necessary.
- f. Dead outs shall be removed expeditiously.
- g. All supers on conservation land must be actively in use in direct support of a living colony. Storage of empty supers and other equipment on conservation land is prohibited.

11. Education and Community Awareness. Much of the information on the internet about beekeeping is inconsistent with best practices, incorrect, or not applicable in New England. Be part of the solution!

- a. All beekeepers, especially new hobbyists, are encouraged to contact the Middlesex County Beekeepers Association for guidance and partnership with a local mentor.
<http://middlesexbeekeepers.org/>
- a. Take advantage of educational opportunities in beekeeping. The Middlesex County Beekeepers Association and Newton Community Education offer classes periodically.
- b. Inform others about the rewards of beekeeping and the behavior of domesticated honeybees. Promote awareness of all pollinators by engaging with such organizations as the Newton Conservators.

12. Prohibitions: The keeping by any person(s) of bee colonies on conservation land in the city, not in strict compliance with these guidelines is prohibited. Any bee colony not residing in a hive structure intended for beekeeping, or any swarm of bees, or any colony residing in a standard or homemade hive which, by virtue of its condition, has obviously been abandoned by the beekeeper, may be summarily destroyed or removed by the Conservation Commission or designee.

Apiary with a Public Purpose

A small apiary on public conservation land may provide ecological and educational benefits to the community without unduly competing with native pollinators; therefore, a two-hive hobbyist apiary on Conservation Land may be allowed as described above.

A Newton resident or group of Newton residents may wish to establish an apiary on Newton conservation land with a public purpose that is ecological, scientific, or educational. The density of such an apiary may be higher than is allowed for a hobbyist apiary, if persuasively justified by the beekeeper and licensed as such by the Commission. Location and density of the apiary will be clearly circumscribed. Such requests will be evaluated by the Conservation Commission on a case-by-case basis, and if approved, will be reviewed annually.

**LICENSE AGREEMENT
BETWEEN THE CITY OF NEWTON AND MARK LEWIS
RELATIVE TO THE DEERPARK POLLINATOR REFUGE AND APIARY**

WHEREAS, the City of Newton (the “City”) is the Owner of a parcel of land commonly known as Deer Park located in the Webster Conservation Area, said parcel being taken by eminent domain by Order of Taking dated December 2, 1968, and shown as Parcel I on a plan of Land dated December 19, 1968, signed by U.M. Schiavone, City Engineer, and recorded with the City’s Engineering Department, (the “Property”);

WHEREAS, the Property is more fully depicted in the plan attached hereto as **Exhibit A**;

WHEREAS, Mark Lewis an experienced beekeeper (“Licensee”), proposes to construct and maintain a Pollinator Refuge and Teaching Apiary on the Property;

NOW THEREFORE, in consideration of the covenants contained herein, be it agreed as follows:

1. The City, acting by and through its Conservation Commission (the “Commission”), without in any way releasing or abandoning its ownership and control of the land known as Deer Park and shown in Exhibit A, hereby grants a license to Licensee to enter upon and maintain the Licensed Area for the purpose of erecting, maintaining and otherwise establishing a Pollinator Refuge and Apiary which shall consist of a habitat of beehives, as more thoroughly detailed below. The Licensed Area is shown on the sketch plan attached hereto as **Exhibit B** (the “Licensed Area”).
2. Licensee agrees to construct and maintain a sand fence upon the Licensed Area for the purpose of enclosing the hives upon an existing concrete slab located in the Licensed Area. Licensee shall bear all costs associated with the construction, maintenance, and removal of the sand fence; and the City shall bear no costs associated with the construction, maintenance, or removal of the sand fence.
3. Licensee agrees to post signs at the trail entrance into the Deer Park noting the presence of beehives. Licensee shall seek and obtain approval for the text, number, size and location of the signs prior to posting.
4. Licensee shall maintain no more than six (6) full-size honeybee hives upon the Licensed Area, unless otherwise agreed upon in writing by the Parties. Licensee shall be responsible for all costs associated with the construction, maintenance, and removal of the hives; and the City shall bear no costs associated with the construction, maintenance, or removal of the hives.
5. Licensee agrees to operate and maintain said hives in full compliance with the “Newton Conservation Commission Policy -- Apiaries on Newton Conservation Land -- Approved March 11, 2021, Revised August 26, 2021” at all times and in all regards, including but not necessarily limited to: (1) Eligibility, (2) Application, (3) Non-Transferrable License, (4) Registration and Inspection, (5) Apiary Location, (6) Apiary Design, (7) Apiary Installation, (8) Colony Density, (9) Water, (10) Maintenance and Best Practice Requirements, (11) Education and Community Awareness, and (12) Prohibitions.
6. Any other or additional activity by the Licensee on the Property may be conducted only with the prior written approval of the Commission.
7. During the term of this License, Licensee releases the City from all claims and suits for damages, injuries, losses and costs by Licensee, his agents and contractors arising out of their presence on the Licensed Area, the maintenance or repair of the concrete slab, or any appurtenances created by Licensee

in connection with the beehives, including the sand fence. Licensee further agrees to indemnify and defend the City against all claims and suits for damages, injuries, losses and costs arising in any way, wholly or in part, out of or caused, wholly or in part, or related in any way to Licensee's activity on the Property.

8. This License Agreement shall be in full force and effect as of the date executed below and shall continue for **three (3) years**.

9. The City may revoke this License without cause on thirty (30) days written notice to Licensee.

10. The City, acting through the Commission, may revoke this license effective immediately for any breach or violation of any material term of this License agreement by Licensee.

11. Should the City revoke this license, the Licensee shall remove the sand fence, bee hives, and any equipment, structures, and/or other items placed in the Licensed Area by the Licensee within seven (7) days of the notice of revocation. If the Licensee fails to complete such removal within the time prescribed, the City may remove any remaining items and Licensee shall be liable for all such removal costs and shall promptly reimburse the City therefor.

11. Nothing contained herein shall limit the rights of the public to enter upon the Property that is not the subject of this License, to the extent and for the purpose(s) permitted by the Conservation Commission.

12. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which, when taken together, shall be deemed to be one and the same agreement. This Agreement may be electronically signed and transmitted, which electronic signature shall be binding on the signing party.

IN WITNESS WHEREOF, the parties have set their hands and seals to this instrument in duplicate originals.

LICENSEE:

Mark Lewis

Date

CITY OF NEWTON: By the Conservation Commission:

s/ Daniel Green, Chair

s/ Susan Lunin, Vice Chair

s/ Katherine Cade

s/ Judith Hepburn

s/ Ellen Katz

s/ Leigh Gilligan

s/ Jeff Zabel

9/28/2023
Date

APPROVAL:

Ruthanne Fuller, Mayor

Date

Approved as to legal form and character:

Assistant City Solicitor

Date