



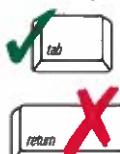
**Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40**

Provided by MassDEP:
438-0706
MassDEP File #
eDEP Transaction #
Westwood
City/Town

A. General Information

Please note:
this form has
been modified
with added
space to
accommodate
the Registry
of Deeds
Requirements

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



1. From: Westwood
Conservation Commission
2. This issuance is for (check one): Order of Conditions Amended Order of Conditions
3. To: Applicant:

Joanne	Delapa
a. First Name	b. Last Name

Delapa Realty Trust
c. Organization

P.O. Box 277
d. Mailing Address

Norwood	MA	02062
e. City/Town	f. State	g. Zip Code

4. Property Owner (if different from applicant):

a. First Name	b. Last Name
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c. Organization

d. Mailing Address

e. City/Town	f. State	g. Zip Code
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5. Project Location:

42 Mill Street	Westwood
a. Street Address	b. City/Town

28	013
c. Assessors Map/Plat Number	d. Parcel/Lot Number

Latitude and Longitude, if known:	42d2090m18s	-71d2396m71s
	d. Latitude	e. Longitude



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A. General Information (cont.)

6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):
Norfolk
- | | |
|--------------|--|
| a. County | b. Certificate Number (if registered land) |
| 14299 | 480 |
| c. Book | d. Page |
7. Dates: a. Date Notice of Intent Filed b. Date Public Hearing Closed c. Date of Issuance
6/25/20 **11/10/21** **11/18/21**
8. Final Approved Plans and Other Documents (attach additional plan or document references as needed):
**PROPOSED SITE PLAN OF LAND LOT 2B - MILL STREET WESTWOOD,
MASSACHUSETTS sheets 1 - 3**
- | | |
|--|--------------------------|
| GLM Engineering Consultants, Inc. | Paul Truax |
| b. Prepared By | c. Signed and Stamped by |
| NOV 2, 2018 rev. 7/3/21 | 1" = 30' |
| d. Final Revision Date | e. Scale |
| sketch plan from peer review consultant and plan showing sq. ft. of disturbance in riverfront area | N/A |
| | g. Date |

B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act:

Following the review of the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act (the Act). Check all that apply:

- | | | |
|---|--|---|
| a. <input checked="" type="checkbox"/> Public Water Supply | b. <input type="checkbox"/> Land Containing Shellfish | c. <input checked="" type="checkbox"/> Prevention of Pollution |
| d. <input checked="" type="checkbox"/> Private Water Supply | e. <input type="checkbox"/> Fisheries | f. <input checked="" type="checkbox"/> Protection of Wildlife Habitat |
| g. <input checked="" type="checkbox"/> Groundwater Supply | h. <input checked="" type="checkbox"/> Storm Damage Prevention | i. <input checked="" type="checkbox"/> Flood Control |

2. This Commission hereby finds the project, as proposed, is: (check one of the following boxes)

Approved subject to:

- a. the following conditions which are necessary in accordance with the performance standards set forth in the wetlands regulations. This Commission orders that all work shall be performed in accordance with the Notice of Intent referenced above, the following General Conditions, and any other special conditions attached to this Order. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.



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B. Findings (cont.)

Denied because:

- b. the proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect the interests of the Act, and a final Order of Conditions is issued. **A description of the performance standards which the proposed work cannot meet is attached to this Order.**
- c. the information submitted by the applicant is not sufficient to describe the site, the work, or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the Act's interests, and a final Order of Conditions is issued. **A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(6)(c).**
- 3. Buffer Zone Impacts: Shortest distance between limit of project disturbance and the wetland resource area specified in 310 CMR 10.02(1)(a) 0
a. linear feet

Inland Resource Area Impacts: Check all that apply below. (For Approvals Only)

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input type="checkbox"/> Bank	a. linear feet	b. linear feet	c. linear feet	d. linear feet
5. <input checked="" type="checkbox"/> Bordering Vegetated Wetland	550 a. square feet	0 b. square feet	700 c. square feet	0 d. square feet
6. <input type="checkbox"/> Land Under Waterbodies and Waterways	a. square feet	b. square feet	c. square feet	d. square feet
	e. c/y dredged	f. c/y dredged		
7. <input type="checkbox"/> Bordering Land Subject to Flooding	a. square feet	b. square feet	c. square feet	d. square feet
Cubic Feet Flood Storage	e. cubic feet	f. cubic feet	g. cubic feet	h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding	a. square feet	b. square feet		
Cubic Feet Flood Storage	c. cubic feet	d. cubic feet	e. cubic feet	f. cubic feet
9. <input checked="" type="checkbox"/> Riverfront Area	24,775 sf. a. total sq. feet	0 b. total sq. feet		
Sq ft within 100 ft	14,475 sf. c. square feet	0 d. square feet	0 e. square feet	0 f. square feet
Sq ft between 100-200 ft	10,300 sf. g. square feet	0 h. square feet	0 i. square feet	0 j. square feet



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B. Findings (cont.)

Coastal Resource Area Impacts: Check all that apply below. (For Approvals Only)

	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
10. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below			
11. <input type="checkbox"/> Land Under the Ocean	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
12. <input type="checkbox"/> Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. <input type="checkbox"/> Coastal Beaches	a. square feet	b. square feet	cu yd c. nourishment	cu yd d. nourishment
14. <input type="checkbox"/> Coastal Dunes	a. square feet	b. square feet	cu yd c. nourishment	cu yd d. nourishment
15. <input type="checkbox"/> Coastal Banks	a. linear feet	b. linear feet		
16. <input type="checkbox"/> Rocky Intertidal Shores	a. square feet	b. square feet		
17. <input type="checkbox"/> Salt Marshes	a. square feet	b. square feet	c. square feet	d. square feet
18. <input type="checkbox"/> Land Under Salt Ponds	a. square feet	b. square feet		
19. <input type="checkbox"/> Land Containing Shellfish	c. c/y dredged	d. c/y dredged		
20. <input type="checkbox"/> Fish Runs	a. square feet	b. square feet	c. square feet	d. square feet
	Indicate size under Coastal Banks, Inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above			
21. <input type="checkbox"/> Land Subject to Coastal Storm Flowage	a. c/y dredged	b. c/y dredged		
	a. square feet	b. square feet		
22. <input type="checkbox"/> Riverfront Area	a. total sq. feet	b. total sq. feet		
Sq ft within 100 ft	e. square feet	d. square feet	e. square feet	f. square feet
Sq ft between 100-200 ft	g. square feet	h. square feet	i. square feet	j. square feet



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B. Findings (cont.)

* #23. If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.5.c (BVW) or B.17.c (Salt Marsh) above, please enter the additional amount here.

23. Restoration/Enhancement *:

a. square feet of BVW

b. square feet of salt marsh

24. Stream Crossing(s):

a. number of new stream crossings

b. number of replacement stream crossings

C. General Conditions Under Massachusetts Wetlands Protection Act

The following conditions are only applicable to Approved projects.

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
 - a. The work is a maintenance dredging project as provided for in the Act; or
 - b. The time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
 - c. If the work is for a Test Project, this Order of Conditions shall be valid for no more than one year.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order. An Order of Conditions for a Test Project may be extended for one additional year only upon written application by the applicant, subject to the provisions of 310 CMR 10.05(11)(f).
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not extend the issuance date of the original Final Order of Conditions and the Order will expire on 11/18/24 unless extended in writing by the Department.
7. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.



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C. General Conditions Under Massachusetts Wetlands Protection Act

8. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.
9. No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to the Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of work.
10. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words,

"Massachusetts Department of Environmental Protection" [or, "MassDEP"]

"File Number 338-0706 "

11. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before MassDEP.
12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
13. The work shall conform to the plans and special conditions referenced in this order.
14. Any change to the plans identified in Condition #13 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
15. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.



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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

17. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.
18. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.
19. The work associated with this Order (the "Project")
 - (1) is subject to the Massachusetts Stormwater Standards
 - (2) is NOT subject to the Massachusetts Stormwater Standards

If the work is subject to the Stormwater Standards, then the project is subject to the following conditions:

- a) All work, including site preparation, land disturbance, construction and redevelopment, shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Construction General Permit as required by Stormwater Condition 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.
- b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that:
 - i. all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures;
 - ii. as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized;
 - iii. any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10;



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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

- iv. all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition;
- v. any vegetation associated with post-construction BMPs is suitably established to withstand erosion.
- c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 18(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMP Operation and Maintenance Plan ("O&M Plan") and certifying the following:
 - i.) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and
 - ii.) the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.
- d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Multi-Sector General Permit.
- e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 18(f) through 18(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 18(f) through 18(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.
- f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.



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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

- g) The responsible party shall:
 - 1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location);
 - 2. Make the maintenance log available to MassDEP and the Conservation Commission ("Commission") upon request; and
 - 3. Allow members and agents of the MassDEP and the Commission to enter and inspect the site to evaluate and ensure that the responsible party is in compliance with the requirements for each BMP established in the O&M Plan approved by the issuing authority.
- h) All sediment or other contaminants removed from stormwater BMPs shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.
- i) Illicit discharges to the stormwater management system as defined in 310 CMR 10.04 are prohibited.
- j) The stormwater management system approved in the Order of Conditions shall not be changed without the prior written approval of the issuing authority.
- k) Areas designated as qualifying pervious areas for the purpose of the Low Impact Site Design Credit (as defined in the MassDEP Stormwater Handbook, Volume 3, Chapter 1, Low Impact Development Site Design Credits) shall not be altered without the prior written approval of the issuing authority.
- l) Access for maintenance, repair, and/or replacement of BMPs shall not be withheld. Any fencing constructed around stormwater BMPs shall include access gates and shall be at least six inches above grade to allow for wildlife passage.

Special Conditions (if you need more space for additional conditions, please attach a text document):

See attached bylaw conditions.

-
-
-
-
20. For Test Projects subject to 310 CMR 10.05(11), the applicant shall also implement the monitoring plan and the restoration plan submitted with the Notice of Intent. If the conservation commission or Department determines that the Test Project threatens the public health, safety or the environment, the applicant shall implement the removal plan submitted with the Notice of Intent or modify the project as directed by the conservation commission or the Department.



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D. Findings Under Municipal Wetlands Bylaw or Ordinance

1. Is a municipal wetlands bylaw or ordinance applicable? Yes No
2. The Westwood Conservation Commission hereby finds (check one that applies):
 - a. that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw, specifically:
Westwood Wetland Bylaw Chapter 392
1. Municipal Ordinance or Bylaw 2. Citation

Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order of Conditions is issued.

- b. that the following additional conditions are necessary to comply with a municipal ordinance or bylaw:
 1. Municipal Ordinance or Bylaw 2. Citation
3. The Commission orders that all work shall be performed in accordance with the following conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, the conditions shall control.
The special conditions relating to municipal ordinance or bylaw are as follows (if you need more space for additional conditions, attach a text document):
see attached bylaw conditions

Denied Plans:

**PROPOSED SITE PLAN OF LAND LOT 2B – MILL STREET WESTWOOD,
MASSACHUSETTS sheets 1 - 3**

Date: November 2, 2018 rev. July 3, 2021

Hearing closed: November 10, 2021

Date Issued: November 18, 2021

FINDINGS:

The Commission has reviewed the Notice of Intent plans and has held three public hearing on the project with 16 continuances (not continued to consecutive meetings). On March 10, 2021 the applicant was required to re-notify the abutters due to the number of requested continuations. Based on the information available, the Commission has determined that the area on which the proposed work is to be done is significant to the following values set forth in Massachusetts Wetland Protection Act and Westwood Wetlands Protection Bylaw, chapter 392:

<input checked="" type="checkbox"/> Public water supply	<input checked="" type="checkbox"/> Flood control	<input type="checkbox"/> Fisheries
<input checked="" type="checkbox"/> Private water supply	<input checked="" type="checkbox"/> Storm damage prevention	<input checked="" type="checkbox"/> Wildlife habitat
<input checked="" type="checkbox"/> Groundwater supply and quality	<input checked="" type="checkbox"/> Prevention of pollution	<input checked="" type="checkbox"/> Erosion and sediment control

Furthermore, this Commission finds that the project is denied and that:

1. The Applicant (Ms. Joanne Delapa) has proposed to construct a single family dwelling and appurtenant structures on the Applicant's +/- 4-acre lot at 42 Mill Street, Westwood, MA. The Applicant has characterized the lot as a "forested lot that is undeveloped" and has described the dwelling to be constructed thereon as a single family home.
2. The +/- 4-acre lot on which the Applicant proposes construction contains Bordering Vegetated Wetland, Bank of Pond, Riverfront Area and Bordering Land Subject to Flooding. The lot is currently completely undeveloped. The area in which the Applicant proposes to construct the principal dwelling is in the front portion of the lot. Most of the house, driveway and clearing are proposed to be constructed within the inner riparian zone. A shared common driveway located on the adjacent property will serve as the primary access to the proposed residence with an individual driveway constructed off of that right of way to service the proposed residence, which is required to access the property. Filling of 550 sq. ft. of wetland is required to construct the individual driveway. The applicant is proposing 700 sq. ft. of replication, which is proposed immediately adjacent to the crossing causing most of the driveway construction within the 10 foot no disturb zone. Directional drilling is proposed along the south side of the driveway to supply the residence with water and sewer. An existing deed agreement prevents the applicant from installing these utilities within the easement. This work is proposed within the wetland and the 10 foot no disturb zone. In total the project would irrevocably alter, by means of occupation of portions of the house, driveway and clearing approximately 26,638 square feet of resource area of which 1,836 is within the 10-foot no-disturb zone.
3. On November 10, 2014 the applicant submitted an Abbreviated Notice of Resource Area Delineation, DEP file #338-0594. The application was reviewed by Brian Donahoe of Goldman Environmental. (See SUMMARY REPORT OF WETLAND EVALUATION & REQUEST

FOR DETERMINATION OF APPLICABILITY 42 MILL STREET, WESTWOOD MASSACHUSETTS dated January 27, 2016. (Attachment A)) In this report Mr. Donahoe sites several inaccuracies with the delineation of the property. On October 28, 2015 the Westwood Conservation Commission denied the Order of Resource Area Delineation on the basis of “inaccurate delineation and incorrect stream determination. The applicant appealed this decision to the Department of Environmental Protection (DEP). On August 25, 2016, DEP issued a Superseding Order of Resource Area Delineation. Within this Order, DEP states the following regarding the impoundment on the property (See Attachment B):

“It is also MassDEP’s contention that the impoundment at 42 Mill Street is a run-of-the river impoundment and has primarily riverine characteristics based on its extremely shallow depth (estimated average depth of about 2 feet), small impoundment size compared with its watershed (341 times smaller than the watershed), the short distance between the brook inlet and the dam outlet (approximately 400 feet) which effectively short-circuits the impoundment; and the 1941 USGS quad shows a channel through a wetland area with no impoundment on the site. Therefore, it is MassDEP’s opinion that the impoundment is subject to the riverfront regulations at 310 CMR 10.58.”

The plan submitted by the applicant (**PROPOSED SITE PLAN OF LAND LOT 2B- MILL STREET WESTWOOD, MASSACHUSETTS** dated November 2, 2018, revised March 10 2021 does not reflect this determination from DEP (which was not contested or challenged by the applicant). Applying DEP’s determination to this plan, much of the development is within the 100-foot inner riparian zone and all of the proposed development is within the 200-foot Riverfront Area. (See Attachment C and D)

4. See attached letter from Kerry Snyder of Neponset River Water shed Association, in which she states that Mill Brook is identified by the Division of Fisheries and Wildlife and therefore, is a critical area for preservation. Ms. Snyder states she has several concerns with the project including the possible significant impact to Mill Brook, the sewer line impacts and environmental and public safety hazards regarding floodplain. (See Attachment E)

5. The Westwood Planning Board agent has given the following comment to the work required on the shared driveway:

The Westwood Town Planner indicated that a Definitive Subdivision was granted in 1969 by the Planning Board but the road and subdivision was never constructed. To develop this lot a new Definitive Subdivision Approval and Shared Driveway Special Permit from the Planning Board is required. However, the Planning Board’s Subdivision Regulations were updated in 2016 to include Section 4.4.7 that says no new ways can be created closer than 40 ft. to any lot line of any lot situated outside the subdivision. This lot cannot meet this requirement due to its shape which narrows where it meets Mill Street. (See Attachment F)

7. This property is currently classified as “unbuildable” and assessed at a value of \$16,000.00 by the Westwood Assessor’s Office due to the wetlands on the site, and has been since its purchase for \$1.00 in April of 2020. (See Attachment G and H)

6. This project was formally heard at the July 8, 2020, October 28, 2020, March 24, 2021, May 5, 2021 and November 10, 2021 Westwood Conservation Commission meetings. The applicant’s representatives, Tim McQuire of Goddard Consulting, LLC was present.

Presentations were made by Mr. McQuire. During the course of the hearing, the primary focus of discussion was the amount of impact to the resource area. The Commission believes the extensive work within the resource area will have a direct impact on the surrounding resource areas. Also discussed were the replication area, the directional drilling, the driveway and the infiltration system. The proposed location of the replication area is a mature wooded area. The Commission believes the infiltration systems may not be effective given the high ground water throughout the site. The Applicant requested that the Commission consider hiring a second peer review consultant to review the project, but the Commission felt this would not change these conclusions, and would therefore be a waste of money for the applicant, and the time of the Commission.

CONCLUSIONS:

Based upon the foregoing findings, the Commission reaches the following conclusions:

1. The Commission has determined that the proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations, specifically 310 CMR 10.55 and 310 CMR 10.58. Therefore, work on this project may not go forward unless or until a new Notice of Intent is submitted which provides measures which are adequate to protect the interests of the Act, and a final Order of Conditions is issued. The Commission believes the proposed plan is too aggressive and will cause direct impact to the surrounding wetland, buffer zone and wildlife habitat. The Westwood Wetland Bylaw requires, at a minimum, a ten foot continuous naturally vegetated buffer strip within the Upland Buffer Zone Resource Area with the aim of minimizing adverse impact to the Resource Area.
2. The Commission concludes the proposed wetlands replication area, standing alone, is not a sufficient basis to permit the proposed alteration and occupation of 550 square feet of wetlands and 26,638 sq. ft. of Resource Area, including portions within 10 and also 35 feet, which receive special protection and consideration under the Town's wetlands by-law. The Commission concludes that replication can appropriately serve in mitigation of wetland impacts that are otherwise being authorized for good and sufficient reasons, however there is always a risk that replication will not be successful and there will be a loss of wetland area and function. In this case the Applicant's proposed replication plans appear to be acceptable mitigation for impacts within the wetland and buffer zone, were the Commission to conclude that such wetland alteration was absolutely necessary in the first place in order to permit a fully described and evaluated activity and to avoid hardship to an applicant that would otherwise be prevented from undertaking such activity. The owner and previous owners have received an very low assessment from the Westwood Assessor's Office due to wetland on this lot. Accordingly, the subject application is denied under both the authority of the Wetlands Protection Act and under the Westwood Wetlands By-law.

NOTE: The Westwood Conservation Commission has denied this project, however the STANDARD CONDITIONS below have been included. In the event there is a Superceding Order issued by the Department of Environmental Protection we would like the following conditions to be considered.

STANDARD CONDITIONS

1. This Order of Conditions applies to the applicant, the owner of the lot described in the Notice of Intent, and the successors and assigns of each. The Conservation Commission shall be notified in writing of any transfer in title to the Land or any change in contractor or developers before the Certificate of Compliance is issued. The notice shall include the name, address, and telephone numbers of the new owner or new contractor or developer, as well as a statement made under the penalties of perjury that the new owner or new contractor or developer has been provided with a copy of this order.
2. This Order shall be included in all construction contracts with contractors and subcontractors dealing with the work proposed and shall supersede all conflicting contract requirements.
3. A copy of this Order of Conditions and applicable plans shall be provided to each company doing work on the site and shall be available on the site at all times during construction.
4. Members of the Westwood Conservation Commission, and/or their designated representatives, shall, at reasonable times, have the right to enter upon and inspect the premises to evaluate compliance with this Order of Conditions.
5. The Applicant or owner shall be liable for any non-compliance with the Conditions of this Order or with any Condition that may survive the issuance of a Certificate of Compliance. The Conservation Commission may assess appropriate penalties for non-compliance with the Order and surviving conditions. This may include a \$300.00 per violation/per day non-criminal penalty issued under the Westwood Wetlands Protection Bylaw, Article 18.
6. A foundation plan shall be submitted **prior** to the start of framing activities on any structure. The plan shall include the location of the resource areas and show the distance between the foundation and the resource areas on site.

Pre-Construction Requirements

7. All work shall conform to the plans referenced above, specifications, and special conditions defined in this Order of Conditions.
8. No work shall commence on site until the following conditions are met.
 - a) All appeal periods have elapsed.
 - b) The applicant records the approved plan and the Order of Conditions at the Registry of Deeds and provides a copy of the recorded plan and Order of Conditions, stamped by the Norfolk County Registry of Deeds to the Conservation Commission.
 - c) The D.E.P. sign is to be placed in a visible location on the site in accordance with State General Condition 10 and remain visible until the Commission issues a Certificate of Compliance. The sign shall be weather proof, no less than Two square feet or greater than Three square feet in size with language as described in Condition. The sign shall be mounted on a wooden or metal post acceptable to the commission.

- d) The Applicant informs the Conservation Commission, in writing, of the names, addresses, and business telephone numbers of each person responsible for supervising the project and for onsite compliance with this Order and his/her alternate.
- e) The Applicant installs erosion control measures at the locations shown on the plan referenced in the Order of Conditions or as directed by the Agent in the field. Only vegetation directly in the path of the erosion control works shall be removed at this time.
- f) Where silt fence and hay bales are used as erosion control measures, the placement of hay bales upon the silt fence flap as a method of backfill or entrenchment is not acceptable. Fifteen covered hay bales shall be kept in reserve on site at all times.
- g) A limit of work line shall be staked in the field by means of a four-foot high fluorescent orange snow fencing supported eight foot on center with standard weight metal agricultural fence posts. The limit of work shall be placed immediately to the rear of the hay bale check dam as indicated on the approved plan or as may be determined by the Commission or their agent in the field. Workers shall be informed that no construction activity beyond that conditioned herein is to occur beyond this line at any time.
- h) The Applicant shall notify the Conservation Commission **in writing** of the Applicant's desire to have the erosion control works and limit of work flagging inspected by the Commission or their Agent.
- i) The applicant shall receive **written approval** of the erosion control installation from the Commission or their Agent.
- j) The applicant shall arrange a pre-construction meeting between the applicant, the General Contractor's site superintendent, and the Conservation Commission. The purpose of this meeting is to review all aspects of the Order, in detail. The Project Supervisor in charge of day-to-day operations on site shall read and sign each page of a copy of the recorded Order. The purpose of this exercise is to insure that each and every Condition has been read and is understood. Questions relative to the meaning or intent of any Condition shall be clarified during the pre-construction meeting.
- k) The applicant shall post an assurance bond by submitting a check to the Conservation Commission made out to the Town of Westwood, in the amount of \$1,000.00. The purpose of the bond is to ensure that the Certificate of Compliance is issued prior to the expiration date of the Order of Conditions. The funds are returned to the applicant when the Certificate is issued. In the event that a Certificate of Compliance is not issued in the prescribed time, the Commission may use the funds to complete the unfinished work.

Only after the Applicant has satisfied the procedural requirements above shall the Applicant be allowed to begin construction.

Erosion Control and Pollution Prevention Measures

9. All erosion control measures shall be maintained in good condition at all times. Deteriorated erosion control measures shall be replaced as required, to maintain effectiveness for sediment interception. The Conservation Commission or their agent reserve the right to require additional erosion and/or damage prevention control at any time they are deemed appropriate. **At no time shall any sediment be deposited in the wetland.**
10. During all phases of construction, disturbed or exposed soil surfaces shall be brought to final finished grade and immediately stabilized. Bare ground that cannot be permanently stabilized within 30 days shall be loamed and seeded or stabilized with mulch.
11. Standard Condition 6 of the State General Order of Conditions relating to the use of clean fill is modified to prohibit the presence of asphalt in any fill used on site.
12. No erosion control measures shall be removed until such removal is allowed by the Commission, or their agent, in writing, or if a Certificate of Compliance issues for the work conditioned herein, whichever comes first.
13. Dewatering of excavation shall be accomplished in the manner described by the attached sedimentation basin design to preclude the discharge of turbid water or sediment into any wetland or undisturbed buffer. The Commission and /or their Agent **must** inspect the sedimentation basin prior to use on site to insure compliance with this condition.
14. There shall be no stockpiling of soil, erodible materials and other debris within 50 feet of any Resource Area without the permission of the Conservation Commission.
15. No materials excavated from any area on the site shall be dumped into any Resource Area or Buffer Zone thereto.
16. During construction of the project, there shall be no discharge of fuel, oil, or other pollutants onto any part of the site. The Applicant shall take all reasonable precautions to prevent the release of pollutants by ignorance, accident, or vandalism. In the event there is a spill on the site, the Applicant shall immediately notify the Conservation Commission and the Board of Health.
17. Equipment fuel storage and refueling operations shall be situated in an upland area at a horizontal distance greater than 100 feet from the boundaries of the wetlands.

Changes in Plans

18. Changes to the approved plans require formal action by the Conservation Commission allowing the change. The Applicant must submit a written request for the Commission to amend the Order of Conditions and a revised plan outlining the changes. If the Commission determines by a majority vote that the changes are significant, the Commission may require a new public hearing, at the expense of the Applicant, to amend the Order of Conditions, or if necessary, issue a new Order.

Denial

19. No work involving the change(s) shall be done until a new or amended Order of Conditions has been issued and all appeal periods have expired. It is the responsibility of the Applicant to make sure that all changes accepted by, or required by, the Conservation Commission are reflected in the plans held by other Town departments.
20. Errors found in the plans or information submitted to other Boards or Departments in the Town of Westwood by the Applicant that differs from the plan of record for this Order shall be considered changes and the above procedures shall be followed.
21. Modifications to the plan of record for this Order required by any Town of Westwood Board or Department shall be considered changes and procedures outlined for changes shall be followed.
22. Plans submitted to any Town of Westwood Board or Town Department for work on this site that differ from the plan of record for this Order shall be considered changes and the procedures outlined for changes shall be followed.

Requirements for a Certificate of Compliance

23. Upon completion of work covered by this Order, the Applicant shall request in writing that a Certificate of Compliance be issued. The written request shall be accompanied by a statement from a Professional Engineer registered in the State of Massachusetts that all work allowed or required by this Order has been satisfactorily completed. Such request shall also be accompanied by an as-built plan prepared, stamped and signed, by a registered P.E. and Land Surveyor
24. A Certificate of Compliance will not be issued for *new* housing construction until the prospective lot buyer signs and delivers a statement to the Conservation Commission indicating that they are aware that:
 - a. They have received a copy of the approved plans.
 - b. The Commission has determined that the lot contains wetlands.
 - c. Modifications or changes to the approved plan may require a new Notice of Intent.
 - d. An Article 18 Order of Conditions exists upon the property and that certain Conditions, forever binding upon the lot, will survive the issuance of the Certificate of Compliance.
 - e. That the buyer/owner of the property is responsible for compliance with all conditions that survive the issuance of a Certificate of Compliance.
 - f. The buyer/owner is liable for non-compliance with any continuing conditions and may be assessed appropriate penalties by the Conservation Commission, as applicable.
 - g. There is a no disturbance setback surrounding the wetlands on site for future planning.
 - h. Dumping grass clippings, brush, leaves or other yard waste into the resource areas or the no disturb buffer will alter the resource area and shall be considered a violation of the Wetlands Protection Act and the local bylaw.

Continuing Conditions

25. As a continuing order of these conditions, even after a Certificate of Compliance is issued, no activity is permitted within the no-disturb buffer to the existing wetland including, but not limited to, the removal or cutting of vegetation.
26. As a continuing order of these conditions, if within two (2) years from the issuance of a Certificate of Compliance, erosion is evident on any slopes mitigating measures satisfactory to the Westwood Conservation Commission shall be taken.
27. As a continuing order of these conditions, even after a Certificate of Compliance is issued, no by-products of landscaping may be placed within the no disturbance buffer zone, in the wetland area or flood plain.

Site Specific Conditions for 42 Mill Street:

1. Compost sock or similar (straw wattles are NOT to be used unless approved by the Commission) and orange construction fence are to be installed and inspected prior to start of work.
2. All paved surfaces associated with this project must be kept clean at all times. All silt and debris should be swept up at the end of each work day throughout the duration of the project.
3. Organic fertilizer must be used on the lawn in perpetuity.
4. The first phase of invasive plant removal shall be performed prior to start of construction, then at least twice a year for three years. After the first phase of removal has been completed the area shall be either seeded with an approved seed mix, or revegetated with approved plants and covered with 3 inches of shredded bark mulch, to minimize the regrowth of the invasive plants. A monitoring report must be submitted to the Commission twice a year (before June 1 and November 1) describing the health of the new plantings and the status of the invasive removal plan.

42 11/11 St. 4
Denied 11/10/21



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
338-0706
MassDEP File #

eDEP Transaction #
Westwood
City/Town

E. Signatures

This Order is valid for three years, unless otherwise specified as a special condition pursuant to General Conditions #4, from the date of issuance.

11/17/21
1. Date of Issuance

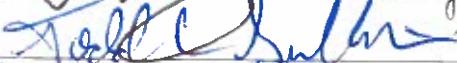
Please indicate the number of members who will sign this form.

4
2. Number of Signers

This Order must be signed by a majority of the Conservation Commission.

The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate Department of Environmental Protection Regional Office, if not filing electronically, and the property owner, if different from applicant.

Signatures:

 John Rogers  Todd Weston
 Todd Sullivan
 Vesna Maneva

by hand delivery on

by certified mail, return receipt requested, on

Date

11/17/21
Date

F. Appeals

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land subject to this Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate MassDEP Regional Office to issue a Superseding Order of Conditions. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and a completed Request for Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

Any appellants seeking to appeal the Department's Superseding Order associated with this appeal will be required to demonstrate prior participation in the review of this project. Previous participation in the permit proceeding means the submission of written information to the Conservation Commission prior to the close of the public hearing, requesting a Superseding Order, or providing written information to the Department prior to issuance of a Superseding Order.

The request shall state clearly and concisely the objections to the Order which is being appealed and how the Order does not contribute to the protection of the interests identified in the Massachusetts Wetlands Protection Act (M.G.L. c. 131, § 40), and is inconsistent with the wetlands regulations (310 CMR 10.00). To the extent that the Order is based on a municipal ordinance or bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.



**Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40**

Provided by MassDEP:
338-0706
MassDEP File #
eDEP Transaction #
Westwood
City/Town

G. Recording Information

Prior to commencement of work, this Order of Conditions must be recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land subject to the Order. In the case of registered land, this Order shall also be noted on the Land Court Certificate of Title of the owner of the land subject to the Order of Conditions. The recording information on this page shall be submitted to the Conservation Commission listed below.

Westwood

Conservation Commission

Detach on dotted line, have stamped by the Registry of Deeds and submit to the Conservation Commission.

To:

Westwood

Conservation Commission

Please be advised that the Order of Conditions for the Project at:

42 Mill Street

Project Location

338-0706

MassDEP File Number

Has been recorded at the Registry of Deeds of:

County

Book

Page

for:

Property Owner

and has been noted in the chain of title of the affected property in:

Book

Page

In accordance with the Order of Conditions issued on:

Date

If recorded land, the instrument number identifying this transaction is:

Instrument Number

If registered land, the document number identifying this transaction is:

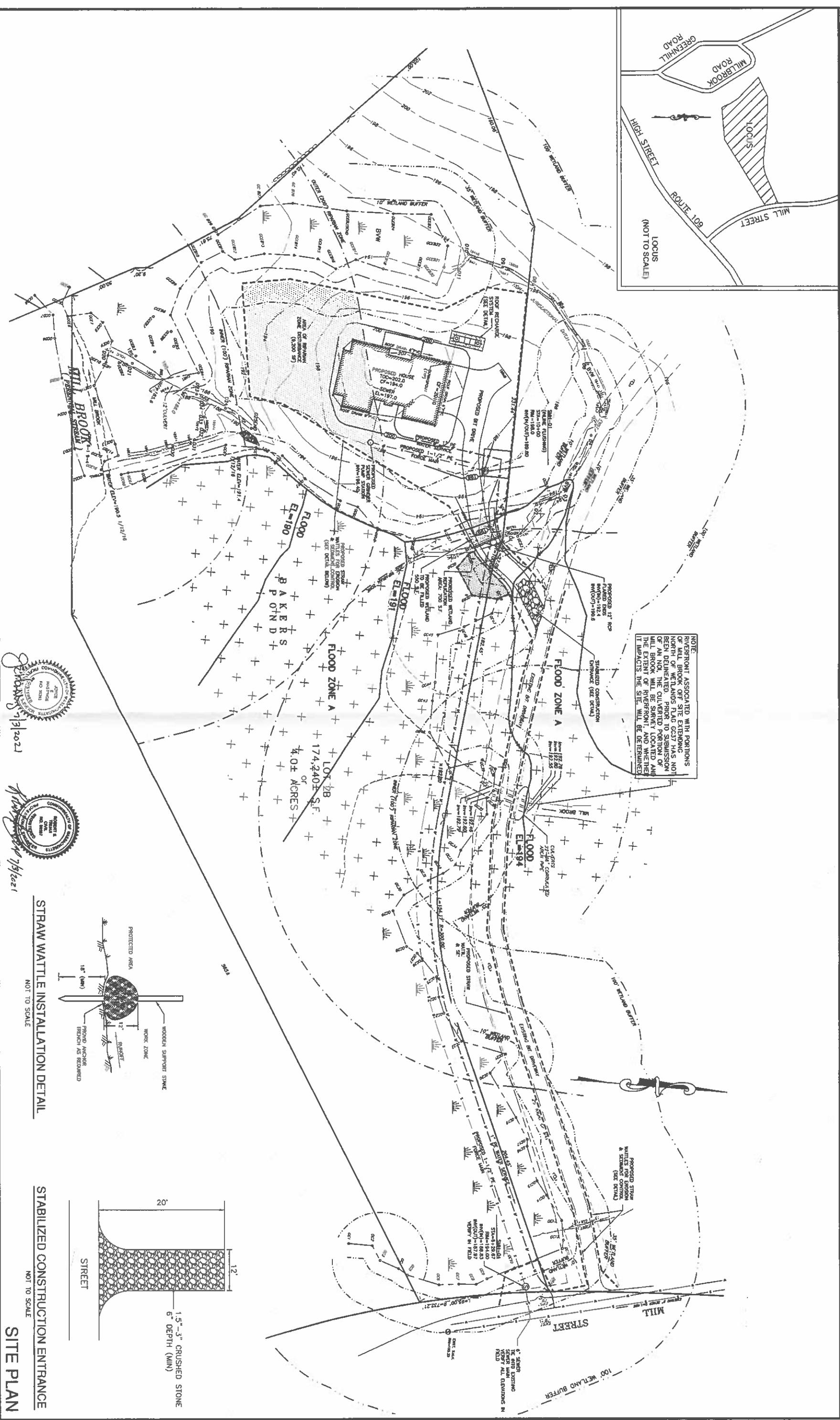
Document Number

Signature of Applicant

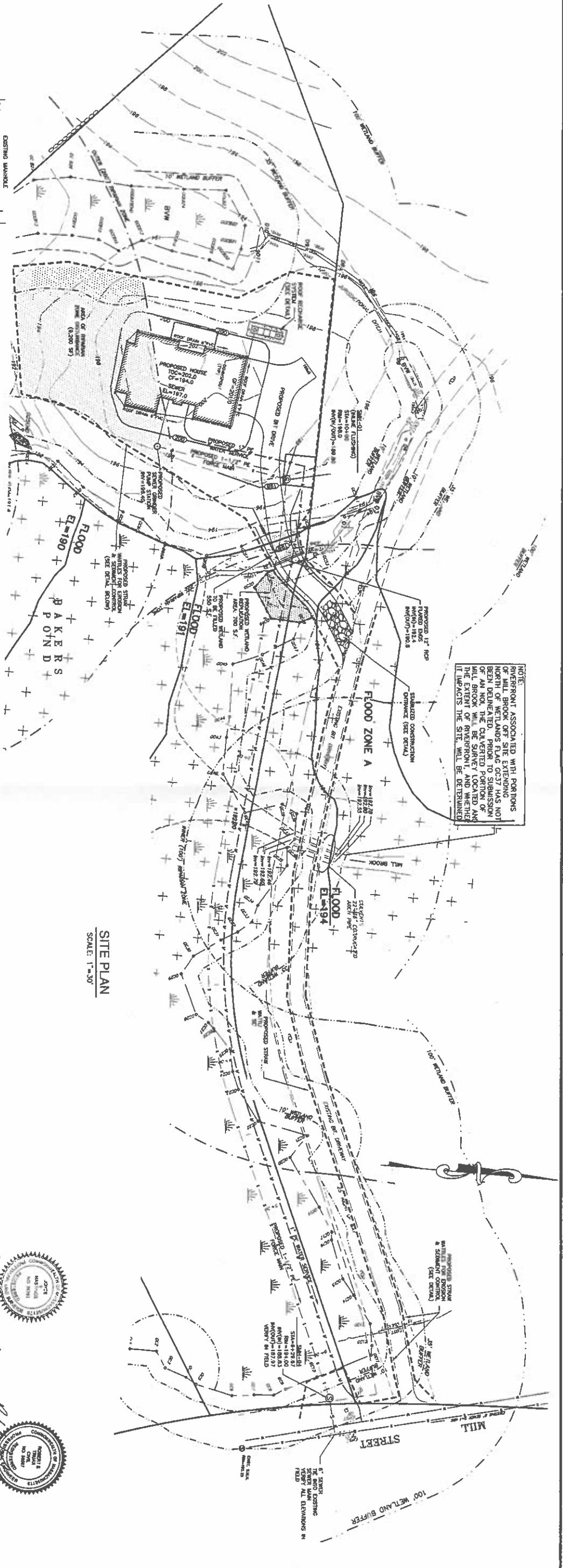


NOTE: IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO VERIFY LOCATIONS AND ELEVATIONS OF EXISTING UTILITIES PRIOR TO COMMENCEMENT OF ANY CONSTRUCTION. DIGSAFE IS TO BE NOTIFIED 72 WORKING DAYS IN ADVANCE OF CONSTRUCTION. DIGSAFE - 1-888-847-2331

REV



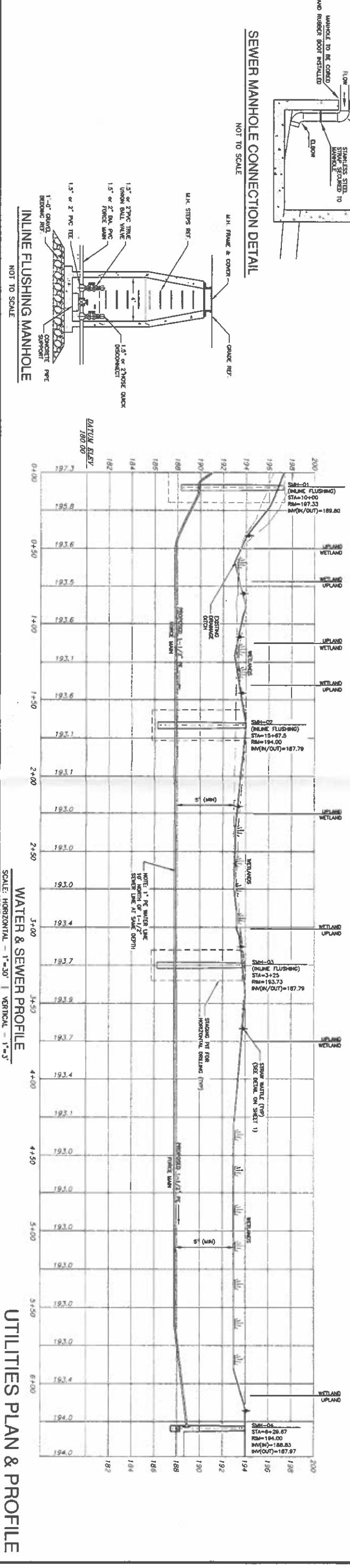
NOTE:
RIVERFRONT ASSOCIATED WITH PORTIONS
OF MILL BROOK OFF-SITE EXTENDING
NORTH OF WETLANDS FLAG GC37 HAS NOT
BEEN DELINEATED. PRIOR TO SUBMISSION
OF AN NOL, THE UNDELINATED PORTION OF
MILL BROOK WILL BE SURVEY LOCATED AND
THE EXTENT OF RIVERFRONT, AND WHETHER
IT IMPACTS THE SITE, WILL BE DETERMINED.



SITE PLAN
SCALE: 1"-30'

July 7/3/2019
Polaris 7/3/2019

Polaris 7/3/2019
Polaris 7/3/2019



UTILITIES PLAN & PROFILE

REVISIONS		FLD:	by witness
No.	DATE	DRW:	
J	7/2/2019	PC	
		CHKD:	PC

GLM Engineering Consultants, Inc.
19 EXCHANGE STREET
HOLLISTON, MA 01746
P: 508-429-1100 F: 508-429-7160
www.GLMengineering.com

PROPOSED SITE PLAN OF LAND
LOT 2B - MILL STREET
WESTWOOD, MASSACHUSETTS
PREPARED FOR:
SALVATORE VINCI
65 BAY COLONY DRIVE
WESTWOOD, MA 02090

JOB NO.	11074
DATE	NOV 2 2018
SCALE	1"-30'
SHEET	2 OF 3
PLAN #	27-465

GEC Project No. 1826-5010

**SUMMARY REPORT OF WETLAND EVALUATION &
REQUEST FOR DETERMINATION OF APPLICABILITY
42 MILL STREET
WESTWOOD, MASSACHUSETTS**

January 27, 2016



Goldman Environmental Consultants, Inc.
60 Brooks Drive
Braintree, MA 02184
(781)356-9140 Fax: (781)356-9147
www.goldmanenvironmental.com

mice@mill

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- Figure 2: Photo
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- Figure 7: Google Earth Aerial Photo
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APPENDICES

- Appendix A: Wetlands Protection Act, Riverfront Area, 310 CMR 10.58, pages 222-225
- Appendix B: USGS Streamstats Report
- Appendix C: Massachusetts Drought Management Plan Information
- Appendix D: DEP - Phase 1 Site Assessment Map

1.0 INTRODUCTION

The Westwood Conservation Commission (WCC) retained Goldman Environmental Consultants Inc. (GEC) as an environmental consultant by contract signed July 21, 2015. The purpose of this effort was to assist the Commission in the review of a Request for Determination of Applicability (RDA) for property located at 42 Mill Street in Westwood. The Commission had concerns that the findings of the applicant's consultant were not supported by the Commission's evaluation of the site and its wetland characteristics and the State and Town bylaw wetlands regulations. GEC agreed to review the information submitted, review the field conditions and research and review additional information pertinent to the regulatory aspects that apply to the site. GEC then evaluated this information and made a determination regarding the wetlands resources that exist thereon and how the regulations should be applied. The results provided in this report were presented by GEC at the public hearing scheduled and held on October 21, 2015 to the WCC for deliberation and action. At this meeting, several abutters and citizens voiced their opposition to any project on this site. The WCC accepted the findings of GEC and issued a ruling to deny the application and wetlands limits under the state regulations and town bylaw.

The site is located on the west side of Mill Road and the owners of record are the Vinci's. A paved driveway straddles the northern property boundary and provides access to an existing house approximately 800 feet west of Mill Road. Please refer to the original application submitted to the WCC for background.

2.0 SITE VISIT AND REGULATORY EVALUATION

The initial site visit was scheduled for September 4, 2015. GEC was represented by Brian Donahoe VP and wetlands consultant. In addition, present at the site visit were Scott Goddard, a wetlands consultant representing the applicant and Karon Skinner-Catrone the conservation agent for the Town of Westwood. A second site visit was held on October 7, 2015 to review additional wetlands flags that were missing on the first trip and to finalize the site evaluation accordingly.

The approach to the evaluation focused mainly on the wetlands identified toward the inner or western portion of the site. This area had some upland with possible development potential whereas the eastern portion of the site immediately off Mill Road was adjacent to a large marsh/pond area that was created by a small earthen dam and

stone spillway dam also located on the property. The dam was in some disrepair and did not completely contain the volume of water original intended based on our review of historical aerial photographs. The dam appears to be about 60 years old based on a review of historic USGS maps available on-line. GEC recommends that the Town of Westwood investigate dam safety issues related to this dam structure as it pertains to the potential for damage to downstream river property and infrastructure due to possible dam failure. Since this is a privately owned dam the responsibility for maintenance and repairs lie with the owner. However, a catastrophic dam failure as the result of a flood or other reason could damage several public roadways, water lines, as well as private residential property and life. GEC mentioned this issue at the hearing and several downstream abutters expressed concern to this issue and related flooding problems in the past.

The plan of record called a ‘Wetland Delineation Plan’ dated October 27, 2014 submitted with the RDA prepared by GLM Engineering of Hopkinton. This plan was used as the basis for evaluating and locating the wetlands boundaries as determined by the consultant as well as other physical features on the site so as to accurately revise any wetland boundaries or resource areas after the site work was completed. These features include, for example, the roadways and property boundaries, the dam features, the location of Mill Brook, etc. GEC noted during the first site walk that flags were missing in the rear of the property which were subsequently replaced as well as other apparent wetland flagging that were not placed by the applicant team.

3.0 FINDINGS/REGULATORY DETERMINATION

GEC initially reviewed the submittal package and noted the following issues and discrepancies that were made by the applicant. One issue was that Mill Brook was not a perennial stream based on the observation and photographic documentation of four days with no stream flow in September 2014. In another document, the stream was an unnamed stream based on their review of USGS mapping based information and written in the November 2014 submittal cover letter. GEC has determined that Mill Brook is identified on the most recent USGS maps as perennial. (See Figure 1) The definition of a perennial stream is defined in the wetland regulations at 310 CMR 58.00. In particular, several criteria are used to determine the perennial stream determination. The regulatory language of these sections is attached as Appendix A and pertinent language highlighted for clarity. One basic criterion is that the stream be shown as perennial on the most recent USGS map. As noted above, that information is found in Figure 1. The USGS map for the site clearly indicates a perennial stream with the solid line representing the stream and

the associated name for Mill Brook shown. A second criterion requires that the stream have a watershed of adequate size, greater than 0.5 square miles, as indicated by the USGS Streamstats report. This information also supports the perennial stream finding and is listed in Appendix B.

A third criterion is used to redefine a perennial stream as intermittent if the stream can be documented to have no flow four separate days within a year. However, this method also requires that the period of documentation not be in a period of drought nor can the stream be impacted by impoundments or withdrawals as well as other man-made effects. This wetland/stream system has two dammed impoundments immediately upstream as well as the Interim Wellhead Protection Zone for a Town of Westwood municipal well crossing the site. These impoundments are shown on Figure 6 and 7. The regulated water withdrawal well and wellhead protection zones are shown in Appendix D. The period of record described in the application in September 2014 was identified by both the Massachusetts and Federal drought monitoring agencies as being within a drought advisory as stipulated in the regulations and eliminate the ability to change the perennial stream to intermittent. These data are provided in Appendix B.

The observation made in September 2015 by GEC almost exactly a year after the observations made by the applicant indicated that Mill Brook was nearly dry yet had a very low stream flow that was separated by rocky outcrops of exposed streambed. This observation was made during a similar and actually more severe drought advisory. However, GEC observed intermittent flow in and out of a very rocky streambed. This does not constitute a dry river condition. (See Figures 2-5) We suspect that the photographs and observation may have had similar characteristics of flow in 2014. The regulations stipulate at 10.58 2(a) 1 that, ‘when surface water is present in contiguous and connected pool/riffle systems it shall be determined to be flowing.’

In addition to the discussion above, the regulations also state that if the pond, lake or impoundment formed by the perennial stream is not named on a USGS map then the riverfront regulations continue through the impoundment. In addition, if riverine characteristic are observed, meaning observable flow, through the impoundment, then the perennial stream also is deemed to continue through the impoundment. In both cases, this is what was observed and identified on mapping by GEC.

The discussion above addresses the last perennial stream definition requirements described in the regulations and pertinent to this matter. All regulatory determinations made by GEC clearly indicated that Mill Brook whether flowing or not must be

continued to be regulated as a perennial stream. This assessment and analysis means that Mill Brook is regulated under the Rivers Protection Act provisions of the Massachusetts Wetlands Regulations and invokes the 100 and 200 foot River front setback boundaries. It also requires the application of the standards of new development within these boundaries, which are strict for a site not previously developed.

Statements were made in the submittal that no estimated priority habitats or vernal pools were located on or near the site. GEC finds that the latest estimated habitat map indicates a number of potential vernal pools both up and downstream of the site the closest within 400 feet. (See Appendix D) Several exist in Mill Brook upstream of the site. Furthermore, after the site review by GEC two additional potential vernal pools exist on the site in areas identified as an intermittent stream and bordering vegetated wetlands by the applicant. These potential vernal pools are within the BVW boundaries but are devoid of any vegetation and clearly present as natural depressions with evidence of seasonal flooding. These pools should be further reviewed by the WCC since that determination carries additional wetland protection regulatory oversight as well as from the Natural Heritage Program of the Department of Fish and Wildlife.

The wetlands flagging was reviewed in the field on two occasions as noted above. Generally, the applicant's base flag locations were in agreement with the review by GEC with some notable exceptions. Please refer to the GEC revised wetland plan shown as Figure 8. This plan notes the modification of the wetland boundary based on the location of the applicants flagging. Along the dam shoreline there is general agreement as well as on the far western boundary of the property. However below the dam and along the driveway GEC observed an extension of both an intermittent stream and additional streams that are part of the normal perennial stream flow through Mill Brook and the dam spillways. These extensions were supported by the identification bordering wetlands vegetation, the observance of hydric soil conditions and in the case of the stream channels below the dam of perennial characteristics. It is important to note the main stream channel below the main dam outlet was dry and the two stream channels associated with the emergency spillways were both flowing. The intermittent stream channel that runs along the driveway had hydric soil found up to a point indicated on the revised GEC plan. (See Figure 5) The wetlands vegetation comprised mostly of red maple, sweet pepperbush and ferns as well as skunk cabbage, sedges, jewelweed and rushes along the lower 140 feet of the channel. This channel shown on the revised plan by the applicant recently submitted connected to the north with the wetlands boundaries shown on the applicant plan.

Below the dam spillway, the wetland boundaries were also relocated in response to the observation of wetland vegetation mainly red maple, sweet pepperbush, northern arrowood, cinnamon fern and some royal fern. Flow from the dam emergency outlet spillway and the main stream's channel supported this wetland.

4.0 CONCLUSIONS

GEC has determined based on a review of the submitted ANRAD application and a review of available supporting documentation and field observations the following:

- The wetlands boundaries for the site should be modified in accordance with the revised plan submitted herein.
- The status of Mill Brook is that of a perennial stream and any development on this site should reflect the application of the rules found under the Massachusetts Rivers Protection Act regulations and the Westwood Wetlands Town bylaw, specifically the 100 and 200 foot riverfront setbacks provisions,
- The WCC should investigate the identification of two or three potential vernal pools this spring to determine if they can be certified and regulated as such,
- The existing masonry, concrete and earthen dam should be evaluated by the Town of Westwood for dam safety concerns

5.0 LIMITATIONS AND CONDITIONS

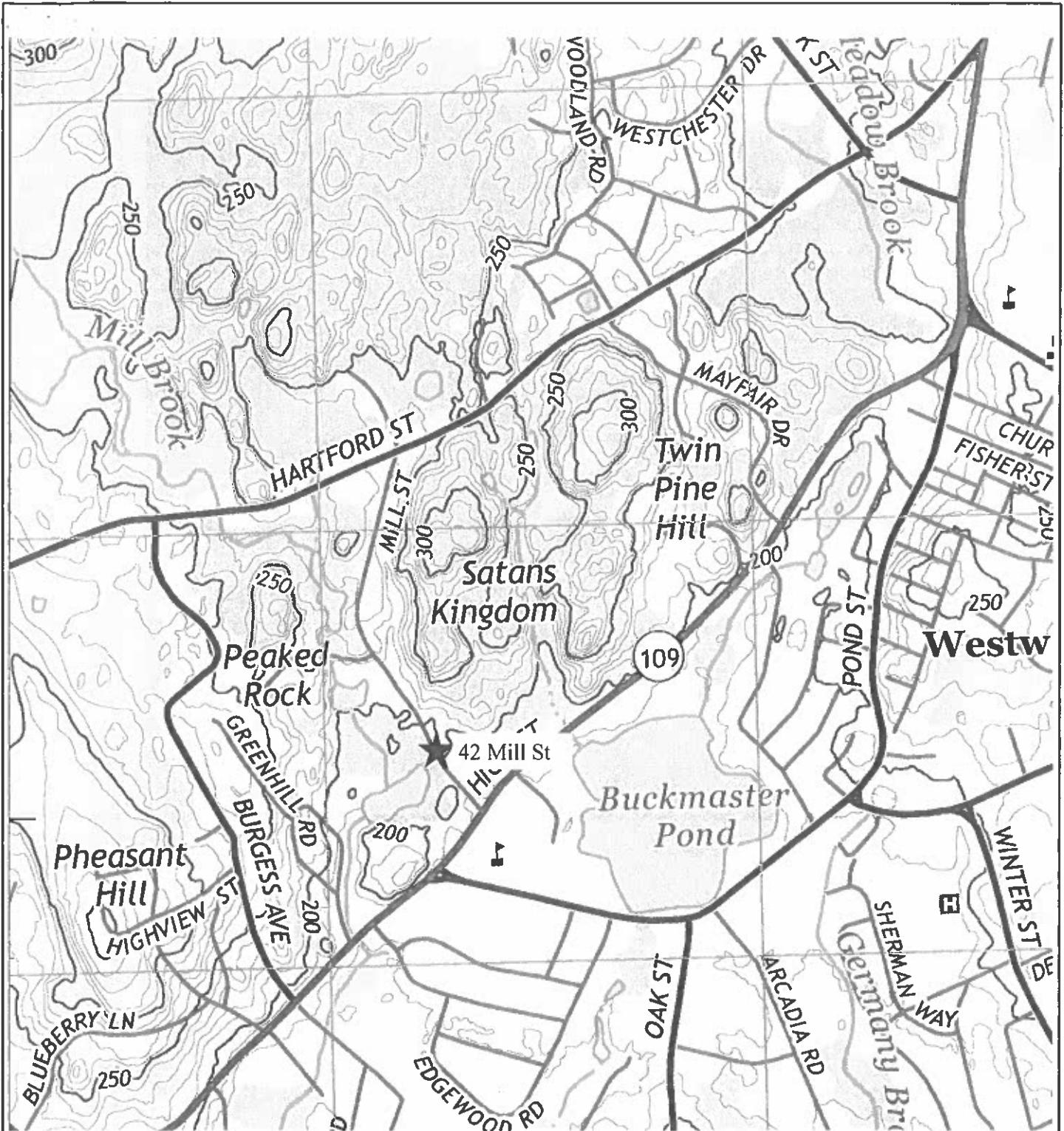
The conclusions contained in this report are based on the information readily available to GEC as of January 27, 2016.

Respectfully submitted,
Goldman Environmental Consultants, Inc.



Brian Donahoe
Vice President, Environmental Services

FIGURES



USGS Map, 2015—Norwood Quad

Scale 1:31,680



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www.goldmanenvironmental.com

42 Mill Street
Westwood, MA

GEC Project #: 1826-5010

Figure 1





Figure 2 Mill Brook October 7, 2015 during drought advisory. Note intermittent flow upstream due to stream bed rock, classic riffle characteristic, that is deeper than the near brook area. Interim flow in and out of riverbed meets perennial stream criteria.



Figure 3 Mill Brook at entrance of pond/marsh looking downstream. Note deep boulder strewn area that is characteristic of the upper stream area and masks the low stream flow.

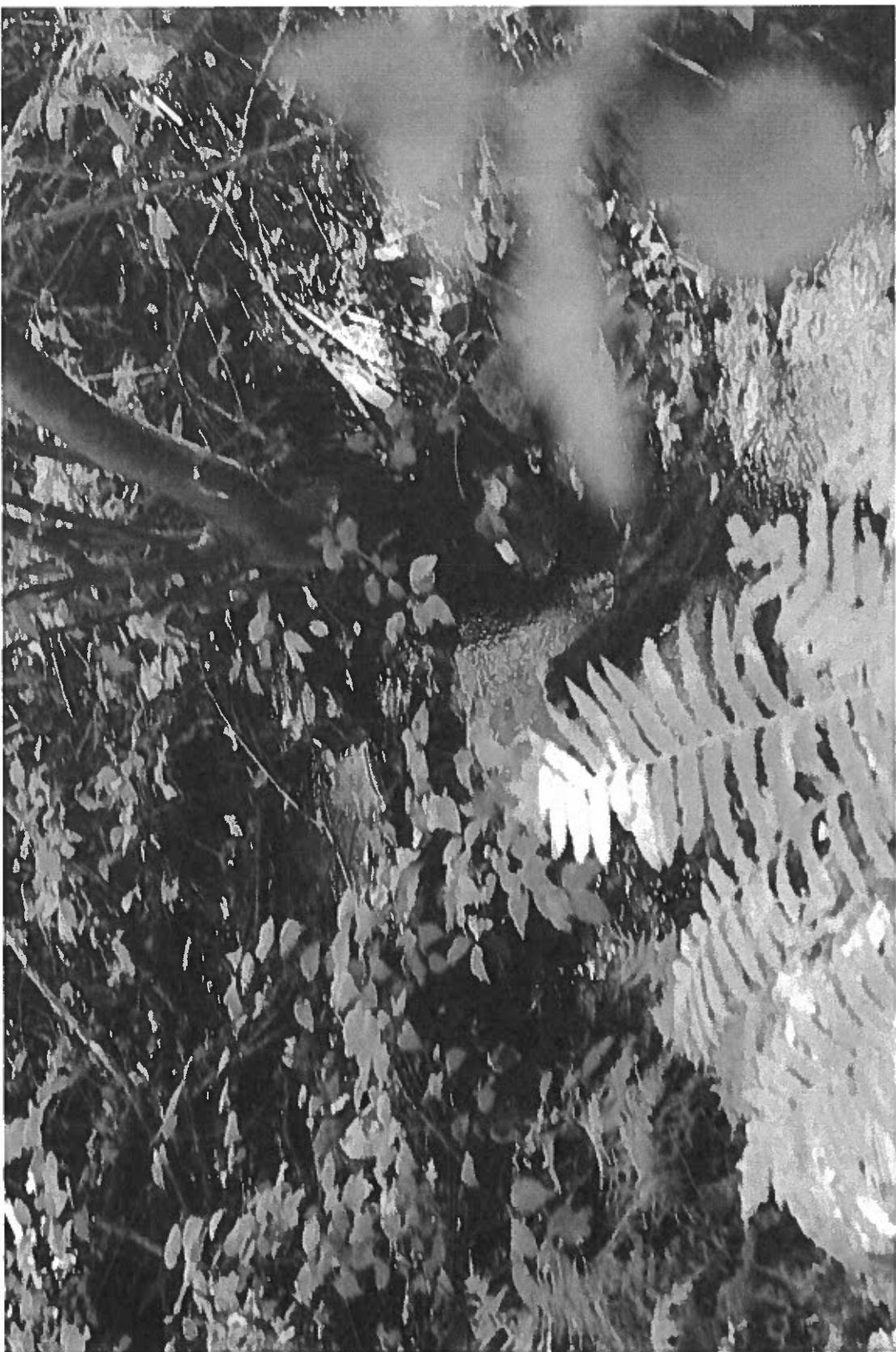


Figure 4. Mill Brook further upstream from the roadway crossing looking north. Note flow and riffle characteristics.



Figure 5 Intermittent stream and bordering vegetated wetland found alongside the driveway flows from west to east into the pond wetland. Clear hydrology indicator, stream bank and associated wetland vegetation and hydric soils found.



Google Earth Imagery date 4/9/2008
Pond at Mill Brook behind old dam. Note riverine characteristics flowing through the area from north to southwest.

GEC

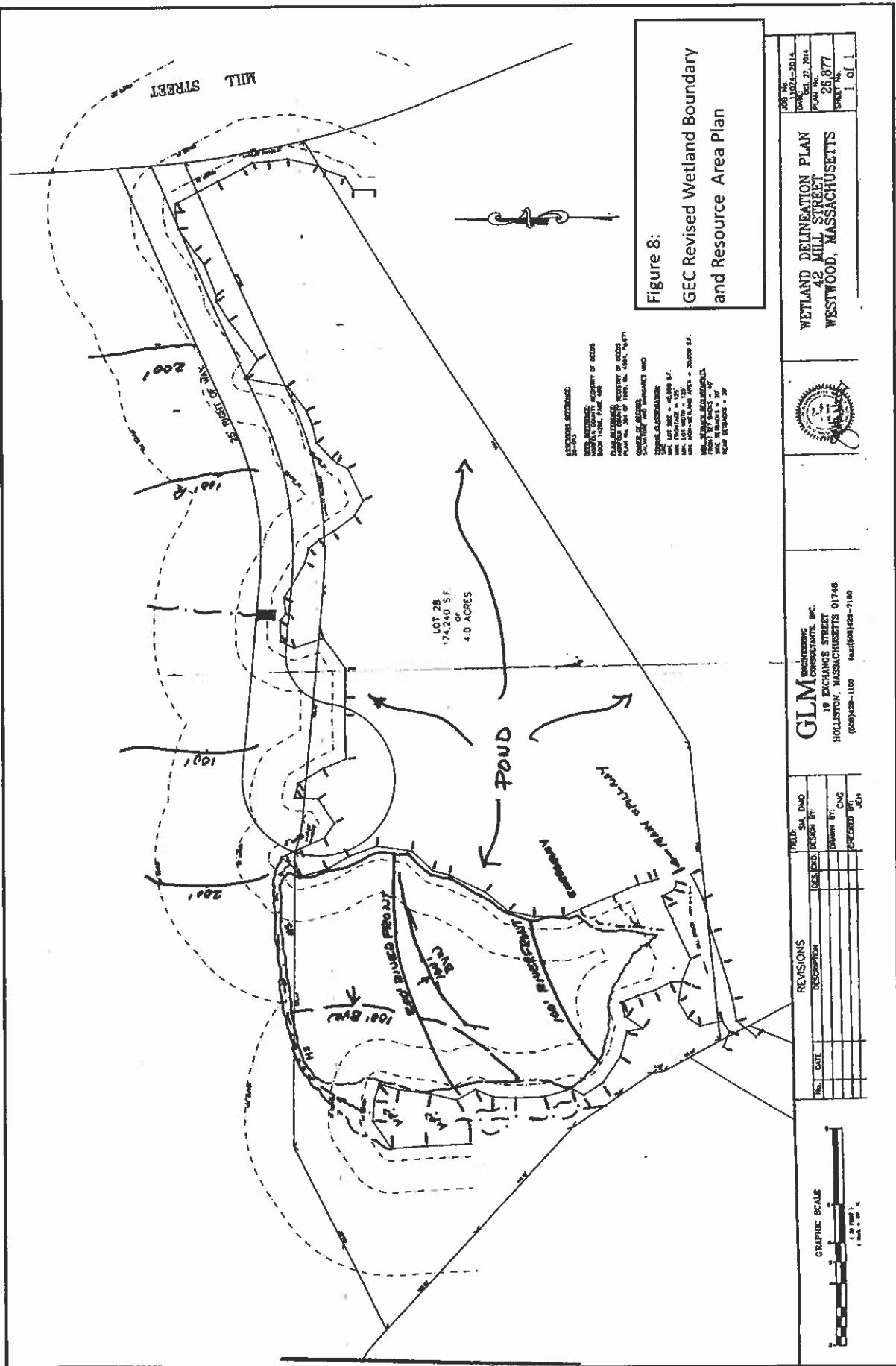


Goldman Environmental Consultants, Inc.
42 Mill St
Westwood, MA
GEC Project Number 1826-5010



Figure 6

 <p>Google Earth Imagery date 4/9/2008</p>	<p>Mannmade impoundments upstream of Mill Brook and 42 Mill Rd Site.</p> <p>GEC</p> <p>Goldman Environmental Consultants, Inc. 60 Brooks Drive Braintree, MA 02184 (781)356-9140 Fax (781)356-9147 www.goldmanenvironmental.com</p> <p>42 Mill St Westwood, MA GEC Project Number 1826-5010</p> <p>Figure 7</p> <p>N</p>
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APPENDICES

310 CMR: DEPARTMENT OF ENVIRONMENTAL PROTECTION

pools. Reptiles, especially turtles, often require areas along rivers to lay their eggs. Since amphibians and reptiles are less mobile than mammals and birds, maintaining integrity of their habitat is critical.

In those portions so extensively altered by human activity that their important wildlife habitat functions have been effectively eliminated, riverfront areas are not significant to the protection of important wildlife habitat and vernal pool habitat.

(2) Definitions, Critical Characteristics and Boundaries.

(a) A Riverfront Area is the area of land between a river's mean annual high water line and a parallel line measured horizontally. The riverfront area may include or overlap other resource areas or their buffer zones. The riverfront area does not have a buffer zone.

10.58: continued

1. A river is any natural flowing body of water that empties to any ocean, lake, pond, or other river and which flows throughout the year. Rivers include streams (see 310 CMR 10.04: Stream) that are perennial because surface water flows within them throughout the year. Intermittent streams are not rivers as defined herein because surface water does not flow within them throughout the year. When surface water is not flowing within an intermittent stream, it may remain in isolated pools or it may be absent. When surface water is present in contiguous and connected pool/riffle systems, it shall be determined to be flowing. Rivers begin at the point an intermittent stream becomes perennial or at the point a perennial stream flows from a spring, pond, or lake. Downstream of the first point of perennial flow, a stream normally remains a river except where interrupted by a lake or pond. Upstream of the first point of perennial flow, a stream is normally intermittent.
 - a. A river or stream shown as perennial on the current United States Geological Survey (USGS) or more recent map provided by the Department is perennial.
 - b. A river or stream shown as intermittent or not shown on the current USGS map or more recent map provided by the Department, that has a watershed size greater than or equal to one square mile, is perennial.
 - c. A stream shown as intermittent or not shown on the current USGS map or more recent map provided by the Department, that has a watershed size less than one square mile, is intermittent unless:
 - i. The stream has a watershed size of at least $\frac{1}{2}$ (0.50) square mile and has a predicted flow rate greater than or equal to 0.01 cubic feet per second at the 99% flow duration using the USGS Stream Stats method. The issuing authority shall find such streams to be perennial; or
 - ii. When the USGS StreamStats method cannot be used because the stream does not have a mapped and digitized centerline (including but not limited to streams located in the following basins: North Coastal Basin, Taunton Basin, Buzzards Bay Basin, Cape Cod and Islands Basin, and that portion of the South Coastal Basin that is south of the Jones River sub-basin), and the stream has a watershed size of at least $\frac{1}{2}$ (0.50) square mile, and the surficial geology of the contributing drainage area to the stream at the project site contains 75% or more stratified drift, the issuing authority shall find such streams to be perennial. Stratified drift shall mean sand and gravel deposits that have been layered and sorted by glacial meltwater streams. Areal percentages of stratified drift may be determined using USGS surficial geologic maps, USGS Hydrological Atlases, Massachusetts Geographical Information System (MassGIS) surficial geology data layer, or other published or electronic surficial geological information from a credible source.
 - d. Notwithstanding 310 CMR 10.58(2)(a)1.a. through c., the issuing authority shall find that any stream is intermittent based upon a documented field observation that the stream is not flowing. A documented field observation shall be made by a competent source and shall be based upon an observation made at least once per day, over four days in any consecutive 12 month period, during a non-drought period on a stream not significantly affected by drawdown from withdrawals of water supply wells, direct withdrawals, impoundments, or other human-made flow reductions or diversions. Field observations made after December 20, 2002 shall be documented by field notes and by dated photographs or video. Field observations made prior to December 20, 2002 shall be documented by credible evidence. All field observations shall be submitted to the issuing authority with a statement signed under the penalties

310 CMR: DEPARTMENT OF ENVIRONMENTAL PROTECTION

of perjury attesting to the authenticity and veracity of the field notes, photographs or video and other credible evidence. Department staff, conservation commissioners, and conservation commission staff are competent sources; issuing authorities may consider evidence from other sources that are determined to be competent.

e. Rivers include the entire length and width to the mean annual high-water line of the major rivers (Assabet, Blackstone, Charles, Chicopee, Concord, Connecticut, Deerfield, Farmington, French, Hoosic, Housatonic, Ipswich, Merrimack, Millers, Nashua, Neponset, Parker (Essex County), Quinebaug, Shawsheen, Sudbury, Taunton, Ten Mile, and Westfield).

10.58: continued

- f. Rivers include perennial streams that cease to flow during periods of extended drought. Periods of extended drought for purposes of 310 CMR 10.00 shall be those periods, in those specifically identified geographic locations, determined to be at the "Advisory" or more severe drought level by the Massachusetts Drought Management Task Force, as established by the Executive Office of Energy and Environmental Affairs and the Massachusetts Emergency Management Agency in 2001, in accordance with the Massachusetts Drought Management Plan (MDMP). Rivers and streams that are perennial under natural conditions but are significantly affected by drawdown from withdrawals of water supply wells, direct withdrawals, impoundments, or other human-made flow reductions or diversions shall be considered perennial.
 - g. Human-made canals (e.g., the Cape Cod Canal and canals diverted from rivers in Lowell and Holyoke) and mosquito ditches associated with coastal rivers do not have riverfront areas.
 - h. Where rivers flow through lakes or ponds, the Riverfront Area stops at the inlet and begins again at the outlet. A water body identified as a lake, pond, or reservoir on the current USGS map or more recent map provided by the Department, is a lake or pond, unless the issuing authority determines that the water body has primarily riverine characteristics. When a water body is not identified as a lake, pond, or reservoir on the current USGS map or more recent map provided by the Department, the water body is a river if it has primarily riverine characteristics. Riverine characteristics may include, but are not limited to, unidirectional flow that can be visually observed or measured in the field. In addition, rivers are characterized by horizontal zonation as opposed to the vertical stratification that is typically associated with lakes and ponds. Great Ponds (*i.e.*, any pond which contained more than ten acres in its natural state, as calculated based on the surface area of lands lying below the natural high water mark; a list is available from the Department) are never rivers.
2. Mean Annual High-water Line of a river is the line that is apparent from visible markings or changes in the character of soils or vegetation due to the prolonged presence of water and that distinguishes between predominantly aquatic and predominantly terrestrial land. Field indicators of bankfull conditions shall be used to determine the mean annual high-water line. Bankfull field indicators include but are not limited to: changes in slope, changes in vegetation, stain lines, top of pointbars, changes in bank materials, or bank undercutts.
- a. In most rivers, the first observable break in slope is coincident with bankfull conditions and the mean annual high-water line.
 - b. In some river reaches, the mean annual high-water line is represented by bankfull field indicators that occur above the first observable break in slope, or if no observable break in slope exists, by other bankfull field indicators. These river reaches are characterized by at least two of the following features: low gradient, meanders, oxbows, histosols, a low-flow channel, or poorly-defined or nonexistent banks.
 - c. In tidal rivers, the mean annual high-water line is coincident with the mean high water line determined under 310 CMR 10.23.
3. The Riverfront Area is the area of land between a river's mean annual high-water line measured horizontally outward from the river and a parallel line located 200 feet away, except that the parallel line is located:
- a. 25 feet away in Boston, Brockton, Cambridge, Chelsea, Everett, Fall River, Lawrence, Lowell, Malden, New Bedford, Somerville, Springfield, Winthrop, and

StreamStats Version 3.0

Flow Statistics Ungaged Site Report

Date: Wed Jan 27, 2016 1:07:52 PM GMT-5

Study Area: Massachusetts

NAD 1983 Latitude: 42.2059 (42 12 21)

NAD 1983 Longitude: -71.2402 (-71 14 25)

Drainage Area: 1.44 mi²

Low Flows Basin Characteristics			
100% Statewide Low Flow WRIR00 4135 (1.44 mi ²)			
Parameter	Value	Regression Equation Valid Range	
		Min	Max
Drainage Area (square miles)	1.44 (below min value 1.61)	1.61	149
Mean Basin Slope from 250K DEM (percent)	2.384	0.32	24.6
Stratified Drift per Stream Length (square mile per mile)	0.055	0	1.29
Massachusetts Region (dimensionless)	0	0	1

Warning: Some parameters are outside the suggested range. Estimates will be extrapolations with unknown errors.

Probability of Perennial Flow Basin Characteristics			
100% Perennial Flow Probability (1.44 mi ²)			
Parameter	Value	Regression Equation Valid Range	
		Min	Max
Drainage Area (square miles)	1.44	0.01	1.99
Percent Underlain By Sand And Gravel (percent)	9.79	0	100
Percent Forest (percent)	63.83	0	100
Massachusetts Region (dimensionless)	0	0	1

Bankfull Flows Basin Characteristics			
100% Bankfull Statewide SIR2013 5155 (1.44 mi ²)			
Parameter	Value	Regression Equation Valid Range	
		Min	Max
Drainage Area (square miles)	1.44	0.6	329
Mean Basin Slope from 10m DEM (percent)	6.747	2.2	23.9

Statistic	Value	Unit	Prediction Error (percent)	Equivalent years of record	90-Percent Prediction Interval	
					Min	Max
D50	1.39	ft ³ /s				
D60	0.89	ft ³ /s				
D70	0.46	ft ³ /s				
D75	0.34	ft ³ /s				
D80	0.24	ft ³ /s				
D85	0.17	ft ³ /s				

D90	0.11	ft3/s				
D95	0.0594	ft3/s				
D98	0.0367	ft3/s				
D99	0.0256	ft3/s				
M7D2Y	0.0668	ft3/s				
AUGD50	0.18	ft3/s				
M7D10Y	0.0212	ft3/s				

<http://pubs.usgs.gov/wri/wri004135/> (<http://pubs.usgs.gov/wri/wri004135/>)

Ries, K.G., III, 2000, Methods for estimating low-flow statistics for Massachusetts streams: U.S. Geological Survey Water Resources Investigations Report 00-4135, 81 p.

Probability of Perennial Flow Statistics						
Statistic	Value	Unit	Prediction Error (percent)	Equivalent years of record	90-Percent Prediction Interval	
					Min	Max
PROBPEREN	0.86	dim	0.3		0.57	0.81

http://pubs.usgs.gov/sir/2006/5031/pdfs/SIR_2006-5031rev.pdf (http://pubs.usgs.gov/sir/2006/5031/pdfs/SIR_2006-5031rev.pdf)

Bent, G.C., and Steeves, P.A., 2006, A revised logistic regression equation and an automated procedure for mapping the probability of a stream flowing perennially in Massachusetts: U.S. Geological Survey Scientific Investigations Report 2006-5031, 107 p.

Bankfull Flows Statistics						
Statistic	Value	Unit	Prediction Error (percent)	Equivalent years of record	90-Percent Prediction Interval	
					Min	Max
BFWDTH	17.2	ft	21			
BFDPTH	1.05	ft	20			
BFAREA	17.8	ft ²	29			
BFFLOW	46.9	ft ³ /s	55			

<http://pubs.usgs.gov/sir/2013/5155/> (<http://pubs.usgs.gov/sir/2013/5155/>)

Bent, G.C., and Waite, A.M., 2013, Equations for estimating bankfull channel geometry and discharge for streams in Massachusetts: U.S. Geological Survey Scientific Investigations Report 2013-5155, 62 p.

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U.S. Department of the Interior | U.S. Geological Survey

URL: http://streamstatsags.cr.usgs.gov/v3_beta/FTreport.htm

Page Contact Information: StreamStats Help

Page Last Modified: 11/24/2015 14:32:58 (Web1)

Streamstats Status

News



StreamStats Version 3.0

Basin Characteristics Ungaged Site Report

Date: Wed Jan 27, 2016 1:04:53 PM GMT-5

Study Area: Massachusetts

NAD 1983 Latitude: 42.2059 (42 12 21)

NAD 1983 Longitude: -71.2402 (-71 14 25)

Label	Value	Units	Definition
DRNAREA	1.44	square miles	Area that drains to a point on a stream
STRMTOT	2.67	miles	Total length of mapped streams in basin
DRFTPERSTR	0.055	square mile per mile	Area of stratified drift per unit of stream length
MAREGION	0	dimensionless	Region of Massachusetts 0 for Eastern 1 for Western
FOREST	63.83	percent	Percentage of area covered by forest
CRSDFT	9.79	percent	Percentage of area of coarse-grained stratified drift
BSLDEM10M	6.747	percent	Mean basin slope computed from 10 m DEM
BSLDEM250	2.384	percent	Mean basin slope computed from 1:250K DEM
ACRSDFT	0.15	square miles	Area underlain by stratified drift
LC11IMP	4.29	percent	Percentage of impervious area determined from NLCD 2011 impervious dataset
LC11DEV	19.9	percent	Percentage of land-use from NLCD 2011 classes 21-24
ELEV	276	feet	Mean Basin Elevation
PRECPRIS00	47.8	inches	Basin average mean annual precipitation for 1971 to 2000 from PRISM
LAKEAREA	0.29	percent	Percentage of Lakes and Ponds
OUTLETX	221445	State plane coordinates	Basin outlet horizontal (x) location in state plane coordinates
OUTLETY	883975	State plane coordinates	Basin outlet vertical (y) location in state plane coordinates
MAXTEMPC	15.1	degrees	Mean annual maximum air temperature over basin area, in degrees Centigrade
WETLAND	13.26	percent	Percentage of Wetlands
CENTROIDX	220776.7	State plane coordinates	Basin centroid horizontal (x) location in state plane coordinates
CENTROIDY	885397.6	State plane coordinates	Basin centroid vertical (y) location in state plane units

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URL: http://streamstatsags.cr.usgs.gov/v3_beta/BReport.htm

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Page Last Modified: 01/26/2016 11:44:09 (Web1)

Streamstats Status

News



U.S. Drought Monitor

Massachusetts

September 30, 2014
(Released Thursday, Oct. 2, 2014)

Valid 8 a.m. EDT

Drought Conditions (Percent Area)						
	None	D0-D4	D1-D4	D2-D4	D3-D4	D4
Current	32.83	67.17	26.58	0.00	0.00	0.00
Last Week 9/23/2014	39.08	60.92	26.85	0.00	0.00	0.00
3 Months Ago 7/1/2014	58.79	41.21	0.00	0.00	0.00	0.00
Start of Calendar Year 12/31/2013	0.00	100.00	54.05	0.00	0.00	0.00
Start of Water Year 10/1/2013	63.74	36.26	0.00	0.00	0.00	0.00
One Year Ago 10/1/2013	63.74	36.26	0.00	0.00	0.00	0.00

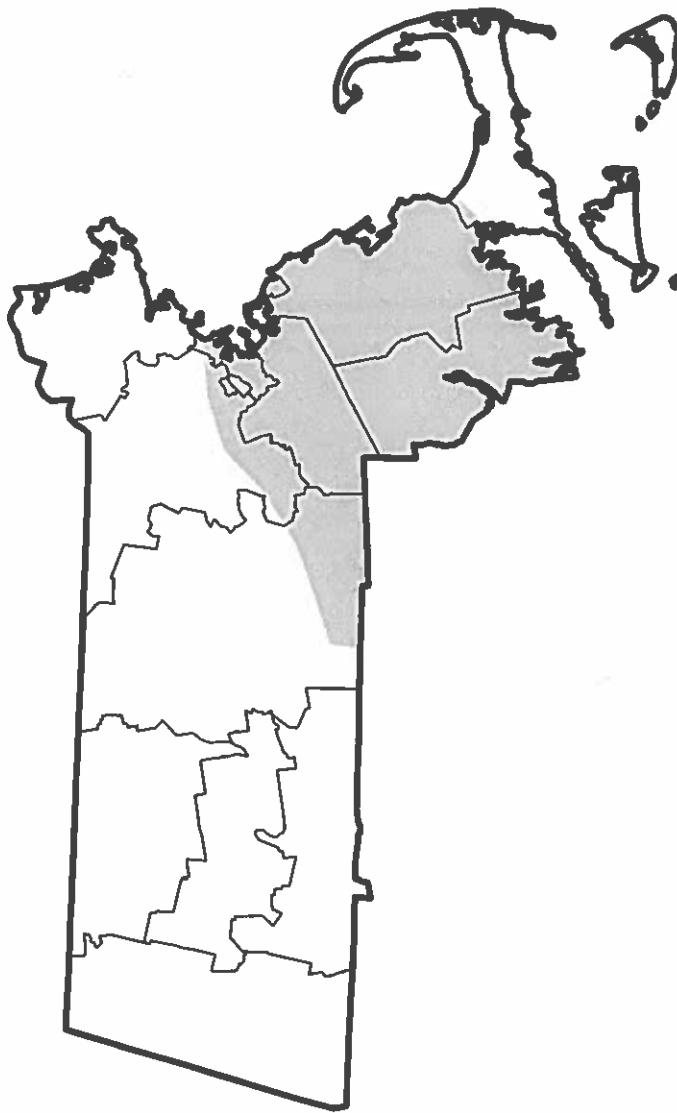
Intensity:

- D0 Abnormally Dry
- D1 Moderate Drought
- D2 Severe Drought
- D3 Extreme Drought
- D4 Exceptional Drought

The Drought Monitor focuses on broad-scale conditions.
Local conditions may vary. See accompanying text summary
for forecast statements.

Author:

*Richard Heim
NCDC/NOAA*



<http://droughtmonitor.unl.edu/>

MassDEP - Bureau of Waste Site Cleanup

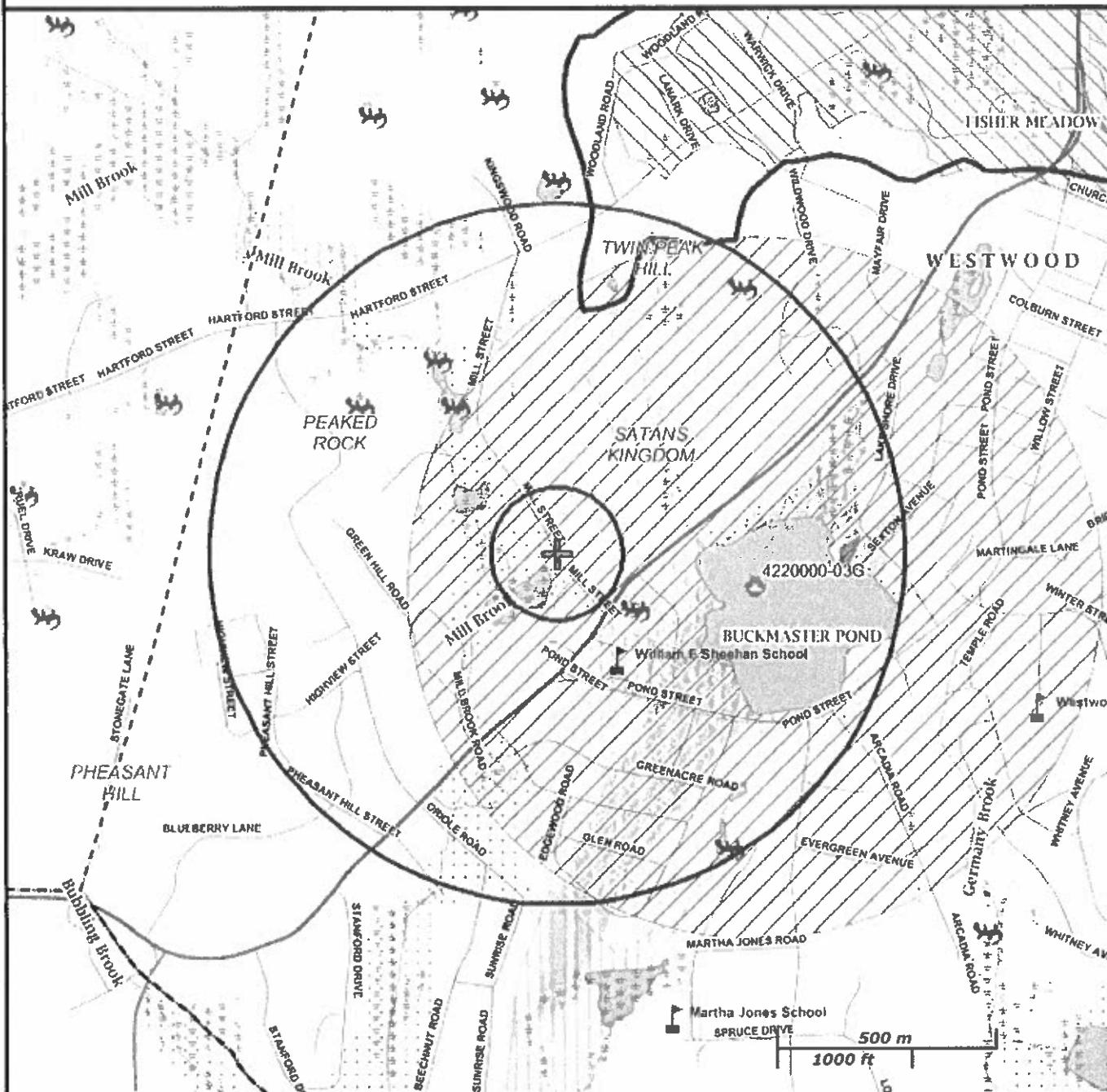
Phase 1 Site Assessment Map: 500 feet & 0.5 Mile Radii

Site Information:
42 MILL ST WESTWOOD, MA
NAD83 UTM Meters:
4675491mN, 3152556mE (Zone: 19)
January 27, 2016

The information shown is the best available at the date of printing. However, it may be incomplete. The responsible party and LSP are ultimately responsible for ascertaining the true conditions surrounding the site. Metadata for data layers shown on this map can be found at:
<http://www.mass.gov/mgis/>



MassDEP
Commonwealth of Massachusetts
Department of Environmental Protection



Roads: Limited Access, Divided, Other Hwy, Major Road, Minor Road, Track, Trail

PWS Protection Areas: Zone II, ICPA, Zone A



Boundaries: Town, County, DEP Region, Train, Powerline, Pipeline, Aqueduct

Hydrography: Open Water, PWS Reservoir, Tidal Flat



Basins: Major, PWS, Streams: Perennial, Intermittent, Man Made Shore, Dam

Wetlands: Freshwater, Saltwater, Cranberry Bog



Aquifers: Medium Yield, High Yield, EPA Sole Source

FEMA 100yr Floodplain; Protected Open Space; ACEC



Non Potential Drinking Water Source Area: Medium, High (Yield)

Est. Rare Wetland Wildlife Hab; Vernal Pool: Cert, Potential



Solid Waste Landfill; PWS: Com.GW, SW, Emerg., Non-Com

Solid Waste Landfill; PWS: Com.GW, SW, Emerg., Non-Com





Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

ATTACHMENT B

Department of Environmental Protection

Northeast Regional Office • 205B Lowell Street, Wilmington MA 01887 • 978-694-3200

Charles D. Baker
Governor

Karyn E. Polito
Lieutenant Governor

Matthew A. Beaton
Secretary

Martin Suuberg
Commissioner

August 25, 2016

Anthony Delapa
Delapa Properties
511 Washington Street
Norwood, MA 02062

RE: WETLANDS/WESTWOOD
DEP File# 338-0594
42 Mill Street
**Superseding Order of
Resource Area Delineation**

Dear Mr. Delapa:

The Northeast Regional Office of the Massachusetts Department of Environmental Protection, Wetlands Program (MassDEP), has completed its review of the above-referenced file in preparation to issuing a Superseding Order of Resource Area Delineation. Pursuant to the provisions of Massachusetts General Laws, Chapter 131, Section 40, MassDEP is issuing the attached Superseding Order of Resource Area Delineation (SORAD), confirming the delineated wetland boundaries on the site as inaccurate based upon a review of the information contained in the file and observations made during site evaluations. In addition, Mill Brook is determined to be a perennial stream.

The Westwood Conservation Commission (WCC) issued an Order of Resource Area Delineation (ORAD) on November 9, 2015, finding the delineation of the Bordering Vegetated Wetland (BVW) as inaccurate and also finding Mill Brook as a perennial stream. The WCC also indicated that there might be a potential vernal pool on the site.

On November 20, 2015, you appealed the ORAD claiming that the WCC had no basis in fact to make their decision. Your claim that Mill Brook is intermittent is based on four photographs covering the dates of September 1-4, 2014 showing a dry stream bed at the outlet below the dam of the impoundment. No photographs were taken of the impoundment and its inlet at this time. You also claim that a portion of the intermittent stream channel along the driveway to the 44 Mill Street residence is not a BVW and therefore not jurisdictional.

On December 16, 2015, MassDEP conducted a site inspection and met with your consultant and representatives of the WCC. At this time, water was observed in the impoundment and Mill

Westwood, 42 Mill Street

DEP File # 338-0594

Superseding Order of Resource Area Delineation

Page 2

Brook. Additionally, two more site visits were made with this group to confirm wetland boundaries at the site using soils and vegetation.

The undeveloped site contains approximately half of a 2.55 acre shallow impoundment of Mill Brook and both wooded upland and BVW. An existing driveway from Mill Street to 44 Mill Street is parallel to the 42 Mill Street property line. An intermittent stream channel that was probably originally dug for drainage runs alongside the driveway on the 42 Mill Street property and joins Mill Brook. The intermittent stream flows through a small, partially-blocked culvert under what appeared to be a vehicle crossing from the driveway. Flowing water was not observed in the intermittent stream channel during any of the site visits.

The Riverfront regulations at 310 CMR 10.58(2) define a perennial stream using different criteria depending on the information known about the stream and its watershed. Specific criteria include the following: the stream is shown as perennial on a USGS topographic map, has a watershed size greater than or equal to one square mile, has a watershed area of at least one-half (0.50) square miles and a predicted flow rate greater than or equal to 0.01 cfs at the 99% flow duration using the USGS StreamStats program, and is perennial under natural conditions. This definition is further refined by 10.58(2)(a)1.d. which specifies that streams significantly affected by drawdown from withdrawals of water supply wells, direct withdrawals, impoundments, or other man-made flow reductions or diversions, then it shall be considered perennial.

Mill Brook is shown as a perennial stream on the 1985 Norwood Mass USGS Quadrangle and is within the Neponset River watershed. There are three impoundments on Mill Brook which includes the impoundment on the site. Two of the impoundments are located above the site impoundment. Historically, based on a 1941 USGS Norwood topographic quadrangle, there is no impoundment at 42 Mill Street but just the brook flowing through a wetland area. Furthermore, there is only one impoundment located along Mill Brook on this map.

The USGS StreamStats program calculated the drainage area of Mill Brook to be 1.36 square miles from the dam outlet on the site. The predicted flow rate was calculated at 0.0241 cubic feet per second at the 99% flow duration. Mill Brook enters the impoundment through a shallow channel of wetland vegetation and then flows approximately 400 feet through the impoundment to the dam outlet.

A significant portion of Mill Brook including the impoundment at the site is within the Interim Wellhead Protection Area of a Public Water Supply (PWS) well at Buckmaster Pond in Westwood. In the absence of an approved Zone II recharge area, DEP has adopted the Interim Wellhead Protection Area (IWPA) as the primary, protected recharge area for PWS groundwater sources. The IWPA radius for the PWS well at Buckmaster Pond is 0.5 miles.

Although not a declared drought during the period of time that the photographs were taken of a dry channel below the dam, the region was experiencing a dry period as evidenced by low stream flows and groundwater tables. Data from the USGS for the Water Year 2014 that ran from

Westwood, 42 Mill Street

DEP File # 338-0594

Superseding Order of Resource Area Delineation

Page 3

October 1, 2013 to September 30, 2014 showed very low flows for the Neponset River and low groundwater levels at a USGS Norfolk well during September of 2014. The US Drought Monitor showed the region that includes Mill Brook and its watershed as being abnormally dry on September 2, 2014.

Based on the above information that Mill Brook is shown as a perennial stream on a USGS topographic map with a watershed area greater than one square mile, a predicted flow rate greater than 0.01 cfs, is within the recharge area of a PWS, has two impoundments above the site, and observations were made during an abnormally dry season with below average stream flows and groundwater levels in the area, it is MassDEP's opinion that Mill Brook is a perennial stream subject to the Riverfront regulations pursuant to 310 CMR 10.58.

It is also MassDEP's contention that the impoundment at 42 Mill Street is a run-of-the river impoundment and has primarily riverine characteristics based on its extremely shallow depth (estimated average depth of about 2 feet), small impoundment size compared with its watershed (341 times smaller than the watershed), the short distance between the brook inlet and the dam outlet (approximately 400 feet) which effectively short-circuits the impoundment; and the 1941 USGS quad shows a channel through a wetland area with no impoundment on the site.

Therefore, it is MassDEP's opinion that the impoundment is subject to the riverfront regulations at 310 CMR 10.58.

The intermittent channel begins in a wetland area designated by flag D6 on the revised plan dated June 13, 2016 and continues to wetland flag GC52-1 (note that the intermittent channel from D6 to GC54 is located outside of the site's property line). The intermittent stream channel banks were examined for hydric soils and wetland vegetation. Hydric soils were found as well as wetland vegetation along the entire channel with the exception of a short section approximately 10 feet long where the channel lost its definition and then picked up again at its confluence with Mill Brook. It was clear, however, that the entire channel from D6 to its confluence with Mill Brook conveys water during large storm events along its entire length. It is MassDEP's opinion that the intermittent stream channel has bank with BVW.

Concerning vernal pools on the site, there are no confirmed potential or designated vernal pools registered by the Natural Heritage Program.

Please be advised that it is MassDEP's responsibility to address only those interests identified in the Wetlands Protection Act, M.G.L. Chapter 131, Section 40. However, the MassDEP reserves the right, should there be further proceedings in this case, to raise additional issues and present further evidence as may be appropriate. Should any party dispute these findings, please consult the language in the SORAD that specifies your rights and procedures for appeal.

If you have any questions concerning this SORAD, please do not hesitate to contact Gary Bogue at 978-694-3372.

**Westwood, 42 Mill Street
DEP File # 338-0594
Superseding Order of Resource Area Delineation
Page 4**

Sincerely,



Rachel Freed, Deputy Regional Director
Bureau of Water Resources

cc: Westwood Conservation Commission, 50 Carby Street, Westwood, MA 02090
Scott Goddard, Goddard Consulting, 291 Main Street, Suite 8, Northborough, MA 01532
Brian Donahoe, Goldman Environmental Consultants, 60 Brooks Drive, Braintree, MA 02184

**Massachusetts Department of Environmental Protection**

Bureau of Resource Protection - Wetlands

WPA Form 4B – Superseding Order of Resource Area Delineation

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

DEP File Number:

338-0594

Provided by DEP

A. General Information

From:

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Issuing Authority

This Issuance is for (check one):

- Superseding Order of Resource Area Delineation
- Amended Superseding Order of Resource Area Delineation

To: Applicant:

Anthony Delapa

Name

Property Owner (if different from applicant):

Salvatore Vinci

Name

Delapa Properties

511 Washington Street

Mailing Address

67 Hazelwood Drive

Mailing Address

Norwood
City/TownMA
State02062
Zip CodeNorwood
City/TownMA
State02062
Zip Code

1. Project Location:

42 Mill Street

Street Address

28

Assessors Map/Plat Number

Westwood

City/Town

013

Parcel /Lot Number

2. Title and Revised Date of Final Plans and Other Documents:

"Wetland Delineation Plan 42 Mill Street Westwood, MA"

Title

Last revisedDate 6/13/2016

3. Final Plans and Documents Signed and Stamped by:

Joyce Hastings, PLS

Name

4. Dates:

11/10/2014

Date ANRAD Filed

Date Public Hearing Closed

11/9/2015

Date of Local Order

5. \$200

Total Filing Fee Paid

\$87.50

State Fee Paid

\$112.50

City/Town Fee Paid.



Massachusetts Department of Environmental Protection

Bureau of Resource Protection - Wetlands

WPA Form 4B – Superseding Order of Resource Area Delineation

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

DEP File Number:

338-0594

Provided by DEP

B. Order of Delineation

The Department has determined the following (check whichever is applicable):

- Accurate:** The boundaries described on the referenced plan(s) above and in the Abbreviated Notice of Resource Area Delineation are accurately drawn for the following resource area(s):

Bordering Vegetated Wetlands

Other Resource Area(s), specifically:

- Modified:** The boundaries described on the plan(s) referenced above, as modified by the Department from the plans contained in the Abbreviated Notice of Resource Area Delineation, are accurately drawn for the following resource area(s):

Bordering Vegetated Wetlands

Other Resource Area(s), specifically:

- Inaccurate:** The boundaries described on the referenced plan(s) and in the Abbreviated Notice of Resource Area Delineation were found to be inaccurate and cannot be confirmed for the following resource area(s):

Bordering Vegetated Wetlands

Other Resource Area(s), specifically:
Riverfront Area

The boundaries were determined to be inaccurate because:

Inaccurate BVW delineation

Incorrect stream determination



Massachusetts Department of Environmental Protection

Bureau of Resource Protection - Wetlands

WPA Form 4B – Superseding Order of Resource Area Delineation

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

DEP File Number:

338-0594

Provided by DEP

B. Order of Delineation (cont.)

This Order of Resource Area Delineation determines the boundaries of those resource areas noted above and is binding as to all decisions rendered pursuant to the Massachusetts Wetlands Protection Act (M.G.L. c.131, § 40) and its regulations (310 CMR 10.00) regarding such boundaries. This Order does not, however, determine the boundaries of any resource area or Buffer Zone to any resource area not specifically noted above, regardless of whether such boundaries are contained on the plans attached to this Order or to the Abbreviated Notice of Resource Area Delineation.

Signature:

Rachel Freed, Deputy Regional Director
Bureau of Water Resources, NERO

This Order is valid for three years from the date of issuance.

This Order is issued to the applicant and the property owner (if different) as follows:

by hand delivery on

Date _____

by certified mail

8/25/2016

Date _____



Massachusetts Department of Environmental Protection

Bureau of Resource Protection - Wetlands

WPA Form 4B – Superseding Order of Resource Area Delineation

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

DEP File Number:

338-0594

Provided by DEP

C. Appeals

The applicant, the landowner, any person aggrieved by the Superseding Order, Determination or other Reviewable Decision as defined at 310 CMR 10.04, who previously participated in the proceedings leading to this Reviewable Decision, the conservation commission, or any ten (10) residents of the city or town where the land is located if at least one resident was previously a participant in the permit proceeding, are hereby notified of their right to appeal this Reviewable Decision pursuant to M.G.L. c.30A, § 10, provided the request is made by certified mail or hand delivery to the Department, along with the appropriate filing fee and a MassDEP Fee Transmittal Form within ten (10) business days of the date of issuance of this Superseding Order or Determination, and addressed to:

Case Administrator
Office of Appeals and Dispute Resolution
Department of Environmental Protection
One Winter Street, 2nd Floor
Boston, MA 02108

A copy of the request (hereinafter also referred to as Appeal Notice) shall at the same time be sent by certified mail or hand delivery to the Conservation Commission, the applicant, the person that requested the Superseding Order or Determination, and the issuing office of the MassDEP at:

MassDEP – Northeast Regional Office
Wetlands Program
205B Lowell Street
Wilmington, MA 01887

In the event that a ten resident group requested the Superseding Order or Determination, the Appeal Notice shall be served on the designated representative of the ten resident group, whose name and contact information is included in this Reviewable Decision (when relevant).

Contents of Appeal Notice

An Appeal Notice shall comply with the Department's Rules for Adjudicatory Proceedings, 310 CMR 1.01(6) and 310 CMR 10.05(7)(j), and shall contain the following information:

- (a) the MassDEP Wetlands File Number, name of the applicant, landowner if different from applicant, and address of the project;
- (a) the complete name, mailing address, email address, and fax and telephone numbers of the party filing the Appeal Notice; if represented by consultant or counsel, the name, fax and telephone numbers, email address, and mailing address of the representative; if a ten residents group, the same information for the group's designated representative;
- (b) if the Appeal Notice is filed by a ten (10) resident group, then a demonstration of participation by at least one resident in the previous proceedings that led to this Reviewable Decision;
- (c) if the Appeal Notice is filed by an aggrieved person, then a demonstration of participation in the previous proceeding that lead to this Reviewable Decision and sufficient written facts to demonstrate status as a person aggrieved;
- (d) the names, telephone and fax numbers, email addresses, and mailing addresses of all other interested parties, if known;
- (e) a clear and concise statement of the alleged errors contained in the Department's decision and how each alleged error is inconsistent with 310 CMR 10.00 and does not contribute to the protection of the interests identified in the Wetlands Protection Act, M.G.L. c.131, § 40, including reference to the statutory or regulatory provisions that the party filing the Appeal Notice alleges has been violated by the Department's Decision, and the relief sought, including any specific desired changes to the Department's decision;
- (f) a copy of the Department's Reviewable Decision that is being appealed and a copy of the underlying Conservation Commission decision if the Reviewable Decision affirms the Conservation Commission decision;
- (g) a statement that a copy of the request has been sent by certified mail or hand delivery to the applicant and the conservation commission; and if asserting a matter that is Major and Complex, as defined at 310 CMR 10.04(1), a statement requesting that the Presidne Officer make a designation of Major and Comnplex. with sncific reasons



Massachusetts Department of Environmental Protection

Bureau of Resource Protection - Wetlands

WPA Form 4B – Superseding Order of Resource Area Delineation

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

DEP File Number:

338-0594

Provided by DEP

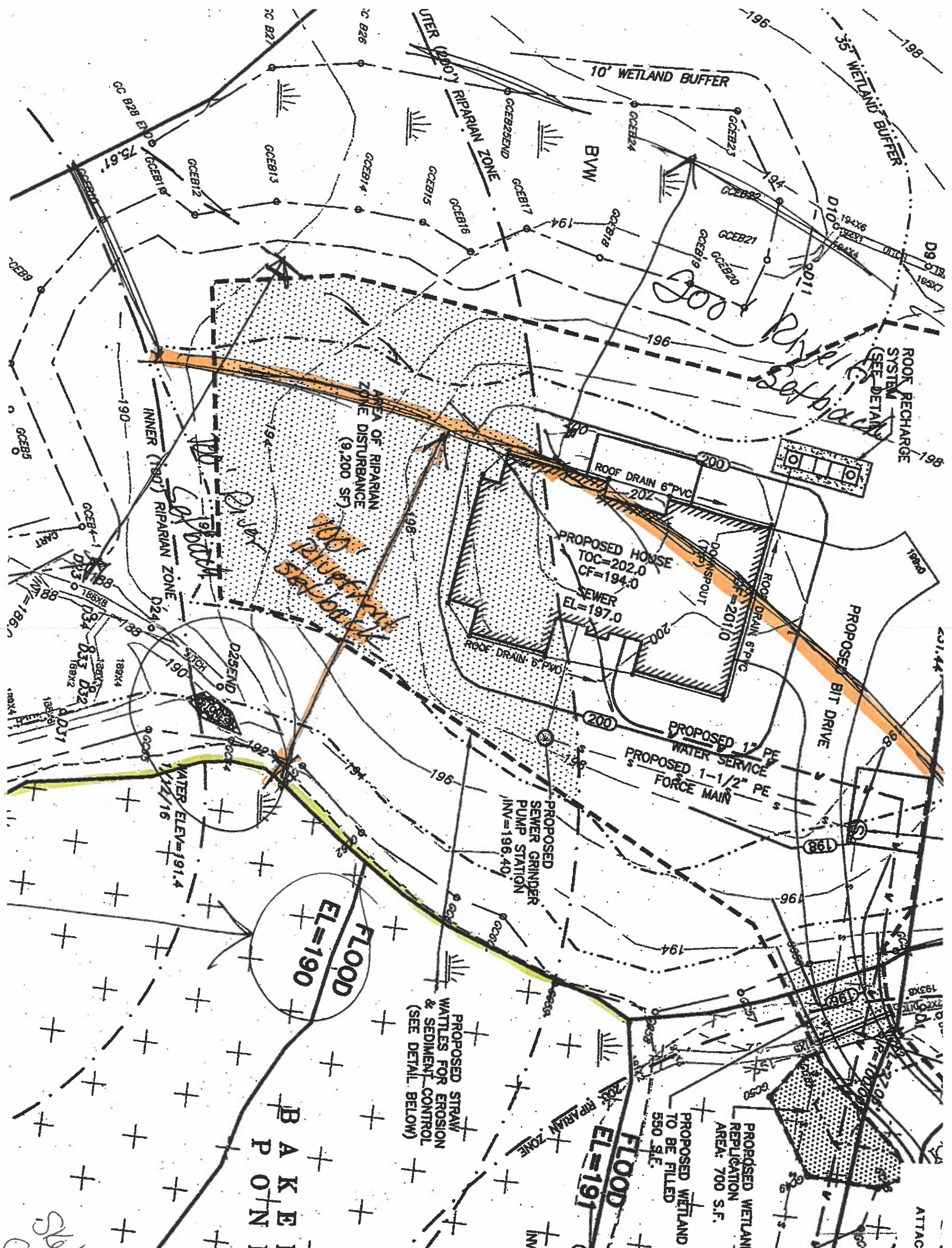
Filing Fee and Address

A copy of the Appeal Notice along with a MassDEP Fee Transmittal Form and a valid check or money order payable to the Commonwealth of Massachusetts in the amount of one hundred dollars (\$100) must be mailed to:

Commonwealth of Massachusetts
Department of Environmental Protection
Commonwealth Master Lockbox
P.O. Box 4062
Boston, Massachusetts 02211

The request will be dismissed if the filing fee is not paid, unless the appellant is exempt or granted a waiver. The filing fee is not required if the appellant is a city or town (or municipal agency), county, district of the Commonwealth of Massachusetts, or a municipal housing authority. The Department may waive the adjudicatory hearing filing fee pursuant to 310 CMR 4.06(2) for a person who shows that paying the fee will create an undue financial hardship. A person seeking a waiver must file an affidavit setting forth the facts believed to support the claim of undue financial hardship together with the hearing request as provided above.

ATTACHMENT C



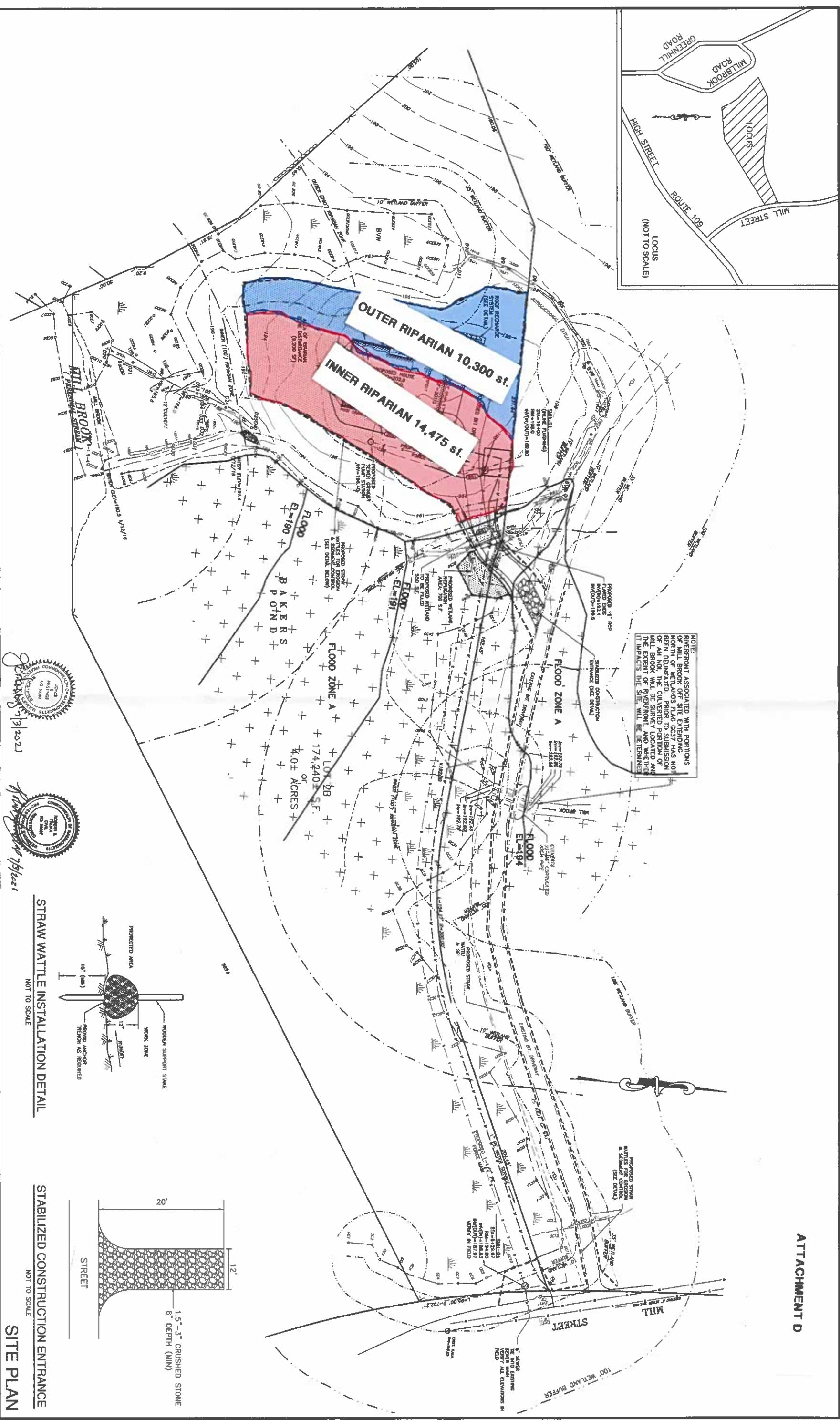
Sketch Plan from
Goldman Env.
Peer review
Consultant



NOTE: IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO VERIFY LOCATIONS AND ELEVATIONS OF EXISTING UTILITIES, PRIOR TO COMMENCEMENT OF ANY CONSTRUCTION.

DIGSAFE IS TO BE NOTIFIED 72 WORKING HOURS IN ADVANCE OF CONSTRUCTION.

DIGSAFE - 1-888-344-7233



Karon Catrone

From: Brian Donahoe <bdonahoe@goldmanenvironmental.com>
Sent: Monday, January 04, 2021 12:16 PM
To: Karon Catrone
Subject: FW: additional review material
Attachments: Combined Attachments Reduced.pdf

Hi Karon, I sent this to you on December 14. If . If u are OK with it then its final. Please call with any questions. The bottom line is the plan still doesn't reflect the true set back and boundary line.

Brian Donahoe, Vice President
Environmental Services & Engineering
Goldman Environmental Consultants, Inc.
60 Brooks Drive
Braintree, MA 02184
Mobile: 617-947-0957
Office: 781-356-9140 x 114
Fax: 781-356-9147

From: Brian Donahoe
Sent: Monday, December 14, 2020 2:23 PM
To: kcatrone@townhall.westwood.ma.us
Subject: additional review material

GEC has continued its review of the materials submitted after the initial documentation was submitted. We are aware that some additional plans may or are being submitted soon that were expected to be submitted for the Commission's last hearing in December. The follow up hearing has been continued until January 2021.

The original plan submitted with the application was resubmitted to address the apparent scale discrepancy. There are additional finding discussed below regarding the review of the plan. Attachments to this email report are noted above.

Attachment A is Figure 6 from the original report in January 2016 show the Brook following a channel for more than 140 feet south into the area of the 'pond' and therefore extends the bank of the perennial stream for that distance. The corresponding river front setbacks will also change due to that condition. The second attachment, B, shows the concrete dam and the dry stream channel in October 2020. Debris of the beaver dam can be seen upstream of the concrete dam. Also note the stream channel in the foreground is approximately 35-40 feet wide. The bank of this channel seems to be shown on the submitted plan following contour 184 whereas the channel that was measured is only 5 feet wide. (See Attachment I) This changes the riverfront setback by about 25 feet closer to the proposed house. The third attachment, C, shows the channel flowing at the same time the concrete dam was dry indicating that it now is the likely perennial stream due to the beaver dam. These two photos were taken during an official drought monitoring period. (see attachment G) The fourth photo D, shows the same channel on December 2 2020 after a 2.5 inch rain fall event from December 1. The fifth picture E, shows the same channel looking downstream. Based on this picture the level of the water at the main channel is approximately elevation 188 using the plan of record. This further expands the point of the perennial stream edge, 25 +/- feet closer to the project site because the edge if the perennial stream is the annual high water mark per the regulations. We continue to maintain as well that this stream is the perennial stream due to the changed condition of the beaver dam and the resulting pathway for the water is this channel as documented here. See attachment J. Furthermore based on this information the Commission has the right to consider the pond to not exist if it is not named on the u USGS plan and if the characteristic of the steam can be documented through the impoundment. Attachment F is the latest FEMA flood map for the 100- and 500- year elevations from the MASS GIS system. Note that the entire site is within the 100 year flood plain including the house location. In fact the entire lot as shown is within the 100 year flood plain.

Attachment H is marked up from the plan of record. We note that the access road to the house is not from the owners lot but from the interior of the abutters lot. The only access from the Right of way is in the proposed location of the force main. This will cause additional wetland impacts to cross the stream located there.

The last attachment is some background regarding the relationship of beavers with the intestinal disease known as Giardia for reference.

Brian Donahoe, Vice President
Environmental Services & Engineering
Goldman Environmental Consultants, Inc.
60 Brooks Drive
Braintree, MA 02184
Mobile: 617-947-0957
Office: 781-356-9140 x 114
Fax: 781-356-9147

The Attorney General has determined that email correspondences are public records unless the content of the email falls with one of the stated exemptions under the Public Records Laws

List of Attachments

- A. Figure 6 from original report – indicating the stream channel flows approximately 140 feet through a vegetated wetland before entering the ‘pond’.
- B. Main concrete dam and channel October 2020 during drought. Note stream bed is 30 -40 feet wide not 5 feet wide.
- C. Spillway channel in earthen dam flowing during drought on same day as main channel was dry.
- D. Same spillway on 12/1 2020 after 2.6 inches of rain confirm that this is the main river and should be treated as such in association with ~~number 10~~ below
Letter E
- E. Looking downstream of channel indicating annual high water level of 1888 feet not 184 feet per regulations 10.58 2 (2)
- F. Current 100- and 500-year floodplain per FEMA FIRM from Mass GIS - entire site is in floodplain
- G. Fall 2020 Drought monitor plan indicating extensive drought condition
- H. Plan of land submitted with application indicating the proposed access location is not from the Right of way but within abutter's property
- I. Plan of land indicating the stream channel width (5 feet) used to establish riverfront setback rather than the channel shown on the plan adjusted per the annual high water elevation of 188 feet.
- J. Regulation 10.58 2 (1) h describing when a pond can be a river which seems to apply to this area and would extend the river front setback.
- K. Background on beavers and the high incidence of Giardia, a contagious disease.



Google Earth Imagery date 4/9/2008

Pond at Mill Brook behind old dam. Note riverine characteristics flowing through the area from north to southwest



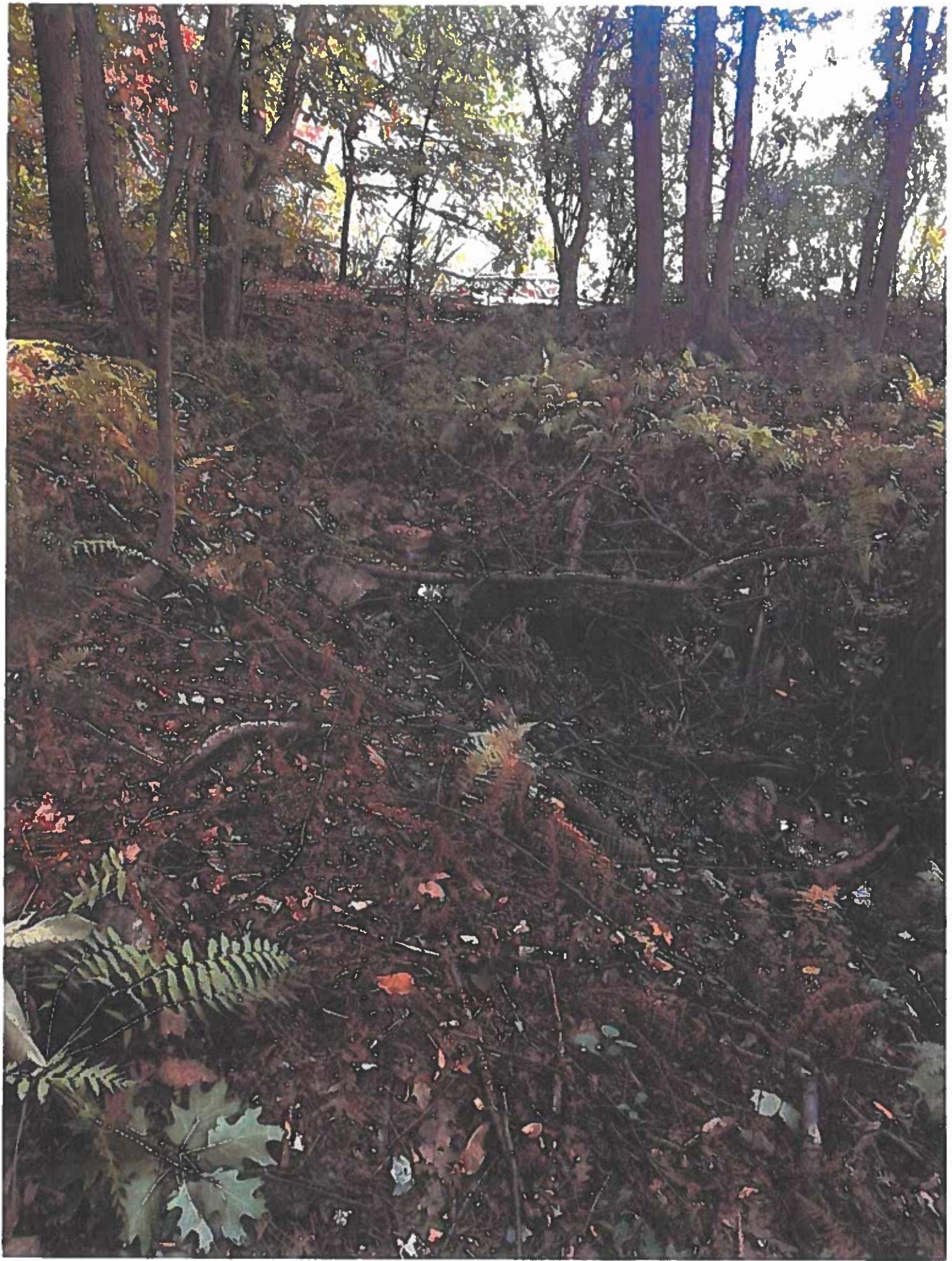
Goldman Environmental Consultants, Inc
60 Brooks Drive
Braintree, MA 02184
(781)356-9140 Fax (781)356-9147
www.goldmanenvironmental.com

42 Mill St
Westwood, MA
GEC Project Number 1826-5010

Figure 6

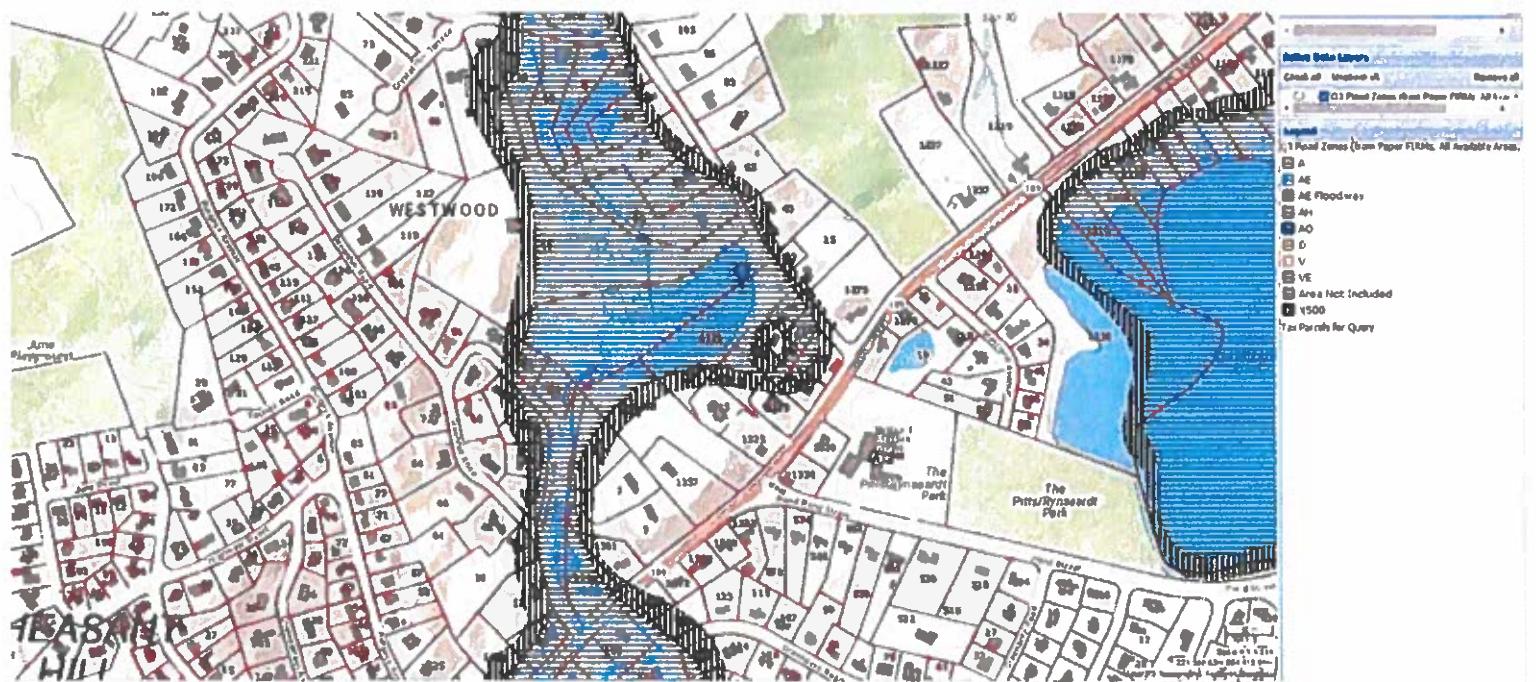






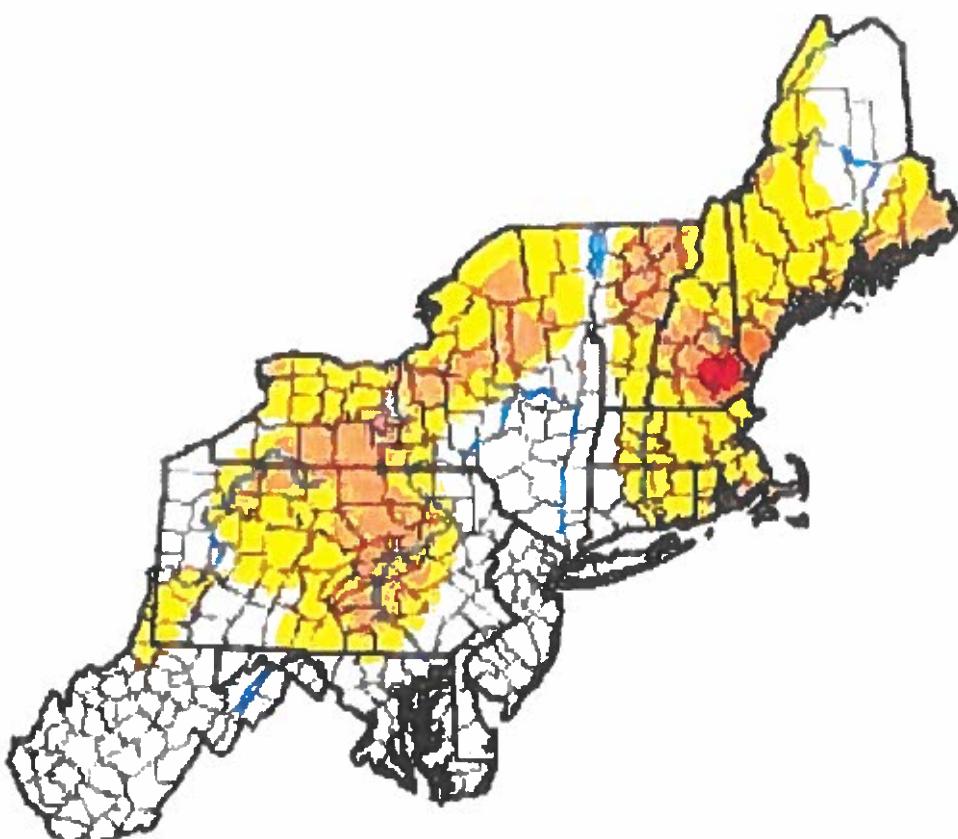






U.S. Drought Monitor Northeast

December 1, 2020
(Released Thursday, Dec. 3, 2020)
Valid 7 a.m. EST



Intensity:
D0 Abnormally Dry
D1 Moderate Drought
D2 Severe Drought
D3 Extreme Drought
D4 Exceptional Drought

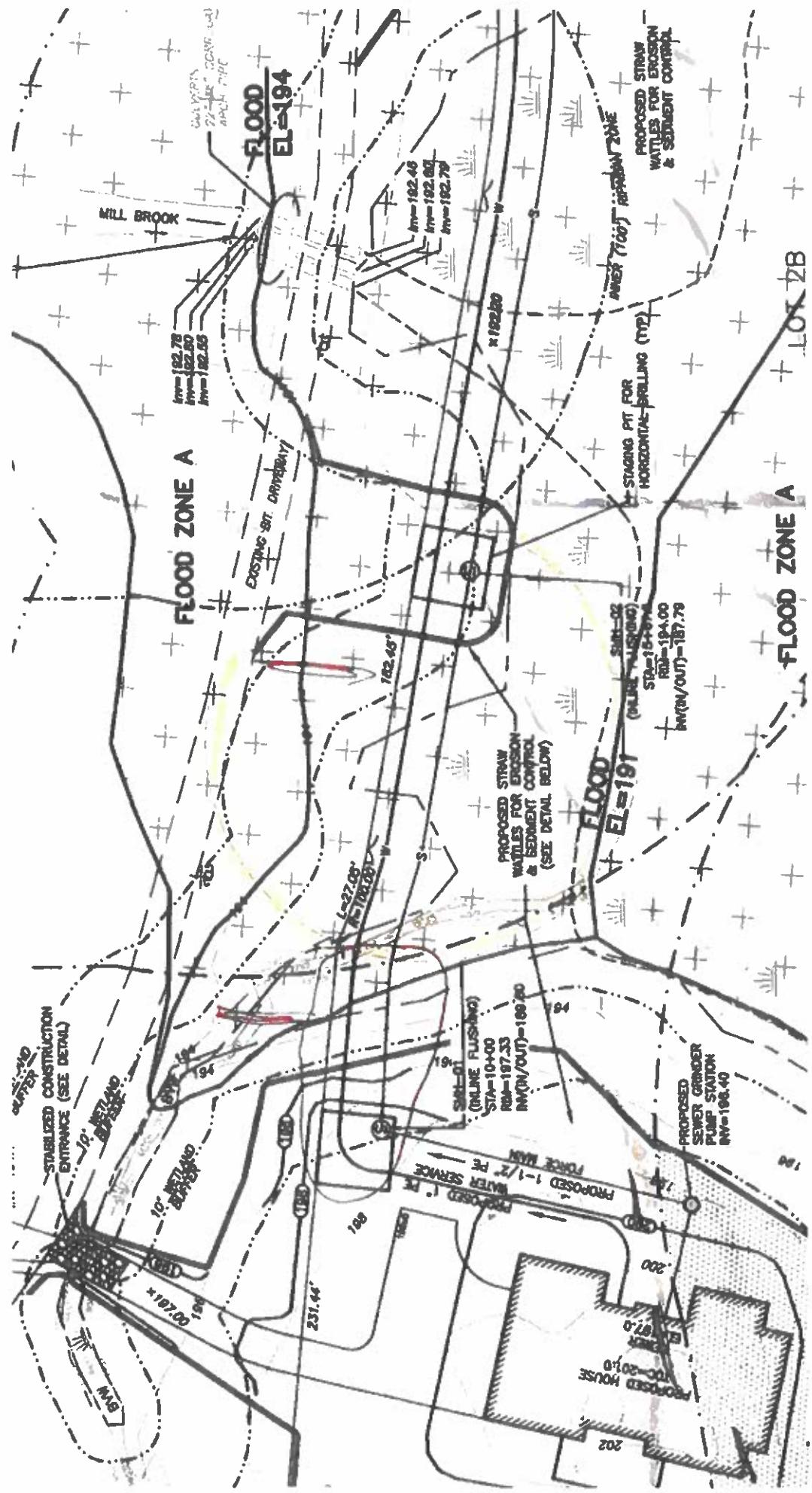
The Drought Monitor tracks major droughts around the country. Local conditions are best known in the western U.S. and the Northeast. Go to droughtmonitor.unl.edu for more information.

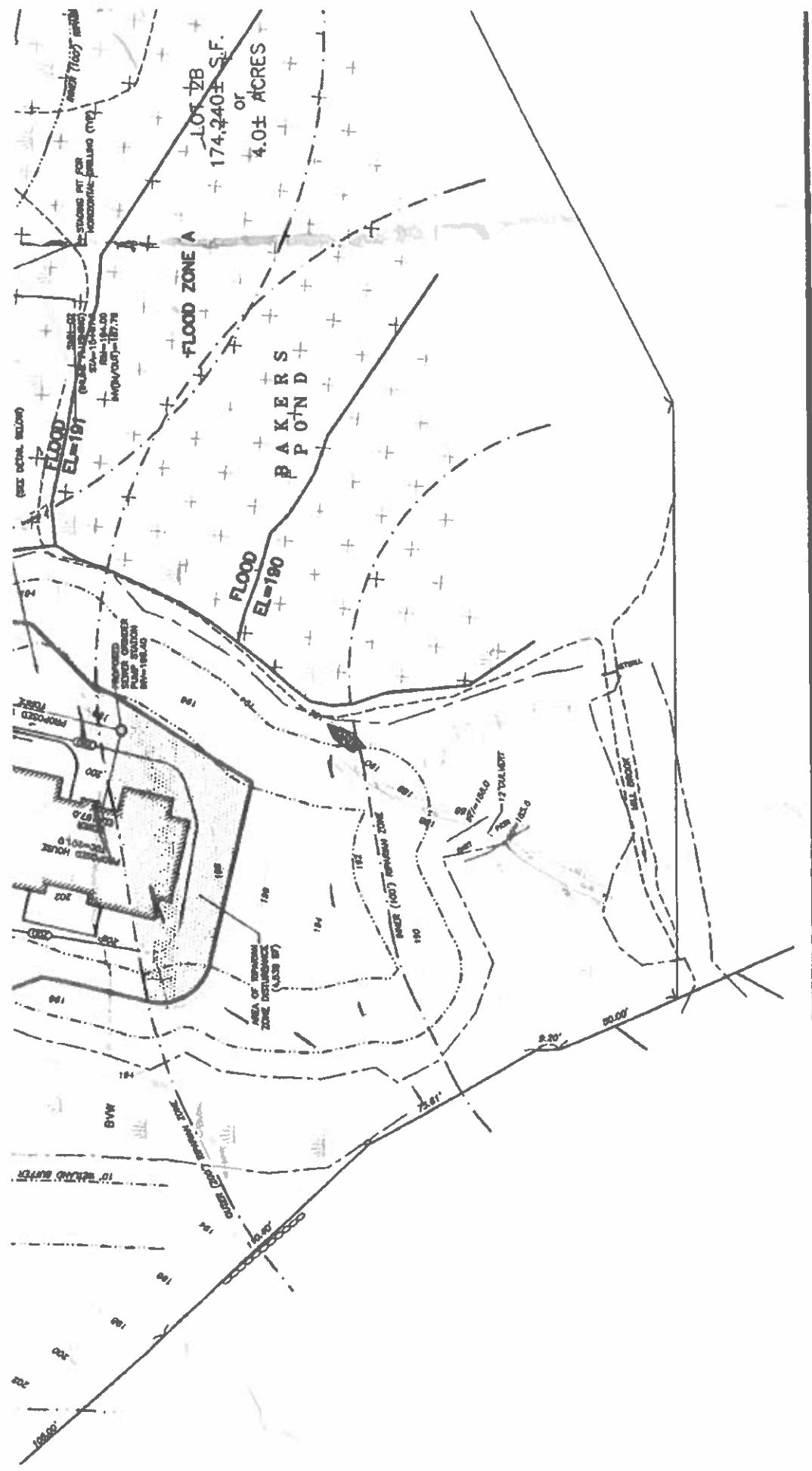
Author

Richard Heim
NCDC/NCEI



droughtmonitor.unl.edu





10.58: continued

2(1) h.

- f. Rivers include perennial streams that cease to flow during periods of extended drought. Periods of extended drought for purposes of 310 CMR 10.00 shall be those periods, in those specifically identified geographic locations, determined to be at the "Advisory" or more severe drought level by the Massachusetts Drought Management Task Force, as established by the Executive Office of Energy and Environmental Affairs and the Massachusetts Emergency Management Agency in 2001, in accordance with the Massachusetts Drought Management Plan (MDMP). Rivers and streams that are perennial under natural conditions but are significantly affected by drawdown from withdrawals of water supply wells, direct withdrawals, impoundments, or other human-made flow reductions or diversions shall be considered perennial.
- g. Human made canals (e.g., the Cape Cod Canal and canals diverted from rivers in Lowell and Holyoke) and mosquito ditches associated with coastal rivers do not have riverfront areas.
- h. Where rivers flow through lakes or ponds, the Riverfront Area stops at the inlet and begins again at the outlet. A water body identified as a lake, pond, or reservoir on the current USGS map or more recent map provided by the Department, is a lake or pond, unless the issuing authority determines that the water body has primarily riverine characteristics. When a water body is not identified as a lake, pond, or reservoir on the current USGS map or more recent map provided by the Department, the water body is a river if it has primarily riverine characteristics. Riverine characteristics may include, but are not limited to, unidirectional flow that can be visually observed or measured in the field. In addition, rivers are characterized by horizontal zonation as opposed to the vertical stratification that is typically associated with lakes and ponds. Great Ponds (i.e., any pond which contained more than ten acres in its natural state, as calculated based on the surface area of lands lying below the natural high water mark; a list is available from the Department) are never rivers.
2. Mean Annual High-water Line of a river is the line that is apparent from visible markings or changes in the character of soils or vegetation due to the prolonged presence of water and that distinguishes between predominantly aquatic and predominantly terrestrial land. Field indicators of bankfull conditions shall be used to determine the mean annual high-water line. Bankfull field indicators include but are not limited to, changes in slope, changes in vegetation, stain lines, top of pointbars, changes in bank materials, or bank undercutts.
- In most rivers, the first observable break in slope is coincident with bankfull conditions and the mean annual high-water line.
 - In some river reaches, the mean annual high-water line is represented by bankfull field indicators that occur above the first observable break in slope, or if no observable break in slope exists, by other bankfull field indicators. These river reaches are characterized by at least two of the following features: low gradient, meanders, oxbows, histosols, a low-flow channel, or poorly-defined or nonexistent banks.
 - In tidal rivers, the mean annual high-water line is coincident with the mean high water line determined under 310 CMR 10.23.
3. The Riverfront Area is the area of land between a river's mean annual high water line measured horizontally outward from the river and a parallel line located 200 feet away, except that the parallel line is located:
- 25 feet away in Boston, Brockton, Cambridge, Chelsea, Everett, Fall River, Lawrence, Lowell, Malden, New Bedford, Somerville, Springfield, Winthrop, and

***Giardia* and Wildlife**
SCWDS Briefs, July 1998, 14.2

Intestinal infection with the protozoan parasite *Giardia lamblia* is the second leading cause of outbreaks of waterborne disease in people in the United States. This one-celled parasite is common world-wide and occurs in humans, domestic animals, and wildlife. Although some people and domestic animals carry *G. lamblia* with no symptoms, others may develop severe debilitating diarrhea. Disease in free-ranging wildlife has not been reported.

Giardia cysts are shed in feces and are infective immediately when ingested in contaminated water or food, although symptoms may not appear for 7-10 days. The infective cysts are very susceptible to desiccation and heat; however, they may survive for 2 to 3 months in cool water. Once ingested, cysts release trophozoite stages in the intestine, and the cycle is repeated.

The role of wildlife in transmitting *Giardia* to humans has been controversial. A variety of *Giardia* species have been isolated from wild mammals, birds, amphibians, and reptiles. Beavers are the most well known wildlife host for *Giardia*, to the extent that waterborne outbreaks of human giardiasis have sometimes been called "beaver fever." Experimental studies clearly show that beavers can become infected with *Giardia* of human origin, and beavers shedding *Giardia* cysts were found upstream of contaminated municipal water supplies. However, it still is not clear what species of *Giardia* infects beavers in the wild.

Wildlife other than beavers also have been suspect, but new information has relieved some concerns. DNA analyses recently has disclosed that muskrats and voles are carriers of *G. microti*, a species which does not affect humans. Wading birds such as herons and egrets were once thought to be potential sources of water contamination. Again, genetic analyses have shown that they actually harbor *G. ardeae*, another distinct non-human species. Researchers have found that amphibians and reptiles also carry species distinctly different from the human *G. lamblia* and are not important in causing human giardiasis.

No one can say whether beavers originally contracted *Giardia* from humans or if beavers harbor *Giardia* naturally. Either way, all blame for human giardiasis cannot be focused on the beaver because there is a plethora of important non-wildlife sources that may be of the *G. lamblia* type. Wilderness areas can be heavily contaminated due to improper disposal of human feces. Furthermore, genetic studies have shown that domestic dogs, cats, cattle, and sheep are also capable hosts of *Giardia* similar to that of human origin.

The most important factor in preventing *G. lamblia* infection is avoiding contaminated water. Large-scale waterborne outbreaks of human giardiasis usually occur due to the lack of water filtration or a breakdown in the filtration system. Conventional water treatment plants that use coagulation-sedimentation-filtration methods should prevent waterborne giardiasis outbreaks, regardless of the presence of *Giardia* cysts in the source water. Higher concentrations of chlorine and longer contact times are required to inactivate *Giardia* cysts compared to most other intestinal pathogens, especially in cold water. Boiling water easily inactivates cysts, as the thermal death point of cysts is 130-140° Fahrenheit. Reduction of contamination in streams and wells will depend upon a conscientious effort to dispose of

human and domestic animal feces. Because of the possibility of *G. lamblia* contamination by humans, domestic animals, or beavers, one should never assume that surface water, even in remote areas, is safe to drink without boiling or filtration. (Prepared by Dr. Joe Gaydos)

Karon Catrone

From: Kerry Snyder <snyder@neponset.org>
Sent : Monday, July 06, 2020 10:25 AM
To: Karon Catrone
Subject: 42 Mill St. NOI

Good afternoon, Karon,

We've recently been made aware of a proposal to develop the parcel at 42 Mill St. in Westwood. As you know, the parcel includes Mill Brook, a waterway that has been identified as a cold-water fishery by the Division of Fisheries and Wildlife, and is therefore a critical area for preservation. The proposal as written raises several concerns for us:

- The footprint of the proposed project intrudes into the riverfront area, as does the proposed sewer line. It is therefore hard for me to believe that the project can be accomplished without significantly impacting Mill Brook. The addition of impervious surface on this parcel (particularly without appropriate stormwater controls) will add not only polluted runoff to the surrounding resource areas, but also increased temperatures which could critically impact a cold-water fishery.
- The sewer line is proposed to run through a deep marsh to Mill St. This would endanger not only the marsh but also Mill Brook (which runs through it) and is of serious concern to the health of these resource areas.
- While the proposal includes the use of an existing driveway, that driveway lies well within the floodplain, which presents an environmental and public safety hazard. Westwood has been proactive in planning for the impacts of climate change. As you know, climate change is expected to significantly alter precipitation patterns and cause increased flooding events. The fact that the project proposes to use the only elevated portion of the parcel does not eliminate the danger of flood impacts to the resulting development. In fact, we are aware of several high hazard dams in the area which could add to the public safety implications.

In short, this project is problematic in several respects, and the parcel is inappropriate for such development.

Thank you very much for your consideration of this matter. Should you have any questions, please do not hesitate to contact me.

Best,
Kerry

Kerry Malloy Snyder, JD
Advocacy Director
 **neponset river**
WATERSHED ASSOCIATION

2173 Washington Street
Canton, MA 02021
snyder@neponset.org
Office: 781-575-0354 ext. 300
Mobile: 215-260-5610
Pronouns: she/her/hers

TOWN OF WESTWOOD
COMMONWEALTH of MASSACHUSETTS

Christopher A. Pfaff, Chairman
 Steven H. Olanoff, Vice Chairman
 Trevor Laubenstein, Secretary
 John J. Wiggin
 Bruce H. Montgomery



Nora Loughnane, Town Planner
nloughnane@townhall.westwood.ma.us
 (781) 251-2581

Janice Barba, Planning & Land Use Specialist
jbarba@townhall.westwood.ma.us
 781-320-1366

PLANNING BOARD

February 24, 2016

Mrs. Dorothy Powers, Town Clerk
 Town of Westwood
 580 High Street
 Westwood, MA 02090

RE: ANR Plan for 44 Mill Street (Map 28, Lot 14)

Dear Mrs. Powers:

As you are aware, an application for endorsement of a proposed ANR Plan for 44 Mill Street was received by the Planning Office on February 2, 2016. At a duly authorized meeting on February 9, 2016, the Westwood Planning Board determined that the Applicant did not demonstrate that vital access exists to lots proposed for creation by said plan and declared the above-referenced ANR submission incomplete. Town Planner Abigail McCabe sent you a letter memorializing the Board's February 9th action on February 11, 2016.

Soon thereafter on February 11, 2016, the Applicant submitted additional materials in an effort to have the ANR submission deemed complete. These materials were reviewed by staff, and while the application remained incomplete, the matter was once again brought before the Planning Board for further action.

Please be advised that at a duly authorized meeting on February 23, 2016, the Planning Board reviewed the materials submitted by the Applicant on February 11th and determined that the intended land division shown on the proposed ANR plan constituted a subdivision. As such, the Planning Board found it was unable to endorse the proposed ANR plan. The Planning Board unanimously voted in favor to require approval under the Subdivision Control Law, for a plan entitled "Plan of Land, 44 Mill Street, Westwood, Massachusetts", dated January 20, 2016, prepared by Hoyt Land Surveying, 1287 Washington Street, Weymouth, MA 02189.

Applicant: Edward J. Musto
 36 Blue Hill Drive
 Westwood, MA 02090

Land Affected: 44 Mill Street, Assessor's Map 28 Parcel 14

Sincerely,

Nora Loughnane

Nora Loughnane
 Director of Community & Economic Development
 (on behalf of Abigail McCabe, Town Planner)

cc: Applicant
 Town Counsel
 Town Engineer
 Building Commissioner

ATTACHMENT G

Property Location		MILL ST	Map ID	28/013//	Bldg #	1	Sec #	1	of 1	Card #	1	of 1	Print Date	11-18-2020 4:04:55 P		
Vision ID	3440		Account #	00003440									3 Use 1320			
CURRENT OWNER		TOPO	UTILITIES	STRT/ROAD	LOCATION		CURRENT ASSESSMENT									
DELAPO REALTY TRUST							Description	Code	Assessed	Code	Assessed					
ANTHONY F & JOANNE C DELAPAT							RES LAND	1320	16,000		16,000					
511 WASHINGTON STREET																
NORWOOD	MA	02062														
GIS ID	F_726681_2901263															
RECORD OF OWNERSHIP		BK-VOL/PAGE	SALE DATE	Q/U	V/I	SALE PRICE	VC									
Alt Proj ID	28013	37749 482	04-07-2020	U	V	10,000	1	1B	2020	1320	16,000	2019	1320	Code Assessed		
Occ Perm		14299 0480		U	V											
Photo																
Ward																
Prec																
Sew Zone																
EXEMPTIONS		Amount	Code	Description	Number	Amount	Comm Int									
		Total	0.00													
ASSESSING NEIGHBORHOOD																
Nhhd	Nhhd Name	B		Tracing			Batch									
005																
NOTES																
BAKERS POND																
LAND LINE VALUATION SECTION																
Permit Id	Issue Date	Type	Description	Zone	Land Type	Land Units	Unit Price	Size Adj	Site Index	Cond.	Nbhhd.	Nbhhd. Adj	Notes	Location Adjustment	Adj Unit P	Land Value
1	1320	RES ACNUD	RC	4,000 AC	40,000	1,000000	5	0.10	B	1,000	WETLANDS			1,0000	4,000	16,000
BUILDING PERMIT RECORD																
B	Use Code	Description	Zone	Land Type	Land Units	Unit Price	Size Adj	Site Index	Cond.	Nbhhd.	Nbhhd. Adj	Notes	Location Adjustment	Adj Unit P	Land Value	
1	1320	RES ACNUD	RC	4,000 AC	40,000	1,000000	5	0.10	B	1,000	WETLANDS			1,0000	4,000	16,000
VISIT / CHANGE HISTORY																
Date	Id	Type	Is Cd	Purpost/Result												
TOTAL APPRAISED PARCEL VALUE																
Total Appraised Parcel Value 16,000																
APPRAISED VALUE SUMMARY																
Appraised Bldg. Value (Card)	0															
Appraised Xf (B) Value (Bldg)	0															
Appraised Ob (B) Value (Bldg)	0															
Appraised Land Value (Bldg)	16,000															
Special Land Value	0															
Total Appraised Parcel Value	16,000															
Valuation Method	C															
TOTAL APPRAISED PARCEL VALUE																
Total Appraised Parcel Value 16,000																
LAND LINE VALUATION SECTION																
B	Use Code	Description	Zone	Land Type	Land Units	Unit Price	Size Adj	Site Index	Cond.	Nbhhd.	Nbhhd. Adj	Notes	Location Adjustment	Adj Unit P	Land Value	
1	1320	RES ACNUD	RC	4,000 AC	40,000	1,000000	5	0.10	B	1,000	WETLANDS			1,0000	4,000	16,000
BUILDING PERMIT RECORD																
B	Use Code	Description	Zone	Land Type	Land Units	Unit Price	Size Adj	Site Index	Cond.	Nbhhd.	Nbhhd. Adj	Notes	Location Adjustment	Adj Unit P	Land Value	
1	1320	RES ACNUD	RC	4,000 AC	40,000	1,000000	5	0.10	B	1,000	WETLANDS			1,0000	4,000	16,000
VISIT / CHANGE HISTORY																
Date	Id	Type	Is Cd	Purpost/Result												
TOTAL APPRAISED PARCEL VALUE																
Total Appraised Parcel Value 16,000																
APPRAISED VALUE SUMMARY																
Appraised Bldg. Value (Card)	0															
Appraised Xf (B) Value (Bldg)	0															
Appraised Ob (B) Value (Bldg)	0															
Appraised Land Value (Bldg)	16,000															
Special Land Value	0															
Total Appraised Parcel Value	16,000															
Valuation Method	C															
TOTAL APPRAISED PARCEL VALUE																
Total Appraised Parcel Value 16,000																
LAND LINE VALUATION SECTION																
B	Use Code	Description	Zone	Land Type	Land Units	Unit Price	Size Adj	Site Index	Cond.	Nbhhd.	Nbhhd. Adj	Notes	Location Adjustment	Adj Unit P	Land Value	
1	1320	RES ACNUD	RC	4,000 AC	40,000	1,000000	5	0.10	B	1,000	WETLANDS			1,0000	4,000	16,000
BUILDING PERMIT RECORD																
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Total Appraised Parcel Value 16,000																
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Appraised Xf (B) Value (Bldg)	0															
Appraised Ob (B) Value (Bldg)	0															
Appraised Land Value (Bldg)	16,000															
Special Land Value	0															
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VISIT / CHANGE HISTORY																
Date	Id	Type</td														

Bldg Name
Sec # 1 of

Map ID 28/013 // B

Property Location MILL ST
Vision ID 3440

CONSTRUCTION DETAIL

Element	Description	Ca	Element	Ca	Description
Style:			Element		
Model:			Element		
Grade:			Element		
Stories:			Element		
Occupancy:			Element		
Exterior Wall 1	Vacant Land	99	Element		
Exterior Wall 2	Vacant	00	Element		
Roof Structure:			Element		
Roof Cover			Element		
Interior Wall 1			Element		
Interior Wall 2			Element		
Interior Fir 1			Element		
Interior Fir 2			Element		
Heat Fuel			Element		
AC Type:			Element		
Total Bedrooms:			Element		
Total Bthms:			Element		
Total Xtra Fixtrs:			Element		
Total Rooms:			Element		
Bath Style:			Element		
Kitchen Style:			Element		
Garage			Element		
Fireplaces			Element		
Chimney Type			Element		
CONDOS DATA					
Parcel Id	C		Owner	S	
Adjust Type	C		B		
Condo Fir			Description		Factor %
Condo Unit					
COST / MARKET VALUATION					
Building Value New	0		Year Built	0	
			Effective Year Built	0	
			Depreciation Code		
			Remodel Rating		
			Year Remodeled		
			Depreciation %	0	
			Functional Obsol	0	
			Ext. Comment	0	
			Trend F Factor	1	
			Condition		
			Condition %		
			Percent Good		
			RCNLID		
			Dep % Ovr		
			Dep Ovr Comment		
			Misc Imp Ovr		
			Misc Imp Ovr Comment		
			Cost Curve		

BIM DING SUB-AREA SUMMARY SECTION

Code	Description	Living Area	Floor Area	Eff Area	Unit Cost	Undeprec Value
T1	Gross Area	0	0	0	0	0

RECEIVED AND RECORDED
NORFOLK COUNTY
REGISTRY OF DEEDS
DEDHAM, MA

Bk 37749 Pg 482 #31156
04-07-2020 2 11:47a

Record & Return To:

X Joe PROVELD
PO Box 431
Norwood 02062 F
William P. O'Donnell, Register
COPY

N O T
C E R T I F Y
A N

N O T
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O F F I C I A L
C O P Y

QUITCLAIM DEED

We, Salvatore Vinci and Margaret Vinci, husband and wife, both of Norwood, Norfolk County, Massachusetts 02062, for consideration paid in the nominal amount of One and 00/100 (\$1.00) Dollar, do hereby Grant To Anthony F. Delapa and Joanne C. Delapa, as Trustees of the Delapa Realty Trust under Declaration of Trust dated March 9, 1967, and recorded with Norfolk County Registry of Deeds in Book 4416, Page 326, as amended and restated April 20, 2005 and recorded with Norfolk County Registry of Deeds in Book 22310, Page 57, having an address of 511 Washington Street, Norwood, Massachusetts 02062, with QUITCLAIM COVENANTS the following described premises:

The land situated on Mill Street, Westwood, Norfolk County, Massachusetts, being designated and shown as Lot 2 on a plan entitled "Plan of Land in Westwood, Mass.", by Pilling Engineering Company, Inc., dated February 4, 1969, which plan is recorded with Norfolk County Registry of Deeds as Plan No. 394 of 1969, Book 4594, Page 671, to which plan reference is made for a more particular description.

Said Lot 2 contains according to said plan 174,240 square feet or 4000 Acres.

Said premises are conveyed with the following right as appurtenant thereto.

- (a). To use in common with others lawfully entitled thereto for purposes of ingress and egress to and from said Lot 2B those portions crossing the land consisting of a strip noted "Rights of Way" on the plan hereinafter mentioned which lies within the limits of a parcel of land situated on Mill Street in Westwood, Norfolk County, Massachusetts, being designated and shown as Lot 2A on a plan entitled "Plan of Land in Westwood, Mass.", by Pilling Engineering Company, Inc., dated February 4, 1969, amended February 5, 1969, which plan is filed with Norfolk County Registry of Deeds as Plan No. 394 of 1969, in Book 4594, Page 671.
- (b). Premises are conveyed subject to and together with the rights, easements and restrictions set forth in Norfolk County Registry of Deeds Book 14299, Page 480, in so far as now in force and applicable.

The undersigned state under the pains and penalties of perjury that the premises being conveyed is vacant land and no homestead rights are involved in vacant land.

Meaning and intending to convey the same premises as set forth in the Quitclaim Deed recorded with Norfolk County Registry of Deeds in Book 14299, Page 480.

Property Address: Vacant land on Mill St., Westwood, MA 02093

WITNESS our hands and seals this 31st day of March, 2020

O F F I C I A L
C O P Y

O F F I C I A L
C O P Y

Salvatore Vinci
Salvatore Vinci

Margaret L Vinci
Margaret Vinci

STATE OF FLORIDA
COUNTY OF COLLIER; SS:

On this 31st day of March, 2020, before me, the undersigned notary public, Salvatore Vinci and Margaret Vinci, personally appeared, proved to me through satisfactory evidence of identification which is/were Personally Known to be the person(s) whose name(s) is/are signed on the preceding or attached document, and acknowledged to me that he/she/they signed it voluntarily, as his/her/their free act and deed, for its stated purpose.

Linda J. Maloney
Linda J. Maloney, Notary Public
My Commission Expires: December 21, 2023

