

your cursor -
do not use the
return key.



Natalie Cohen

Name

25 Lowell Street

Mailing Address

Andover

MA

01810

City/Town

State

Zip Code

Name

Mailing Address

City/Town

State

Zip Code

1. Title and Date (or Revised Date if applicable) of Final Plans and Other Documents:

Andover MiMap

Title

Date

Title

Date

Title

Date

2. Date Request Filed:

May 7, 2019

B. Determination

Pursuant to the authority of M.G.L. c. 131, § 40, the Conservation Commission considered your Request for Determination of Applicability, with its supporting documentation, and made the following Determination.

Project Description (if applicable):

removal of invasive species and overgrown underbrush and regrading of the yard.

Resource Area Delineation (issued following submittal of Simplified Review ANKAD) has been received from the issuing authority (i.e., Conservation Commission or the Department of Environmental Protection).

1. The area described on the referenced plan(s) is an area subject to protection under the Act. Removing, filling, dredging, or altering of the area requires the filing of a Notice of Intent.

2a. The boundary delineations of the following resource areas described on the referenced plan(s) are confirmed as accurate. Therefore, the resource area boundaries confirmed in this Determination are binding as to all decisions rendered pursuant to the Wetlands Protection Act and its regulations regarding such boundaries for as long as this Determination is valid.

2b. The boundaries of resource areas listed below are not confirmed by this Determination, regardless of whether such boundaries are contained on the plans attached to this Determination or to the Request for Determination.

3. The work described on referenced plan(s) and document(s) is within an area subject to protection under the Act and will remove, fill, dredge, or alter that area. Therefore, said work requires the filing of a Notice of Intent.

4. The work described on referenced plan(s) and document(s) is within the Buffer Zone and will

7. If a Notice of Intent is filed for the work in the Riverfront Area described on referenced plan(s) and document(s), which includes all or part of the work described in the Request, the applicant must consider the following alternatives. (Refer to the wetland regulations at 10.58(4)c. for more information about the scope of alternatives requirements):
- Alternatives limited to the lot on which the project is located.
 - Alternatives limited to the lot on which the project is located, the subdivided lots, and any adjacent lots formerly or presently owned by the same owner.
 - Alternatives limited to the original parcel on which the project is located, the subdivided parcels, any adjacent parcels, and any other land which can reasonably be obtained within the municipality.
 - Alternatives extend to any sites which can reasonably be obtained within the appropriate region of the state.

Negative Determination

Note: No further action under the Wetlands Protection Act is required by the applicant. However, if the Department is requested to issue a Superseding Determination of Applicability, work may not proceed on this project unless the Department fails to act on such request within 35 days of the date the request is post-marked for certified mail or hand delivered to the Department. Work may then proceed at the owner's risk only upon notice to the Department and to the Conservation Commission. Requirements for requests for Superseding Determinations are listed at the end of this document.

- 1. The area described in the Request is not an area subject to protection under the Act or the Buffer Zone.
- 2. The work described in the Request is within an area subject to protection under the Act, but will not remove, fill, dredge, or alter that area. Therefore, said work does not require the filing of a Notice of Intent.

3. The work described in the Request is within an area subject to protection under the Act, but is not within the Buffer Zone as defined in the regulations, but

1. FINDING - NOTICE OF JURISDICTION UNDER THE MASSACHUSETTS WETLANDS PROTECTION ACT, M.G.L.c. 131, § 40. The Andover Conservation Commission hereby finds that all or part of the property on which the work authorized by this Determination of Applicability is proposed is subject to jurisdiction under the Massachusetts Wetlands Protection Act, M.G.L.c. 131, § 40. The owner is hereby notified of his or her responsibility to comply with the provisions of that statute. **This condition shall remain in effect in perpetuity.**

2. FINDING – NOTICE OF JURISDICTION UNDER ARTICLE XIV, ANDOVER WETLANDS PROTECTION BY-LAW. The Andover Conservation Commission hereby finds that all or part of the property on which the work authorized by this Determination of Applicability is proposed is **NOT** subject to jurisdiction under Article XIV, ANDOVER WETLANDS PROTECTION BY-LAW. **(Property is pre-1999)**

3. COMPLIANCE. Failure to comply with all conditions stated in this Determination of Applicability shall be deemed cause for revocation. Failure to comply with all the terms and conditions of this Determination of Applicability may be deemed to be a violation of the Massachusetts Wetlands Protection Act, M.G.L.c. 131, § 40, and/or Article XIV, ANDOVER WETLANDS PROTECTION BY-LAW.

4. FINDING – WAIVER OF SUBMISSION REQUIREMENTS. The Andover Conservation Commission hereby waives a portion of their submission requirements at the applicant's request **(Plan Requirements of the CONSERVATION COMMISSION APPLICATION POLICIES Revised through MAY 6, 2008).**

5. FINDING - 25 FOOT PERMANENT BUFFER STRIP PROTECTED. The Andover Conservation Commission hereby finds that the limit of construction, as depicted on the approved plan, shall remain in effect in perpetuity. Unless depicted otherwise, the limit of construction shall be at a minimum distance no less than 25 feet from the wetland boundary as

applicant shall either file a new Request for Determination of Applicability, or alternatively, the applicant shall pay a fee of twenty five dollars to the Town of Andover in order to obtain a certified copy for recording.

7. EROSION CONTROL. Only if site conditions warrant, and/or as recommended by the Conservation Commission or its designated agent, prior to commencement of work the applicant shall install a row of staked in straw wattles for erosion/siltation control on the subject site in accordance with the above-referenced plan. A written request for inspection of the erosion/siltation controls shall be submitted to the Conservation Commission, and a satisfactory inspection performed before any land disturbing activity may commence. **No erosion/siltation control inspection will be scheduled until such time as proof of recording is received by the Conservation Commission, as required above.** Other erosion/siltation controls may be required by the Conservation Commission or its agents as field conditions warrant. The erosion/siltation control devices shall not be removed until the commission or its agent has reviewed and found satisfactory the stabilization of the disturbed area.

8. EXCAVATION DEWATERING. In the event that excavation dewatering is required within any area subject to jurisdiction of the Wetlands Protection Act the applicant shall notify the Conservation Commission in advance of such work, and shall be responsible to ensure that such water is free of suspended solids before being discharged into either a wetland or into any storm water drainage system. This condition applies to all forms of dewatering, including pumping, and trenching.

9. PLAN CHANGES. Any changes made or intended to be made to the above-referenced plan shall require the applicant or his successors in interest to inquire in writing of the Conservation Commission whether the proposed change is significant to the interests of the Wetlands Protection Act. Failure to secure prior approval for changes will, at minimum, require the owner or responsible party to file a Notice of Intent, and to obtain an Order of Conditions.

stumps and other solid waste.

13. SURPLUS SOIL. It shall be the responsibility of the applicant to ensure that any and all surplus materials resulting from excavation, and not needed for use on the project, are lawfully disposed of outside any area subject to protection under M.G.L.c. 131, § 40, unless such area and activity are regulated under either a valid Order of Conditions or Determination of Applicability.

14. FINAL INSPECTION. Upon completion of the project the applicant or his successor shall notify the Conservation Commission in writing that all work has been completed in conformity with the above-referenced plan and conditions.

15. WORK AREA EXTENT. The scope of work authorized by this Determination shall be limited to the confines to the applicant's property. Vegetation removal is not permitted on adjacent properties.

16. DISPOSAL OF VEGETATION CUTTINGS. All vegetation and plant material – including, specifically, invasive species such as bittersweet – shall be disposed of properly to prevent spreading of plant species.

17. FINDING – RIVERFRONT RESOURCE AREA. The Andover Conservation Commission finds that the project area is within the 200 foot buffer of Husseys Brook, a perennial stream, and therefore within the Riverfront Resource Area.

18. FINDING – HERBICIDE USE. Permission is not provided for the use of herbicide. If the use of herbicide is necessary, the Applicant must file with the Commission for permission.

6. The area and/or work described in the Request is not subject to review and approval by:

Name of Municipality

Pursuant to a municipal wetlands ordinance or bylaw.

Name

Ordinance or Bylaw Citation

C. Authorization

This Determination is issued to the applicant and delivered as follows:

by hand delivery on

by certified mail, return receipt requested on

Date

Date

May 23, 2019

This Determination is valid for **three years** from the date of issuance (except Determinations for Vegetation Management Plans which are valid for the duration of the Plan). This Determination does not relieve the applicant from complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.

This Determination must be signed by a majority of the Conservation Commission. A copy must be sent to the appropriate DEP Regional Office (see <http://www.mass.gov/eea/agencies/massdep/about/contacts/find-the-massdep-regional-office-for-your-city-or-town.html>) and the property owner (if different from the applicant).

Signatures:

fee and Fee Transmittal Form (see 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 Determination. 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. The request shall state clearly and concisely the objections to the Determination which is being appealed. To the extent that the Determination is based on a municipal ordinance or bylaw and not on the Massachusetts Wetlands Protection Act or regulations, the Department of Environmental Protection has no appellate jurisdiction.