



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

**WPA Form 4B – Order of Resource Area  
Delineation**

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

Provided by MassDEP:

051-0950

MassDEP File Number

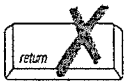
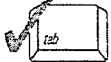
eDEP Transaction Number

Newburyport

City/Town

**A. General Information**

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



**Note:**  
Before completing this form consult your local Conservation Commission regarding any municipal bylaw or ordinance.

From: Newburyport  
1. Conservation Commission

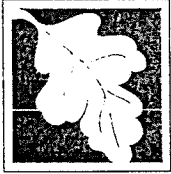
2. This Issuance is for (check one):  
a. ☒ Order of Resource Area Delineation  
b. ☐ Amended Order of Resource Area Delineation

3. Applicant:  
James Goodwin  
a. First Name b. Last Name  
Evergreen Commons, LLC  
c. Organization  
128 North Main Street  
d. Mailing Address  
Newton NH 03858  
e. City/Town f. State g. Zip Code

4. Property Owner (if different from applicant):  
Donna Koen  
a. First Name b. Last Name  
DDJH, LLC  
c. Organization  
16 Boyd Drive  
d. Mailing Address  
Newburyport MA 01950  
e. City/Town f. State g. Zip Code

5. Project Location:  
18 Boyd Drive Newburyport MA  
a. Street Address b. City/Town c. Zip Code  
110 20  
d. Assessors Map/Plat Number e. Parcel/Lot Number  
Latitude and Longitude d m s d m s  
(in degrees, minutes, seconds): f. Latitude g. Longitude  
2/1/2016 6/7/2016 6/14/2016  
6. Dates: a. Date ANRAD filed b. Date Public Hearing Closed c. Date of Issuance

7. Title and Date (or Revised Date if applicable) of Final Plans and Other Documents:  
Existing Conditions Plan to Accompany ANRAD, 18 Boyd Drive,  
Evergreen Golf Course b. Date  
c. Title d. Date



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**B. Order of Delineation**

1. The Conservation Commission has determined the following (check whichever is applicable):

a. ☒ **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):

1. ☐ Bordering Vegetated Wetlands

2. ☒ Other resource area(s), specifically:

a. Isolated Land Subject to Flooding

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

1. ☐ Bordering Vegetated Wetlands

2. ☒ Other resource area(s), specifically:

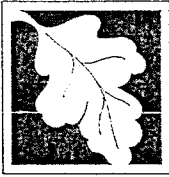
a. Isolated Vegetated Wetland. See Attached Findings.

c. ☐ **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):

1. ☐ Bordering Vegetated Wetlands

2. ☐ Other resource area(s), specifically:

3. The boundaries were determined to be inaccurate because:



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## C. Findings

This Order of Resource Area Delineation determines that the boundaries of those resource areas noted above, have been delineated and approved by the Commission and are 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). 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.

This Order must be signed by a majority of the Conservation Commission. The Order must be sent 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 DEP Regional Office (see <http://www.mass.gov/eea/agencies/massdep/about/contacts/find-the-massdep-regional-office-for-your-city-or-town.html>).

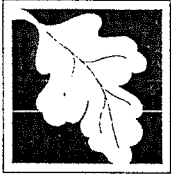
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## D. Appeals

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 DEP Regional Office to issue a Superseding Order of Resource Area Delineation. When requested to issue a Superseding Order of Resource Area Delineation, the Department's review is limited to the objections to the resource area delineation(s) stated in the appeal request. 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 of Resource Area Delineation 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 Determination, or providing written information to the Department prior to issuance of a Superseding Order or Determination.

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 bylaw or ordinance, and not on the Massachusetts Wetlands Protection Act or regulations, the Department of Environmental Protection has no appellate jurisdiction.



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**E. Signatures**

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

6/14/2016  
Date of Issuance

0 6  
1. Number of Signers

Paul Italy  
Signature of Conservation Commission Member

David Vane  
Signature of Conservation Commission Member

[Signature]  
Signature of Conservation Commission Member

\_\_\_\_\_  
Signature of Conservation Commission Member

[Signature]  
Signature of Conservation Commission Member

[Signature]  
Signature of Conservation Commission Member

[Signature]  
Signature of Conservation Commission Member

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

If this Order constitutes an Amended Order of Resource Area Delineation, this Order does not extend the issuance date of the original Final Order, which expires on \_\_\_\_\_ unless extended in writing by the issuing authority.

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

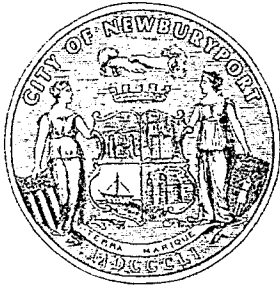
2. ☐ By hand delivery on \_\_\_\_\_

a. Date

3. ☒ By certified mail, return receipt requested on \_\_\_\_\_

a. Date

6/14/2016



CITY OF NEWBURYPORT  
CONSERVATION COMMISSION  
60 PLEASANT STREET  
NEWBURYPORT, MA 01950  
978-465-4462

## FINDINGS

### Under Massachusetts Wetlands Protection Act and City of Newburyport Wetlands Protection Ordinance

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**DEP File Number:** 051-0950

**Date Issued:** June 13, 2016

**Applicant:** James Goodwin, Evergreen  
Commons, LLC

**Date Hearing Closed:** June 7, 2016

**Property Owner:** Donna Keon

**Project Location:** 18 Boyd Drive, Newburyport, MA

**Project Description:** Abbreviated Notice of Resource Area Delineation for Evergreen Golf Course.

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#### Resource Areas Identified:

- Isolated Land Subject to Flooding (ILSF)
- Isolated Vegetated Wetland (IVF)

#### Public Interests Protected:

- |  |                                    |
|--|------------------------------------|
| ✓ Public & Private Water Supply                    | ✓ Groundwater Supply               |
| ✓ Flood Control                                    | ✓ Storm Damage Prevention          |
| ✓ Prevention of Pollution                          | <input type="checkbox"/> Fisheries |
| <input type="checkbox"/> Land Containing Shellfish | ✓ Protection of Wildlife Habitat   |
| <input type="checkbox"/> Protection of Fisheries   |                                    |

## Findings

### Isolated Land Subject to Flooding (ILSF)

Isolated Land Subject to Flooding (ILSF) has been identified on the plans submitted as part of the ANRAD application (Existing Conditions Plan to Accompany ANRAD, 18 Boyd Drive, Evergreen Golf Course, dated 1/18/2016). This ILSF is a Wetland Resource Area subject to protection under 310 CMR 10.57. The applicant submitted calculations for the ILSF under 310 CMR 10.57, which identify a 222,431 square foot area of ILSF. These calculations and associated boundaries have been reviewed and determined to be accurate by both the Conservation Commission and ESS Group, hired by the Commission to conduct a peer review.

### Isolated Vegetated Wetland

Isolated Vegetated Wetland (IVW) is identified on the plans submitted as part of the ANRAD application (Existing Conditions Plan to Accompany ANRAD, 18 Boyd Drive, Evergreen Golf Course, dated 1/18/2016). IVW is a Wetland Resource Area subject to protection under the Newburyport Wetlands Protection Ordinance (Chapter 6.5-27) and is defined as a freshwater wetland, of at least 1,000 square feet in area that does not border a creek, river, stream, pond or lake. Detention basins or swales created for the purpose of stormwater management are not considered IVW. The IVW delineated on the plans are identified by wetland flag series A, B, C and D.

The Commission finds that the areas identified on the plans by wetland flag series D and C are not jurisdictional IVW under the Newburyport Wetlands Protection Ordinance because they were created for the purpose of stormwater management associated with the Evergreen Golf Course and Boyd Drive subdivision development in 1986.

The wetland area delineated by wetland flag series B is not jurisdictional IVW because the area is less than 1,000 square feet.

The wetland area delineated by wetland flag series A (also identified as "Basin A") is determined to be jurisdictional IVW under the Newburyport Wetlands Protection Ordinance because it meets the definition for IVW and does not satisfy the criteria for the exemption as a stormwater management swale or detention basin. As explained in the peer review by ESS Group, dated May 16, 2016:

*Basins A, C, and D were in part constructed to compensate for the loss of ILSF, per 310 CMR 10.57(1)(b)(1). ILSF is significant to the prevention of storm damage and control of flood waters, and, if underlain by pervious material, is also significant to public or private water supply, groundwater supply, and prevention of pollution. As discussed above, Basins C and D are presumed to be underlain by an impervious clay liner, and therefore would be significant only to the prevention of storm damage and control of flood waters. Since stormwater basins are primarily intended to provide these same functions, in our opinion, the Commission would have grounds to apply the exemption in Section 6.5-36 of the Ordinance to basins C and D.*

*However, Basin A, as discussed in Section 3.2, does not appear to have a clay liner, and is therefore presumed to be significant to the prevention of storm damage and control of flood*

*waters and to public or private water supply, groundwater supply, and prevention of pollution, functions which may go beyond those of a man-made impervious stormwater basin. In our opinion, therefore, the Commission would have grounds not to apply the exemption to Basin A, and instead take jurisdiction over this basin as an Isolated Vegetated Wetland.*

Accordingly, The Conservation Commission determines Basin A to be Isolated Vegetated Wetland, with all associated functions and values, buffer zones and performance standards provided for by the Newburyport Wetlands Protection Ordinance and Regulations.

#### Future Development

The Conservation Commission further finds that the functions and values of Basin A as IVW could be significantly improved. The Commission would therefore consider granting a variance to improve and expand the wetland functions and values of Basin A under a future Order of Conditions, provided that the project would meet all of the variance criteria as outlined in the Newburyport Wetland Protection Ordinance and Regulations.