



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

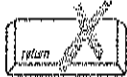
**WPA Form 2 – Determination of Applicability**

DA2018-034

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40 and Article XIV  
the Andover Wetlands Protection Bylaw

**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.



From:

Andover  
Conservation Commission

To: Applicant

One Minuteman, LLC  
Name  
One Minuteman Road  
Mailing Address

Andover MA 01810  
City/Town State Zip Code

Property Owner (if different from applicant):

Christina DeBitelito & Stephen Schug Trustees  
Name  
Pappas Realty Trust, PO Box 6  
Mailing Address

Prides Crossing MA 01965  
City/Town State Zip Code

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

Existing Conditions Exhibit Plan Sheet 1 prepared by Bohler Engineering, Inc. Rev 0 9/27/18  
Title Date

ALTA/NSPS Land Title Survey, prepared by Bholer Engineering, Inc and 11-03-17 last  
Title revised and

Control Point Associates, Inc. Stamped and Signed by Gerry L. Holdright, PLS stamped 9-26-18  
Title Date

Title Date

2. Date Request Filed:

Received by the Conservation Commission on July 5, 2018.

**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):

The project site contains a Freshwater Wetland protectable under the Article XIV Wetlands Protection

By-Law.

The project site does not contain Isolated Land Subject to Flooding.

While the Existing Conditions Exhibit 1 plan depicts and references off-site wetlands and/or basins,

these off-site areas are explicitly excluded from this Determination.

Project Location: Book 8859, Page 242

161 River Road/1 Minuteman Road  
Street Address

Map 166  
Assessors Map/Plot Number

Andover  
City/Town

Lots 10 & 11  
Parcel/Lot Number





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### B. Determination (cont.)

6. The following area and/or work, if any, is subject to a municipal ordinance or bylaw but not subject to the Massachusetts Wetlands Protection Act:

Freshwater Wetland Referenced in 2a above.

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 the Buffer Zone, as defined in the regulations, but will not alter an Area subject to protection under the Act. Therefore, said work does not require the filing of a Notice of Intent, subject to the following conditions (if any).

4. The work described in the Request is not within an Area subject to protection under the Act (including the Buffer Zone). Therefore, said work does not require the filing of a Notice of Intent, unless and until said work alters an Area subject to protection under the Act.



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B. Determination (cont.)

- 5. The area described in the Request is subject to protection under the Act. Since the work described therein meets the requirements for the following exemption, as specified in the Act and the regulations, no Notice of Intent is required:

Exempt Activity (site applicable statutory/regulatory provisions)

- 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

October 4, 2018

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/>) and the property owner (if different from the applicant).

Signatures:

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Date



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### **D. Appeals**

The applicant, owner, any person aggrieved by this Determination, any owner of land abutting the land upon which the proposed work is to be done, 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 Department of Environmental Protection Regional Office (see <http://www.mass.gov/eea/agencies/massdep/about/contacts/>) to issue a Superseding Determination of Applicability. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing 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.