



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:
 090-1330
 MassDEP File #
 eDEP Transaction #
 Andover
 City/Town

A. General Information (cont.)

6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):

Essex North

a. County

15629

c. Book

b. Certificate Number (if registered land)

59

d. Page

7. Dates: April 22, 2019 December 30, 2019 January 3, 2020
 a. Date Notice of Intent Filed b. Date Public Hearing Closed c. Date of Issuance

8. Final Approved Plans and Other Documents (attach additional plan or document references as needed):

Existing Conditions Plan of Land, 7 Pettingell Avenue, Andover, MA

a. Plan Title

Dana F. Perkins, Inc.

Andrew M. Pojasek

b. Prepared By

11/26/19

c. Signed and Stamped by

1"=800'

d. Final Revision Date

e. Scale

Notice of Intent

4/22/19

f. Additional Plan or Document Title

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. Public Water Supply b. Land Containing Shellfish c. Prevention of Pollution
 d. Private Water Supply e. Fisheries f. Protection of Wildlife Habitat
 g. Groundwater Supply h. Storm Damage Prevention i. 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) _____ 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 type="checkbox"/> Bordering Vegetated Wetland	_____ a. square feet	_____ b. square feet	_____ c. square feet	_____ d. square feet
6. <input type="checkbox"/> Land Under Waterbodies and Waterways	_____ a. square feet _____ e. c/y dredged	_____ b. square feet _____ f. c/y dredged	_____ c. square feet	_____ d. square feet
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 type="checkbox"/> Riverfront Area	_____ a. total sq. feet	_____ b. total sq. feet		
Sq ft within 100 ft	_____ c. 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.)

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 | _____ | _____ | _____ ^{cu yd} | _____ ^{cu yd} |
| | a. square feet | b. square feet | c. nourishment | d. nourishment |
| 14. <input type="checkbox"/> Coastal Dunes | _____ | _____ | _____ ^{cu yd} | _____ ^{cu yd} |
| | a. square feet | b. square feet | c. nourishment | 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 | | |
| | _____ | _____ | | |
| | c. c/y dredged | d. c/y dredged | | |
| 19. <input type="checkbox"/> Land Containing Shellfish | _____ | _____ | _____ | _____ |
| | a. square feet | b. square feet | c. square feet | d. square feet |
| 20. <input type="checkbox"/> Fish Runs | Indicate size under Coastal Banks, Inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above | | | |
| | _____ | _____ | | |
| | a. c/y dredged | b. c/y dredged | | |
| 21. <input type="checkbox"/> Land Subject to Coastal Storm Flowage | _____ | _____ | | |
| | a. square feet | b. square feet | | |



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B. Findings (cont.)

* #22. 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.

22. Restoration/Enhancement *:

 a. square feet of BVW _____ b. square feet of salt marsh _____
23. 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.
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.
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 _____ 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.
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.



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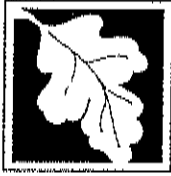
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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

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 090-1330 "
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.
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.



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

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.

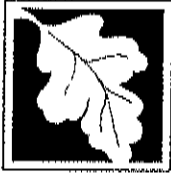
NOTICE OF STORMWATER CONTROL AND MAINTENANCE REQUIREMENTS

19. The work associated with this Order (the "Project") is (1) is not (2) 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;
- 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.



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

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 Special Conditions Attached



WPA Form 5 – Order of Conditions

D. Findings Under Municipal Wetlands Bylaw or Ordinance

1. Is a municipal wetlands bylaw or ordinance applicable? Yes No
2. The Andover 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:

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:

<u>Andover Wetlands Protection By-Law</u>	<u>By-Law</u>
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 Special Conditions Attached

Pettingell Avenue #7

DEP FILE NO. 090-1330 SPECIAL CONDITIONS

1. FINDING - NOTICE OF JURISDICTION UNDER THE MASSACHUSETTS WETLANDS PROTECTION ACT, M.G.L.C. 131, S. 40. The Andover Conservation Commission hereby finds that all or part of the property on which the work authorized by this Order is proposed is subject to jurisdiction under the Massachusetts Wetlands Protection Act, M.G.L.C. 131, s. 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 and shall survive the issuance of a Certificate of Compliance.**

2. FINDING - NOTICE OF JURISDICTION UNDER THE ANDOVER WETLAND PROTECTION BYLAW. The Andover Conservation Commission hereby finds that all or part of the property on which the work authorized by this Order is proposed is subject to jurisdiction under the Andover Wetlands Protection Bylaw, Article 14. 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 and shall survive the issuance of a Certificate of Compliance. **This finding shall remain in effect in perpetuity and shall survive the issuance of a Certificate of Compliance.**

3. FINDING – ANDOVER WETLANDS PROTECTION BYLAW. The Andover Conservation Commission finds that all conditions set forth in this Order of Conditions are necessary to protect the interests described in the Andover Wetland Protection Bylaw. The Commission makes the Finding that the proponent has provided the Commission with a suitable notification (in the form of a Notice of Intent and other documents cited in this Order). Furthermore, the Commission makes the Finding that the proposed work reviewed by the Commission, and approved by this Order, conforms to performance standards and design specifications in the regulations adopted by the Commission.

4. WORK AUTHORIZED UNDER THIS ORDER – Only work explicitly described in documents and materials that were partially relied upon by the Commission to issue this Order of Conditions may be permitted. If necessary, direction or clarification may be sought from the Conservation Agent or the designated Environmental Monitor.

Documents

4/18/2019	Notice of Intent Application, received from Dana Perkins, Inc. dated April 18, 2019;
5/2/2019	Notice of Intent Application, additional information letter/request for waivers, received from Dana Perkins, Inc. dated May 2, 2019;
9/16/2019	Notice of Intent Application, additional information letter, received from Dana Perkins, Inc. dated September 16, 2019;
11/26/2019	Notice of Intent Application, additional information letter, received from Dana Perkins, Inc. dated November 26, 2019;

Plan Set

4/17/2019

Plan Set entitled “Existing Conditions Plan of Land” and “Proposed Site Plan of Land” dated April 17, 2019, revised September 16, 2019 and November 26, 2019.

Peer Review

9/16/2019

Peer Review Memorandum from Ann Marton, LEC Environmental Consultants, re: DEP File # 090-1330, Notice of Intent Application, 7 Pettingell Avenue, Andover, MA, dated September 16, 2019.

5. FINDING – WETLAND RESOURCE AREAS. The Andover Conservation Commission finds that the project limits contain the following wetland resource areas: 1) Bordering Vegetated Wetlands; 2) Isolated Vegetated Wetlands; 3) 25-Foot No-Disturb Buffer Zone; 5) 50-Foot Buffer Zone; and 6) 100-Foot Buffer Zone.

6. FINDING – INTERMITTENT STREAM. The Andover Conservation Commission finds that the stream included in the project area as shown on the approved plan flowing out of the “A” Series Bordering Vegetated Wetland is designated as intermittent. The following information was referenced to make this designation: 1) USGS topographic maps; and 2) the USGS StreamStats method. Both information sources indicate that the stream within the project area flows on an intermittent basis.

7. FINDING – LIMITED PROJECT. The Andover Conservation Commission hereby finds that the proposed project meets the criteria for limited projects (construction of a driveway for a new single family residence) in conformity with the provisions of 310 CMR 10.53(3)(d) and the Andover Wetlands Protection Bylaw.

8. FINDING – DIGITAL FILE FOR WETLAND RESOURCES. **Prior to commencement of work**, the applicant shall provide to the Andover Conservation Commission a digital file containing the file of the confirmed boundary of resource areas. The file format shall be in AutoCAD DWG (or ASCII DXF) version 2010 or earlier, or another format agreed upon by the Andover Conservation Commission and Staff, and Adobe PDF. The files shall be delivered on CD-ROM or DVD-R media. AutoCAD file delivery shall be in full model view. The digital file shall include property boundaries, dimensions, easements, rights-of-way, edge of pavement, edge of side walk, edge of water bodies, wetland boundaries, topographic contours, spot elevations, etc. Said digital data shall be delivered in Massachusetts State Plane Coordinate System, North American Datum 1983 and North American Vertical Datum 1988, in U.S. Survey Feet, or some other format agreed to by Conservation Staff.

9. FINDING – **Prior to commencement of work**, the plans referenced in this Order of Conditions shall be recorded with the Order of Conditions and cross referenced thereto in the Essex County Registry of Deeds and/or the Essex County Registry District. **This finding shall remain in effect in perpetuity and shall survive the issuance of a Certificate of Compliance.**

10. FINDING - NON-DISTURBANCE ZONE – REQUIRED DEED LANGUAGE.

Any Deed (as defined below) for all or any portion of the property subject to this Order of Conditions which includes a non-disturbance zone shall contain the following language "This property is subject to a non-disturbance zone in which no alteration of land or vegetation may occur. The non-disturbance zone is shown on the plans entitled "[insert title].", recorded at the Essex County Registry of Deeds, North District, at Book ____, Page ____, and/or registered with the Land Registration Office of the Essex County Registry District as Document No. _____ and as described in the Order of Conditions recorded in the same Registry at Book ____, Page ____, and/or in the same Registry District as Document _____. In accordance with said Order of Conditions, this language shall be incorporated in full into all future deeds, easements, mortgages, leases, licenses, occupancy agreements or any other instrument of transfer, whereby an interest in and/or a right to use the property or a portion thereof is conveyed (a "Deed")."

The plans referenced in this Order of Conditions shall be recorded with the Order of Conditions and cross referenced thereto in the Essex County Registry of Deeds and/or the Essex County Registry District. **This condition shall remain in effect in perpetuity.**

Only work explicitly described in the above-referenced plans and Notice of Intent is authorized under this Order of Conditions, **i.e. construction of a driveway for a single family home, construction of a single family home, grading for a septic system, appurtenant site work, etc.**

11. INSTALLATION OF EROSION/SEDIMENT CONTROLS. Prior to commencement of work the applicant shall retain the services of the design professional or a Professional Land Surveyor to stake out the location of the proposed erosion/sediment controls. The applicant shall then install *appropriate* erosion/sediment controls (compost/mulch logs, silt fence, and snow fence) in accordance with the above-referenced plans *that have been approved by an Agent for the Commission and are specific to site conditions.*

All debris, fill and excavated material stockpiles within 100 feet of a wetland area must also be surrounded by appropriate erosion/sediment controls in order to prevent sediment from surface runoff from entering the wetland. The erosion/sediment controls shall be the Limit of Construction, beyond which no earth-disturbing activity shall occur or heavy equipment shall be allowed.

A written request for inspection of the erosion/sediment controls shall be submitted to the Andover Conservation Commission, and a satisfactory inspection performed before any land-disturbing activity may commence. The Andover Conservation Commission or its agents may require other erosion/sediment controls as field conditions warrant. The erosion/sediment control devices shall be the Limit of Construction beyond which no earth-disturbing activity shall occur or heavy equipment shall be allowed. All erosion/sedimentation controls shall be maintained in a state of good repair. The erosion/sedimentation control devices shall not be removed until the commission or its agent has reviewed and found satisfactory the stabilization of the disturbed area.

12. PROTECTION OF CATCH BASINS. Catch basins shall be protected by geotechnical fabric or silt sacks during construction. These protective measures shall not be removed until an agent for the Commission has reviewed and determined that it is appropriate to do so.

13. CERTIFICATE OF COMPLIANCE. Not more than thirty days following completion of the project, the applicant shall submit their request for a Certificate of Compliance, an affidavit prepared by a professional engineer or land surveyor registered in the Commonwealth of Massachusetts, stating that the site has been developed in accordance with the requirements of this Order of Conditions, based upon an on-site inspection and the referenced site plan. This affidavit should include a listing of any deviations from the approved plan.

An as-built drawing, prepared by a Professional Land Surveyor or Professional Engineer, registered in the Commonwealth of Massachusetts, and depicting the final and actual condition of all areas within the jurisdiction of the Massachusetts Wetlands Protection Act shall accompany such request.

14. 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 Andover Conservation Commission and an agent for the Andover 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, trenching, and use of a temporary dewatering or detention basin.

15. NOTIFICATION OF COMMENCEMENT OF WORK. The applicant shall notify the Town of Andover Conservation Commission's Staff and Environmental Monitor, in writing, not less than 48 hours before any activity commences within the wetland resource area (wetland or wetland buffer) on the project site and shall advise the Town of Andover Conservation Commission's Staff of the name(s) and telephone number(s) of the person(s) responsible on site for compliance with this Order. This list shall be resubmitted if any changes are made to it.

Town of Andover Conservation Commission's Staff and the Environmental Monitor will monitor project progress and adherence to these Special Conditions through site monitoring and active communication with project personnel. Project personnel shall inform Town of Andover Conservation Commission's Staff and the Environmental Monitor of project milestones and activities.

The contractor responsible for the project's completion shall be notified of, and understand, the requirements of this Order of Conditions. The contractor shall acknowledge receipt of the Order of Conditions by submitting a letter to that effect to the Town of Andover Conservation Commission's Staff. A copy of this Order, as well as copies of the above-mentioned documents, plans, and reports shall be on-site while activities regulated by this Order are being performed.

16. CONSTRUCTION DOCUMENTS. This Order of Conditions shall be made part of all construction documents for this project. All contractors working at the site shall be made aware of the provisions contained within this Order of Conditions and shall adhere to all the Special Conditions contained herein. The applicant, or his designee, shall, at all times, have a copy of the Final Order of Conditions at the site and shall monitor compliance with the provisions of this Order.

17. CLEAN FILL. All fill used in connection with this project shall be clean borrow. The following shall be prohibited: chemically contaminated material; concrete and asphalt rubble; stumps and other solid waste. In order to prevent the spreading of invasive species, every effort shall be made to minimize the import of non-native fill. If non-native fill is required, the fill shall be from a local source, free from invasive species, and free from seeds of invasive species.

18. GRADING AND STABILIZATION. Grading shall conform to the plans and data referenced above. In all cases final grades shall have a minimum of two inches of topsoil (measured in place) over disturbed areas. In all cases exposed soil areas shall be stabilized with vegetation, i.e. a native, non-invasive ground cover plant or wetland conservation seed mix. In no case shall wood chips, mulch, or similar covering be acceptable as permanent ground stabilization in lieu of vegetation. Wood chips, mulch, or a similar covering may be used on a temporary basis for ground stabilization until the disturbed area can be seeded during the following growing season.

19. CONTROL OF CONSTRUCTION DEBRIS. No construction debris (paper, wood, metal, concrete, etc.) may be allowed to enter the wetland resource areas at any time. Windblown material shall be promptly removed from wetland resource areas.

20. FUEL STORAGE AND REFUELING OPERATION PROHIBITED WITHIN RESOURCE AREAS AND BUFFER ZONE. The storage of fuel, oil, grease and similar material needed to refuel and maintain construction equipment shall not be stored within a wetland resource area or the 100 foot buffer zone, nor shall refueling or maintenance occur within those areas.

21. DAMAGES TO RESOURCE AREAS. Any damage caused as a direct result of this project to any wetland resource areas, beyond that authorized by the Order, is the responsibility of the applicant to repair, restore or replace. Sedimentation or erosion into these areas shall be considered damage to wetland resource areas. The Andover Conservation Commission shall be promptly notified of any damage to wetland resource areas beyond that authorized by this Order. Following notification, the applicant must submit a plan for abatement of the problem and restoration. This plan must be approved by the Andover Conservation Commission prior to implementation.

22. SURPLUS EARTH MATERIALS. It shall be the responsibility of the Applicant to ensure that any and all surplus materials that are not needed for use on the project are lawfully disposed of outside any area subject to protection under M.G.L.c 131, s. 40, unless such disposal area and activity are regulated under either a valid Order of Conditions or Determination of Applicability.

23. FINDING – ZONING BOARD OF APPEALS DECISION. The Andover Conservation Commission is aware of a December 5, 2019 decision by the Andover Zoning Board of Appeals to grant a variance under Article VIII, Section 8.1.6.5 of the Town of Andover's Zoning Bylaw to allow the construction of a driveway within 50 feet of a waterbody/watercourse. This finding meets the requirement under 310 CMR 10.05(e), that all other local permits/variances/approvals are required prior to a Conservation Commission making their final decision on a Notice of Intent application.

24. FINDING – SOIL MANAGEMENT AND STORAGE. Proper soil management storage protocols shall be practiced at all times, including as listed under Special Condition #11 and Special Condition #22. If soil stockpiles are generated, they shall be protected in accordance with Special Condition #11. These soil stockpile locations and erosion/sediment controls shall be inspected by the Town of Andover Conservation Commission's Staff and/or Environmental Monitor. Soil stockpiles shall not be stored within 100 feet of a wetland boundary. If soil stockpiles are stored in an offsite location, the same erosion/sediment controls and 100 foot setback requirements to a wetland apply. Town of Andover Conservation Commission's Staff shall also be notified of the destination of all surplus soil prior to transportation and placement of surplus soil.

25. FINDING – GRAVEL DRIVEWAY AND LANDSCAPE TIMBERS.

GRAVEL DRIVEWAY: The Andover Conservation Commission finds that the gravel driveway, shown on the above-referenced, approved plans, shall remain as a gravel surface in perpetuity. This condition shall remain in effect in perpetuity and shall survive the issuance of a Certificate of Compliance.

FINDING - LANDSCAPE TIMBERS: The Andover Conservation Commission finds that the landscape timbers, shown on the above-referenced, approved plans, shall remain part of the construction and landscaping design for the property in perpetuity. Because of the proximity to the wetland boundary, the materials used for these timbers shall remain as natural wood material – cedar has been proposed – or a natural equivalent. No pressure treated wood, chemically treated wood, or man-made materials may be used in substitute. These landscape timbers are included as part of the construction/landscaping design in order to act as a permanent erosion/sediment control boundary to protect nearby wetland resource areas. Any changes in material or landscaping plans will need a permit from the Andover Conservation Commission. This condition shall remain in effect in perpetuity and shall survive the issuance of a Certificate of Compliance.

26. FINDING – SITE MONITORING/CONSTRUCTION OVERVIEW BY DESIGN ENGINEER / REPORTS. In accordance with Massachusetts General Laws Chapter 44, §53G, the Andover Conservation Commission requires that the applicant provide funds **prior to commencement of work** to the Commission for the reasonable fees of a consultant with professional credentials to be selected by the Commission to review and/or approve the inspection of work thereunder.

Such fees shall be an estimate of inspections which shall take place once every 7 calendar days

and within 24 hours of the end of a storm event having ½ inch of rainfall or greater within a twenty-four hour period, throughout the duration of the project. This period shall begin when siltation controls are installed, and shall end with issuance of a Certificate of Compliance.

Since the fees are an estimate, additional fees may be required pending the duration of the project and/or overpayment returned to the applicant upon the issuance of a Certificate of Compliance.

The Andover Conservation Commission also reserves the right to authorize the consultant to reduce the number of weekly inspections submitted on a monthly basis at their discretion.

All materials required to be submitted to the Andover Conservation Commission shall also be submitted to the Environmental Monitor for review and approval. For the purposes of this order the Environmental Monitor functions as an Agent of the Andover Conservation Commission.

The applicant must request approval for temporary cessation of reports in writing prospectively. **This request must have the prior approval of an Agent for the Commission.** Failure to submit satisfactory reports shall be deemed sufficient cause for revocation of this permit without further review.

27. FINDING – PRE-CONSTRUCTION MEETING. Not more than 2 weeks prior to the commencement of work, a **Pre-Construction Meeting** shall be held with the Conservation Agent and the Andover Conservation Commission’s Environmental Monitor, and the Applicant’s On-Site Construction Manager, Project Engineer and/or Wetland Scientist to review and discuss the Order of Conditions, construction procedures, methods, and erosion controls. Prior to requesting the pre-construction meeting, the applicant shall submit the following to the Andover Conservation Commission:

- a. A statement that the items enumerated in Special Conditions 8, 9 and 10 have been executed and the required supporting information has been provided to the Commission;
- b. The names and 24-hour, 7 days/week phone numbers of the on-site construction manager(s) who are responsible to coordinate the construction and ensure compliance with this Order. This list shall be resubmitted if any changes are made to it; and
- c. A statement signed by the Applicant and the person responsible for the construction of the project that such individuals understand the terms and conditions as specified in the Order and that such persons agree to comply with the referenced provisions.



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:
090-1330
MassDEP File #

eDEP Transaction #
Andover
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.

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

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.

Jan. 3, 2020
1. Date of Issuance

6
2. Number of Signers

Signatures:

[Signature]
[Signature]
[Signature]

[Signature]
[Signature]

by hand delivery on

by certified mail, return receipt requested, on

Date

Date

Jan. 3, 2020

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 of 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.

