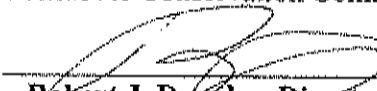


I, Robert J. Douglas, keeper of the records for the Andover Conservation Commission, do hereby certify and attest that this is a true copy of the original Order of Conditions issued for 146 Dascomb Road, Andover, Massachusetts, consisting of 35 pages issued by the Andover Conservation Commission.

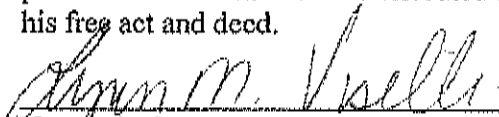
November 17, 2017  
Date

  
\_\_\_\_\_  
Robert J. Douglas, Director of Conservation

COMMONWEALTH OF MASSACHUSETTS

Essex, SS.

On this 17th day of November, 2017, before me personally appeared Robert J. Douglas, to me known to be the person described in and who executed the foregoing instrument and acknowledged that he executed the same as his free act and deed.

  
\_\_\_\_\_  
Notary Public

8/31/18  
\_\_\_\_\_  
My Commission Expires



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  
And the Andover Wetlands Protection Bylaw

Provided by MassDEP:  
090-1247  
MassDEP File #

eDEP Transaction #  
Andover  
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: Andover  
Conservation Commission

2. This issuance is for  
(check one): a.  Order of Conditions b.  Amended Order of Conditions

3. To: Applicant:  
a. Salvatore b. Lupoli  
a. First Name b. Last Name

c. Lupoli Companies  
c. Organization

d. 354 Merrimack Street  
d. Mailing Address

e. Lawrence f. MA g. 01843  
e. City/Town f. State g. Zip Code

4. Property Owner (if different from applicant):  
a. JMDH Real Estate of Andover, LLC b.   
a. First Name b. Last Name

c. 15-24 132<sup>nd</sup> Street  
c. Organization

d. College Point  
d. Mailing Address

e. NY f. 11356  
e. City/Town f. State g. Zip Code

5. Project Location:  
a. 146 Dascomb Road b. Andover  
a. Street Address b. City/Town

c. 203 d. 2  
c. Assessors Map/Plat Number d. Parcel/Lot Number

Latitude and Longitude, if known: 42d 37m 20.07s 71d 10m 43.75s  
d. Latitude e. Longitude

*This document contains 35 pages*



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

**WPA Form 5 – Order of Conditions**

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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):  
Essex North  
a. County  
13722  
c. Book  
b. Certificate Number (if registered land)  
229  
d. Page  
21  
7. Dates: May 19, 2015 July 7, 2015 January 18, 2015<sup>1</sup>  
a. Date Notice of Intent Filed b. Date Public Hearing Closed c. Date of Issuance

<sup>1</sup> The Applicant granted extensions of the 21-day requirement for issuance of the Order of Conditions until 1/31/2016.

8. Final Approved Plans and Other Documents (attach additional plan or document references as needed):  
Site Plans Proposed Dascomb Road Redevelopment  
a. Plan Title  
TEC, Inc. Richard J. Friberg, Jr. PE  
b. Prepared By c. Signed and Stamped by  
Varies per Sheet-see below listing d. Final Revision Date  
Varies per sheet e. Scale  
Sheet C-1: Title and Index January 12, 2016  
Sheet C-2: Legend & General Notes July 24, 2015  
Sheet C-3: Layout & Materials Plan October 16, 2015  
Sheet C-4: Grading and Drainage Plan October 16, 2015  
Sheet C-5: Utility Plan October 16, 2015  
Sheet C-6: Roadway Improvements Plan October 16, 2015  
Sheet C-7: Stream Restoration Plan January 12, 2016  
Sheet C-8: Erosion & Sedimentation Control Plan October 16, 2015  
Sheet C-9 – C-12: Construction Details July 24, 2015  
f. Additional Plan or Document Title

**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.



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  
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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 checked="" type="checkbox"/> Bank	624 a. linear feet	586 b. linear feet	506 c. linear feet	506 d. linear feet
5. <input checked="" type="checkbox"/> Bordering Vegetated Wetland	2680 a. square feet	2320 b. square feet	6600 c. square feet	5500 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



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

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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		
22. <input type="checkbox"/> Riverfront Area	_____	_____		
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



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  
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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 (BWV) or B.17.c (Salt Marsh) above, please enter the additional amount here.

23.  Restoration/Enhancement \*:

a. square feet of BWV

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 \_\_\_\_\_ 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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Bureau of Resource Protection - Wetlands

## WPA Form 5 – Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40  
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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            090-1247 "
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:
- 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;
  - as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized;
  - 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 Findings and Special 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 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:

Andover Wetlands Protection By-Law

Article 14

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 Findings and Special Conditions

# 146 Dascomb Road Redevelopment Project

DEP FILE NO. 090-1247 FINDINGS AND SPECIAL CONDITIONS

## Findings

1. FINDING - 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 this statute. **This finding 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 By-Law, Article 14. The owner is hereby notified of his or her responsibility to comply with the provisions of this statute. **This finding shall remain in effect in perpetuity and shall survive the issuance of a Certificate of Compliance.**
3. FINDING - BORDERING VEGETATED WETLAND. The Conservation Commission relied upon an Order of Resource Area Delineation (DEP File # 090-1195) issued by the Commission on August 26, 2013 approving the boundary of Bordering Vegetated Wetland as shown on an ANRAD Plan prepared by RJ O'Connell & Associates, Inc. dated 7-19-13.
4. FINDING - INTERMITTENT STREAM. The Conservation Commission relied upon an Order of Resource Area Delineation (DEP File # 090-1195) issued by the Commission on August 26, 2013 approving the Intermittent Stream as shown on an ANRAD Plan prepared by RJ O'Connell & Associates, Inc. dated 7-19-13.
5. FINDING – SPECIAL CONDITIONS. The Andover Conservation Commission finds that all conditions set forth in this Order are necessary to protect the interests described in the Wetlands Protection Act and the Andover Wetlands Protection By-law. **This finding shall remain in effect in perpetuity and shall survive the issuance of a Certificate of Compliance.**
6. FINDING - 25-FOOT NON DISTURBANCE ZONE. The Andover Conservation Commission finds that work will occur within the 25-foot No-Disturbance Zone for roadway and safety improvements along Dascomb Road and Smith Drive as depicted on the approved plans that will require a waiver under the Bylaw. The Commission relied upon information presented by TEC, Inc. in a Memorandum entitled Roadway Improvements/Alternatives Analysis dated June 23, 2015 and further discussed and presented during the Public Hearing on July 7, 2015. The Andover Conservation

Commission hereby grants a waiver for this work as depicted on the plans and conditioned in this Order. No other waivers are granted for this project.

7. FINDING - 25-FOOT NON DISTURBANCE ZONE. The Andover Conservation Commission finds that the roadway and safety improvements along Dascomb Road and Smith Drive as shown on the approved plans will result in approximately 12,525 square feet of disturbance within the 25-foot No Disturbance Zone. The Applicant is providing 12,525 square feet of Buffer Zone restoration within the newly established on-site 25-foot No Disturbance Zone to compensate for this work. The Commission finds that based on the values associated with the 25-foot No Disturbance Zone on this site that this level of mitigation provides adequate compensation for this work within the 25-foot No Disturbance Zone. The Andover Conservation Commission grants relief from the 25-foot No Disturb Zone for the proposed roadway and safety improvements and associated grading. Temporary disturbances (such as that for grading) will be re-vegetated in place after construction.
8. FINDING - 25-FOOT NON DISTURBANCE ZONE MARKERS. Prior to issuance of a Certificate of Compliance or cessation of inspections by the Environmental Monitor, Berntsen Feno Survey Markers with permanent medallions (information can be provided by the Conservation Commission), bearing the following inscription: "25 FOOT NON-DISTURBANCE ZONE TO WETLAND. PER ORDER OF ANDOVER CONSERVATION COMMISSION. DO NOT REMOVE." shall be installed approximately every 50-feet along the 25-foot No Disturbance boundary. This condition will be enforceable by the Andover Conservation Commission against the owner and /or its successors. **This finding shall remain in effect in perpetuity and shall survive the issuance of a Certificate of Compliance.**
9. FINDING - 25 FOOT PERMANENT NON DISTURBANCE ZONE PROTECTION. The Andover Conservation Commission hereby finds that the newly established "25' NON-DISTURBANCE ZONE" depicted on the approved plan shall remain in effect in perpetuity. Following completion of the approved activities, no building or alteration is to occur in this restricted area. **This finding shall remain in effect in perpetuity and shall survive the issuance of a Certificate of Compliance.**
10. FINDING 25 FOOT NON-DISTURBANCE ZONE REQUIRED DEED LANGUAGE. Prior to issuance of Certificate of Compliance 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 be recorded at the Registry of Deeds and 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 \_\_\_\_\_, 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 finding shall remain in effect in perpetuity and shall survive the issuance of a Certificate of Compliance.**

11. FINDING -- BVW and BANK ALTERATION. The Andover Conservation Commission finds that 2,320 square feet of BVW and 586 linear feet of Bank will be lost for roadway and safety improvements along Dascomb Road and Smith Drive. The BVW loss will be mitigated at a 2.37:1 ratio through creation of a Wetland Replication Area encompasses 5,500 square feet. The Bank loss will be mitigated through relocation of 506 linear feet of Bank resulting in a permanent loss of 84 linear feet of Bank. The Commission finds that the above mitigation is an appropriate approach to providing wetland restoration/replication and Bank realignment under these circumstances with the site constraints particular to this site.
12. FINDING --LAWN/LANSCAPE CHEMICALS WITHIN 100 FEET OF WETLAND. The Conservation Commission finds that in order to minimize the potential for adverse impacts on water quality, the use of any type of lawn or landscape chemical, pesticide or herbicide is prohibited in the 25-foot Non-Disturbance Zone and only organic, slow release, low-nitrogen type and phosphorous free fertilizers or herbicides are allowed within the area 75-100 feet horizontally from the boundary of Bordering Vegetated Wetland depicted on the approved plans. **This condition will be enforceable by the Andover Conservation Commission against the owner and/or its successors. This condition shall remain in effect in perpetuity.**
13. FINDING -- STOCKPILING OF MATERIAL WITHIN THE BUFFER ZONE. The Conservation Commission finds that there shall be no stockpiling of material within the 100 foot buffer zone other than the stockpiling of material directly associated with the proposed stream relocation and wetland replication.
14. FINDING -- CASH OR SECURITY BOND. Prior to Commencement of work, the Applicant's representatives shall prepare a cost estimate for all work and materials occurring within wetland resource areas or the 100-foot buffer zone to establish an adequate cash or security Bond. **The Applicant shall deposit with the Conservation Commission said cash or Security Bond, not less than 48 hours prior to commencement of work.**
15. 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 and Adobe PDF, 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.

16. FINDING - RELIANCE UPON PEER REVIEW. The Conservation Commission is in partial reliance upon a peer review of the filing completed by Ann M. Marton, President and Director of Ecologic Services, LEC Environmental Consultants, Inc. (LEC) and Janet Bernardo, P.E. of Horsley & Witten Group (HWG). The documentation for this review is comprised of the following:
- a. Preliminary Email Review Comments from Ann Marton of LEC to Rick Friberg of TEC, Inc. dated June 1, 2015.
  - b. Proposed Dascomb Road Redevelopment Peer Review Report prepared by HWG dated June 3, 2015.
  - c. Proposed Dascomb Road Redevelopment Peer Review Report prepared by HWG dated July 7, 2015.
  - d. Peer Review Report Dascomb Road Redevelopment prepared by LEC dated July 7, 2015.
  - e. Peer Review Report Dascomb Road Redevelopment prepared by LEC revised July 24, 2015.
  - f. Email Review Comments from Ann Marton of LEC to Rick Friberg of TEC, Inc. dated January 4, 2016.

### **Special Conditions**

17. Work shall conform to the plans referenced on Page 2, Section A.8. of this Order and to the following documents and materials that were partially relied upon by the Commission in determining to issue this Order of Conditions. To the extent that information contained in reports and on the plans differ, the plans control. If necessary, direction or clarification may be sought from the Conservation Agent or designated Environmental Monitor.
- a. Notice of Intent Application prepared by Wetlands Preservation Inc. (WPI) dated May 19, 2015.
  - b. Proposed Dascomb Road Redevelopment Project Drainage Report prepared by TEC dated May 19, 2015.
  - c. Stream Relocation and Wetland Replication Area Construction Sequence prepared by TEC dated June 12, 2015.

- d. Applicant's Responses to Commission Comments/Questions prepared by TEC dated June 21, 2015.
- e. Proposed Dascomb Road Redevelopment Project Drainage Report prepared by TEC dated June 22, 2015
- f. Response to Peer Review Comments prepared by TEC dated June 23, 2015.
- g. Roadway Improvements/Alternatives Analysis prepared by TEC dated June 23, 2015.
- h. Wetland & Buffer Zone Impact Mitigation Program prepared by WPI dated June 19, 2015, revised June 23, 2015.
- i. Stream Relocation and Wetland Replication Area Construction Sequence prepared by WPI dated June 23, 2015.
- j. Regulatory Compliance Analysis prepared by WPI dated June 23, 2015.
- k. Notice of Intent Revised Site Plans written responses by WPI dated August 13, 2015.
- l. Response to Peer Review Comments prepared by TEC dated October 29, 2015.
- m. Email Response to Email Review Comments prepared by TEC dated January 4, 2016.
- n. Email Response to Email Review Comments prepared by TEC dated January 12, 2016.

Only work explicitly described on the plans referenced on Page 2, Section A.8. of this Order and described in the above-referenced documents is authorized under this Order of Conditions.

- 18. The Commission and its consultants, in evaluating the Notice of Intent submittal and supporting documents, have relied solely upon the data and representations made by the Applicant and its representatives. Accordingly, the Applicant shall indemnify and save harmless the Commission, its consultants, Agents, and the Town of Andover against any and all claims arising out of or in connection with any work or structures authorized herein. Any discrepancies, errors or omissions discovered may result in revocation, suspension or modification of this Order without liability to the municipality or its consultants or Agents.
- 19. **All materials required to be submitted to the 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 Commission.**
- 20. This Order of Conditions shall be made part of all construction documents for this project. This document shall be included in all construction contracts including subcontracts dealing with work proposed and shall supersede any conflicting contract requirements. 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.

21. Until the Certificate of Compliance to this Order is issued, a Conservation Commissioner or an Agent of the Commission reserves the right to enter and inspect the property at reasonable times in order to evaluate compliance with this Order and any instructions or orders issued pursuant to this Order. Such parties may require any information, measurements, photographs and/or materials or may require any additional information deemed necessary for that evaluation. Further, work shall be halted onsite if the Conservation Commissioner or agent of the Commission determines that any of the work is not in compliance with the Order. Work shall not resume until the Commission is satisfied that the work will comply with the Order and has so notified the applicant in writing.
22. This Order shall apply to any successor in control in interest of the property described in the Notice of Intent and accompanying plans, and to any contractor or other person performing work conditioned by this Order. These obligations shall be expressed in all deeds to succeeding owners of all or portions of the property. (This is in addition to DEP's Standard Condition under B. Findings, General Conditions 16.)

### Pre-Construction

23. Prior to commencement of work, the applicant shall have received all other required federal, state, and/or local permits required by law including, if necessary, but not limited to an EPA NPDES Stormwater Permit.
24. Prior to commencement of work the deed restriction required in Finding #10 shall be recorded against the deed for any and all portions of the subject property. Proof of such recording must be provided to the Commission prior to commencement of work.
25. Prior to commencement of work, the sign displayed according to B. Findings General Condition 10 must say **DEP & ACC File No. 090-1247**. This sign is not to be attached to a living tree.
26. Prior to the commencement of any work onsite, the limits of all wetland resource areas shall be re-established with surveyors tape. Once established, said markers shall be checked and replaced as necessary and shall be maintained until all construction has been completed and a Certificate of Compliance has been issued. Note: This is in addition to DEP's Standard Condition under B. Findings, General Condition 17.
27. The developer or contractor responsible for the project's completion shall be notified of, and understand, the requirements of this Order of Conditions. The developer and/or contractor shall acknowledge receipt of the Order of Conditions by submitting a letter to that effect to the Conservation Commission. 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.

28. EROSION CONTROLS - Prior to commencement of work, the erosion control line shall be staked in the field by a Professional Land Surveyor for inspection by the Commission or an Agent of the Commission prior to installation of the erosion controls.

Following approval of the staked limits of the erosion control boundary, the erosion controls shall be installed between all disturbed areas and the wetlands to prevent the introduction of sediment into any wetland resource area. All siltation and erosion controls shall be installed as specified on the Plan. A written request for inspection of the erosion control shall be submitted to the Conservation Commission, and a satisfactory inspection performed before any land-disturbing activity may commence. This inspection may be coupled with the pre-construction meeting referenced in Special Condition 33. The Conservation Commission or its Agents may require other sediment controls as field conditions warrant. The siltation control device shall be the Limit of Construction beyond which no earth-disturbing activity shall occur or heavy equipment shall be allowed. All siltation and erosion controls shall be maintained in a state of good repair. The siltation control devices shall not be removed until the Commission or its Agent has reviewed and found satisfactory the stabilization of the disturbed area.

At all times during construction, the Applicants shall maintain an on-site stockpile of erosion controls sufficient to respond to any emergency problem that may arise. Such stockpile must be replenished as it is used.

29. CONSTRUCTION OVERVIEW BY DESIGN ENGINEER. The applicant shall be responsible to secure the services of a design engineer or similarly credentialed professional on an on-going basis throughout all phases of the project, which are within the jurisdiction of this Order of Conditions to generally oversee the work and ensure compliance with the conditions of this Order. **The name and credentials of the individual *must* be submitted to the Commission prior to the Pre-Construction Meeting referenced in Special Conditions 33.**
30. WETLAND SCIENTIST. The Applicant shall retain a Wetland Scientist to monitor and supervise all work within the BVW, the stream relocation, creation of the wetland replication area, and installation of the plantings in the wetland replication area and the buffer zone to ensure such work is conducted in accordance with this Order and standard industry practices. **The name and credentials of the individual *must* be submitted to the Commission prior to the Pre-Construction Meeting referenced in Special Conditions 33 and be approved by the Conservation Commission *prior* to commencement of work.**
31. CONSTRUCTION OVERVIEW BY ENVIRONMENTAL MONITOR / REPORTS. In accordance with Massachusetts General Laws Chapter 44, §53G, the 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 during 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 and required inspections associated with the proposed wetland filling, stream relocation, wetland replication, and buffer zone plantings. 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.**

Weekly logs/reports shall be maintained and submitted at a minimum on a monthly basis to the Conservation Commission and shall state whether such work is in his or her opinion in compliance with the Order of Conditions. The Conservation Commission reserves the right to require submission of such reports on a more frequent interval. The 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.

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

32. The Applicant shall provide the Andover Conservation Commission and/or its Agent with 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.
33. Not more than 2 weeks prior to the commencement of work, a pre-construction meeting shall be held with the Conservation Agent and the Commission's Environmental Monitor, and the Applicant's On-Site Construction Manager, Project Engineer and 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 Conservation Commission:
  - a. A statement that the items enumerated in Special Conditions 23 through 32 have been executed and the required supporting information has been provided to the Commission;
  - b. A set of photographs depicting the project site in the pre-construction condition; and
  - c. A statement signed by the Applicant, owner of the property, 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.
34. The Andover Conservation Commission and its Agents shall be notified in writing at least two (2) business days in advance of commencement of work to enable the Commission to inspect the site to ensure compliance with the conditions.

## Wetland Replication and Stream Relocation

35. Extreme care shall be employed to ensure that the area of existing wetlands to be altered shall not exceed the limits as shown on the approved plans.
36. All wetland and stream relocation work shall be supervised by a Wetland Scientist to ensure compliance with the Order and the plans, to document that disturbance is avoided or minimized to the greatest extent, and to evaluate the process upon completion. The Wetland Scientist shall make a photographic record of the pre, during, and post-construction condition of the BVW and stream to facilitate the Commission's review of the area. A progress report detailing the findings and actions taken shall be submitted to the Commission at the end of each week until completion of the wetland filling, stream relocation, wetland replication, and buffer zone plantings.
37. The proposed Wetland Replication and Stream Relocation shall be constructed at the beginning of the project and at the same time as the proposed roadway and safety improvements along Dascomb Road and Smith Drive and prior to commencement of other site improvements.
38. All wetland replication and stream relocation shall be accomplished under the supervision of the Applicant's Wetland Scientist. A progress report shall be provided to the Conservation Commission at the end of each week until wetland replication and stream relocation work is complete.
39. The wetland replication and stream relocation shall be constructed in accordance with the requirements of 310 CMR 10.55(4) and 10.54 (4), and all notations on the plans. The subgrades and final grades within the wetland replication and stream relocation shall be reviewed and approved by the Commission's Agent and the Applicant's Wetland Scientist prior to planting.
40. All wetland plantings are to be performed by hand. Wetland plants are to be inspected by the Applicant's wetland scientist prior to installation to ensure proper quantity, size, and species as specified on the plans. Only native species shall be used, no cultivars. The final planting layout shall be inspected by the Commission's Agent and the Applicant's Wetland Scientist prior to planting.
41. It is intended that at least 75 percent of the replication area be re-established with indigenous wetland plant species and that at least 75 percent of the woody vegetation has survived within five growing seasons of their planting. Invasive or exotic species shall not be planted or allowed to remain in the replication areas. If at any point during post construction monitoring, it is evident in the opinion of the Applicant's Wetland Scientist that the above standards will not be achieved, the Applicant shall supplement the plantings as necessary to achieve the required coverage. If after the end of five growing seasons, 75 percent re-establishment has not been achieved or at least 75% of the woody plants have not survived, the Applicant shall provide healthy wetland vegetation in

sufficient quantity to achieve the 75 percent re-establishment criteria as directed by the Applicant's Wetland Scientist.

42. The Applicant's Wetland Scientist shall monitor the Wetland Replication Area for five consecutive growing seasons, conducting spring and fall monitoring visits to document conditions within the wetland replication area. A detailed report shall be prepared by the Applicant's Wetland Scientist and submitted to the Commission no later than November 1<sup>st</sup> of each year during the five year monitoring period to document the yearly monitoring visits. Each report will include an observed species list, relative abundance of each species, percent cover of upland and wetland species, the viability of the plantings, invasive species and removal recommendations, proposed remedial measures to ensure 75 percent re-establishment, and photographs.
43. Prior to the issuance of the final Certificate of Compliance for the project, the Applicant's Wetland Scientist shall certify to the Commission that the replication area has achieved the 75 percent re-establishment.

### Construction

44. **CERTIFIED PLAN.** Within ten days of the installation of the foundation for the proposed retaining walls along Dascomb Road and Smith Way, **but in every case prior to completion of the wall of any further construction on the site**, the applicant shall submit to the Conservation Commission a Certified Plan prepared by a Registered Land Surveyor. Said plan shall be sufficiently detailed to show the horizontal location of the foundation with respect to the property lines, wetland boundaries, foundation elevations, etc. The intent of this Certified Plan is to ensure the proper field location of the retaining walls in comparison to the approved plan. No further construction may occur until the Certified Plan has been approved by an Agent of the Commission.
45. **GRADING AND STABILIZATION.** Grading shall conform to the plans and data referenced above. In all cases final grades shall have a minimum of four inches of topsoil (measured in place) over all disturbed areas. In all cases exposed soil areas shall be stabilized with vegetation, e.g., grass or some form of ground cover plant. In no case shall wood chips, mulch, or similar covering be acceptable on sloping ground in lieu of vegetation.
46. **SURPLUS EARTH MATERIAL.** 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. Excavated material not used for backfill shall be removed from the area and properly disposed of by the contractor. Records shall be kept documenting that the excess material has been properly disposed of at a legal site. If requested, a manifest or bill, as applicable, shall be provided to the Conservation Department documenting the legal disposal of excavated materials, building debris, concrete, asphalt, and/or materials removed from the site including that material removed from dumpsters and until a Certificate of Compliance is issued

47. **CONTROL OF CONSTRUCTION DEBRIS.** No construction debris (paper, wood, metal, concrete, etc.) may be allowed to enter the wetland resource areas or buffer zone at any time. Windblown material shall be promptly removed from wetland resource areas and buffer zones. There shall be no dumping of leaves, grass clippings, trash or any kind of refuse in areas under the Conservation Commission's jurisdiction.
48. **DAMAGE 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 Commission shall be promptly notified of any damage to wetland resource areas. Following notification, the applicant must submit a plan for abatement of the problem and restoration. This plan must be approved by the Conservation Commission prior to implementation.
49. **UNFORSEEN PROBLEMS.** If unforeseen problems occur during construction which may affect the interests of the Wetlands Protection Act or the Town of Andover Wetlands Protection Bylaw, the Commission shall immediately be notified and a meeting shall be held between the Commission or its Agent, the applicant and other concerned parties to determine appropriate corrective measures agreed upon. Subsequent to the resolution, the activity and resulting actions shall be documented in writing.
50. **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.
51. **DEWATERING.** In the event that dewatering is required within any area subject to the Commission's jurisdiction or such water is discharged within the Commission's jurisdiction, the Applicant shall notify the Commission at least 2 business days in advance of such work and shall be responsible to ensure that such water is free of suspended solids before being discharged toward a wetland or into any storm water system. This condition applies to all forms of dewatering, including pumping and trenching. Any dewatering areas shall be monitored daily to ensure that sediment laden water is appropriately settled prior to discharge toward the resource areas. No discharge of water is allowed directly into any wetland resource area. Dewatering shall be performed using a settling basin and/or a silt sock <sup>TM</sup> or approved equivalent filtering device. The filtering device shall be laid such that the end is at least 50 feet from the edge of any wetland above the sediment control line. During dewatering the device shall be monitored and replaced as needed. Sediment from the device shall be disposed of properly.

### Stormwater Management

52. The Owner shall retain a qualified professional to inspect the storm water management basins in accordance with the Stormwater Management Operation and Maintenance Plan prepared by TEC, Inc. dated June 22, 2015 (see attached) to ensure proper function and

maintenance of the system. **This Condition shall be a continuing conditions and shall not expire with the issuance of a Certificate of Compliance.**

53. The Applicant or his successors in interest shall be responsible in perpetuity to maintain all drainage and storm water management features, including storm water best management practices (BMPs) in good working order. The Conservation Commission reserves the right to enter upon the property and make independent examination of these BMP measures, and to require the Applicant or his successors in interest to perform such maintenance as is needed in its judgment. The Conservation Commission shall provide prior notice to the property owner of its intent to perform such inspection not less than forty-eight hours prior to such inspection. This condition shall remain in effect in perpetuity and shall survive the issuance of a Certificate of Compliance. **This Condition shall be a continuing condition and shall not expire with the issuance of a Certificate of Compliance.**

### Certificate of Compliance

54. Not more than thirty days following completion of the project, the applicant shall submit with 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. 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 or the Andover Wetlands Bylaw shall accompany such request.
55. If the completed work differs from that on the original plans and/or conditions listed in this Order, a report must be submitted to the Commission thirty (30) days prior to completion specifying how the work differs, at which time the applicant shall first request a modification to the Order. Upon review and approval by the Commission, the applicant may request in writing a Certificate of Compliance.
56. The Request for a Certificate of Compliance shall be submitted using WPA Form 8A. The Conservation Commission will not consider issuing a Certificate of Compliance until the following items are submitted to, and accepted by, the Commission:
- a. A written narrative certifying compliance prepared by a Professional Engineering registered in the State of Massachusetts with the conditions and approved plans and Order of Conditions, setting forth any deviations that exist and their potential effect on the project;
  - b. Post construction photographs demonstrating compliance with the Order including established vegetation where required;
  - c. A written certification by the Applicant's Wetland Scientist that the replication areas have achieved 75 percent re-establishment criteria, setting forth any deviations that exist and their potential effect on the project or its compliance with the Order of

Conditions; and

d. A written request for a Certificate of Compliance.

57. The original Certificate of Compliance signed by the Commission must be recorded at the North Essex Registry of Deeds and proof of such recording must be provided to the Commission.



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  
And the Andover Wetlands Protection Bylaw

Provided by MassDEP:  
090-1247  
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.

Jan. 21, 2016

1. Date of Issuance

7

2. Number of Signers

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:

[Signature]  
[Signature]  
[Signature]

[Signature]  
[Signature]  
[Signature]

by hand delivery on

by certified mail, return receipt requested, on

Date

Date

January 21, 2016

**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  
And the Andover Wetlands Protection Bylaw

Provided by MassDEP:  
090-1247  
MassDEP File #

MassDEP Transaction #  
Andover  
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.

Andover

Conservation Commission

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

To:

Andover

Conservation Commission

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

146 Dascomb Road

Project Location

090-1247

MassDEP File Number

Has been recorded at the Registry of Deeds of:

Essex North

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

**CONSTRUCTION PERIOD POLLUTION PREVENTION AND  
EROSION AND SEDIMENTATION CONTROL PLAN**

**June 22, 2015**

**Name of Applicant:** Salvatore N. Lupoli  
**Name of Facility:** Proposed Dascomb Road Redevelopment  
**Location:** 146 Dascomb Road  
Andover, MA

**Good Housekeeping BMPs**

**Goals**

Minimize the potential for contaminants to enter or runoff the site during construction activities. Fuel and other equipment related fluids will be properly stored. The Contractor shall establish secure storage areas that collect any spillage to meet requirements of the Town of Andover Fire Department regarding the storage of flammable materials. The Contractor shall complete and submit the plans to the Engineer.

**General Requirements**

The following presents a proactive approach to all of the best management practices, erosion and sedimentation controls, mitigation measures, and monitoring activities for this Project.

**Compost Filter Sock**

A compost filter sock is a type of contained compost filter berm. It is a mesh tube filled with composted material that is placed perpendicular to sheet-flow runoff to control erosion and retain sediment in disturbed areas. The filter sock can be used in place of a traditional sediment and erosion control tool such as a silt fence or straw bale barrier.

Compost filter socks are flexible and can be placed along the perimeter of a site, or at intervals along a slope, to capture and treat stormwater that runs off as sheet flow. Filter socks can also be used on pavement as inlet protection for storm drains and to slow water flow in small ditches. Filter socks used for erosion control are usually 12 inches in diameter, although 8 inch, 18 inch, and 24 inch– diameter socks are used in some applications. The smaller, 8 inch–diameter filter socks are commonly used for stormwater inlet protection. The outer shell of a compost filter sock is typically biodegradable and can remain on pervious surfaces post construction versus having to be removed as construction waste.

**Temporary Stabilized Construction Vehicle Entrance/Exit**

The purpose of stabilized entrances to a construction site is to minimize the amount of sediment leaving the area as mud and sediment attached to vehicles. Installing a pad of gravel over filter cloth where construction traffic leaves a site can help stabilize a construction entrance. As a vehicle drives over the pad, the pad removes mud and sediment from the wheels and reduces soil transport off the site. The filter cloth separates the gravel from the soil below, keeping the gravel from being ground into the soil. The fabric also reduces the amount of rutting caused by vehicle tires. It spreads the vehicle's weight over a soil area larger than the tire width.

### **Storm Drain Inlet Protection**

Storm drain inlet protection measures prevent soil and debris from entering storm drain inlets. These measures will be implemented before the Site is disturbed by using silt sacks, compost filter socks, or staked bales in combination with silt fence. Storm drain inlet protection will be installed at all down gradient catch basins adjacent to the project site outside the protection of other erosion control barriers, all catch basins within the construction site, and at low points within the construction site that are connected to the storm drainage system.

### **General Maintenance**

Refer to the Inspection and Maintenance Checklist (at the end of this section) identifying inspection and maintenance measures for each specific practice.

The contractor or subcontractor will be responsible for implementing each control shown on the Plan. In accordance with EPA regulations, the contractor must sign a copy of a certification to verify that a plan has been prepared and that permit regulations are understood.

The onsite contractor will inspect all sediment and erosion control structures weekly and after each rainfall event meeting the minimum requirements as defined in the Plan. Records of the inspections will be prepared and maintained onsite by the contractor as required by the Plan.

- Silt shall be removed from behind barriers if greater than 6-inches deep or as needed.
- Damaged or deteriorated items will be repaired immediately after identification.
- The underside of straw bales should be kept in close contact with the earth and reset as necessary.
- Sediment that is collected in structures shall be disposed of properly and covered if stored onsite.
- At a minimum establish good housekeeping BMPs for:
  - Material handling and waste management
  - Staging areas
  - Designate washout areas
  - Equipment vehicle fueling and maintenance
  - Spill prevention and control

Erosion control structures shall remain in place until all disturbed earth has been securely stabilized. After removal of structures, disturbed areas shall be regraded and stabilized as necessary.

### **Spill Prevention and Control**

The Contractor will actively maintain and manage the site activities with the procedures outlined in this Plan. In the event of petroleum or other deleterious substance spill, action will be taken by the Contractor to contain and remove the spill. The Contractor will comply with the relevant section(s) of the Oil Pollution Prevention Act, 40 CFR 112.7.

### **Responsibility**

All project personnel share the responsibility for the initial control and reporting of the oil and other substance spill, especially the personnel that first discover the spill. The Site Safety and Health Officer (SSHO) will be responsible for determining the necessary safety equipment and for establishing safety practices to be followed by the Contractor during the clean-up operations. All personnel will be trained in the use of and location of this equipment, prior to the commencement of the construction.

The Contractor's goal is to provide effective, efficient and coordinated action to minimize or mitigate damages to the environment and public health and welfare from oil or other substance discharges, conforming to applicable federal, state, and local regulations, as well as other provisions and restrictions. In the event of spills or releases that may occur during the Project, a representative on-site qualified by OSHA training requirements (29 CFR 1910.120) for a Level 3 Hazmat Technician will be provided and will have the responsibility and authority for supervising the cleanup. If the representative determines that the clean up operations are beyond the capacity of the Contractor, assistance shall be requested from its Subcontractor.

In the event of an emergency spill, the Contractor will be responsible for retaining the environmental Subcontractor. The selected environmental subcontractor will develop a Hazardous Materials Health and Safety Plan, which will be referenced when a spill or release is discovered, and the control of the spill or release is beyond the scope of the Spill Prevention Control and Countermeasure plan. The Contractor's Project Manager is responsible for giving the SSHO directions for initiating the Hazardous Materials Health and Safety Plan.

Alert and reporting procedures will become effective immediately upon observance and indication of a spill or discharge of oil or other substances on the project.

Reportable observations are:

1. Leaks or spills
2. Soils which are discolored or have an odor
3. Discharge of oil or other similar substances from drain pipes

The Engineer will be informed immediately of all substantial spills, releases, or other substance discharges. All telephone numbers for the Emergency Response agencies will be posted on site. The Contractor or its Subcontractors will implement control and countermeasures immediately.

#### **Fuel and Oil Delivery Trucks**

The equipment superintendent or designee will monitor all truck unloading procedures to verify all hoses are tight and do not leak, and if necessary, will tighten, adjust, or replace them to prevent a release of any kind. In the event of a major spill, alert and initial report procedures will be implemented, and an emergency response contractor will be called in to perform the cleanup.

#### **Equipment**

Motorized equipment that require fuel and oil to operate will be inspected prior to the start of each work shift by the operator (in the field) to ensure there is no leakage of oil, fuel, or other material. Trucks will be inspected prior to use for potential leaks or drips. If a leak is found, repairs will be made immediately, and spillage will be cleaned up manually using sorbent material. Vehicles that are found to be leaking will be immediately taken out of service until repairs can be made.

#### **Drum Storage**

Drum storage, if any, will be located in a secure area within the Project limits away from environmental areas of concern. Petroleum liquids and other substances stored in drums will be kept in a drum container that consists of a drum rack and drip containment pan that is capable of containing 110% of the stored volume should the drum rupture.

#### **Lubrication / Oil Maintenance**

Replacement lubrication will be directly deposited from the lubrication truck to the equipment lubrication reservoir. No other container system will be used to transport oil to the equipment. Mobile equipment will be serviced off site or in the lay-down area. Equipment that cannot be moved will be serviced in the field. The Contractor will place a containment pan or absorbent below the service area prior to initiating service activities in the field. Waste disposal will be completed by the Contractor or by a waste disposal firm. Miscellaneous lubricants for operating equipment will be limited to daily quantities.

#### **Spent Oil**

Oil that has already been used on the job will be disposed of via a certified waste disposal firm. Spent oil will be stored in a labeled (hazardous waste signs) and vented fuel storage cell located at the staging area awaiting disposal by a certified waste disposal firm (i.e. Enpro, Inc.). The staging area will be located within the boundary of the project and inspected daily for leaks or spills. The storage cell will be bermed to contain 110% of the largest container or 10% of the total volume in storage, whichever is greater.

### **Special Oil Spill Equipment**

#### **Sorbent Pads**

Sorbent pads will be available to absorb oil and petroleum compounds. If necessary, the pads will be used to absorb oil spills or leaks by placing them on the oil and giving them antiquated time to absorb it. The sorbent pads will be stored in equipment box located in the maintenance area. The pads shall float and be water repellent, so they can absorb oil on water. Saturated/contaminated pads will be placed in an appropriate container and stored within the maintenance area. A certified waste disposal firm will dispose of the approved containers.

#### **Sorbent Compound**

The compound will be used for contaminants spilled on decks or hard surfaces. In most cases, it can be applied directly to spills, but if the spill is large, it can be used to form a dike around the spill to prevent further migration.

Best Management Practices -- Maintenance/Evaluation Checklist  
Construction Practices

Best Management Practice	Inspection Frequency	Date Inspected	Inspector	Minimum Maintenance and Key Items to Check	Cleaning/Repair Needed <input type="checkbox"/> Yes <input type="checkbox"/> No (List Items)	Date of Cleaning/Repair	Performed by
Compost Filter Sock	Inspect at least once per week and after each rainstorm of 0.25 inch or greater.			<ul style="list-style-type: none"> <li>Ensure that compost filter sock is intact and the area behind the sock is not filled with sediment. If there is excessive ponding behind the filter sock or accumulated sediments reach the top of the sock, an additional sock should be added on top or in front of the existing filter sock in these areas, without disturbing the soil or accumulated sediment.</li> <li>If the filter sock was overtopped during a storm event, the operator should consider installing an additional filter sock on top of the original, placing an additional filter sock further up the slope.</li> <li>Check all temporary control measures after each storm event.</li> <li>To maintain the capacity, remove accumulated sediment when the capacity is reduced by half.</li> </ul>			
Catch Basin Inlet Protection	Inspect at least once per week and after each rainstorm of 0.25 inch or greater.			<ul style="list-style-type: none"> <li>The exit shall be maintained in a condition that will prevent tracking of sediment onto public rights-of-way.</li> <li>When the control pad becomes ineffective, the stone shall be removed along with the collected soil material and redistributed on site in a stable manner. The entrance should then be reconstructed.</li> <li>The contractor shall sweep or wash pavement at exits, which have experienced mud-tracking on to the pavement or traveled way.</li> <li>When washing is required, it shall be done on an area stabilized with aggregate, which drains into an approved sediment trapping device.</li> <li>All sediment shall be prevented from entering storm drains, ditches, or waterways</li> </ul>			
Stabilized Construction Exit	Inspect at least once per week and after each rainstorm of 0.25 inch or greater.						

**Stormwater Management Operation and Maintenance Plan**  
**June 22, 2015**

**Name of Applicant:** Salvatore N. Lupoli  
**Name of Facility:** Proposed Dascomb Road Redevelopment  
**Location:** 146 Dascomb Road, Andover, MA 01810

A detailed, written log of all scheduled preventative and corrective maintenance performed for the stormwater management measures must be kept on site, including a record of all inspections and copies of maintenance-related work orders.

Attachment 1, "Inspection and Maintenance Check List" shall be maintained as a record of regularly scheduled inspection and maintenance items as outlined below for every year. Maintenance required and actions taken shall be recorded in Attachment 2, Inspection and Maintenance Log". The funding, operation, and maintenance of all stormwater management Best Management Practices (BMPs) shall be provided by the Applicant, or their appointee.

Maintenance routine and schedule: Routine inspections will be conducted on a monthly basis and thorough investigations will be conducted twice a year. Tasks that are common to all systems include regular removal of accumulated sediments, floatables and debris. Inspections will occur after every major storm event for the first six (6) months after construction. Inspections will be conducted by a Professional Engineer registered in the Commonwealth of Massachusetts experienced in drainage design. Annual reports will be prepared detailing the status of the stormwater system and the maintenance performed. A copy of the annual report will be sent to the Town of Andover.

The owner agrees to comply with a minimum maintenance schedule as follows:

1. **Monthly inspection for damaged or clogged catch basin grates.**  
Catch basin grates shall be inspected and cleared of debris to maintain inlet capacity.
2. **Quarterly sweeping of the parking lot.**  
The parking lot shall be swept four (4) times per year. Sweepings should be concentrated in the late spring after winter sanding and late fall after the leaves have fallen. Sweeping of the parking areas shall be performed with a mechanical sweeper (rotary broom).
3. **Annual cleaning of catch basins**  
Sumps and inlets shall be cleaned once per year and inspected on a monthly basis. All sediments shall be properly handled and disposed of in accordance with local, state and federal guidelines and regulations.

- 4. Inspection and cleaning of drainage pipes and manholes.**  
Drainage pipes and manhole structures, including those associated with the sub surface infiltration systems, shall be inspected and cleaned of sediment at least every five (5) years or as required to maintain adequate functionality of the stormwater conveyance system. All sediments shall be properly handled and disposed of in accordance with local, state and federal guidelines and regulations.
- 5. Water Quality Unit Maintenance**  
The water quality units, which include all sub-surface infiltration structures and particle separator structures, shall be monitored and maintained on a regular basis according to manufacturer's specifications. All structures shall be cleaned of sediment buildup at least twice annually.
- 6. Sediment Forebay/Infiltration Basin cleaning**  
As a minimum, the basin will be inspected after every major storm event for the first six months after construction, to ensure functionality and inspect for erosion. Thereafter, inspections will occur at least once per year and after every major storm event. At least twice during growing seasons, the infiltration basin upper-stage, side slopes, embankments, and emergency spillway will be cleared of accumulated sediment, grass clippings, leaves, and trash and then mowed. Sediment collected inside the basin will be removed at a minimum of once every ten (10) years by hand or mechanical equipment. Eroded areas and slopes will be loamed, seeded, and mulched or stabilized with rock rip-rap. Outlet structures should have debris removed to maintain consistent release velocities. Collected debris will be properly disposed of, in accordance with state and federal requirements, at a local facility.
- 7. Subsurface Infiltration Basin**  
The subsurface infiltration system shall be inspected annually to ensure that its performance has not become sacrificed. The outlet weirs and overflows shall also be inspected to maintain proper hydraulics.
- 8. Grass Landscaping**  
The grass landscaping will be inspected after every major storm event for the first two (2) months after seeding to ensure functionality. Thereafter, inspections should take place every six (6) months in the spring and fall and after severe storm events. Grass and mulched landscaping showing signs of wear and erosion will be re-loamed/re-seeded or re-mulched as necessary to prevent further erosion from taking place.
- 9. Snow Removal**

Snow shall be plowed from driveway system/parking garage and stored in the designated snow storage areas.

### **The Long-Term Pollution Prevention Plan**

The Owner agrees to comply with the following Long-Term Pollution Prevention Plan to ensure long-term stormwater quality discharge from the site:

- *Good housekeeping practices:* The project is retail, professional office, and restaurant development that will be maintained by the owner, including snow removal, de-icing, and BMP inspection/maintenance.
- *Provisions for storing materials and waste products inside or under cover:* No materials or waste products will be stored on-site.
- *Vehicle washing controls:* Vehicle washing is not anticipated as a reasonably foreseeable use of the site.
- *Requirements for routine inspections and maintenance of stormwater BMPs:* The owner will be responsible for providing the necessary inspections and maintenance for the stormwater BMPs.
- *Spill prevention and response plans:* There are no proposed uses at the site that would provide an opportunity for a spill of oil or hazardous materials, other than a sudden, catastrophic, vehicle failure. If a vehicle release is the result of an accident, the police and fire department will respond and address any release.
- *Provisions for maintenance of lawns, gardens, and other landscaped areas:* The owner will provide long-term maintenance for the landscaped areas, BMPs, and possible future great lawn.
- *Requirements for storage and use of fertilizers, herbicides, and pesticides:* At this time there would be no foreseeable need for fertilizers, herbicides, and pesticides.
- *Provisions for operation and management of septic systems:* Not Applicable
- *Provisions for solid waste management:* The owner will provide trash receptacles for each tenant of the proposed redevelopment. The trash receptacles will have lids of the type and nature to prevent windblown trash from escaping and will be emptied regularly.

- *Snow disposal and plowing plans relative to Wetland Resource Areas:* Snow will be stored in the various landscaped islands onsite temporarily. During large storm events, snow will be trucked off site. Snow disposal will be prohibited within the 100' wetland buffer.
- *Street sweeping schedules:* The owner will be responsible for monthly street sweeping with sweepings concentrated in the Spring and Fall as stated in the Operations and Maintenance plan. Sweeping will be performed with a mechanical sweeper (rotary broom).
- *Provisions for prevention of illicit discharges to the stormwater management system:* Only stormwater is proposed to be conveyed through the stormwater management system. No illicit materials will be permitted. The owner will be responsible to maintain this system.
- *Documentation that Stormwater BMPs are designed to provide for shutdown and containment in the event of a spill or discharges to or near critical areas or from LUHPPL:* The BMPs selected provide adequate containment of contaminants in the unlikely event of a spill.
- *Training for staff or personnel involved with implementing Long-Term Pollution Prevention Plan:* Prior to implementation of the LTPPP, the owner shall provide an on-site meeting with the maintenance personnel to present the contents and requirements of the Stormwater Operation and Maintenance Plan and the LTPPP.
- *List of Emergency contacts for implementing Long-Term Pollution Prevention Plan:*

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