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BRP WPA Form 3 – Notice of Intent

(M.G.L. c. 131, §40 and Newburyport Ordinance Chapter 6.5: Environment, Article II: Wetlands Protection Ordinance)

11 76th Street



Submitted to:

Newburyport Conservation Commission
Office of Planning and Development
60 Pleasant Street, 1st Floor
Newburyport, MA 01950

Prepared by:

Hughes Environmental Consulting
44 Merrimac Street
Newburyport, MA 01950

In Association with:

Winter GEC, LLC
44 Merrimac Street
Newburyport, MA 01950 and

On behalf of:

Dan GraovaRobert Condon
101 Federal Hill Road
Hollis, NH 03049

Copies to:

MassDEP NERO
205B Lowell Street
Wilmington, MA 01887

March 19, 2021

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PROJECT NARRATIVE

to accompany a

NOTICE OF INTENT

For

Robert Condon

Newburyport

March 19, 2021

Overview

Robert Condon is seeking after the fact approval in response to work done on his property at 11 76th Street. The proposal includes replacement of certain non-confirming elements of the work that was done and additional plantings to result in a net increase in vegetation on site..

Current Site Conditions

The project site is a single-family home lot located at the corner of 76th Street and Overlook Drive. The property was fenced in and had significant areas of developed dune prior to the work being done. There were a number of at grade walkways, areas covered with pavers, and solid walled decking on the property. The property had an area of dune vegetation located along the 76th Street frontage and some perimeter arborvitae in the back yard. There was also (and remains) a deciduous tree in the back yard in the southwestern corner.

Resource areas

The entire site is located on a coastal dune within a barrier beach, and within land subject to coastal storm flowage. The property is within the mapped A0 zone.

Project Proposal

The proposal is to remove the existing cinderblock stairs that were installed by Mr. Condon, replacing with an open sided wooden entry stair and platform. Additionally, the additional work includes expanding the planting area with native dune vegetation.

We ask the Commission to approve the other work that was done as shown on the photos and site plan. This includes the removal of pavers, replaced with gravel/stone, the removal of a solid deck replaced with an on-grade platform (we note that a number of on grade platforms were removed from the site and this platform replaces a solid sided deck and area of pavers.

Plantings

The proposed plantings are American Beach Grass, planted one foot on center in an expanded planting area on the 76th Street side of the property, roughly in the area the prior vegetation was located.

Wetland Protection Act

The project site is located at Plum Island, a barrier beach, within a densely developed portion of the dune system, and within Land Subject to Coastal Storm Flowage . Since the project is located on a barrier beach, landward of a coastal beach, it must meet the performance standards of the Wetland Protection Act as defined by the Wetland Protection Act Regulations, 310 CMR 10.28 and 10.29. There are no performance standards for Land Subject to Coastal Storm Flowage.

The project, including the proposed mitigation areas, will have the end result of reducing non-confirming structures and surfaces within the resource area.

The regulations are intended to preserve the following characteristics of barrier beaches and dune systems:

- (a) the ability of the dune to erode in response to coastal beach conditions;
- (b) dune volume;
- (c) dune form, which must be allowed to be changed by wind and natural water flow;
- (d) vegetative cover;
- (e) the ability of the dune to move landward or laterally; or
- (f) the ability of the dune to continue serving as bird nesting habitat.

310 CMR 10.28 - Coastal Dunes

The performance standards for Coastal Dunes are provided in 310 CMR 10.28, sections (3) through (6). These standards are addressed below:

(3) Any alteration of, or structure on, a coastal dune or within 100 feet of a coastal dune shall not have an adverse effect on the coastal dune by:

(a) affecting the ability of waves to remove sand from the dune;

Prior to the project, this was limited due to the hardened surface in the back yard. The gravel/stone in place now is compatible with dune function and will improve this ability over the prior condition.

(b) disturbing the vegetative cover so as to destabilize the dune;

The project will mitigate for all impacts to vegetation with the additional planting area.

(c) causing any modification of the dune form that would increase the potential for storm or flood damage;

The project did not and will not change dune form.

(d) interfering with the landward or lateral movement of the dune;

The proposed project will improve this function by removing the solid deck and pavers.

(e) causing removal of sand from the dune artificially; or

There will be no removal of sand from the dune.

(f) interfering with mapped or otherwise identified bird nesting habitat.

The site is located outside the Estimated Habitat Map of State-Listed Rare Wildlife published by the Natural Heritage and Endangered Species Program and within a fairly densely developed neighborhood.

(4) Notwithstanding the provisions of 310 CMR 10.28(3), when a building already exists upon a coastal dune, a project accessory to the existing building may be permitted, provided that such work, using the best commercially available measures, minimizes the adverse effect on the coastal dune caused by the impacts listed in 310 CMR 10.28 (3)(b) through 10.28(3)(e). Such an accessory project may include, but is not limited to, a small shed or a small parking area for residences. It shall not include coastal engineering structures.

This section does not apply.

(5): *The following projects may be permitted, provided that they adhere to the provisions of 310 CMR 10.28(3):*

- (a) pedestrian walkways, designed to minimize the disturbance to the vegetative cover and traditional bird nesting habitat;*
- (b) fencing and other devices designed to increase dune development; and*
- (c) plantings compatible with the natural vegetative cover.*

The applicant is proposing mitigative plantings for vegetation.

(6) *Notwithstanding the provisions of 310 CMR 10.28(3) through (5), no project may be permitted which will have any adverse effect on specified habitat sites of rare vertebrate or invertebrate species, as identified by procedures established under 310 CMR 10.37.*

The site is located outside the Estimated Habitat Map of State-Listed Rare Wildlife published by the Natural Heritage and Endangered Species Program.

Barrier Beach

310 CMR 10.29 (3) states that “when a Barrier Beach is Determined to be Significant to Storm Damage Prevention, Flood Control, Marine Fisheries or Protection of Wildlife Habitat, 310 CMR 10.28(3) through 10.28(5) apply.” These sections are addressed above.

Land Subject to Coastal Storm Flowage

There are no performance standards for Land Subject to Coastal Storm Flowage, however solid obstacles to the movement of flood water were removed and the stairs that were installed will be removed resulting in improved floodplain function..

Newburyport Wetlands Ordinance

Since the project is located on Plum Island, the project falls under the Newburyport Wetlands Ordinance. The performance standards are addressed below:

6.5-28. Special Provisions for the Barrier Beach

- A. *The Plum Island Barrier Beach received additional protection under the previous Newburyport Wetlands Ordinance (adopted October 9, 2001 and revised September 12, 2005) and therefore its provisions are included in this Ordinance. The additional protections afforded to the Plum Island Barrier Beach are for the following purposes:***
 - 1. *To minimize environmental damage, loss of life, and destruction of property inevitably resulting from storms, flooding and erosion;***
 - 2. *To prevent loss or diminution of the beneficial functions of storm and flood damage prevention or reduction and pollution prevention provided by wetlands, beaches, dunes, barrier beaches, and coastal banks;***
 - 3. *To maintain vegetative buffers to wetlands and waterbodies so as to reduce and/or eliminate runoff and other non-point discharges of pollutants to protect public health and preserve environmental resources; and***

4. *To maintain vegetative cover so that the integrity and stability of coastal dunes and banks are maintained and so that the coastal dunes and banks can fulfill their functions and promote the interests identified in the Ordinance.*

Notwithstanding any additional requirements or exemptions, all activities on the Plum Island Barrier Beach shall be in accordance with 6.5-28, subsection B.

B. *Specific performance standards for the Barrier Beach are:*

1. *No development or redevelopment shall be permitted within a FEMA V-Zone or AO-Zone. Notwithstanding the foregoing, structures damaged or destroyed from fire, storm, or similar disaster may be redeveloped/repared only in accordance with current local, state and federal regulatory standards when damage to or loss of the structure is equal to or greater than 50% of the market value of the building. When damage to or loss of the structure is less than 50% of the market value of the building, redevelopment/repairs may be allowed to return the structure to pre-damaged conditions. In all instances, reconstruction, renovation or repairs to damaged structures may be authorized as stated herein, provided that there is no increase in floor area.*

The project actually reduced the overall footprint of the structure by removal of a deck and a larger entry deck..

2. *All new buildings or substantial improvements to existing buildings shall be built on open pilings and comply with FEMA National Flood Insurance Regulations and State Building Code Regulations for elevation and flood proofing. All development and redevelopment shall comply with G.L. c. 131, sec. 40, 310 CMR 10.00 and Section 744 of the Massachusetts State Building Code Design Requirements for Floodplain and Coastal High Hazard Areas.*

The proposal will comply with the building code and this section of the Ordinance.

3. *For the purposes of the Ordinance, the term “substantial improvement” shall mean an improvement that increases the market value of the building by an amount equal to or greater than 50% or an improvement that increases the square footage by an amount equal to or greater than 25%.*

Note the answer to 2. above.

4. *All new buildings, replacements, substantial improvements or expanded footprints less than 25% in square footage shall have their first floor built at least two feet above base flood elevation or the highest existing ground elevation whichever is higher.*

No such project is proposed.

5. *Electrical, heating, ventilation, plumbing and air conditioning and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.*

The structure will comply with this section.

6. *Development or redevelopment on or within 200 feet landward of the top of a coastal bank or dune shall have no adverse impact on the height, stability or function of the bank or dune to fulfill the purposes set forth in Section 6.5-28.A. above.*

The project as proposed will not impact the height, stability or function of this backdune area.

7. *In areas where there are coastal banks or primary or frontal dunes, all new buildings and structures shall be set back from the beach dune interface at a distance equal to thirty times the average yearly historical erosion as shown by the most current CZM shoreline change map.*

The project is located outside the frontal dune and significantly far from the beach dune interface.

8. *No activity shall increase the elevation or velocity of flows in a floodplain.*

The project will improve the functioning of the floodplain as noted above.

9. *Within the FEMA V Zone, A Zone, or AO Zone or their equivalent, new or reconstructed structures or development on the barrier beach that alters vegetation, interrupts sediment supply and/or changes the form or volume of a dune or beach must comply with the specific performance standards in the Ordinance and in the regulations promulgated pursuant hereto.*

The project complies with these standards.

10. *In all other areas of the Plum Island Barrier Beach outside of the V-Zone and AO-Zone, all new Buildings shall be built on open pilings and shall comply with FEMA National Flood Insurance Regulations and State Building Code Regulations for elevation and flood proofing. All existing Buildings with Substantial Improvements, and all horizontal expansions of the existing footprint, shall be built on open pilings and shall comply with FEMA National Flood Insurance Regulations and State Building Code Regulations for elevation and flood proofing. If a Licensed Engineer certifies that an existing portion of the solid foundation will not require modifications to support the proposed building (other than new pilings exterior to the existing footprint), the existing portion of the solid foundation may remain.*

The structure will comply with these standards.

11. *Notwithstanding the previous sentence, the existing solid foundation of a Building shall be replaced with pilings, if, 50% or more of the exterior walls have been removed, are proposed to be removed, or will not be used as exterior walls (i.e. including but not limited to encasing an existing wall within a new exterior wall) and a new roof will be constructed, or is proposed to be constructed.*

The removal of a deck and the reconstruction of an entry way do not constitute a substantial improvement.

12. Construction or alteration of any coastal engineering structures shall require review and approval by the Conservation Commission.

The project does not include any coastal engineering structures.

Conclusion

The proposed project will improve the function of the dune and floodplain and complies with all performance standards under the Wetland Protection Act and Newburyport Wetlands Ordinance.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 3 – Notice of Intent

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

Provided by MassDEP:

MassDEP File Number

Document Transaction Number

Newburyport

City/Town

Important:

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



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

A. General Information

1. Project Location (**Note:** electronic filers will click on button to locate project site):

11 76th Street

a. Street Address

Newburyport

b. City/Town

01950

c. Zip Code

Latitude and Longitude:

42° 48' 48.708" N

d. Latitude

70° 48' 56.232" W

e. Longitude

76

f. Assessors Map/Plat Number

174C

g. Parcel /Lot Number

2. Applicant:

Robert

a. First Name

Condon

b. Last Name

c. Organization

101 Federal Hill Road

d. Street Address

Hollis

e. City/Town

NH

f. State

03049

g. Zip Code

h. Phone Number

i. Fax Number

j. Email Address

3. Property owner (required if different from applicant): ☐ Check if more than one owner

a. First Name

b. Last Name

c. Organization

d. Street Address

e. City/Town

f. State

g. Zip Code

h. Phone Number

i. Fax Number

j. Email address

4. Representative (if any):

Thomas

a. First Name

Hughes

b. Last Name

Hughes Environmental Consulting

c. Company

44 Merrimac Street, Suite 311

d. Street Address

Newburyport

e. City/Town

MA

f. State

01950

g. Zip Code

978-465-5400

h. Phone Number

978-465-8100

i. Fax Number

thughes@hughesenvr.com

j. Email address

5. Total WPA Fee Paid (from NOI Wetland Fee Transmittal Form):

110.00

a. Total Fee Paid

42.50

b. State Fee Paid

67.50

c. City/Town Fee Paid



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A. General Information (continued)

6. General Project Description:

After the fact approval for landscaping and deck work, with changes

7a. Project Type Checklist: (Limited Project Types see Section A. 7b.)

- | | |
|---|---|
| 1. <input type="checkbox"/> Single Family Home | 2. <input type="checkbox"/> Residential Subdivision |
| 3. <input type="checkbox"/> Commercial/Industrial | 4. <input type="checkbox"/> Dock/Pier |
| 5. <input type="checkbox"/> Utilities | 6. <input type="checkbox"/> Coastal engineering Structure |
| 7. <input type="checkbox"/> Agriculture (e.g., cranberries, forestry) | 8. <input type="checkbox"/> Transportation |
| 9. <input checked="" type="checkbox"/> Other | |

7b. Is any portion of the proposed activity eligible to be treated as a limited project (including Ecological Restoration Limited Project) subject to 310 CMR 10.24 (coastal) or 310 CMR 10.53 (inland)?

1. ☐ Yes ☒ No If yes, describe which limited project applies to this project. (See 310 CMR 10.24 and 10.53 for a complete list and description of limited project types)

2. Limited Project Type

If the proposed activity is eligible to be treated as an Ecological Restoration Limited Project (310 CMR 10.24(8), 310 CMR 10.53(4)), complete and attach Appendix A: Ecological Restoration Limited Project Checklist and Signed Certification.

8. Property recorded at the Registry of Deeds for:

Essex South

a. County

38370

c. Book

b. Certificate # (if registered land)

340

d. Page Number

B. Buffer Zone & Resource Area Impacts (temporary & permanent)

- ☐ Buffer Zone Only – Check if the project is located only in the Buffer Zone of a Bordering Vegetated Wetland, Inland Bank, or Coastal Resource Area.
- ☐ Inland Resource Areas (see 310 CMR 10.54-10.58; if not applicable, go to Section B.3, Coastal Resource Areas).

Check all that apply below. Attach narrative and any supporting documentation describing how the project will meet all performance standards for each of the resource areas altered, including standards requiring consideration of alternative project design or location.



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B. Buffer Zone & Resource Area Impacts (temporary & permanent) (cont'd)

For all projects affecting other Resource Areas, please attach a narrative explaining how the resource area was delineated.

Resource Area	Size of Proposed Alteration	Proposed Replacement (if any)
a. <input type="checkbox"/> Bank	1. linear feet	2. linear feet
b. <input type="checkbox"/> Bordering Vegetated Wetland	1. square feet	2. square feet
c. <input type="checkbox"/> Land Under Waterbodies and Waterways	1. square feet 3. cubic yards dredged	2. square feet

Resource Area	Size of Proposed Alteration	Proposed Replacement (if any)
d. <input type="checkbox"/> Bordering Land Subject to Flooding	1. square feet 3. cubic feet of flood storage lost	2. square feet 4. cubic feet replaced
e. <input type="checkbox"/> Isolated Land Subject to Flooding	1. square feet 2. cubic feet of flood storage lost	3. cubic feet replaced
f. <input type="checkbox"/> Riverfront Area	1. Name of Waterway (if available) - specify coastal or inland	

2. Width of Riverfront Area (check one):

- ☐ 25 ft. - Designated Densely Developed Areas only
- ☐ 100 ft. - New agricultural projects only
- ☐ 200 ft. - All other projects

3. Total area of Riverfront Area on the site of the proposed project: _____ square feet

4. Proposed alteration of the Riverfront Area:

a. total square feet _____ b. square feet within 100 ft. _____ c. square feet between 100 ft. and 200 ft. _____

5. Has an alternatives analysis been done and is it attached to this NOI? ☐ Yes ☐ No

6. Was the lot where the activity is proposed created prior to August 1, 1996? ☐ Yes ☐ No

3. ☐ Coastal Resource Areas: (See 310 CMR 10.25-10.35)

Note: for coastal riverfront areas, please complete **Section B.2.f.** above.



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B. Buffer Zone & Resource Area Impacts (temporary & permanent) (cont'd)

Check all that apply below. Attach narrative and supporting documentation describing how the project will meet all performance standards for each of the resource areas altered, including standards requiring consideration of alternative project design or location.

Online Users:
Include your document transaction number (provided on your receipt page) with all supplementary information you submit to the Department.

<u>Resource Area</u>	<u>Size of Proposed Alteration</u>	<u>Proposed Replacement (if any)</u>
a. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below	
b. <input type="checkbox"/> Land Under the Ocean	1. square feet _____ 2. cubic yards dredged _____	
c. <input checked="" type="checkbox"/> Barrier Beach	Indicate size under Coastal Beaches and/or Coastal Dunes below	
d. <input type="checkbox"/> Coastal Beaches	1. square feet _____ 2778	2. cubic yards beach nourishment _____ 0
e. <input checked="" type="checkbox"/> Coastal Dunes	1. square feet _____ 2778	2. cubic yards dune nourishment _____ 0
	<u>Size of Proposed Alteration</u>	<u>Proposed Replacement (if any)</u>
f. <input type="checkbox"/> Coastal Banks	1. linear feet _____	
g. <input type="checkbox"/> Rocky Intertidal Shores	1. square feet _____	
h. <input type="checkbox"/> Salt Marshes	1. square feet _____	2. sq ft restoration, rehab., creation _____
i. <input type="checkbox"/> Land Under Salt Ponds	1. square feet _____	
	2. cubic yards dredged _____	
j. <input type="checkbox"/> Land Containing Shellfish	1. square feet _____	
k. <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	
	1. cubic yards dredged _____	
l. <input checked="" type="checkbox"/> Land Subject to Coastal Storm Flowage	2778 1. square feet _____	
4. <input type="checkbox"/> Restoration/Enhancement		
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.2.b or B.3.h above, please enter the additional amount here.		
a. square feet of BVW _____	b. square feet of Salt Marsh _____	

5. ☐ Project Involves Stream Crossings

a. number of new stream crossings _____

b. number of replacement stream crossings _____



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C. Other Applicable Standards and Requirements

- ☐ This is a proposal for an Ecological Restoration Limited Project. Skip Section C and complete Appendix A: Ecological Restoration Limited Project Checklists – Required Actions (310 CMR 10.11).

Streamlined Massachusetts Endangered Species Act/Wetlands Protection Act Review

1. Is any portion of the proposed project located in **Estimated Habitat of Rare Wildlife** as indicated on the most recent Estimated Habitat Map of State-Listed Rare Wetland Wildlife published by the Natural Heritage and Endangered Species Program (NHESP)? To view habitat maps, see the *Massachusetts Natural Heritage Atlas* or go to http://maps.massgis.state.ma.us/PRI_EST_HAB/viewer.htm.

- a. ☐ Yes ☒ No **If yes, include proof of mailing or hand delivery of NOI to:**

Natural Heritage and Endangered Species Program
Division of Fisheries and Wildlife
1 Rabbit Hill Road
Westborough, MA 01581

August 1, 2017

b. Date of map

If yes, the project is also subject to Massachusetts Endangered Species Act (MESA) review (321 CMR 10.18). To qualify for a streamlined, 30-day, MESA/Wetlands Protection Act review, please complete Section C.1.c, and include requested materials with this Notice of Intent (NOI); *OR* complete Section C.2.f, if applicable. *If MESA supplemental information is not included with the NOI, by completing Section 1 of this form, the NHESP will require a separate MESA filing which may take up to 90 days to review (unless noted exceptions in Section 2 apply, see below).*

- c. Submit Supplemental Information for Endangered Species Review*

1. ☐ Percentage/acreage of property to be altered:

(a) within wetland Resource Area

percentage/acreage

(b) outside Resource Area

percentage/acreage

2. ☐ Assessor's Map or right-of-way plan of site

2. ☐ Project plans for entire project site, including wetland resource areas and areas outside of wetlands jurisdiction, showing existing and proposed conditions, existing and proposed tree/vegetation clearing line, and clearly demarcated limits of work **

(a) ☐ Project description (including description of impacts outside of wetland resource area & buffer zone)

(b) ☐ Photographs representative of the site

* Some projects **not** in Estimated Habitat may be located in Priority Habitat, and require NHESP review (see <https://www.mass.gov/mas-endangered-species-act-mesa-regulatory-review>).

Priority Habitat includes habitat for state-listed plants and strictly upland species not protected by the Wetlands Protection Act.

** MESA projects may not be segmented (321 CMR 10.16). The applicant must disclose full development plans even if such plans are not required as part of the Notice of Intent process.



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C. Other Applicable Standards and Requirements (cont'd)

- (c) ☐ MESA filing fee (fee information available at <https://www.mass.gov/how-to/how-to-file-for-a-mesa-project-review>).

Make check payable to "Commonwealth of Massachusetts - NHESP" and **mail to NHESP** at above address

Projects altering 10 or more acres of land, also submit:

- (d) ☐ Vegetation cover type map of site
- (e) ☐ Project plans showing Priority & Estimated Habitat boundaries
- (f) OR Check One of the Following

1. ☐ Project is exempt from MESA review.
Attach applicant letter indicating which MESA exemption applies. (See 321 CMR 10.14, <https://www.mass.gov/service-details/exemptions-from-review-for-projectsactivities-in-priority-habitat>; the NOI must still be sent to NHESP if the project is within estimated habitat pursuant to 310 CMR 10.37 and 10.59.)

2. ☐ Separate MESA review ongoing. a. NHESP Tracking # _____ b. Date submitted to NHESP _____

3. ☐ Separate MESA review completed.
Include copy of NHESP "no Take" determination or valid Conservation & Management Permit with approved plan.

3. For coastal projects only, is any portion of the proposed project located below the mean high water line or in a fish run?

- a. ☐ Not applicable – project is in inland resource area only b. ☐ Yes ☒ No

If yes, include proof of mailing, hand delivery, or electronic delivery of NOI to either:

South Shore - Cohasset to Rhode Island border, and the Cape & Islands:

North Shore - Hull to New Hampshire border:

Division of Marine Fisheries -
Southeast Marine Fisheries Station
Attn: Environmental Reviewer
836 South Rodney French Blvd.
New Bedford, MA 02744
Email: dmf.envreview-south@mass.gov

Division of Marine Fisheries -
North Shore Office
Attn: Environmental Reviewer
30 Emerson Avenue
Gloucester, MA 01930
Email: dmf.envreview-north@mass.gov

Also if yes, the project may require a Chapter 91 license. For coastal towns in the Northeast Region, please contact MassDEP's Boston Office. For coastal towns in the Southeast Region, please contact MassDEP's Southeast Regional Office.

- c. ☐ Is this an aquaculture project? d. ☐ Yes ☒ No

If yes, include a copy of the Division of Marine Fisheries Certification Letter (M.G.L. c. 130, § 57).



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C. Other Applicable Standards and Requirements (cont'd)

Online Users:

Include your document transaction number (provided on your receipt page) with all supplementary information you submit to the Department.

4. Is any portion of the proposed project within an Area of Critical Environmental Concern (ACEC)?
a. ☐ Yes ☒ No If yes, provide name of ACEC (see instructions to WPA Form 3 or MassDEP Website for ACEC locations). **Note:** electronic filers click on Website.
- b. ACEC
5. Is any portion of the proposed project within an area designated as an Outstanding Resource Water (ORW) as designated in the Massachusetts Surface Water Quality Standards, 314 CMR 4.00?
a. ☐ Yes ☒ No
6. Is any portion of the site subject to a Wetlands Restriction Order under the Inland Wetlands Restriction Act (M.G.L. c. 131, § 40A) or the Coastal Wetlands Restriction Act (M.G.L. c. 130, § 105)?
a. ☐ Yes ☒ No
7. Is this project subject to provisions of the MassDEP Stormwater Management Standards?
a. ☐ Yes. Attach a copy of the Stormwater Report as required by the Stormwater Management Standards per 310 CMR 10.05(6)(k)-(q) and check if:
1. ☐ Applying for Low Impact Development (LID) site design credits (as described in Stormwater Management Handbook Vol. 2, Chapter 3)
2. ☐ A portion of the site constitutes redevelopment
3. ☐ Proprietary BMPs are included in the Stormwater Management System.
b. ☒ No. Check why the project is exempt:
1. ☒ Single-family house
2. ☐ Emergency road repair
3. ☐ Small Residential Subdivision (less than or equal to 4 single-family houses or less than or equal to 4 units in multi-family housing project) with no discharge to Critical Areas.

D. Additional Information

- ☐ This is a proposal for an Ecological Restoration Limited Project. Skip Section D and complete Appendix A: Ecological Restoration Notice of Intent – Minimum Required Documents (310 CMR 10.12).

Applicants must include the following with this Notice of Intent (NOI). See instructions for details.

Online Users: Attach the document transaction number (provided on your receipt page) for any of the following information you submit to the Department.

1. ☒ USGS or other map of the area (along with a narrative description, if necessary) containing sufficient information for the Conservation Commission and the Department to locate the site. (Electronic filers may omit this item.)
2. ☒ Plans identifying the location of proposed activities (including activities proposed to serve as a Bordering Vegetated Wetland [BVW] replication area or other mitigating measure) relative to the boundaries of each affected resource area.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 3 – Notice of Intent

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

Provided by MassDEP:

MassDEP File Number

Document Transaction Number

Newburyport

City/Town

D. Additional Information (cont'd)

3. ☒ Identify the method for BVW and other resource area boundary delineations (MassDEP BVW Field Data Form(s), Determination of Applicability, Order of Resource Area Delineation, etc.), and attach documentation of the methodology.

4. ☒ List the titles and dates for all plans and other materials submitted with this NOI.

Enforcement Alterations Plan

a. Plan Title

Winter GEC, LLC

Everett J. Chandler, PLS

b. Prepared By

c. Signed and Stamped by

February 22, 2021

1" = 10'

d. Final Revision Date

e. Scale

f. Additional Plan or Document Title

g. Date

5. ☐ If there is more than one property owner, please attach a list of these property owners not listed on this form.
6. ☐ Attach proof of mailing for Natural Heritage and Endangered Species Program, if needed.
7. ☐ Attach proof of mailing for Massachusetts Division of Marine Fisheries, if needed.
8. ☒ Attach NOI Wetland Fee Transmittal Form
9. ☐ Attach Stormwater Report, if needed.

E. Fees

1. ☐ Fee Exempt: No filing fee shall be assessed for projects of any city, town, county, or district of the Commonwealth, federally recognized Indian tribe housing authority, municipal housing authority, or the Massachusetts Bay Transportation Authority.

Applicants must submit the following information (in addition to pages 1 and 2 of the NOI Wetland Fee Transmittal Form) to confirm fee payment:

4118

3/19/2021

2. Municipal Check Number

3. Check date

4. State Check Number

5. Check date

Hughes Environmental Consulting

6. Payor name on check: First Name

7. Payor name on check: Last Name



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 3 – Notice of Intent

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

Provided by MassDEP:

MassDEP File Number

Document Transaction Number

Newburyport

City/Town

F. Signatures and Submittal Requirements

I hereby certify under the penalties of perjury that the foregoing Notice of Intent and accompanying plans, documents, and supporting data are true and complete to the best of my knowledge. I understand that the Conservation Commission will place notification of this Notice in a local newspaper at the expense of the applicant in accordance with the wetlands regulations, 310 CMR 10.05(5)(a).

I further certify under penalties of perjury that all abutters were notified of this application, pursuant to the requirements of M.G.L. c. 131, § 40. Notice must be made by Certificate of Mailing or in writing by hand delivery or certified mail (return receipt requested) to all abutters within 100 feet of the property line of the project location.

1. Signature of Applicant

2. Date

3. Signature of Property Owner (if different)

4. Date

5. Signature of Representative (if any)

3/19/21

6. Date

For Conservation Commission:

Two copies of the completed Notice of Intent (Form 3), including supporting plans and documents, two copies of the NOI Wetland Fee Transmittal Form, and the city/town fee payment, to the Conservation Commission by certified mail or hand delivery.

For MassDEP:

One copy of the completed Notice of Intent (Form 3), including supporting plans and documents, one copy of the NOI Wetland Fee Transmittal Form, and a **copy** of the state fee payment to the MassDEP Regional Office (see Instructions) by certified mail or hand delivery.

Other:

If the applicant has checked the "yes" box in any part of Section C, Item 3, above, refer to that section and the Instructions for additional submittal requirements.

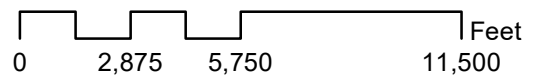
The original and copies must be sent simultaneously. Failure by the applicant to send copies in a timely manner may result in dismissal of the Notice of Intent.

11 76th Street, Newburyport MA

USGS Location Map



Prepared by Hughes Environmental Consulting, Data Source MassGIS



11 76th Street, Newburyport MA

2019 15cm Orthophoto



National Flood Hazard Layer FIRMette



70°49'15"W 42°49'2"N



0 250 500 1,000 1,500 2,000 Feet 1:6,000

Basemap: USGS National Map: Orthoimagery: Data refreshed October, 2020

Legend

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

SPECIAL FLOOD HAZARD AREAS		Without Base Flood Elevation (BFE) Zone A, V, A99
		With BFE or Depth Zone AE, AO, AH, VE, AR
		Regulatory Floodway
OTHER AREAS OF FLOOD HAZARD		0.2% Annual Chance Flood Hazard, Areas of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile Zone X
		Future Conditions 1% Annual Chance Flood Hazard Zone X
		Area with Reduced Flood Risk due to Levee. See Notes. Zone X
		Area with Flood Risk due to Levee Zone D
OTHER AREAS		NO SCREEN Area of Minimal Flood Hazard Zone X
		Effective LOMRs
GENERAL STRUCTURES		Area of Undetermined Flood Hazard Zone D
		Channel, Culvert, or Storm Sewer
		Levee, Dike, or Floodwall
OTHER FEATURES		20.2 Cross Sections with 1% Annual Chance Water Surface Elevation
		17.5
		Coastal Transect
		Base Flood Elevation Line (BFE)
		Limit of Study
		Jurisdiction Boundary
MAP PANELS		Coastal Transect Baseline
		Profile Baseline
		Hydrographic Feature
		Digital Data Available
		No Digital Data Available
		Unmapped



The pin displayed on the map is an approximate point selected by the user and does not represent an authoritative property location.

This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on 3/19/2021 at 9:59 AM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.

HUGHES ENVIRONMENTAL CONSULTING

44 MERRIMAC STREET, NEWBURYPORT, MA 01950
PHONE 978.465.5400 • FAX 978.465.8100
EMAIL THUGHES@HUGHESENVIRONMENTAL.COM

PO Box 392, CONCORD, MA 01742
PHONE/FAX 978.369.2100

Notification to Abutters Under the Massachusetts Wetlands Protection Act and the Newburyport Wetlands Ordinance

In accordance with the second paragraph of Massachusetts General Laws Chapter 131, Section 40 and the City of Newburyport's Wetlands Ordinance, you are hereby notified of the following.

- A. The name of the applicant is Robert Condon.
- B. The applicant has filed a Notice of Intent with the Conservation Commission for the City of Newburyport seeking permission to remove, fill, dredge, or alter an Area subject to Protection under the Wetlands Protection Act (General Laws Chapter 131, Section 40) and the City of Newburyport's Wetlands Ordinance.
- C. The address of the lot where the activity is proposed is: **11 76th Street**
- D. The Public Hearing will be held on **April 6, 2021** at 7 pm. Said hearing shall be located either in the Senior/Community Center or online via remote participation with confirmation and access information to be posted on the City Website meetings calendar at www.cityofnewburyport.com/calendar. All interested parties should look to the meetings calendar on the City website as the hearing date approaches.
- E. Copies of the Notice of Intent may be examined by visiting www.cityofnewburyport.com/conservation-commission and selecting the meeting agenda.
- F. Copies of the Notice of Intent may be obtained from applicant's representative Hughes Environmental Consulting, by calling 978-465-5400 between the hours of 9 and 4:30, on the following days of the week: Monday thru Thursday.

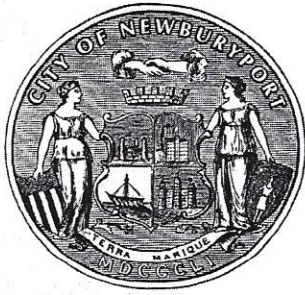
NOTE: Notice of the public hearing, including its date, time, and place, will be published at least five (5) days in advance in the Newburyport Daily News.

NOTE: Notice of the public hearing, including its date, time, and place, will be posted in Newburyport City Hall not less than forty-eight (48) hours in advance.

NOTE: You also may contact the Newburyport Conservation Commission or the Department of Environmental Protection Northeast Regional Office for more information about this application or the Wetlands Protection Act. To contact the Newburyport Conservation Commission, please email jgodtfredsen@cityofnewburyport.com.

Please do not hesitate to contact me with any questions regarding this hearing or the application,

Thomas G. Hughes, BS, MA



City of Newburyport
Office of the Assessor
60 Pleasant Street / P.O. Box 550
Newburyport, MA 01950
Ph 978-465-4403 / Fax 978-462-8495

March 12, 2021

To: Newburyport Conservation Commission
From: Newburyport Board of Assessors
Re: Abutters List: 11 76TH STREET

Newburyport Map: 76 Lot: 174C

The following are the abutters of the above mentioned property:

Board of Assessors

Gill Brennan

The Assessors Office is certifying that the persons listed in the foregoing list of abutters are the owners of record of the foregoing properties as of January 1st, 2021. The city Assessor is not certifying that the persons so listed are the persons who are required to receive notification under applicable law.

76/ 97/ / /
CLOUGH ALEXIS M
32 BASIN ST
NEWBURYPORT, MA 01950

76/ 119/ / /
FULLER DOUGLAS K & KATHLEEN A TR
27 OVERLOOK DRIVE REALTY TRUST
8 SOUTH LINCOLN ST
NATICK, MA 01760

76/ 120/ / /
POFCHER CARYL&BARBARA WRIGHT
T/C
C/O REBECCA WRIGHT
155 CHARLES ST
NEW YORK, NY 10014-2539

76/ 121/ / /
HAYDEN ANTHONY
JOANNE J/T
34 OVERLOOK ST PI
NEWBURYPORT, MA 01950

76/ 122/ / /
CRAMB JANET M TRS
CRAMB FAMILY REVOCABLE TRUST
17 PARK ST
NEWBURYPORT, MA 01950

76/ 164/ / /
GRAHAM KATHRYN K TRS
JOHN & JANE KISIELIUS FAMILY TRU
60 WHITWELL ST
QUINCY, MA 02169

76/ 169/ / /
KISIELIUS JANE A & JOHN L/I
KATHRYN K GRAHAM TRS
60 WHITWELL ST
QUINCY, MA 02169

76/ 172/ / /
CUTLER DONNA & ROBERT J CAISSIE
JOHN J & NINA M TRUSTEES T/C
92 BOYLSTON ROAD
BERLIN, MA 01503

76/ 173/C / /
HAYDEN ANTHONY
JOANNE J/T
9 76TH STREET P.I.
NEWBURYPORT, MA 01950

76/ 174/C / /
CONDON ROBERT J
ELLICE T/E
101 FEDERAL HILL RD
HOLLIS, NH 03049

76/ 175/C / /
HARVATIN CANDACE
605 CHURCH RD
AVONDALE, PA 19311

76/ 176/C / /
VAN DOORNE MAURICE E
VALE H T/E
36 BASIN ST
NEWBURYPORT, MA 01950

77/ 34/ / /
THORSON ORVAL F
SUSAN MARTINI J/T
12 76TH ST
NEWBURYPORT, MA 01950

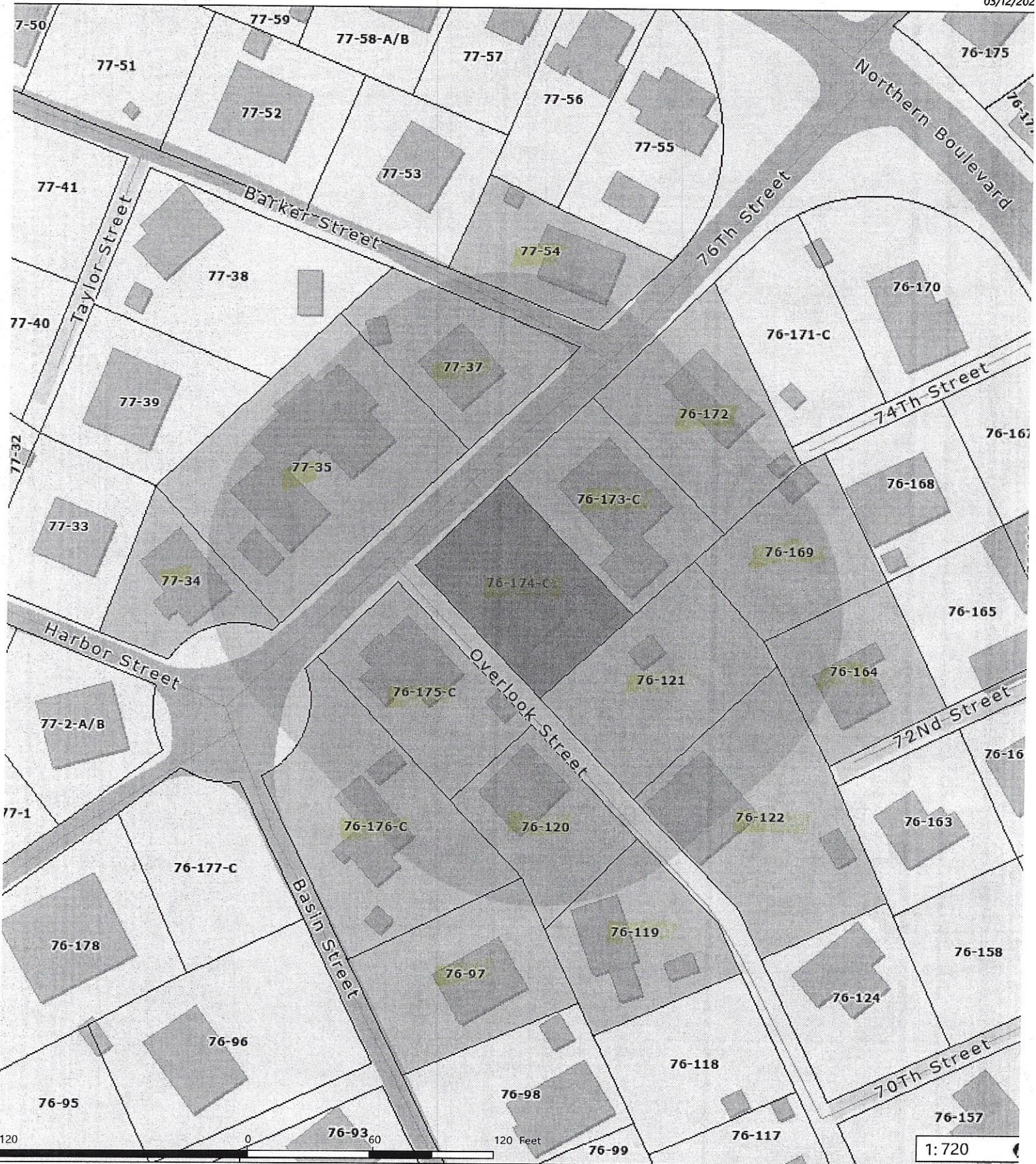
77/ 35/ / /
FRIERY MARK S
KELLY M T/E
10 76TH ST
NEWBURYPORT, MA 01950

77/ 37/ / /
REAGAN JANICE
WALLACE TAYLOR T/E
6 76TH ST
NEWBURYPORT, MA 01950

77/ 54/ / /
PALETTA WILLIAM T
JUDITH L T/E
2 BARKER ST
NEWBURYPORT, MA 01950

City of Newburyport

03/12/202



Data Sources: Produced by Merrimack Valley Planning Commission (MVPC) using data provided by the City of Newburyport & MassGIS/MassGIS. MVPC AND THE CITY OF NEWBURYPORT MAKES NO WARRANTIES, EXPRESSED OR IMPLIED, CONCERNING THE ACCURACY, COMPLETENESS, RELIABILITY, OR SUITABILITY OF THESE DATA. THE CITY OF NEWBURYPORT AND MVPC DOES NOT ASSUME ANY LIABILITY ASSOCIATED WITH THE USE OR MISUSE OF THIS INFORMATION.



<p> Municipal Boundary</p> <p> Stream</p>	<p> Road Right of Way</p> <p> Intermittent Stream</p>	<p> Interstate</p> <p> Paved</p>	<p> Major Road</p> <p> Local Road</p> <p> Unpaved</p>	<p> Hydrographic Features</p> <p> Parcels</p> <p> Streams</p>
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Legend

Scale: 1:720



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
NOI Wetland Fee Transmittal Form
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

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



A. Applicant Information

1. Location of Project:

11 76th Street

a. Street Address

4119

c. Check number

Newburyport

b. City/Town

42.50

d. Fee amount

2. Applicant Mailing Address:

Robert

a. First Name

Condon

b. Last Name

c. Organization

101 Federal Hill Road

d. Mailing Address

Hollis

e. City/Town

NH

f. State

03049

g. Zip Code

h. Phone Number

i. Fax Number

j. Email Address

3. Property Owner (if different):

a. First Name

b. Last Name

c. Organization

d. Mailing Address

e. City/Town

f. State

g. Zip Code

h. Phone Number

i. Fax Number

j. Email Address

B. Fees

Fee should be calculated using the following process & worksheet. ***Please see Instructions before filling out worksheet.***

Step 1/Type of Activity: Describe each type of activity that will occur in wetland resource area and buffer zone.

Step 2/Number of Activities: Identify the number of each type of activity.

Step 3/Individual Activity Fee: Identify each activity fee from the six project categories listed in the instructions.

Step 4/Subtotal Activity Fee: Multiply the number of activities (identified in Step 2) times the fee per category (identified in Step 3) to reach a subtotal fee amount. Note: If any of these activities are in a Riverfront Area in addition to another Resource Area or the Buffer Zone, the fee per activity should be multiplied by 1.5 and then added to the subtotal amount.

Step 5/Total Project Fee: Determine the total project fee by adding the subtotal amounts from Step 4.

Step 6/Fee Payments: To calculate the state share of the fee, divide the total fee in half and subtract \$12.50. To calculate the city/town share of the fee, divide the total fee in half and add \$12.50.

To calculate filing fees, refer to the category fee list and examples in the instructions for filling out WPA Form 3 (Notice of Intent).



Massachusetts Department of Environmental Protection

Bureau of Resource Protection - Wetlands

NOI Wetland Fee Transmittal Form

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

B. Fees (continued)

Step 1/Type of Activity	Step 2/Number of Activities	Step 3/Individual Activity Fee	Step 4/Subtotal Activity Fee
category 1	1	110.00	110.00
Step 5/Total Project Fee:			110.00

Step 6/Fee Payments:

Total Project Fee:	110.00
	a. Total Fee from Step 5
State share of filing Fee:	42.50
	b. 1/2 Total Fee less \$12.50
City/Town share of filling Fee:	67.50
	c. 1/2 Total Fee plus \$12.50

C. Submittal Requirements

- a.) Complete pages 1 and 2 and send with a check or money order for the state share of the fee, payable to the Commonwealth of Massachusetts.

Department of Environmental Protection
Box 4062
Boston, MA 02211

- b.) **To the Conservation Commission:** Send the Notice of Intent or Abbreviated Notice of Intent; a **copy** of this form; and the city/town fee payment.

To MassDEP Regional Office (see Instructions): Send a copy of the Notice of Intent or Abbreviated Notice of Intent; a **copy** of this form; and a **copy** of the state fee payment. (E-filers of Notices of Intent may submit these electronically.)

