



SO.ESSEX #90 Bk:41704 Pg:382
08/09/2023 11:01 AM CONDN Pg 1/18
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Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP
051-1071
MassDEP File #
eDEP Transaction #
Newburyport
City/Town

A. General Information

Please note:
this form has
been
modified with
added space
to
accommodat
e the
Registry of
Deeds
Requirement
s

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



- From: Newburyport
Conservation Commission
- This issuance is for (check one):
a. Order of Conditions Amended Order of Conditions
- To: Applicant:

<u>Sean</u> a. First Name	<u>Reardon, Mayor</u> b. Last Name	
<u>City of Newburyport</u> c. Organization		
<u>60 Pleasant Street</u> d. Mailing Address		
<u>Newburyport</u> e. City/Town	<u>MA</u> f. State	<u>01950</u> g. Zip Code
- Property Owner (If different from the applicant)

<u></u> a. First Name	<u></u> b. Last Name	
<u></u> c. Organization		
<u></u> d. City/Town	<u></u> e. State	<u></u> f. Zip Code
- Project Location

<u>149 HIGH ST</u> a. Street Address	<u>Newburyport</u> b. City/Town
<u>35-160-A</u> c. Assessors Map/Parcel or Lot Number	
Latitude and Longitude, if known:	
<u></u> d. Latitude	<u></u> e. Longitude



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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
a. County
0276
c. Book
b. Certificate Number (if registered land)
0114
d. Page

7. Dates: April 14, 2023 July 18, 2023 July 24, 2023
a. Date Notice of Intent Filed b. Date Public Hearing Closed c. Date of Issuance

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

see attached
a. Plan Title

b. Prepared By c. Signed and Stamped by

d. Final Revision Date e. Scale

f. Additional Plan or Document Title g. Date

B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act:

Following the review of the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act (the Act). Check all that apply:

- a. Public Water Supply
- b. Land Containing Shellfish
- c. Prevention of Pollution
- d. Private Water Supply
- e. Fisheries
- f. Protection of Wildlife Habitat
- g. Ground Water Supply
- h. Storm Damage Prevention
- i. Flood Control

2. This Commission hereby finds the project, as proposed, is: (check one of the following boxes)

Approved subject to:

- a. the following conditions which are necessary in accordance with the performance standards set forth in the wetlands regulations. This Commission orders that all work shall be performed in accordance with the Notice of Intent referenced above, the following General Conditions, and any other special conditions attached to this Order. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.



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B. Findings (cont.)

Denied because:

- b. the proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect the interests of the Act, and a final Order of Conditions is issued. **A description of the performance standards which the proposed work cannot meet is attached to this Order.**
- c. the information submitted by the applicant is not sufficient to describe the site, the work, or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the Act's interests, and a final Order of Conditions is issued. **A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(6)(c) .**
- 3. Buffer Zone Impacts: Shortest distance between limit of project disturbance and the wetland resource area specified in 310 CMR 10.02(1)(a) _____
a. linear feet

Inland Resource Area Impacts : Check all that apply below. (For Approvals Only)

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input checked="" type="checkbox"/> Bank	_____	1295	1314	1314
	a. linear feet	b. linear feet	c. linear feet	d. linear feet
5. <input type="checkbox"/> Bordering Vegetated Wetland	_____	_____	_____	_____
	a. square feet	b. square feet	c. square feet	d. square feet
6. <input checked="" type="checkbox"/> Land Under Waterbodies and Waterways	93871	93871	_____	104500
	a. square feet	b. square feet	c. square feet	d. square feet
	_____	_____		
	e. c/y dredged	f. c/y dredged		
7. <input type="checkbox"/> Bordering Land Subject to Flooding	_____	_____	_____	_____
	a. square feet	b. square feet	c. square feet	d. square feet
Cubic Feet Flood Storage	_____	_____	_____	_____
	e. cubic feet	f. cubic feet	g. cubic feet	h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding	_____	_____		
	a. square feet	b. square feet		
Cubic Feet Flood Storage	_____	_____	_____	_____
	c. cubic feet	d. cubic feet	e. cubic feet	f. cubic feet
9. <input type="checkbox"/> Riverfront Area	_____	_____		
	a. total sq. feet	b. total sq. feet		
Sq ft within 100 ft	_____	_____	_____	_____
	c. square feet	d. square feet	e. square feet	f. square feet
Sq ft between 100- 200 ft	_____	_____	_____	_____
	g. square feet	h. square feet	i. square feet	j. square feet



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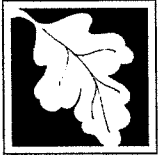
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B. Findings (cont.)

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			
13. <input type="checkbox"/> Coastal Beaches	_____	_____	_____	_____
	a. square feet	b. square feet	c. cu yd c. nourishment	d. cu yd d. nourishment
14. <input type="checkbox"/> Coastal Dunes	_____	_____	_____	_____
	a. square feet	b. square feet	c. cu yd c. nourishment	d. cu yd 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 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	_____	_____		
	a. total sq. feet	b. total sq. feet		
Sq ft within 100 ft	_____	_____	_____	_____
	c. square feet	d. square feet	e. square feet	f. square feet
Sq ft between 100-200 ft	_____	_____	_____	_____
	g. square feet	h. square feet	i. square feet	j. square feet



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B. Findings (cont.)

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

- 23. Restoration/Enhancement *:

a. square feet of BVW	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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C. General Conditions Under Massachusetts Wetlands Protection Act
 (cont.)

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 051-1071"
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:
- i.* all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures;
- ii.* as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized;
- iii.* any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10;



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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

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 Newburyport hereby finds (check one that applies):
 Conservation Commission
 - 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:

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



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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.

July 24, 2023

1. 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.

5

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.

The following signatures are made in accordance with M.G.L. c.110G and pursuant to the Commission's electronic signature authorization vote recorded on 3/23/2022 in Book 40811 and Page 353 at the Essex South Registry of Deeds. The name(s) typed below represent the intent to sign the foregoing document:

Joe Teixeira

Signature

Joe Teixeira

Printed Name

Stephen Moore

Signature

Stephen Moore

Printed Name

David Vine

Signature

David Vine

Printed Name

Dan Warchol

Signature

Dan Warchol

Printed Name

Carole Wagan

Signature

Carole Wagan

Printed Name

by hand delivery on

July 24, 2023

Date

by certified mail, return receipt requested, on

Date



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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.



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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.

Conservation Commission

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

To:

Conservation Commission

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

Project Location

MassDEP File Number

Has been recorded at the Registry of Deeds of:

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

Standard and Special Conditions for 149 HIGH ST

DEP File #: 051-1071

Date: July 24, 2023

Applicant: Sean Reardon, Mayor City of Newburyport

Property Owner: CITY OF NEWBURYPORT;

Project Location: 149 HIGH ST

Map-Lot: 35-160-A

Project Description: The Notice of Intent (NOI) and supporting documentation has been prepared for restoration and associated activities to be performed at the Bartlet Mall.

Proposed effort includes work within Land Under Water Bodies and Waterways, Bank, and the 100-foot Buffer Zone. A detailed discussion of the project goals and impacts is presented in the Notice of Intent Report.

These conditions are in addition to and part of the Order of Conditions (WPA Form 5) for the property located at 149 HIGH ST, Newburyport, MA 01950.

This project shall conform to the following documents and plans unless otherwise specified:

A. General Conditions

19. The Conservation Commission shall be informed of all changes that may be made to the Plan(s) of Record by any other Board, Commission or Authority or as a result of changes by the Applicant. All changes shall require additional approvals from the Conservation Commission.
20. A member of the Newburyport Conservation Commission (the Commission) or its administrator may enter and inspect the property and the activity that are the subjects of this Order at all reasonable times, with or without probable cause or prior notice, and until a Certificate of Compliance is issued, for the limited purpose of evaluating compliance with this Order.
21. With respect to all conditions the Conservation Commission designates the Conservation Administrator as its agent with full powers to act on its behalf in administering and enforcing this Order.
22. The term "Applicant" as used in this Order of Conditions shall refer to the owner, any successor in interest or successor in control of the property referenced in the Notice of Intent, supporting documents and this Order of Conditions. The Commission shall be notified in writing within 30 days of all transfers of title of any portion of property that take place prior to the issuance of the Certificate of Compliance.
23. This document shall be included by reference in all contracts, plans and specifications dealing with the activity that is the subject of this Order, and that are created or modified after the issuance date of this Order, along with a statement that this Order shall supersede any conflicting contractual arrangements, plans or specifications.
24. The applicant shall provide a copy of this Order to the person or persons supervising the activity that is the subject of this Order, and shall be responsible for ensuring that all persons performing the permitted activity are fully aware of the terms and conditions of this Order.
25. Any person performing work on the activity that is the subject of this Order is individually responsible for understanding and complying with the requirements of this Order, the Act, 310 CMR 10.00.
26. The Commission reserves the right to impose additional conditions on this project, including but not limited to, additional or modified erosion/siltation controls during

construction, if it deems that site conditions warrant such measures to mitigate potential impacts.

27. If any changes are made in the above-described plan(s) which, in the Commission's opinion, may alter an area subject to protection under the Wetlands Protection Act, 310 CMR 10.00 or the Newburyport Wetlands Ordinance, the applicant shall inquire from this Commission or its agent, prior to implementing the change in the field, whether the change is significant enough to require the filing of a new Notice of Intent. Any errors in the plans or information submitted by the applicant shall be considered changes and the above procedures shall be followed. Approval of changes must be granted by the Conservation Commission before such work may continue.
28. This Order authorizes only the activity described on the approved plan(s) and approved documents referenced in this Order. Any other or additional activity in areas within the jurisdiction of the Commission shall require separate review and approval by the Commission or its agent.
29. The limits of work in the field shall be clearly marked and all workers shall be instructed not to work beyond the specified limits. Resource area flags shall be maintained and replaced as necessary until a final Certificate of Compliance is issued for the project.

B. Pre-Construction

30. Prior to the commencement of any activity on this site, the applicant or owner shall complete and submit the attached "Permit Compliance Contact Form," providing the name(s), address(es), phone number(s) and email address(es) of a contact person or persons responsible for compliance with this Order. Should the responsible parties change during the course of the project, the Commission shall be notified as soon as practical of such change.
31. The applicant shall display the Department of Environmental Protection (DEP) file number for this Order on a sign within the minimum dimensions of two feet by two feet at a location clearly visible from the street. This sign shall remain in place and visible until a Certificate of Compliance is issued for the activity.
32. The applicant shall arrange for a pre-construction meeting with the Conservation Commission or its designated representative(s) no less than 72 hours prior to the commencement of construction. Commencement of construction includes any site clearing or grading. The purpose of this meeting is to inspect the erosion controls and to review all conditions of this Order of Conditions with the applicant, contractor and sub-contractors as appropriate to ensure they are understood.
33. The Commission shall be notified at least 48 hours in advance of the commencement of work at the site by email to conservation@cityofnewburyport.com.

C. During Construction

34. A copy of this Order of Conditions and approved Plan(s) of Record shall be on the site upon commencement and during any site work for contractors to view and adhere to.
35. Any material placed in wetland resource areas or outside the Limit of Work by the applicant without express authorization under this Order shall be removed as soon as possible by the applicant upon the request of the Conservation Commission or its administrator.
36. All construction materials, earth stockpiles, landscaping materials, slurry pits, waste products, refuse, debris, stumps, slash, or excavate may only be stockpiled or collected in areas as shown and labeled on the approved plan(s), or if no such areas are shown must be placed or stored outside all resource areas and associated buffer zones under cover and surrounded by a double-staked row of hay bales or other approved erosion control device to prevent contact with rain water.

37. As soon as possible, all disturbed areas shall be brought to final grade and shall be permanently stabilized within 30 days of that time by measures acceptable to the Commission.
38. The project manager shall be responsible for regular inspections of the erosion controls on at least a weekly basis and after each rain storm. Necessary repairs and maintenance of the erosion control devices shall be made expeditiously.
39. Any and all demo/construction debris resulting from the approved construction shall be placed in an enclosed covered container or removed from the site daily.
40. Trash dumpsters shall be located as far away from the resource areas as possible and shall be emptied at least once a week during construction.
41. No material of any kind may be buried, placed or dispersed in areas within the jurisdiction of the Commission by activities that are the subject of this Order.
42. No fuel, oil, urethanes, or other pollutants shall be stored in any resource area or the buffer zone.

D. Special Conditions

43. Prior to the start of work, bedrock groundwater well testing data shall be provided to the Commission along with the final details of any well water treatment system(s) that will be required for use of well water within the pond.
44. Prior to the start of work on site, a construction staging and sequencing plan, including location and details of the dewatering system, discharge points, etc., shall be provided to the Commission for review and approval.
45. The applicant's project team shall coordinate with the Department of Public Services to remove accumulated sediment from catch basins prior to any discharge of treated effluent from the pond.
46. All efforts shall be made to avoid injury or adverse impact to existing wildlife on site during construction.
47. In addition to in-person training of City staff during the first year of operation, the applicant's contractor for the pump/filtration system shall provide a written Operation and Maintenance Plan and/or Instruction Manual for use by the City in ongoing management and maintenance of the system.
48. All proposed grading and planting of bank areas shall conform to the "Bartlett Mall Restoration Project Planting Plan" dated 7-11-2023, unless a revised plan is submitted to the Commission for review and approval.
49. All site plantings installed as part of the project shall be monitored for two years to ensure at least 75% survival and shall be replaced if necessary.

E. Post Construction

50. After the completion of construction and prior to the expiration date of this Order of Conditions, the applicant shall submit the following to the Conservation Commission:
 - a) A completed Request for a Certificate of Compliance – WPA form 8A.
 - b) A letter from a registered professional engineer certifying compliance of the property with this Order of Conditions, and detailing any deviations that exist and their potential effect on the project. A statement that the work is in "substantial compliance" with no detailing of the deviations shall not be accepted.
 - c) An "As-Built" plan showing post-construction conditions, stamped and signed by a professional engineer or land surveyor. This plan shall note any deviations from the original plans/profiles and shall include final lot elevations when grades have been changed.
 - d) Photos of the completed project, including photos showing all approved landscaped or planted areas.

- e) Documentation that demonstrates that the site has been vegetated according to approved landscape plans, when applicable, and that such vegetation has been monitored for at least two growing seasons.