



Ruthanne Fuller
Mayor

City of Newton, Massachusetts
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Barney S. Heath
Director

March 13, 2020

Joshua Morse
City of Newton Public Buildings
52 Elliot Street
Newton, MA 02461

RE: Order of Conditions and
Certificate of Understanding
Site: 687 Watertown Street
DEP#: 239-862

Dear Mr. Morse:

Enclosed you will find the Order of Conditions (the Order) issued pursuant to the Wetlands Protection Act, General Laws, Ch. 131, Sec. 40 and pursuant to the Newton Floodplain/Watershed Protection Ordinance, Section 22-22, for the above-referenced project.

No work on the project may begin until the following requirements have been satisfied:

- You have read and understand the enclosed Order of Conditions (especially Newton's Findings and Special Conditions). It is the responsibility of the owner/applicant to ensure that all conditions and approved plans are complied with. Deviation from the approved plans or conditions may result in a stop work order or further enforcement.
- The owner has signed and returned to me the attached Certificate of Understanding.
- The 10-business day appeal period had elapsed. The appeal period begins on the date of issue (pages 1 and 11 of the Order).
- You have recorded the original Order and Newton's Special Conditions at the Middlesex South Registry of Deeds and have forwarded proof of recording to the Conservation Commission and to the Building Department. The Order is not valid until it is recorded.
- Special conditions include, but are not limited to:
 - Scheduling a pre-construction site visit to review, e.g., erosion controls, the DEP file-number sign, and the proposed alignment to ensure minimal grading and vegetation removal
 - Once this OOC is issued, the issuance date must be added to plan sheet C001.
 - A Stormwater Pollution Prevention Plan (SWPPP) must be provided to the Commission prior to construction.
 - If either or both of the trees near the poured-in-place playground are removed, 2 native canopy saplings must be planted in the lawn area adjacent to Watertown Street.
 - The required Riverfront restoration and/or mitigation areas shall be maintained in perpetuity in their predominantly natural condition as per 310 CMR 10.58.
 - Submit a written statement from Lord Environmental Inc. describing the status of the site with respect to soil and groundwater contamination upon completion of the project.

Upon completion of the project, you must:

- Submit a "Request for a Certificate of Compliance" (state WPA Form 8a),
- Submit a letter from an engineer stating that the project was completed in substantial compliance with the order and plans.
- Submit an engineer-stamped and signed "as-built plan"
- Record your Certificate of Compliance at the Middlesex South Registry of Deeds (& send proof of recording to Cons. Office)

If you have any questions, please don't hesitate to contact the office at 617-796-1134.

For the Commission, Jennifer Steel, Chief Environmental Planner

Enclosures: *Order of Conditions*

Certificate of Understanding

CC: *Wetlands Division, DEP - NERO, 205B Lowell St., Wilmington, MA 01887*

Certificate of Understanding re Conditions and Restrictions in Wetlands and Buffer Zones

Street Address: 687 Watertown St

DEP File # _____


Owner: City of Newton

OOC Issue Date: _____

I, Josh Morse, one of the owners of 687 Watertown St, Newton, Massachusetts, do hereby acknowledge and understand that:

<ul style="list-style-type: none"> • A portion of my property lies within buffer zones and/or wetlands and that any new work within this area is subject to review and approval by the Conservation Commission, 	initials <u>JM</u>
<ul style="list-style-type: none"> • I, as property owner, am responsible for all work on my property even if it is conducted by private contractors, 	initials <u>JM</u>
<ul style="list-style-type: none"> • I have received and read and understand all the conditions established in the referenced Order of Conditions (OOO), 	initials <u>JM</u>
<ul style="list-style-type: none"> • I have recorded the OOC at the Registry of Deeds and submitted proof of recording to the Conservation Office and Building Dept./ISD. 	initials <u>JM</u>
<ul style="list-style-type: none"> • There are specific requirements PRIOR to the start of work, 	initials <u>JM</u>
<ul style="list-style-type: none"> • There are specific requirements DURING construction and work, 	initials <u>JM</u>
<ul style="list-style-type: none"> • There are specific requirements for getting a Certificate of Compliance once all work is complete, and 	initials <u>JM</u>
<ul style="list-style-type: none"> • There are a number of ongoing/perpetual conditions that restrict the kind of landscaping and maintenance activities allowed within wetlands and/or buffer zones. 	initials <u>JM</u>

I have carefully reviewed and understand all these requirements and agree to adhere to them.


 _____ Josh Morse _____ 3/17/2020
 (Signature) (Printed Name) (Date)

Please complete this form and return it to:

Jennifer Steel, Conservation Commission
1000 Commonwealth Avenue
Newton, Massachusetts 02459



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:
 239-862

 MassDEP File #

 eDEP Transaction #

 City/Town

A. General Information (cont.)

6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):
 Middlesex South
 a. County _____ b. Certificate Number (if registered land) _____
 6196 / 6267 _____ 410 / 468 _____
 c. Book _____ d. Page _____
7. Dates: 02/25/20 _____ 03/12/20 _____ 3/13/20 _____
 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):
- 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. 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

Provided by MassDEP:
 239-862

 MassDEP File #

 eDEP Transaction #

 City/Town

B. Findings (cont.)

Denied because:

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

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

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input type="checkbox"/> Bank	_____ a. linear feet	_____ b. linear feet	_____ c. linear feet	_____ d. linear feet
5. <input type="checkbox"/> Bordering Vegetated Wetland	_____ a. square feet	_____ b. square feet	_____ c. square feet	_____ d. square feet
6. <input type="checkbox"/> Land Under Waterbodies and Waterways	_____ a. square feet _____ e. c/y dredged	_____ b. square feet _____ f. c/y dredged	_____ c. square feet	_____ d. square feet
7. <input type="checkbox"/> Bordering Land Subject to Flooding	_____ a. square feet	_____ b. square feet	_____ c. square feet	_____ d. square feet
Cubic Feet Flood Storage	_____ e. cubic feet	_____ f. cubic feet	_____ g. cubic feet	_____ h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding	_____ a. square feet	_____ b. square feet		
Cubic Feet Flood Storage	_____ c. cubic feet	_____ d. cubic feet	_____ e. cubic feet	_____ f. cubic feet
9. <input checked="" type="checkbox"/> Riverfront Area	54311 _____ a. total sq. feet	54311 _____ b. total sq. feet		
Sq ft within 100 ft	17346 _____ c. square feet	17346 _____ d. square feet	17346 _____ e. square feet	17346 _____ f. square feet
Sq ft between 100-200 ft	36965 _____ g. square feet	36965 _____ h. square feet	36965 _____ i. square feet	36965 _____ 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

Provided by MassDEP:
 239-862

 MassDEP File #

 eDEP Transaction #

 City/Town

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	_____	_____		
	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
WPA Form 5 – Order of Conditions
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

239-862

MassDEP File #

eDEP Transaction #

City/Town

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 239-862 "
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.



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:

239-862

MassDEP File #

eDEP Transaction #

City/Town

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;



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:
 239-862

 MassDEP File #

 eDEP Transaction #

 City/Town

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.



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:
 239-862

 MassDEP File #

 eDEP Transaction #

 City/Town

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 of the Newton Conservation Commission" pages 10-A et seq.

- 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.



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:
 239-862

 MassDEP File #

 eDEP Transaction #

 City/Town

D. Findings Under Municipal Wetlands Bylaw or Ordinance

1. Is a municipal wetlands bylaw or ordinance applicable? Yes No
2. The Newton 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:
City Floodplain Ordinance 22-22
 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:
City Floodplain Ordinance 22-22
 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):

If "yes" above, please see attached "Findings and Special Conditions of the Newton Conservation Commission" pages 10-A et seq.



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:
 239-862

 MassDEP File #

 eDEP Transaction #

 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.

3/13/20

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.

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:

by hand delivery on

by certified mail, return receipt requested, on

 Date

 Date

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

Provided by MassDEP:
 239-862

 MassDEP File #

 eDEP Transaction #

 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.

 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



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
Request for Departmental Action Fee
Transmittal Form

DEP File Number:

Provided by DEP

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

A. Request Information

1. Location of Project

_____	_____
a. Street Address	b. City/Town, Zip
_____	_____
c. Check number	d. Fee amount

2. Person or party making request (if appropriate, name the citizen group's representative):

Name

Mailing Address

_____	_____	_____
City/Town	State	Zip Code
_____	_____	
Phone Number	Fax Number (if applicable)	

3. Applicant (as shown on Determination of Applicability (Form 2), Order of Resource Area Delineation (Form 4B), Order of Conditions (Form 5), Restoration Order of Conditions (Form 5A), or Notice of Non-Significance (Form 6)):

Name

Mailing Address

_____	_____	_____
City/Town	State	Zip Code
_____	_____	
Phone Number	Fax Number (if applicable)	

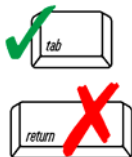
4. DEP File Number:

B. Instructions

1. When the Departmental action request is for (check one):

- Superseding Order of Conditions – Fee: \$120.00 (single family house projects) or \$245 (all other projects)
- Superseding Determination of Applicability – Fee: \$120
- Superseding Order of Resource Area Delineation – Fee: \$120

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





Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

DEP File Number:

**Request for Departmental Action Fee
Transmittal Form**

Provided by DEP

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

B. Instructions (cont.)

Send this form and check or money order, payable to the *Commonwealth of Massachusetts*, to:

Department of Environmental Protection
Box 4062
Boston, MA 02211

2. On a separate sheet attached to this form, state clearly and concisely the objections to the Determination or Order which is being appealed. To the extent that the Determination or Order is based on a municipal bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.
3. Send a **copy** of this form and a **copy** of the check or money order with the Request for a Superseding Determination or Order by certified mail or hand delivery to the appropriate DEP Regional Office (see <http://www.mass.gov/eea/agencies/massdep/about/contacts/>).
4. 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.

Findings and Special Conditions of the Newton Conservation Commission
DEP #239-862, 687 Watertown Street, school renovations

Findings (considered as and given equal status as special conditions)

Site: 687 Watertown Street

Owner: City of Newton, Parks, Recreation, and Culture Dept.
246 Dudley Road, Newton, MA 02461
617-796-1000

Applicant Joshua Morse, City of Newton Public Buildings
52 Elliot Street, Newton, MA 02461
617-796-1600 jmorse@newtonma.gov

Representative Deborah Danik, Nitsch Engineering
2 Center Plaza, Suite 430, Boston, MA 02108
617-388-0063 ddanik@nitscheng.com

Date of Issuance March 13, 2020

Existing Conditions: Existing school building, modular classrooms, parking lot, and associated green space on adjacent parcel.

Approved Project Summary:

- Redevelop the Horace Mann Elementary School to become the Newton Early Childhood Education Program.
- Demolish modular buildings, reconfigure parking/driveways, install new porous surface play area.
- Install 2 water quality structures and a sub-surface infiltration system.
- There will be a net decrease of degraded area in the inner riparian zone (-846 sf) due to removal of paths / patio.
- There will be a net increase of degraded area in the outer riparian zone (+1,120 sf) due to conversion of lawn.
- Pervious area will be increased 4,328 sf due to the use of porous pavement.
- Two trees are to be removed.
- Significant native plantings will be installed (5 trees, 100 shrubs, and many perennials) and protected in perpetuity.
- An O&M plan has been submitted.
- Contaminated soils and groundwater (contaminated by fuel oil) have been remediated over the years according to MCP protocol. In January 2020, there was excavation on the site to further remediate contamination and the re-installation of groundwater monitoring wells by Lord Environmental, Inc. (LEI). Those activities are being incorporated “ex post facto” in this Order of Conditions. The site has been determined to be safe for this rehabilitation project. Groundwater will continue to be monitored throughout and after this rehabilitation project.
- LEI will gauge Site wells for the presence of non-aqueous phase-liquids (NAPL) and conduct approximately seasonal groundwater sampling rounds. If NAPL is not observed over the next three seasons and groundwater data is favorable, then LEI anticipates being able to prepare a Permanent Solution Statement (PSS) for the Site within one year. No other remedial activities are currently planned.

Final Approved Plans

- C000 - Plan set cover sheet: “Newton Early Childhood Program, 687 Watertown Street, revised May 10, 2019”. All plan sheets are prepared by Arrowstreet Architecture and Design and Nitsch Engineering, stamped and signed by Deborah Danik (Civil Engineer) except for EX 1.
 - EX 1 – stamped and signed by Dennis Seguin (Surveyor), revised 10/9/19
 - C001 – Civil Notes, dated 2/25/20
 - C100 – Erosion and Sediment Control, revised 3/13/20
 - C200 – Site Layout, dated 2/25/20
 - C300 – Utility, dated 2/25/20
 - C400 – Erosion Control Details, dated 2/25/20
 - C403 – Site Utility Details, dated 2/25/20
 - L1.01 – Layout, revised 3/13/ 20
 - L3.01 – Planting, revised 3/13/ 20
- “Snow Storage Plan” prepared by Nitsch Engineering, dated 3/9/20

Plan Revisions

- Any required or desired deviations from this plan shall be requested in writing of the Commission Office, who shall determine if said changes require filing a new Notice of Intent.

Findings and Special Conditions of the Newton Conservation Commission
DEP #239-862, 687 Watertown Street, school renovations

- When plans are updated it is the responsibility of the applicant to provide all City Departments involved in the permitting and approval process complete and consistent plans.
- The Newton Conservation Commission retains the right to require the submittal of additional information or impose additional conditions deemed necessary to ensure the protection of wetland resource areas.

Jurisdiction

- Buffer Zone: 301 CMR 10.53(1)
- Riverfront Area: Riverfront Area: 10.58(4)

Reasons for Approval (Impact Analysis)

- Buffer Zone to Bank: The proposed work will not have any adverse effect on the Bank of Cheesecake Brook.
- Riverfront Area: The project is replacing a deteriorating school with a refurbished school. The slight expansion of "degraded" area within RFA is the result of the installation of a poured-in-place play area on what is currently a paved and grassed play area. Extensive plantings and significant stormwater improvements should result in overall improvements to the stormwater quantity and quality and a noticeable increase in woody vegetation in the area.
- Stormwater Management Standards have been met with the installation of 3 water quality structures and a subsurface infiltration system
- City Flood Zone. All work will be outside the City Flood Zone.
- Conclusion: The applicant has met the regulatory requirements for work in all pertinent resource areas.

Limit of Work: The sediment control line shall be the limit of work.

In case of emergencies, problems, or questions, contact: Jennifer Steel: 617-796-1134.

Conditions Prior to the Start of Work

21. All other applicable federal, state and/or local permits and/or approvals must be obtained.
22. This document shall be included in all construction contracts, subcontracts, and specifications associated with the proposed work and shall supersede any conflicting contract requirements. The Applicant shall ensure that all contractors, subcontractors and personnel performing the permitted work are aware of the permit's terms and conditions. Thereafter, the contractor will be held jointly liable for any violation of this Order. Nothing in this paragraph shall limit or restrict the liability of the Applicant for violations of this Order.
23. Once this OOC is issued, the issuance date must be added to plan sheet C001.
24. A Stormwater Pollution Prevention Plan (SWPPP) must be provided to the Commission prior to the start of construction.
21. The applicant must schedule and attend a pre-construction site visit with the applicant, construction supervisor and Conservation agent, to review:
 - a. Proof of Recording the Order and the Operations and Maintenance Plan appended hereto
 - b. A signed Certificate of Understanding
 - c. Contact information for those responsible for construction, sediment controls, and landscaping
 - d. Anticipated timeline
 - e. DEP File number sign (minimum size 2'x2', clearly visible from the street)
 - f. Sedimentation/erosion controls (properly installed in the correct locations)
 - g. Protection of all trees and shrubs as shown within the limit of work, and as necessary outside the limit of work, with orange snow fence installed at the dripline, plywood sheeting over the roots, and boards tied to the trunk.
22. Notice shall be given to the Conservation Commission at least two business days prior to the start of work.

Conditions During Work

23. A copy of the approved plans and Order of Conditions shall be on-site and available at all times. All contractors must adhere to the approved plan and conditions. Should any damage occur during the project, the applicant or any successor shall be responsible for the full cost of restoration of the wetland to the satisfaction of the Commission.
24. Erosion controls must be inspected and properly maintained during construction until the site is stable. If a breach of the erosion control barriers occurs, the Newton Conservation Commission shall be notified, and measures shall be taken to remediate said breach. City streets shall be kept clean and catch basins in the immediate area shall be protected from eroding soils. An adequate supply of extra erosion control materials shall be stored on-site at all times for repair or replacement. Hay bales are prohibited without permission from the Commission. Erosion control barriers

Findings and Special Conditions of the Newton Conservation Commission
DEP #239-862, 687 Watertown Street, school renovations

shall remain in place until written authorization for their removal has been received from the Newton Conservation Commission.

25. The City Engineer must inspect the infiltration system at the time of installation. The applicant must submit proof of inspection to the Cons. Office.
26. "Good housekeeping practices" shall be implemented at all times, including:
 - a. appropriate limits to stormwater discharges
 - b. appropriate stockpile area management
 - c. appropriate limits to vehicle refueling, washing, etc.
 - d. appropriate litter management
 - e. appropriate controls for tire tracking
27. During the construction period and prior to issuance of a Certificate of Compliance, members and agents of the Conservation Commission shall have the right to inspect the applicant's project to evaluate compliance with the approved plans and these conditions.
28. Work shall be immediately halted on the site if an Agent of the Commission or DEP determines that any of the work is not in compliance with this Order of Conditions or Special Conditions.
29. The mitigation planting areas are bounded by the sidewalk and will be maintained and preserved in perpetuity (as per 310 CMR 10.58(5)).
30. Concrete washout must occur outside the Riverfront Area as per the approved plans and all wash water must be kept from entering the catch basin or Cheesecake Brook.
31. All porous surfaces, stormwater management, and infiltration systems must be installed as per the approved plans.
32. Landscape plantings within Commission jurisdiction must be installed as per the approved plans and must be maintained in perpetuity.
33. If either or both of the trees near the poured-in-place playground are removed, 2 native canopy saplings must be planted in the lawn area adjacent to Watertown Street.

Conditions after Work has been Completed

34. The applicant must apply for a Certificate of Compliance in accordance with DEP Condition #12, by submitting:
 - a. A completed "Request for Certificate of Compliance (WPA Form 8A)."
 - b. An as-built plan signed and stamped by a professional land surveyor registered in Massachusetts. This plan will include all structures, grading (topography), drainage, and landscape features and plantings.
 - c. A written statement from a Professional Engineer registered in Massachusetts certifying that the work has been completed in substantial compliance with this Order of Conditions and the approved plans referenced herein (or approved revisions). If the completed work differs from that in the approved plans and conditions, the report must specify how the project differs.
 - d. As-built plan and letter from a landscaper certifying compliance with the approved planting scheme.
 - d. A written statement from Lord Environmental Inc. describing the status of the site with respect to soil and groundwater contamination.
35. No Certificate of Occupancy shall be approved by Conservation unless a Certificate of Compliance has been issued or the request receives the written approval of the Chief Environmental Planner.

Perpetual Conditions that Shall Not Expire upon the Issuance of a Certificate of Compliance

36. The required Riverfront restoration and/or mitigation areas shall be maintained in perpetuity in their predominantly natural condition as per 310 CMR 10.58.
37. The approved Operations and Maintenance Plan is appended hereto and must be adhered to.
38. The use of herbicides and other pesticides is prohibited and fertilizers shall be limited to slow-release organic fertilizers to improve water quality in the adjacent wetlands and waterways.
39. In order to protect wildlife and/or vernal pool species, artificial lighting shall be designed to prevent lighting of the wetlands. Any outdoor lights within 200 feet of the wetland shall be directed so as not to radiate light towards those areas. Any such lights shall be limited to no more than 1,800 lumens per fixture and the fixture shall not illuminate any part of the wetland more than 0.2 footcandles. Exterior lights shall not be mounted higher than 25 feet above the ground.