



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:
216-0934

MassDEP File #

eDEP Transaction #

Medway

City/Town

A. General Information

Please note:
this form has
been modified
with added
space to
accommodate
the Registry
of Deeds
Requirements

1. From: Medway
Conservation Commission
2. This issuance is for
(check one): a. ☒ Order of Conditions b. ☐ Amended Order of Conditions

3. To: Applicant:

Jim

a. First Name

Wieler

b. Last Name

Medway Trail Committee

c. Organization

155 Village Street

d. Mailing Address

Medway

e. City/Town

MA

f. State

02053

g. Zip Code

4. Property Owner (if different from applicant):

a. First Name

b. Last Name

Town of Medway

c. Organization

155 Village Street

d. Mailing Address

Medway

e. City/Town

MA

f. State

02053

g. Zip Code

5. Project Location:

54/54R Adams Street

a. Street Address

Medway

b. City/Town

29 and 20

c. Assessors Map/Plat Number

Lot 003 and 003

d. Parcel/Lot Number

Latitude and Longitude, if known:

42d9'm32.69s

d. Latitude

71d26m14.10s

e. Longitude

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





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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):
Norfolk
- | | |
|-------------|--|
| a. County | b. Certificate Number (if registered land) |
| 14914/33739 | 437/528 |
| c. Book | d. Page |
7. Dates: March 25, 2019 May 9, 2019 May 13, 2019
 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):
Chicken Brook Crossing
- | | | |
|--------------------------------------|----------------|--------------------------|
| a. Plan Title | b. Prepared By | c. Signed and Stamped by |
| Paul Atwood | April 19, 2019 | Paul Atwood |
| d. Final Revision Date | e. Scale | |
| Notice of Intent | | 1"=10 |
| f. Additional Plan or Document Title | | g. Date |
| | | March 25, 2019 |

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. <input checked="" type="checkbox"/> Public Water Supply | b. <input type="checkbox"/> Land Containing Shellfish | c. <input checked="" type="checkbox"/> Prevention of Pollution |
| d. <input type="checkbox"/> Private Water Supply | e. <input type="checkbox"/> Fisheries | f. <input checked="" type="checkbox"/> Protection of Wildlife Habitat |
| g. <input checked="" type="checkbox"/> Groundwater Supply | h. <input type="checkbox"/> Storm Damage Prevention | i. <input checked="" type="checkbox"/> 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	<u>12</u> a. linear feet	<u>12</u> b. linear feet	<u>0</u> c. linear feet	<u>0</u> d. linear feet
5. <input type="checkbox"/> Bordering Vegetated Wetland	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. square feet	<u>0</u> d. square feet
6. <input type="checkbox"/> Land Under Waterbodies and Waterways	<u> </u> a. square feet <u>0</u> e. c/y dredged	<u> </u> b. square feet <u>0</u> f. c/y dredged	<u> </u> c. square feet	<u> </u> d. square feet
7. <input type="checkbox"/> Bordering Land Subject to Flooding	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. square feet	<u> </u> d. square feet
Cubic Feet Flood Storage	<u> </u> e. cubic feet	<u> </u> f. cubic feet	<u> </u> g. cubic feet	<u> </u> h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding	<u> </u> a. square feet	<u> </u> b. square feet		
Cubic Feet Flood Storage	<u> </u> c. cubic feet	<u> </u> d. cubic feet	<u> </u> e. cubic feet	<u> </u> f. cubic feet
9. <input type="checkbox"/> Riverfront Area	<u> </u> a. total sq. feet	<u> </u> b. total sq. feet		
Sq ft within 100 ft	<u> </u> c. square feet	<u> </u> d. square feet	<u> </u> e. square feet	<u> </u> f. square feet
Sq ft between 100-200 ft	<u> </u> g. square feet	<u> </u> h. square feet	<u> </u> i. square feet	<u> </u> j. square feet



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B. Findings (cont.)

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

	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
10. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below			
11. <input type="checkbox"/> Land Under the Ocean	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
12. <input type="checkbox"/> Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. <input type="checkbox"/> Coastal Beaches	a. square feet	b. square feet	c. ^{cu yd} nourishment	d. ^{cu yd} nourishment
14. <input type="checkbox"/> Coastal Dunes	a. square feet	b. square feet	c. ^{cu yd} nourishment	d. ^{cu yd} 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



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B. Findings (cont.)

* #23. If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.5.c (BWV) or B.17.c (Salt Marsh) above, please enter the additional amount here.

23. ☐ Restoration/Enhancement *:

a. square feet of BWV

b. square feet of salt marsh

24. ☐ Stream Crossing(s):

a. number of new stream crossings

b. number of replacement stream crossings

C. General Conditions Under Massachusetts Wetlands Protection Act

The following conditions are only applicable to Approved projects.

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
 - a. The work is a maintenance dredging project as provided for in the Act; or
 - b. The time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
 - c. If the work is for a Test Project, this Order of Conditions shall be valid for no more than one year.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order. An Order of Conditions for a Test Project may be extended for one additional year only upon written application by the applicant, subject to the provisions of 310 CMR 10.05(11)(f).
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not extend the issuance date of the original Final Order of Conditions and the Order will expire on 5/13/22 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

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 216-0934 "
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 attachment Part II for special conditions under the Medway General Bylaw Article XXI.

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 Medway Conservation Commission hereby finds (check one that applies):

- a. ☐ that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw, specifically:

1. Municipal Ordinance or Bylaw

2. Citation

Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order of Conditions is issued.

- b. ☒ that the following additional conditions are necessary to comply with a municipal ordinance or bylaw:

Article XXI

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 attachment Part II for special conditions under the Medway General Bylaw Article XXI.



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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.

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

This Order must be signed by a majority of the Conservation Commission.

The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate Department of Environmental Protection Regional Office, if not filing electronically, and the property owner, if different from applicant.

Signatures:

Dayna Gill Dayna Gill

Brian Snow

David J. Blackwell David J. Blackwell

David A. Tardini

☒ by hand delivery on

Date

5/13/19

☐ by certified mail, return receipt requested, on

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 Order.

The request shall state clearly and concisely the objections to the Order w^hich is being appealed and how the Order does not contribute to the protection of the iⁿterests of the Massachusetts Wetlands Protection Act (M.G.L. c. 131, § 40), and iⁿ the wetlands regulations (310 CMR 10.00). To the extent that the Order is iⁿ violation of an ordinance or bylaw, and not on the Massachusetts Wetlands Protectioⁿ Act, 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.

Medway

Conservation Commission

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

To:

Medway

Conservation Commission

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

Project Location 216-0934
MassDEP File Number

Has been recorded at the Registry of Deeds of:

County Town of Medway 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

DEP File Number: _____

**Request for Departmental Action Fee
Transmittal Form**

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: _____

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



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



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Request for Departmental Action Fee
Transmittal Form

DEP File Number: _____

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.

MEDWAY CONSERVATION COMMISSION
ORDER OF CONDITIONS – PART II
FINDINGS AND CONDITIONS UNDER THE MEDWAY GENERAL
WETLANDS PROTECTION BYLAW (ARTICLE XXI)
PROJECT SITE: 54/54R Adams Street- Chicken Brook Boardwalk #2 and
Footbridge #5
DEP # 216-0934
MEDWAY, MASSACHUSETTS
DATE: May 13, 2019

PROJECT APPLICANT: Town of Town of Medway

In connection with the Conditions set forth in this Order, the Medway Conservation Commission (the “Commission”) makes the following FINDINGS:

- A. The proposed project consists of (a) construction of pedestrian boardwalk/footbridge over Bank and (b) construction of a smaller footbridge with no footings, this will span the wetland and be placed on concrete blocks.
- B. The boardwalk and footbridge will span Bank. The footbridge be supported by helical piles which will be over Bank and Bordering Land Subject to Flooding under the Massachusetts Wetlands Protection Act and the Medway General Bylaw Article XXI.
- C. Submitted documents consist of (a) “Notice of Intent” by Town of Medway, (b) Plans titled, “Plan/Profile of Prop. Boardwalk #2 for Notice of Intent in Medway, MA” by Paul Atwood, dated April 19, 2019, (c) plans titled, “Plan/Profile of Prop. Footbridge #5 for Notice of Intent in Medway, MA” by Paul Atwood, dated April 19, 2019.
- D. The Commission hereby finds that the work proposed for the construction of pedestrian footbridge and a second boardwalk over Bank shall have no impact on the resource itself. At the hearing the applicant presented sufficient evidence to show that the project will meet the required performance standards for working within jurisdictional areas. The proposed staging area for construction and equipment storage which is outside the Commission jurisdiction, contractor shall use only one motorized vehicle to access the site which shall remain on the swamp mats, swamp mats will be placed within the wetland resources but will have a temporary alteration of 318 square feet, and there is no proposal for vegetation to be cut, shaded or removed. The boardwalk shall be constructed using helical and pin footings to minimize disturbance (no piles or pins will be within the bank). The boardwalk will be constructed 1-2 feet above the ground surface at an elevation of 211.00 (water elevation is at 208.4). The height of the boardwalk over the wetland resource will not alter the existing vegetation and the vegetation as within these area. Some buffer zone species shall be impact in the amount of 20 square feet. The wetland is inundated with water most of the year, as it is a dug channel. The elevation of the footbridge/boardwalk will not restrict

the flow of water. It was determined that the helical piles incur the least amount of disturbance for the construction of the footbridge/boardwalk.

- E. The Commission finds that this project proposal meets the provisions under 310 CMR 10.53 (3) (j) for the construction of a footbridge and Medway General Bylaw Article XXI Regulations and the performance standards under Section 3.01 Bank. Additionally, the Commission agrees to waive the 25' no disturb for the minimal construction of ramps from the boardwalk totaling approximately 120 square feet. There is no proposal to remove vegetation to complete this work, except glossy buckthorn (invasive) and buffer zone ground cover. It was noted that all conditions of this Order must be met in order to meet the above mentioned provisions. The Commission additionally finds that the work must be conditioned to protect all interests of the MA Wetlands Protection Act and the Medway General Wetlands Protection Bylaw.
- F. Additionally, the Medway Conservation Commission finds that the following conditions are necessary in order to protect the wetland resource for the duration of this proposed project. The Commission orders that all work shall be performed in accordance with said conditions and with the Notice of Intent referenced in the Special Conditions, section of 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, the conditions shall control.
- G. Following 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 area in which work is proposed is significant to the following interests of the Medway Wetlands By-Law:

1. Public Water Supply
2. Groundwater Supply
3. Flood Control
4. Storm Damage Prevention
5. Prevention of Pollution
6. Protection of Flora and Fauna and their Habitats
7. Erosion Prevention

- H. Furthermore, the Medway Conservation Commission hereby finds that the proposed project is:

Approved, subject to the findings and conditions contained herein.

- A. The Medway Conservation Commission based its decision to approve the proposed project upon the information provided in the Notice of Intent referenced in the WPA Form 5 – Order of Conditions (“Part I”) issued concomitantly with this Part II OOC for the project, together with all of its contents and attachments, including the plans and documents identified in Part

I, Sec. A, para. 8, the findings and conditions contained in this Part II, and the information presented and discussed at the public hearing.

B. The Medway Conservation Commission further finds the following:

1. Wetland Resource Areas and Boundaries: The site contains the following wetland resource areas protected by the Massachusetts Wetlands Protection Act and the Medway Wetlands By-Law:
 - i. 0-25' No Disturb Zone (portion of the ramp)
 - ii. 25' – 100' Buffer zone (access only)
 - iii. Bank
2. Additional General Findings:
 - i. This Order protects the interests specified in the Wetlands Protection Act and the Medway Wetlands By-Law. The Wetland resource areas are identified on the Plan.
 - ii. The Commission accepts the resource areas as depicted on the above-referenced Plan and as described in the Notice of Intent Project Narrative.
3. Wildlife Habitat: The Commission finds that the project areas is not currently within an estimated habitat for state-listed rare wetland wildlife as depicted on the most recent Estimated Habitat Map provided by the Natural Heritage and Endangered Species Program. The Commission further finds that the project is not within an Area of Critical Environmental Concern.
4. Stormwater Management: The Commission finds that the project is not currently subject to the Department of Environmental Protection's Stormwater regulation and policy.

In addition to the General Conditions and Findings stated in Parts I and II of the Order of Conditions for this project, the General and Special Conditions below are necessary to comply with the Medway Wetlands By-Law and the Medway Conservation Commission Regulations as well as the Wetlands Protection Act and regulations.

GENERAL CONDITIONS:

- 1) All work shall be performed in accordance with the General and Special Conditions in Parts I and II of this Order, and in accordance with the Plans referenced in Part I, sec. A, para. 8, the Notice of Intent and its attached and additional materials, and the Notice of Intent Project Narrative.

Town of Medway
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- 2) To the extent that the following special conditions modify or differ from the Plans, specifications, or other proposals submitted with the Notice of Intent or the Notice of Intent Project Narrative, the Special Conditions shall control.

SPECIAL CONDITIONS:

- 1) This Order only approves the installation of helical piles and/or pins for the construction of 53' long boardwalk and 20'-22' long footbridge over Bank.

Pre-Construction Requirements

- 2) The applicant shall hold a pre-construction meeting with the person responsible for work at the project site, in order to review the conditions of this Order and to assure understanding and compliance.
- 3) Emergency Contacts – The applicant shall provide to the Commission the identity and 24-hour contact information for one or more persons who will act as emergency contacts in the event of an environmental problem that occurs outside of normal working hours. The applicant shall be responsible for insuring that adequate, round-the-clock coverage including holidays, vacations, weekends, etc. is provided by an adequate number of persons so that a qualified person is always available, and that appropriate contact information has been provided to the Commission. The emergency contact person(s) shall have the authority to expend resources, including necessary manpower, materials, and required subcontracted services, to alleviate any environmental problems at the site in short order. The applicant shall be responsible for immediately notifying the Commission of any change in the identity or contact information for the Emergency Contact persons.
- 4) The designated emergency contact shall respond and remediate all emergencies within 2 hours of finding the impacts to areas outside the limit of work and/or within the Commission's jurisdiction.
- 5) The applicant shall secure a qualified professional to act as a project supervisor. This person will supervise the contractor and will inspect the site regularly whenever work is taking place within the immediate vicinity of the Bank (wetland resource). The applicant shall provide that person's phone number for the Commission.
- 6) Prior to the commencement of work, the applicant shall submit an Engineers stamped plan for the location of proposed helical piles and/or pins within the wetland resource. Any additional alterations shall require the applicant to return to the Commission and request an amendment to the Order of Conditions for the additional unexpected alterations. This shall require a vote of the Commission agreeing to the request to amend. The Commission reserves the right to require a new Notice of Intent filing if the proposed project proposes to have significant wetland resource alterations which differ significantly from this proposed project.

- 7) Prior to the commencement of work erosion controls (swamp mats) shall be installed under the supervision of a member of the Conservation Commission and/or its Agent. The Conservation Commission reserves the right to require additional erosion and/or damage prevention controls it may deem necessary.
- 8) Erosion and sediment controls are not required during the project unless prescribed by the Commission and/or the Agent during construction. The applicant shall install any erosion controls required by the Commission and/or the Agent.
- 9) All work shall be conducted in accordance with the approved site plan titled, "Plan/Profile of Prop. Boardwalk #2 for Notice of Intent in Medway, MA" by Paul Atwood, dated April 19, 2019 and plans titled, "Plan/Profile of Prop. Footbridge #5 for Notice of Intent in Medway, MA" by Paul Atwood, dated April 19, 2019 and the Conditions of this Order.
- 10) The Conservation commission reserves the right to impose additional conditions on portions of this project to mitigate any impacts which could result from site erosion, or any noticeable degradation of surface water quality discharging from the site.
- 11) The work shall be conducted so that there will be no erosion and sedimentation into wetlands and surface waters during or after construction.
- 12) The applicant shall not stage or remove vegetation within any wetland resource. Applicant may request an amendment to the Order of Conditions to perform such an action.
- 13) The applicant shall not place any helical piles or concrete "footings" or blocks that alter any portions of the bank for the construction of the footbridge or the boardwalk.
- 14) The footbridge/boardwalk shall be designed to withstand rising waters from the 100 year flood and shall not inhibit the Floodway.
- 15) It is the responsibility of the applicant, owner and/or successor(s) to ensure that all conditions of this Order of Conditions (Order) are complied with. The project engineer and contractors are to be provided with a copy of this Order and referenced documents before commencement of construction.
- 16) The contractor employed to conduct construction activities at the site shall be provided a copy of this Order. Said contractor and the owner can be held jointly responsible for any violation of this Order.

- 17) The Medway Conservation Commission and/or its Agent shall be contacted for all inspections of swamp mats, mitigation areas, and plantings within wetland resources for work under this Order of Conditions.
- 18) The applicant shall submit plan final proposed (if needed for any unforeseen alteration) mitigation plan for wetlands resource restoration to the Conservation Commission and/or the Agent for approval prior to commencement or work.
- 19) All swamp mat shall be removed from all jurisdictional areas within one week of the completion of the footbridge/boardwalk. Once work is completed and swamp mats or other protective measures are removed. The applicant shall seed any areas which have been altered during construction. Agent and/or the Commission shall approve all proposed seed mixes prior to application.
- 20) Applicant shall replace (in-kind), as mitigation, an old underground 6" pipe that has collapsed under an existing cart path, which has caused impacts to the adjacent wetland resource. If proposed work shall impact the wetland resource during replacement the applicant shall file for an amendment to this Order. All sediment deposited from the collapse of the pipe.

Administrative

- 21) This Order of Conditions becomes final ten (10) business days after the issuance date if no authorized person has requested the Department of Environmental Protection to issue a Superseding Order of Conditions. The issuance date of the Order is the date specified on page 2 of Part I-WPA Form 5 of this Order.
- 22) Before commencement of work and after ten (10) business days from the issuance date have elapsed, this Order of Conditions must be recorded at the Norfolk County Registry of Deeds or Land Court as provided in Part I-WPA Form 5, sec. C, para. 8. The recording will be executed by and through the Commission's Agent. The Agent will notify the applicant of the recording fee. When the Commission has received the check for the appropriate amount, the Agent will arrange for the Order of Conditions to be recorded.
- 23) If any permit, license or approval by any other municipal agency, board or commission is withdrawn, obtained or reversed and the construction work is to be altered or changed from the plans filed with the Commission, the applicant shall notify the Commission in writing. Such notice shall be addressed to the Chair and submitted prior to any work commencing on the project. If the Commission determines that the changes or alterations are significant, the Commission, by majority vote, may require a new Notice of Intent or a modification of the existing Order of Conditions. The Medway Conservation Commission considers that any

errors in the plans or information submitted by the applicant are changes and, as such, requires application of the foregoing procedures.

- 24) With respect to all conditions, the "Commission" shall include an Agent of the Commission, which may be a Commission Member, the Conservation Agent, or a person specifically hired by the Commission to administer and enforce this Order, except where action by the Commission acting as a body is required by law.
- 25) Members and agents of the Commission shall have the right to enter and inspect the premises to evaluate compliance with this Order, and the Commission may require submittal of any information deemed necessary by the Commission for that evaluation.
- 26) A copy of this Order shall be included in all construction contracts and subcontracts dealing with the work proposed, and this Order shall supersede all contract requirements.
- 27) A copy of this Order shall be provided to the project supervisor and shall be available on the site at all times during construction, until completion.

Erosion Control

- 28) For the duration of the project, the construction supervisor shall conduct daily inspections to evaluate the need for erosion control and/or stabilization. If such measures are indicated, the applicant or their agent shall immediately notify the Commission and shall install sediment control measures as directed by the Commission.
- 29) Immediately after installation of erosion control measures and any dewatering areas, but before any other work occurs the Commission shall be notified in order to conduct a follow-up inspection to ensure that erosion controls and limits of work lines have been properly installed. No work shall be conducted in any jurisdictional area of the site until the Commission has inspected and approved the installation of the erosion controls.
- 30) During restoration, disturbed areas will be kept to a minimum and vegetative stabilization of these areas will occur as soon as possible.
- 31) Erosion controls and limit of work lines shall be installed as proposed in the Notice of Intent with minimal disturbance to vegetation. Where possible, erosion controls should go *around* trees, shrubs, and other vegetation.
- 32) It shall be the responsibility of the applicant and his successors to conduct monitoring, maintenance, and repair of erosion control measures such that wetland impacts do not occur. The erosion control measures designated on the site plans and described in this Order of Conditions shall be considered a minimum standard for compliance.

- 33) The areas of construction shall remain in a condition that is protected by erosion control devices at the close of each construction day. Erosion controls shall be inspected daily and, as necessary, promptly repaired, reinforced, or replaced.

Construction Management

- 34) Materials and equipment shall be stored in a manner and location which will minimize the compaction of soils and the concentration of run-off. Refueling of vehicles shall be in an area outside the buffer zone. If a spill occurs, contaminated soils shall be removed according to guidelines established by DEP Division of Hazardous Waste.

Construction

- 35) All equipment shall be inspect and fueled outside of any wetlands resource areas and the associated 100' buffer zone or 200' Riverfront Area.
- 36) All equipment shall be inspected regularly for leaks. Any leaking hydraulic or other fluid lines, cylinders, containers of any kind, or any other components shall be repaired immediately.
- 37) Erosion controls devices shall remain in place and properly functioning until all exposed soils have been stabilized with final vegetative cover and the Commission has authorized their removal.

Post-Construction

- 38) Once the site is stabilized to the satisfaction of the Commission, after two growing seasons have passed, all fabric sedimentation fencing shall be removed and properly disposed of.
- 39) Upon completion of the project, the applicant shall submit the following to the Commission:
- (1) A completed Request for a Certificate of Compliance ("COC") (WPA Form 8a or other form if required by the Conservation Commission at the time of request) and associated fee.
 - (2) A letter from a Registered Professional Engineer or certified wetlands specialist certifying compliance of the property with this Order of Conditions, and detailing any deviations that exist, and their potential for adverse impact on wetland resource areas and buffer zones. Said certification shall also include a statement that the work is in "substantial compliance" with Parts I and II of the Order of Conditions.
 - (3) Post-construction photographs demonstrating compliance with this Order, including established vegetation where required.

- (4) An "As-Built" plan signed and stamped by a Registered Professional Engineer or Land Surveyor showing post-construction conditions within all areas under the jurisdiction of the Commission by virtue of the Massachusetts Wetlands Protection Act and the Medway Wetlands Protection By-Law. This plan shall include at a minimum:
 - (a) All wetland resource area boundaries with associated Buffer Zones and regulatory setback areas taken from the plan(s) approved in the Order of Conditions;
 - (b) Distance(s) from any structures constructed under this Order to wetland resource areas and buffer zones: the term "structures" shall include, but not be limited to, all buildings, septic systems components, wells, utility lines, fences, retaining walls, and roads/driveways.
 - (c) A line delineating the limit of work actually performed- "work" includes any filling, excavating and/or disturbance of soils or vegetation under this Order.

