

MEDWAY CONSERVATION COMMISSION



**Sanford Hall, Town Hall
155 Village Street, Medway, MA 02053**

July 16, 2019

Strategic Land Ventures
c/o Geoff Engler
257 Hillside Avenue
Needham, MA 02494

Dear Mr. Engler,

Enclosed please find the Order of Conditions, DEP File No. 216-0938 issued by the Medway Conservation Commission on July 16, 2019 this document is a record that reflects the approval of your proposal in response to your Notice of Intent filed with the Commission on April 5, 2019 for 33 and 39 Main Street. It is required that this document be recorded with the Norfolk County Registry of Deeds after the ten day appeal period from the date of issuance has elapsed. Please send a check made payable to Norfolk County Registry of Deeds for \$76.00 for the recording. If you do not wish us to record the document, please complete the recording yourself and send our office confirmation of this recording to:

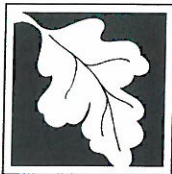
Town of Medway
c/o Conservation Commission
155 Village Street
Medway, MA 02053

The Medway Conservation Commission staff would be glad to set up an appointment to review the Order of Conditions with you prior to the commencement of proposed work. Our office is open Monday - Thursday 7:30 am – 4:30 pm and Friday 7:30 am - 12:30 pm or by appointment. You may contact the Conservation office with any questions you may have at (508) 533-3292.

Thank you,

Bridget R. Graziano

Bridget R. Graziano, Conservation Agent
Medway Conservation Commission



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 5 – Order of Conditions

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

Provided by MassDEP:
216-0938

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

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



1. From: Medway
Conservation Commission

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

3. To: Applicant:

Jeffrey

a. First Name

Engler

b. Last Name

Strategic Land Ventures LLC

c. Organization

257 Hillside Avenue

d. Mailing Address

Needham

e. City/Town

MA

f. State

02494

g. Zip Code

4. Property Owner (if different from applicant):

Notwen Realty Trust

c. Organization

33 Fruit Street

d. Mailing Address

Norfolk

e. City/Town

b. Last Name

MA

f. State

02056

g. Zip Code

5. Project Location:

33 and 39 Main Street

a. Street Address

41

c. Assessors Map/Plat Number

Medway

b. City/Town

035 and 035-0001

d. Parcel/Lot Number

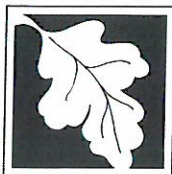
Latitude and Longitude, if known:

42d9m15.30s

d. Latitude

71d23m51.28s

e. Longitude



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:
216-0938

MassDEP File #

eDEP Transaction #

Medway

City/Town

A. General Information (cont.)

6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):

Norfolk

a. County

9237

c. Book

b. Certificate Number (if registered land)

439

d. Page

7. Dates: April 5, 2019 July 11, 2019 July 16, 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):

39 Main Street Plan of Land Medway, MA

a. Plan Title

Merrikin Engineering

b. Prepared By

June 26, 2019

d. Final Revision Date

Notice of Intent

f. Additional Plan or Document Title

Daniel Merrikin No.43309

c. Signed and Stamped by

1" = 20'

e. Scale

April 3, 2019

g. Date

B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act:

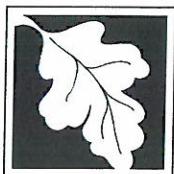
Following the review of the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act (the Act).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

216-0938

MassDEP File #

eDEP Transaction #

Medway

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) 25
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	<u> </u> a. linear feet	<u> </u> b. linear feet	<u> </u> c. linear feet	<u> </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> </u> d. square feet
6. <input type="checkbox"/> Land Under Waterbodies and Waterways	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. square feet	<u> </u> d. square feet
	<u> </u> e. c/y dredged	<u> </u> f. c/y dredged		
7. <input type="checkbox"/> Bordering Land Subject to Flooding	<u> </u> a. square feet	<u> </u> b. square feet	<u>0</u> c. square feet	<u>0</u> d. square feet
Cubic Feet Flood Storage	<u> </u> e. cubic feet	<u> </u> f. cubic feet	<u>0</u> g. cubic feet	<u>0</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



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:
216-0938
MassDEP File #

eDEP Transaction #
Medway
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	a. square feet	b. square feet	cu yd c. nourishment	cu yd d. nourishment
14. <input type="checkbox"/> Coastal Dunes	a. square feet	b. square feet	cu yd c. nourishment	cu yd d. nourishment
15. <input type="checkbox"/> Coastal Banks	a. linear feet	b. linear feet		
16. <input type="checkbox"/> Rocky Intertidal Shores	a. square feet	b. square feet		
17. <input type="checkbox"/> Salt Marshes	a. square feet	b. square feet	c. square feet	d. square feet
18. <input type="checkbox"/> Land Under Salt Ponds	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
19. <input type="checkbox"/> Land Containing Shellfish	a. square feet	b. square feet	c. square feet	d. square feet
20. <input type="checkbox"/> Fish Runs	Indicate size under Coastal Banks, Inland Bank, Land Under the Ocean, and/or 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		



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:

216-0938

MassDEP File #

eDEP Transaction #

Medway

City/Town

B. Findings (cont.)

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

22. ☐ Restoration/Enhancement *:

a. square feet of BVW

b. square feet of salt marsh

23. ☐ Stream Crossing(s):

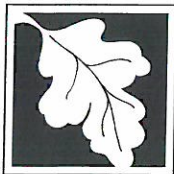
a. number of new stream crossings

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.
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.
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 7/16/22 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.
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.



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:

216-0938

MassDEP File #

eDEP Transaction #

Medway

City/Town

C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

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 216-0938 "
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.
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.



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:

216-0938

MassDEP File #

eDEP Transaction #

Medway

City/Town

C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

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.

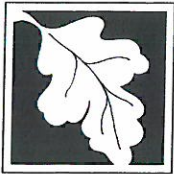
NOTICE OF STORMWATER CONTROL AND MAINTENANCE REQUIREMENTS

19. **The work associated with this Order (the "Project")** (1) ☒ **is** (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;
- 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.



**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:

216-0938

MassDEP File #

eDEP Transaction #

Medway

City/Town

C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

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:

216-0938

MassDEP File #

eDEP Transaction #

Medway

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 for Findings and Conditions adopted under the MA Wetlands Protection Act (MGL. Ch. 131 S. 40) & the Medway General Wetlands Protection Bylaw (Article XXI).



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:
216-0938
MassDEP File #

eDEP Transaction #
Medway
City/Town

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:

Medway General 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 attached for Findings and Conditions adopted under the MA Wetlands Protection Act (MGL. Ch. 131 S. 40) & the Medway General Wetlands Protection Bylaw (Article XXI).



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:

216-0938

MassDEP File #

eDEP Transaction #

Medway

City/Town

E. Signatures

This Order is valid for three years, unless otherwise specified as a special condition pursuant to General Conditions #4, from the date of issuance.

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

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

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:

David J. Blackwell David J. Blackwell

David A. Trovati David A. Trovati

Brian Snow Brian Snow

☐ 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 of 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:
216-0939
MassDEP File #

eDEP Transaction #
Medway
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: _____

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



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

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

DEP File Number:

Provided by DEP

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.

Order of Conditions
Findings and Conditions for 39 Main Street, DEP File # 216-0939
33 and 39 Main Street
Map 41 Lot 035 and 035-0001
Date: July 16, 2019

Project Description: The applicant proposes to construct a 190-unit apartment building, consisting of roadways and parking areas, stormwater management systems, landscaping, and utilities. The site is currently forested with portions along the easterly side being Bordering Vegetated Wetlands. The applicant has submitted the following documents which have been accepted as part of the final record and decision for the proposed project referenced above.

- Document titled, "Notice of Intent for 39 Main Street" by Legacy Engineering LLC, received by Conservation April 5, 2019
- Site plan titled, "39 Main Street Site Plan of Land in Medway, MA, by Legacy Engineering, LLC, dated March 26, 2019, final revision June 26, 2019 (the "Site Plan")
- "Stormwater Report" by Legacy Engineering LLC, dated March 26, 2019 (the "Stormwater Report"), final revision June 10, 2019
- An undated landscape plan with supporting information under cover letter from Legacy Engineering LLC dated May 5, 2019
- Plan titled "100' Buffer Zone Planting Plan", by Hammer+Walsh Design Inc, final revised June 26, 2019
- Document titled "Operations and Maintenance Plan for 39 Main Street, Medway, MA 02053" dated March 26, 2019 and revised through June 26, 2019
- A letter from Legacy Engineering, LLC dated June 26, 2019 which attaches revised portions of the Stormwater Report.

Findings:

The Medway Conservation Commission makes the following findings relative to the Notice of Intent Application DEP File # 216-0914:

1. The boundaries of Wetland Resource Areas considered in this Notice of Intent review were defined by a combination of methods:
 - Bordering Vegetated Wetlands were defined during the Notice of Intent process for a previous filing DEP #216-0904;
2. All documents listed below and shall be the project record and shall be used for all construction of this proposed project;
 - Site plan titled, "39 Main Street Site Plan of Land in Medway, MA, by Legacy Engineering, LLC, dated March 26, 2019, final revision June 26, 2019 (the "Site Plan")
 - Document titled, "Stormwater Report" by Legacy Engineering LLC, dated March 26, 2019 (the "Stormwater Report"), final revision June 10, 2019
 - An undated landscape plan with supporting information under cover letter from Legacy Engineering LLC dated May 5, 2019
 - Plan titled "100' Buffer Zone Planting Plan" Sheet L-1, by Hammer+Walsh Design Inc, final revised June 26, 2019
 - Document titled "Operations and Maintenance Plan for 39 Main Street, by Legacy Engineering, dated March 26, 2019 and revised through June 26, 2109 (the "O&M Plan")
 - A letter from Legacy Engineering, LLC dated June 26, 2019 which attaches revised portions of the Stormwater Report (also part of the "Stormwater Report").

The Commission hereby finds that:

- a) The proposed project is approved as conditioned based on evidence and information presented at public hearings of the Medway Conservation Commission. The applicant presented sufficient evidence at public

hearings where the applicant has demonstrated that the activity as proposed meets the provisions under 310 CMR 10.02(2)(b) & (3), 310 CMR 10.02(5), 310 CMR 10.05(6)(k-q), 310 CMR 10.53(1), 310 CMR and may be properly conditioned to protect the Interests of the Act.

- b) The Applicant has only sought a permit under the Massachusetts Wetlands Protection Act because the proposed project is requesting a waiver of the Medway General Bylaw Article XXI with the Zoning Board of Appeals under a Comprehensive Permit for the development. This Order of Conditions is therefore issued only under the Massachusetts Wetlands Protection Act and its Regulations. Any subsequent filings shall require waivers granted by the Zoning Board of Appeals if applicant files solely under the Massachusetts Wetlands Protection Act.
- c) 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 Massachusetts Wetlands Protection Act.
- d) Additionally, the Medway Conservation Commission finds that the following conditions are necessary in order to protect the wetland resource areas 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 and Order of Conditions 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.
- e) 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 Massachusetts Wetlands Protection Act.
 - Protection of Groundwater Supply
 - Flood Control
 - Storm Damage Prevention
 - Prevention of Pollution
 - Protection of Wildlife Habitat

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.
 - i. 25’- 100’ buffer zone of Bordering Vegetated Wetlands
 - ii. Bordering Vegetated Wetland
 - 2. Additional General Findings:
 - i. This Order protects the interests specified in the Wetlands Protection Act.
 - 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 currently not 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 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 Wetlands Protection Act and regulations. Headings stated herein are for organizational purposes only and not for substantive purposes. Conditions listed herein may encompass numerous phases of the project and/or the entire project.

I. General Conditions

1. A Conservation Commissioner, agent of the Commission or the Department of Environmental Protection reserves the right to enter and inspect the property at all reasonable times to evaluate compliance with this Order of Conditions, the Act, 310 CMR 10.00 and may acquire any information, measurements, photographs, observations, and/or materials, or may require the submittal of any data or information deemed necessary by the Commission for that evaluation. Further, work shall be halted on the site if a Commissioner, agent or DEP determines that any of the work is not in compliance with this Order of Conditions. Work shall not resume until the Commission is satisfied that the work will comply, and has so notified the applicant in writing.
2. This Order shall apply to any successor in control or successor in interest of the property described in the Notice of Intent and accompanying plans. These obligations shall be expressed in covenants in all deeds to succeeding owners of all or any part of or share (in fact) of the property.
3. The term "Applicant" as used in this Order of Conditions shall refer to the owner, any successor in interest, title or successor in control of the property referenced in the Notice of Intent, supporting documents and this Order of Conditions. The Commission shall be notified in writing within 30 days of all transfers of Title of any portion of property that take place prior to issuance of the Certificate of Compliance.
4. 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 OOC, except where action by the Commission acting as a body is required by law.
5. The form provided at the end of this Order shall be completed and stamped at the appropriate Registry of Deeds, after the expiration of the 10-day appeal period and if no request for appeal has been filed with the Department of Environmental Protection.
6. With respect to all conditions, the Conservation Commission designates the Conservation Agent as its agent with full powers to act on its behalf in administering and enforcing this Order.
7. All work shall be conducted in accordance with the approved site plan titled, "39 Main Street Site Plan of Land in Medway, MA, by Legacy Engineering, LLC, dated March 26, 2019, final revision June 26, 2019 (hereafter referred to as Site Plan), document titled, "Stormwater Report" by Legacy Engineering LLC, dated March 26, 2019, final revision June 10, 2019, (hereafter referred to as Stormwater Report), document titled "Operations and Maintenance Plan for 39 Main Street, Medway, MA 02053" dated March 26, 2019 and revised through June 26, 2019 (hereafter referred to as O&M Plan), and Attachment D of the document "Stormwater Report" by Legacy Engineering LLC, dated March 26, 2019 (the "Draft SWPPP"), final revision June 10, 2019, the conditions of this Order. Copies of applicable documents listed above shall be kept on site at all times while the site is under construction.
8. This document shall be included in all construction contracts, subcontracts, and specifications dealing with the work proposed and shall supersede any conflicting contract requirements. The applicant shall ensure that all contractors, subcontractors and other personnel performing the permitted work are fully aware of this Order's terms and conditions. Thereafter, the Applicant, the contractors, and subcontractors will be held jointly liable for any violation of this Order resulting from failure to comply with its conditions. The Applicant shall ensure that all contractors, subcontractors and other personnel performing the permitted

work are fully aware of this OOC's terms and conditions. Nothing in this paragraph shall limit or restrict the liability of the Applicant for violations of this OOC.

9. If any changes are made in the approved plan(s) which may or will alter an area subject to protection under the Wetlands Protection Act or any change(s) in activity subject to regulations under G.L. Ch. 131 §40 or , the applicant shall inquire from this Commission in writing, prior to their implementation in the field, whether the change(s) is significant enough to require the filing of a new Notice of Intent, or a Request To Amend this Order of Conditions. Any errors in the plans or information submitted by the applicant shall be considered changes and the above procedures shall be followed.
10. Should issuance of additional permits result in a change in the project, the provisions of condition #9 apply, regarding the process for plan amendments.
11. All waste products, refuse, debris, construction materials, etc. shall be contained and ultimately deposited at an appropriate off-site facility and shall not be incorporated in any manner into the project site. No mulch shall be placed in wetland resource areas.
12. There shall be no pumping of water from wetland resource areas without field approval from the Conservation Agent and/or Commission during construction.
13. All waste products, grubbed stumps, slash, etc. shall not be stored or stockpiled within 100 feet of any stream or Bordering Vegetated Wetlands or within 100' of a Vernal Pools (regardless of status).
14. No fuel, oil, or other pollutants shall be stored during construction in any resource area or the buffer zone thereto.
15. Any debris or "dumped" material existing or future that is located in jurisdictional areas including all associated buffer zones shall be removed by the applicant immediately upon notice from Town.
16. There shall be no underground storage of fuel, oil, or hazardous substance on the property within the buffer zones or Wetland Resource Areas. With the exception of underground or above ground propane tanks.
17. Removal and storage of hazardous substances, hazardous waste, or hazardous material if in an area subject to protection under Massachusetts Wetlands Protection Act:
 - a. Shall be conducted only when approved and directed by the Department of Environmental Protection, Environmental Protection Agency or other applicable state or federal agency under which removal or remedial activities are directed and shall be conducted in the manner specified in the Notice of Intent and appropriate agency directives.
 - b. All hazardous materials, hazardous substances, and hazardous waste produced, stored or removed must be handled, treated and disposed of in accordance with, state and federal law regulating such materials and must be located outside of the buffer zone to wetland resource areas, unless specifically authorized by the Order of Conditions and appropriate state and federal licensing and permitting agencies.
 - c. No hazardous materials, substances, or wastes shall be introduced or discharged into or toward wetland resource areas.
 - d. No hazardous materials, substances, or wastes shall be introduced or discharged into the sanitary or sewage systems in such a manner which will result in an impact to wetland resource areas unless approved by the Conservation Commission, Board of Health, Massachusetts Department of Environmental Protection and/or the United States Environmental Protection Agency.
 - e. Identification of all types of hazardous materials, hazardous substances, or hazardous wastes used, produced, or stored on the site shall be submitted to the Conservation Commission in writing.
18. In the case of a conflict between a specific condition in this Order and a referenced document, the condition shall prevail.
19. Prior to any fill being brought onto the premises from any off property sources, the Medway Conservation Commission requires that Any soil, including loam, brought into the resource areas, buffer zones, or other jurisdictional area should be free of trash and deleterious material and free of any chemical contaminants in excess of Massachusetts Contingency Plan (MCP 310 CMR 40.0000) RCS-I Reportable Concentrations.

Soil should also be free of invasive species. While the MCP as a regulation at the State level may or may not apply to the project, soil characterization shall be completed in a manner consistent with this regulation. Prior to delivering to the project soil, material should be characterized by sampling the soil as outlined below and a certification shall be provided to the Conservation Commission or its agent. The certification shall include a letter signed by a Licensed Site Professional (see MCP) or suitable Qualified Environmental Professional describing the Site history of the originating soil location and certifying sampling collection procedures, quality control, results, compliance with RCS-1 Standards, and compliance with the requirements of this condition. Soil containing concentrations of contaminants in Exemptions from reporting outlined in the MCP including but not limited to lead paint, emissions, lead, arsenic, and ash, shall not be allowed in jurisdictional areas. Sampling and classification of soils shall also be consistent with MassDEP Policy # COMM-97-001 and the Applicant may use the MassDEP WSC#-13-500, Similar Soils Provision Guidance to refer to.

Required soil testing is outlined below:

One soil sample shall be collected from material at each originating location or soil type. One soil sample shall be collected for every 500 cubic yards of soil.

- Volatile Organic Compounds (VOCs) by EPA Method 8260
- SemiVolatile Organic Compounds (SVOCs) by EPA 8270
- Polychlorinated Biphenyls (PCBs) by EPA Method 8082
- Total Petroleum Hydrocarbons (TPH) by EPA Method 8015 or 8100M.
- Substitute MassDEP VPH/EPH) for TPH allowed
- pH
- Priority Pollutant 13 Metals (total) Sb, As, BA, Be, Cd, Cr, Pb, Ni, Se, Ag, Ti, V, Zn.
- Any other analyses determined by the Conservation Commission, MassDEP, or the LSP necessary to properly characterize the soil for relocation.

Exceptions:

Washed Stone Materials (The Commission may elect to require sampling of these materials if materials are suspect when inspected by the Commission or its Agent)

Alternative Sampling Plans;

The Commission may consider alternative sampling plans or soil materials at its sole discretion. Approval of the commission or its agent is required for alternate plans. These may include management of soils consistent with MassDEP WSC#-13-500, Similar Soils Provision Guidance. These may also include originating facilities that are known to the Commission based on previous certifications, historical operations, and sampling to produce soils below RCS-1.

20. The Commission reserves the right to require the applicant and/or its successors to provide funds to the Conservation Commission to hire a qualified Licensed Site Professional (LSP) for all review of the above requirements. The review of these materials shall be completed prior to the placement of any fill material being stored on site within the Commission's jurisdiction.
21. The Commission requires shipping documentation for all materials brought to the site. The documentation shall include point of origin, trucking contractor, truck/trailer registration, date and time loaded, volume or weight, and date and time delivered.
22. The owners of the project and their successors in title agree that the OOC does not in itself impose upon the Town of Medway (the Town) any responsibility to maintain the proposed drainage system and/or roadways and that the Town of Medway shall not be liable for any damage in the event of failure. By acceptance of this OOC, the owners agree to hold harmless the Town of Medway and its residents for any damages attributable to alterations undertaken on this property pursuant to the project and/or this OOC. This OOC

does not imply or certify that the site or any downstream areas will not be subject to flooding, storm damage, or any other form of water damage. *This condition shall apply in perpetuity.*

II. Prior to Construction

23. Prior to the Pre-Construction Meeting and any work commencing on the site, a sign of minimum size two-feet by two-feet shall be displayed so as to be clearly visible from the street showing DEP file No. 216-939.
24. 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.
25. Prior to the Pre-Construction Meeting and commencement of any activity on this site, the approved erosion control and limit of work lines shall be staked, by survey. The location of erosion controls shall be adjusted, if necessary, during the pre-construction meeting. The Bordering Vegetated Wetlands shall be flagged with surveyor's tape numbered to correspond to the wetland delineation on the approved plans and shall remain in place during construction.
26. No clearing of vegetation, including trees, or disturbance of soil shall occur prior to the Pre-Construction Meeting. Minimal disturbance of shrubs and herbaceous plants shall be allowed prior to the Pre-Construction Meeting if absolutely necessary in order to stake the approved erosion control measure and limit of work lines where required.
27. Prior to the commencement of each proposed phase of construction and each stream crossing, there shall be a **PRE-CONSTRUCTION MEETING** between the project supervisor, the contractor responsible for the work, and a member of the Conservation Commission or its Agent to ensure that the requirements of the Order of Conditions are understood. The staked erosion control line shall be adjusted, if necessary, during the pre-construction meeting to comply with the approved plans. The applicant shall contact the Conservation Commission office at 508-533-3292 at least five (5) business days to arrange for the pre-construction meeting.
28. Prior to any work on site, the applicant shall submit to the Commission and/or its Agent the final Stormwater Pollution Prevention Plan or (SWPPP) for review by the Conservation Commission and/or its Agent.
29. Immediately after installation of erosion controls, the Conservation Commission shall be contacted 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 or its Agent has inspected and approved of the installation of the erosion controls.
30. All catch basins within Main Street near construction entrances shall be equipped with siltation sacks prior to the commencement of work. Additionally, all constructed catch basins for this development shall be equipped with siltation sacks until construction is completed and site is stable, which shall be determined by the Agent and/or the Commission. All catch basins shall be cleaned during construction and siltation sacks removed and cleaned as necessary.
31. The applicant shall notify the Conservation Commission in writing at least five (5) business days prior to commencement of construction activity on the site and shall advise the Commission of the name(s) and telephone number(s) of the person(s) responsible on site for compliance with this Order. The applicant shall be responsible for immediately notifying the Commission of any change in the identity or contact information for the on-site person responsible for compliance with the Order.
32. The applicant shall secure a qualified professional with minimum 5 years supervisory construction experience to act as a Clerk of the Works/Project Manager/Project Supervisor to be approved by the Agent and/or the Commission. The Clerk of the Works will supervise the contractor and will inspect the site regularly whenever construction in or within jurisdictional areas. The Clerk of the Works/Project Manager/Project Supervisor will provide inspection reports to the Commission every two weeks and after

storm events over 0.5", and will respond to required inspected the next day or 24 hours whichever is sooner after storm events of over 0.5", so as to take responsibility for the proper functioning of drainage systems for the project. The applicant shall provide that person's phone number for the Commission. Failure to provide above reports may result in cessation of all work on site until the applicant can meet with the Conservation Commission at a regularly scheduled meeting to explain and rectify their absence. The applicant may submit a letter requesting to the Agent and/or the Commission to suspend the reports during times when there is no work in progress on the parcels under this Order of Conditions which may be approved at the sole discretion of the Agent and/or the Commission. These reports may be combined with the Erosion Control Inspectors reports, required under Condition #36.

33. It is the responsibility of the applicant to procure and comply with all other applicable federal, state and permits, approvals, and guidelines associated with the project. A copy of the filed NPDES permit with approval shall be submitted to the Commission prior to the commencement of work. These regulations, guidelines, and permits may include but are not necessarily limited to the following:

- EPA Phase II Stormwater Regulations and NPDES Permit

34. The applicant shall supply all costs associated with services provided by a Consulting Engineer for the review and oversight related to, but not limited to, the following construction Services – Compliance with the Order of Conditions and the Massachusetts Wetlands Protection Act and the inspection of infrastructure as it relates to stormwater system construction by the Town's Consulting Engineer is required. Consulting services shall not overlap with services provided under the issued Final Comprehensive Permit by the Zoning Board of Appeals. The Consulting Engineer will document compliance with the OOC and report findings to the Commission. The Applicant shall pay a construction services/consultant peer review fee to the Town of Medway for such inspections. The amount shall be determined by the Medway Conservation Commission based on an estimate provided by the Town's Consulting Engineer based on the scope of the project. The Applicant shall provide supplemental payments to the Town of Medway for reasonable additional construction services upon invoice from the Medway Conservation Commission, until the parking lot construction and stormwater drainage system and other utilities are completed and the as-built and a Certificate of Compliance has been granted determining the infrastructure to be satisfactory in compliance with this Order. Funds for such account shall be replenished upon notice from the Conservation Commission and/or Agent. If funds are not replenished within fourteen (14) days of request all work within jurisdictional areas shall be suspended until such time when it is replenished.

35. Prior to commencing any work on the site, the applicant shall submit the following to the Conservation Commission:

- A set of **photographs** depicting the project site in pre-construction condition.
- A **clearing plan** showing areas to be cleared and areas to be left in a natural state
- A **project/construction-sequencing plan**
- A **statement** signed by the applicant, owner of the property and all persons responsible for the construction of the project that such individuals understand the terms and conditions as specified in the Order and that such persons agree to comply with the provisions of the Wetlands Protection Act and this Order.

III. Erosion Control Inspection and Monitoring

36. It shall be the responsibility of the applicant and his successors to conduct monitoring, maintenance, and repair of erosion control measures, as well as to take any other additional measures necessary to control erosion from the site 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. In addition, it shall be the responsibility of the applicant to take whatever measures are necessary to prevent any form of wetland impacts not approved within this Order. Additional requirements related to site monitoring and control are:

- A. Erosion Control Inspector. The applicant shall designate and identify to the Commission a qualified Erosion Control Inspector. This person shall have appropriate credentials in the field of engineering or environmental science, and erosion and sedimentation control.
- B. Erosion control inspections. At least once every two weeks and within 24 hours of a rain event of > 0.5" inch within any 24 hour period, the designated Erosion Control Inspector shall conduct a thorough inspection of the site. At a minimum, each inspection shall include a visual inspection of all erosion control barriers, visual inspection of all temporary sediment traps and other erosion control measures, inspection of all stockpile areas, inspection of intermittent streams, the vernal pool wetland adjacent to the development, and the Main Building.
- C. Precipitation Monitoring: The applicant shall obtain and maintain in good working order at the site a precipitation gauge. The applicant shall maintain a daily log of precipitation at the site, and make the log available for inspection.
- D. Inspection reports. Within one week of the completion of an inspection, the Erosion Control Inspector shall submit a report of findings to the Medway Conservation Commission. The contents of this report shall include, but are not limited to, the following:
 - 1. Summary of site status with respect to construction phases and erosion control measures.
 - 2. Summary of erosion control measure maintenance and additions conducted during the period since the last inspection.
 - 3. A list of any and all recommended measures for maintenance, repair, or improvement of erosion control measures.
 - 4. Each inspection report shall contain the following certification signed by the Erosion Control Inspector:

"With only the following exception(s) noted herein, it is my professional opinion that:

 - a. Work on the site is being conducted in compliance with the Order of Conditions and other regulatory requirements and approvals related to environmental protection.
 - b. The erosion control barriers and other erosion control measures are functioning as intended, are being maintained adequately, and are in a condition to continue to function as intended.
 - c. I observed no impacts of sedimentation, physical disturbance, or other alteration of wetland resource areas, including open water areas and vegetated wetlands, on the site.

IV. Phasing

- 38. Phasing and Construction sequence shall comply with all approved plans and documents.
- 39. If it is determined that there is a violation of this Order and/or the Wetland Protection Act, work on a subsequent Phase cannot commence until said violation is cured to the satisfaction of the Commission and/or Agent.

V. Staging Areas

- 40. Prior to construction the general contractor shall designate a **construction staging area**, located outside all resource areas and outside the 25' buffer zone. All construction trailers, portable sanitary facilities, material storage and overnight parking of equipment shall be in the staging area. The perimeter of the staging area shall be protected as necessary with silt fence and the ground surface shall be protected with washed stone or another suitable non-erosive material.
- 41. An area for cleanup and or maintenance of construction equipment shall be designated prior to construction.

- a. Applicant shall designate wash out areas (not limited to concrete only) which will be located over 100' from any wetland resource and surrounded by siltation controls or some other form of protection approved by the Commission.
 - b. Any runoff resulting from the washing of trucks or construction equipment shall neither be directed to, nor dumped in, any on-site drainage system or in any area subject to protection under the Massachusetts Wetlands Protection Act. Any such washing shall occur in a designated area, protected by washed stone, outside of all resource areas. All construction vehicles exiting the property shall be cleaned of soil prior to traveling on public streets within the Town of Medway.
 - c. Any leakage or spillage of oil, hydraulic fluid, gasoline, or other pollutants must be cleaned up immediately and disposed of off the site. All fueling of equipment shall be performed outside of wetland resource areas and buffer zones. The Commission shall be notified immediately in the event of any spillage.
- 42. Prior to commencing any work on the site the applicant shall install a stone construction entrance (**tracking pad**) not less than 20' wide and not less than 30' in length of a stone size, on the average of 1" to 4".
 - 43. All **construction equipment** employed in the resource areas or buffer zones thereto shall be **properly maintained** and precautions shall be taken to prevent any leakage or spillage of oil, gasoline, hydraulic fluids, etc.
 - 44. **No fuel, oil, or other pollutants shall be stored** in any resource area or the buffer zone thereto, unless specified in this Order of Conditions or otherwise approved in writing by the Commission or its agent. No fueling of equipment can occur within any resource area or the buffer zone thereto.

VI. During Construction

- 45. The applicant shall not place stockpiles closer than 25' to any wetland resource. The applicant shall follow the proposed stockpiling shown on the Site Plan.
- 46. If unforeseen problems occur during construction which may affect the statutory interests of the Wetlands Protection Act, upon discovery by either the Conservation Commission, its agent, or the applicant, the Commission shall immediately be notified, and an immediate meeting shall be held between the Commission or its agent, the applicant, and other concerned parties to determine the correct measures to be employed. The applicant shall then act to correct the problems using the corrective measures agreed upon. Subsequent to resolution, the activity and resulting actions shall be documented in writing.
- 47. All equipment shall be operated, parked, and maintained so as to limit alterations of wetlands and buffer zone to those areas clearly identified on the plans and demarcated in the field by the flagging and construction barriers installed. No equipment is to enter or cross wetland resource areas at any time unless the location of disturbance is marked on the plans referenced in this Order and flagged in the field.
- 48. Dust suppression shall utilize water only unless otherwise specifically authorized by the Commission.

Erosion Control:

- 49. 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 designee shall inspect the erosion controls on a daily basis and shall remove all sediment when accumulated to a depth of two inches or greater. The applicant shall immediately control all erosion on the site, and shall immediately notify the Commission of any breaches of the erosion control barriers by sediment or silt-laden water. The 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.
- 50. Under no conditions shall operation of equipment, storage of materials, stockpiling of soil, or other site disturbance take place on the wetland side of the limit of work line. All debris, fill and excavated material shall be stockpiled far enough away from wetland resource areas, and at a location sufficient to prevent sediment from entering wetland resource areas.
- 51. Dewatering activities shall be conducted in accordance with best management practices and with a plan to be submitted for Commission approval prior to any dewatering activity on the site. Dewatering activities shall

be monitored daily to ensure that sediment laden water is not discharged toward the wetland resource areas. With the exception of dewatering effluent discharged into a detention basin, no discharge of water is allowed directly or indirectly into an area subject to jurisdiction of the Wetlands Protection Act. If emergency dewatering requirements arise, the applicant shall submit a contingency plan to the Commission for approval, which provides for the pumped water to be contained in a settling basin, to adequately reduce turbidity prior to discharge into a resource area. Additional monitoring requirements may be imposed on any such discharge approved, to ensure adequacy of the sediment removal measures.

52. An adequate covered stockpile of erosion control materials shall be on site at all times for emergency or routine replacement and shall include materials to repair or replace silt fences, erosion control blankets, stone riprap, filter berms or any other devices planned for use during construction. At a minimum, this shall include erosion control blankets, 500 feet compost socks and 500 feet of siltation fence, this shall be stored under cover in specified location on site during construction for any issues that may arise requiring the maintenance of erosion controls.
53. 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 should be inspected at this time, and repaired, reinforced or replaced as necessary.
54. Erosion control devices may be augmented based upon experience at the site. All such devices shall be inspected, cleaned or replaced during construction and shall remain in place and in good working order until such time as stabilization of all areas that may impact resource areas is permanent. These devices shall be inspected to assure that maximum control has been provided after any rainfall. No portion of the erosion control barriers or mechanisms may be deleted without written authorization by the Commission or its Agent.
55. Within thirty days of completion of construction on any given portion of the project, all disturbed areas in the completed portion of the site shall be permanently stabilized with rapidly growing vegetative cover, using sufficient top soil, or the proposed surface treatments as indicated on the approved plans to assure long-term stabilization of disturbed areas. Where necessary, the loam and seeding shall be held in place with jute netting. Outside of the growing season, exposed soil finish grade surfaces shall be stabilized with a layer of mulch hay until climate conditions allow for seeding. During construction, any area of exposed soils that will be left idle for more than 30 days shall be stabilized with a layer of mulch hay or other means approved by the Conservation Commission. Temporary stabilization methods may include, but are not limited to, hydro-seeding, straw mats, jute netting, sod, or other Commission approved method. A minimum of four to six inches of organic top soil, and a USDA Natural Resource Conservation Service-approved seed mixture should be used in accordance with the measures outlined in "Vegetative Practices in Site Development: Massachusetts Conservation Guide, Volume II", or other stabilization method the Commission deems acceptable. Continued maintenance of this area in a manner which assures permanent stabilization and precludes any soil erosion shall be the responsibility of the applicant.
56. Subsequent to seeding, disturbed areas will be covered with a straw mulch, erosion control blanket or netting or other suitable material in order to provide an adequate surface protection until seed germination. Preference should be given to erosion control netting with biodegradable stitching.
57. A temporary cover of rye or other grass shall be established on any soil stockpiles inactive for more than 60 days to prevent erosion and sedimentation. If the season is not appropriate for plant growth, exposed surfaces shall be stabilized by other appropriate erosion control measures, firmly anchored, to prevent soils from being washed by rain or flooding.
58. All existing and proposed catch basins and oil traps on the site or within the portion of any street that receives runoff from the project site and/or within Medway shall be protected by Silt Sacks or equivalent to prevent sediment from entering the drainage system. Silt Sacks shall be maintained and regularly cleaned of sediments until all areas associated with the work permitted by this Order have been permanently stabilized and the Commission and/or its Agent has formally approved their removal.
59. Cement trucks shall not be washed out in any wetland resource or buffer zone area, or into any drainage system. Any such deposit of cement or concrete products into a buffer zone or wetland resource area shall be immediately removed and all impacted areas restored to their original condition.
60. Erosion and sedimentation control devices shall be inspected after each storm event and repaired or replaced as necessary. Any silt adjacent to the barriers shall be removed when it accumulates to two inches in depth.

61. All stockpiles of soils existing for more than seven days shall be surrounded by a row of staked straw bales, compost socks or entrenched silt fence, and shall be covered. The applicant shall cover and surround all soil piles with erosion controls prior to a rain event of 0.5 inches or greater. The Commission reserves the right to require any stockpiles be covered during rain events, as directed through the Agent and/or a Commissioner.

Grading/Landscaping/Slope:

62. Grading shall be accomplished so that runoff shall not be directed to the property of others outside the project area without mitigation as described in the project plans. This project shall not increase runoff, nor cause flood or storm damage, to abutters or the property of others outside the project area.
63. Landscaping shall not include exotic invasive species identified on the most current listing of the Massachusetts Division of Fisheries and Wildlife.
64. Slopes that are 2:1 shall be stabilized using erosion control blankets where slope is seeded prior to erosion control blanket placement with a native seed mix approved by the Conservation Commission and/or its Agent prior to application.

Placement of Riprap and Stone:

65. All stone aggregate material shall be clean and free of trash, tree stumps, roots, and other deleterious material.

VII. Stormwater Management System

66. Prior to installation of any portion of the proposed stormwater management system, the applicant shall complete a soil test pit at IF #1 in the presence of the Town's Consulting Engineer to confirm the soils on site. If at such time the soils conditions are not consistent with the submitted approved Stormwater Report the applicant shall then redesign the system according to the 310 CMR 10.05 (6)(k-o) to be approved by the Commission and/or the Agent depending on the extent of the design. This may require an Amendment to the Order of Conditions.
67. The applicant shall install the proposed stormwater management system as prescribed on the Approved Site Plan and the Approved Stormwater Report conforming to the Massachusetts Stormwater Management Standards.
68. The Towns Consulting Engineer shall be contacted with the appropriate time (no less than 5 business days) to schedule inspections for inspection of the bottom excavation for the sub-surface infiltration system. The Commission reserves the right to require the information documenting or showing the system was installed as designed if the applicant did not follow the above requirement of oversight by the Town Consulting Engineer. The may include excavation of the installed system.
69. The applicant shall comply with all the requirements of the National Pollution Detection Elimination System (NPDES) any violation of the NPDES permit can be considered a violation of this Order by the Commission and/or the Agent.
70. All Stormwater best management practices shall be maintained as specified in the O&M Plan and incorporated in the Order of Conditions. Evidence of maintenance of the Stormwater Management system shall be provided to the Commission on a semi-annual basis during construction.
71. The Stormwater Management System components for the project will be constructed as soon as possible in the construction sequence so as to allow for the capture and control of site runoff and treatment of stormwater discharges during the construction period. The basins will be constructed with temporary vertical riser pipes or other devices approved by the Conservation Commission, which will allow for separation of suspended material from the stormwater prior to its release from the ponds.
72. The applicant shall follow all aspects and requirements for maintenance under the Final submitted SWPPP and the approved O&M Plan.

73. All catch basins shall be equipped with deep sumps, oil and gas traps, and shall be inspected and cleaned as described in the O&M Plan. After each inspection and cleaning, the inspector shall provide to the Commission written confirmation that the inspection and cleaning were conducted.
74. During construction, all drainage structures shall be inspected regularly and cleaned as necessary.
75. There shall be no increase in the post-development discharges from the storm drainage system or any other changes in post-development conditions that alter the post-development watershed boundaries as currently depicted in the Approved Documents, unless specifically approved in writing by the Commission.
76. There shall be no sedimentation into wetlands or water bodies from discharge pipes or surface runoff leaving the site.
77. Immediately upon the installation of the headwalls, riprap, and infiltration basins, compost socks shall be set and staked around the drainage structure inlets and basins, to prevent sediments from entering the drainage system.
78. The Conservation Commission shall be notified in writing, when any maintenance functions that may impact the wetlands, such as, but not limited to, replacing backfill and repairing drains and terraces, are to be performed.
79. The applicants, owners, and their successors and assignees shall maintain all water quality units, sub-surface infiltrators, infiltration basins, outlet structures, and other elements of drainage systems, in order to avoid blockages and siltation which might cause failure of the system and/or detrimental impacts to on-site or off-site resource areas, and shall maintain the integrity of vegetative cover on the site.
80. Post construction, the applicant shall maintain these areas and drainage system in accordance with the approved O& M Plan. The Conservation Commission members and the Conservation Agent shall have the right to enter the site to inspect for compliance with these conditions. This condition shall remain in perpetuity.
81. Snow storage – snow shall not be pushed or placed within any component of the stormwater management system. The applicant shall install signage to restrict snow storage within the buffer zone. The signage shall be installed per the Approved Site Plan.
82. During construction, all drainage structures shall be inspected on the same schedule as the erosion controls and cleaned as necessary.
82. All stormwater BMP's maintenance logs as prescribed under the O&M Plan shall be kept on site and shall be provided to the Conservation Commission upon request and annually, this includes but is not limited to street sweeping logs and receipts.
83. The applicant and its successors shall submit annual reports of inspections of all stormwater management structures as prescribed O&M Plan to the Conservation Commission including identification of any systems needing repair and a proposed schedule for completion of those repairs, this shall be submitted no later than December 1st of every year. ***This condition shall remain in perpetuity.***
84. The applicant and its successors, upon the completion of the entire project, prior to submitting a Request for Certificate of Compliance shall provide to the Commission and/or its Agent receipts of all inspections to the stormwater management system as prescribed under O&M Plan. These receipts shall refer to but are not limited to, catch basin cleaning, vegetation management (mowing of swales, infiltration basins or other structures requiring mowing), and inspection and cleaning of water quality units.
85. All future and approved work on the parcels referenced within the Order of Conditions shall comply with the MA Stormwater Management Standards. This Order does not authorize or allow the segmentation of this project or future projects in such a way as to allow the circumventing of the Massachusetts Wetlands Protection Act and its authority to impose the Massachusetts Stormwater Management Standards, as specifically referenced under 310 CMR 10.05(6)(n).

VIII. Post-Construction / In Perpetuity

Post-Construction

86. Snow storage areas shall be clearly marked on site with signage (approved by the Agent and/or the Commission) as depicted on the site plans. All snow removal operators shall be made aware of approved locations on site for storage and shall be provided with the snow storage plan. Excess snow shall be removed from the site and disposed of in accordance with applicable regulations. Snow shall not be pushed or piled into stormwater management areas, bordering vegetated wetlands, or any forested or unaltered natural areas of these parcels. Snow may be windrowed immediately adjacent to existing paved streets. ***This condition shall apply in perpetuity.***
87. No sodium chloride (NaCl or rock salt) shall be used for de-icing on the site unless specifically authorized by the Commission. ***This condition shall apply in perpetuity.***
88. Upon completion of construction and final soil stabilization, the applicant shall submit the following to the Conservation Commission to request a Certificate of Compliance (COC):
- (1) A Completed Request for a Certificate of Compliance form (WPA Form 8A)
 - (2) A letter from a Registered Professional Engineer certifying compliance of the property with this Order of Conditions, and detailing any deviations that exist, and their potential effect on the project. A statement that the work is in "substantial compliance" with no detailing of the deviations shall not be accepted.
 - (3) An "As-Built" plan or plans signed and stamped by a Registered Professional Engineer or Land Surveyor showing post-construction conditions within all areas under the jurisdiction of the Massachusetts Wetlands Protection Act. This plan shall include at a minimum:
 - (a) All wetland resource area boundaries with associated buffer zones and regulatory setback areas taken from the plans approved in this Order of Conditions;
 - (b) Locations and elevations of all stormwater management conveyances, structures and best management designs, including foundation drains, constructed under this Order within any wetland resource area or buffer zone;
 - (c) Distances from any structures constructed under this Order to wetland resource areas - "structures" include, but are not limited to, all buildings, septic system components, wells, utility lines, fences, retaining walls, and roads/driveways;
 - (d) A line delineating the actual limit of work - "work" includes any filling, excavating and/or disturbance of soils or vegetation, whether or not approved under this Order;
 - (e) The limit of work approved under this Order.
 - (4) Post-construction photographs demonstrating compliance with this Order, including established vegetation where required.
89. No herbicides, pesticides or fertilizers shall be used on this site except as prescribed under the O&M Plan or as otherwise described in this Order or approved by the Commission. Only low phosphate and organic fertilizers shall be used within the buffer zone. ***This condition shall apply in perpetuity.***

Perpetual Conditions:

90. Conditions numbered 23, 79, 83, 86-97, and including all conditions listed within the perpetual conditions heading, shall survive the expiration of this Order, shall continue in force beyond the Certificate of Compliance, in perpetuity, shall be so noted on the Certificate of Compliance, and shall be referred to in all future deeds to this property.
91. Dumping Prohibited: There shall be no burning or dumping of leaves, grass clippings, brush, or other debris within jurisdictional areas and including any natural, unaltered buffer zone areas, or any component of the Stormwater Management System.
92. Additional Alteration Prohibited: There shall be no additional alterations of areas under Conservation Commission jurisdiction without the required review and permit(s) under state wetlands protection laws and regulations.
93. The maintenance or repair of infiltration basins, supporting drainage systems, weeps holes, stormwater

management best management practices shall be the responsibility of the applicant/property owner and its successors. The design capacity, storm water management treatment capacity and structural integrity of these facilities must be maintained. The applicant shall be responsible for mitigation of any alteration to jurisdictional areas caused by water from the weep holes in the retaining wall and if the Commission and/or the Agent determines the water from the weep holes has caused alteration of jurisdictional areas, then the applicant shall submit a mitigation plan to correct the alteration(s).

94. The Applicant shall have O&M Plan, Landscaping Plan, and Conditions in Perpetuity after this Order has received a Certificate of Compliance, and the made part of the all contracts for maintenance work that effects jurisdictional areas.
95. The applicant and/or any successor owner, or owners, shall provide a legal instrument that establishes the terms of the legal responsibility for the operation and maintenance of the stormwater BMPs. In the event that the stormwater BMPs will be operated and maintained by an entity, municipality, state agency or person other than the owner of the units upon which the stormwater management facilities are located, the owner shall provide a plan and easement deed that provide the right of access for the legal entity to be able to perform all said operations and maintenance functions as required under the O&M Plan, the SWPPP, and all Conditions in perpetuity as prescribed under this Order.
96. Any future owner or owners shall sign a document of acknowledgement of receipt of this document, the approved site plan, the O&M Plan, the SWPPP, and any conditions in perpetuity. These document shall be provided at time of sale. These statements must be made available upon request of the Medway Conservation Commission. ***This condition shall apply in perpetuity.***
97. The owner(s) and their successors shall follow all requirements of approved O&M Plan and Conditions in perpetuity.