



eDEP Transaction #
West Newbury
City/Town

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.



- | | | |
|------------------------------|-----------|---------------|
| <u>John</u> | | <u>Gorman</u> |
| a. First Name | | b. Last Name |
| <u>Gorman Homes, LLC</u> | | |
| c. Organization | | |
| <u>3 Archelaus Hill Road</u> | | |
| d. Mailing Address | | |
| <u>West Newbury</u> | <u>MA</u> | <u>01985</u> |
| e. City/Town | f. State | g. Zip Code |

- same
- | | | |
|--------------------|--------------|-------------|
| a. First Name | b. Last Name | |
| c. Organization | | |
| d. Mailing Address | | |
| e. City/Town | f. State | g. Zip Code |

- | | |
|--|----------------------|
| <u>Middle Street (Builders Lot A)</u> | <u>West Newbury</u> |
| a. Street Address | b. City/Town |
| <u>Map 22</u> | <u>Lot 2</u> |
| c. Assessors Map/Plat Number | d. Parcel/Lot Number |

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Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
 78-725
 MassDEP File #
 eDEP Transaction #
 West Newbury
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A. General Information (cont.)

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

Essex

a. County

36226

c. Book

b. Certificate Number (if registered land)

543

d. Page

7. Dates: 1/28/21 6/21/21 6/30/21
 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):

Plan to Accompany a Notice of Intent

a. Plan Title

Millennium Engineering

b. Prepared By

4/12/21

d. Final Revision Date

Eric Botterman

c. Signed and Stamped by

20

e. Scale

f. Additional Plan or Document Title

g. Date

B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act:

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

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

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

Approved subject to:

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



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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 type="checkbox"/> Bank	a. linear feet	b. linear feet	c. linear feet	d. linear feet
5. <input checked="" type="checkbox"/> Bordering Vegetated Wetland	670 a. square feet	670 b. square feet	1340 c. square feet	1340 d. square feet
6. <input type="checkbox"/> Land Under Waterbodies and Waterways	a. square feet e. c/y dredged	b. square feet f. c/y dredged	c. square feet	d. square feet
7. <input type="checkbox"/> Bordering Land Subject to Flooding	a. square feet	b. square feet	c. square feet	d. square feet
Cubic Feet Flood Storage	e. cubic feet	f. cubic feet	g. cubic feet	h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding	a. square feet	b. square feet		
Cubic Feet Flood Storage	c. cubic feet	d. cubic feet	e. cubic feet	f. cubic feet
9. <input 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.)

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

23. ☒ Restoration/Enhancement *:

1450

a. square feet of BVW

b. square feet of salt marsh

24. ☒ Stream Crossing(s):

1

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 6/30/24 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 78-725 "
11. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before MassDEP.
12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
13. The work shall conform to the plans and special conditions referenced in this order.
14. Any change to the plans identified in Condition #13 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
15. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.



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

17. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.
18. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.
19. The work associated with this Order (the "Project")
 - (1) ☐ is subject to the Massachusetts Stormwater Standards
 - (2) ☒ is NOT subject to the Massachusetts Stormwater Standards

If the work is subject to the Stormwater Standards, then the project is subject to the following conditions:

- a) All work, including site preparation, land disturbance, construction and redevelopment, shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Construction General Permit as required by Stormwater Condition 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.
- b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that:
 - i. all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures;
 - ii. as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized;
 - iii. any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10;



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

iv. all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition;

v. any vegetation associated with post-construction BMPs is suitably established to withstand erosion.

c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 18(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMP Operation and Maintenance Plan ("O&M Plan") and certifying the following:

i.) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and

ii.) the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.

d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Multi-Sector General Permit.

e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 18(f) through 18(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 18(f) through 18(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.

f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.



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

- g) The responsible party shall:
 - 1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location);
 - 2. Make the maintenance log available to MassDEP and the Conservation Commission ("Commission") upon request; and
 - 3. Allow members and agents of the MassDEP and the Commission to enter and inspect the site to evaluate and ensure that the responsible party is in compliance with the requirements for each BMP established in the O&M Plan approved by the issuing authority.
- h) All sediment or other contaminants removed from stormwater BMPs shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.
- i) Illicit discharges to the stormwater management system as defined in 310 CMR 10.04 are prohibited.
- j) The stormwater management system approved in the Order of Conditions shall not be changed without the prior written approval of the issuing authority.
- k) Areas designated as qualifying pervious areas for the purpose of the Low Impact Site Design Credit (as defined in the MassDEP Stormwater Handbook, Volume 3, Chapter 1, Low Impact Development Site Design Credits) shall not be altered without the prior written approval of the issuing authority.
- l) Access for maintenance, repair, and/or replacement of BMPs shall not be withheld. Any fencing constructed around stormwater BMPs shall include access gates and shall be at least six inches above grade to allow for wildlife passage.

Special Conditions (if you need more space for additional conditions, please attach a text document):

See attached 5 pages Standard and 4 pages Special Condition

- 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.

**SPECIAL CONDITIONS,
MIDDLE ST. BUILDERS LOT A
DEP #78-725**

1. All work shall conform to the following approved plans and documents: Plan to Accompany a Notice of Intent, 3 Archelaus Hill Rd, with a final revision date of 4/12/2021.
2. Due to the proximity of the development to wetlands and in order to maintain the integrity of the resource area, naturally vegetated areas extending twenty-five (25) feet from the wetlands delineated in the above referenced plan shall remain in place, undisturbed, except in the area of the wetland crossing for the driveway and the replication area. Any areas encroached upon that cause a temporary disturbance in the 25ft. natural vegetation area shall be regraded, loamed and revegetated with a seed mix to be submitted to and approved by the WNCC prior to application and shall, thereafter, remain undisturbed. Following construction these areas shall, thereafter, remain undisturbed. The area between the replication area and the driveway shall remain undisturbed after completion. There shall be no application of fertilizers, pesticides, herbicides, insecticides or other chemicals in the natural vegetation area.
3. Permanent markers designating the natural vegetation areas described above, selected by the applicant and approved by the Conservation Commission before installation, shall be placed along the 25 foot offset from the wetlands in the following areas: a) opposite wetland flags along the B line from B-5 to B-15 and every 40 feet in between; b) opposite wetland flags A-1 and the wetland line at the lot line between A-2 and A-3, A-26 to A-31 and every 40 feet in between. The markers shall be installed so that they are buried four feet into the ground and extend four feet above ground with the West Newbury plaques attached. The markers shall be replaced if they deteriorate.
4. Pesticides, insecticides and herbicides shall not be used on site within 100 feet of a resource area. Fertilizer used for landscaping and lawn care shall be low in nitrogen content and shall be used in moderation. Any proposed change in these requirements requires the submission of a plan to the WNCC and its approval by the WNCC before implementation of any change.
5. All grass and landscape clippings shall be disposed of outside the buffer zone to any wetland resource area.
6. A construction schedule shall be submitted to the WNCC at least 72 hours prior to the commencement of any site work.

7. The deed restriction limiting future filling as described in 314 CMR 9.04(3) shall be submitted to the WNCC for review and approval and after approval by the Commission shall be recorded and a copy of that recorded deed restriction provided to the WNCC. This shall be done prior to the commencement of any work under this Order.
8. A cross-section of the proposed replication area, documenting the depth to groundwater and information on anticipated hydrology (including predicted high and low groundwater elevations and indicators of surface and groundwater hydrology) as well as soil types and characteristics shall be provided to the WNCC prior to the commencement of any work under this Order.
9. A 401 Water Quality Certificate or confirmation from DEP that such certification is not required shall be submitted to the WNCC before any work under this Order.
10. Erosion control measures shall be installed by the applicant after locations are staked out by the design engineer and shall be inspected and approved by the WNCC prior to any other work under this Order. Erosion control shall consist of staked and trenched silt fence backed by staked hay bales installed using West Newbury guidelines except in the area between the existing BVW and the replication area where only trenched silt fence shall be used to ensure seamless topography between the existing and replicated BVW. A revised plan showing these erosion control measures shall be submitted to and approved by the WNCC prior to any work under this Order. The erosion control line indicated on the plan shall be the limit of disturbance on the project.
11. Erosion control shall be maintained in good working order throughout all work under this Order. Built up sediment shall be removed when it reaches one-third the height of the silt fence and shall be disposed of outside the buffer zone of any resource area.
12. The wetlands crossing shall be constructed in accordance with the approved plan, which is incorporated in this Order and a copy of which is attached and the following conditions. The work shall be done under the direction and supervision of a professional wetland scientist whose qualifications and contact information shall be provided to the WNCC prior to any work on the crossing.
 - a. All wetlands flags shall be re-established by the applicant and inspected by the WNCC before any work associated with the wetland crossing.
 - b. Erosion control in the crossing area shall be reinspected and approved by the WNCC prior to any work associated with the crossing.
 - c. Any vegetation or soils excavated for the wetlands crossing which are intended to be used in the replication area shall be transplanted and/or stockpiled WHERE. The stockpile shall be covered with a tarp and surrounded by erosion control. Any other

vegetation or soils excavated for the wetlands crossing which are not intended for use in the replication areas shall be removed and disposed of outside the buffer zone.

d. Soil stockpiles within the 100-foot wetland buffer zone shall be surrounded by straw bales and trenched silt fence and covered with a tarpaulin.

13. The replication area shall be constructed immediately following the construction of the wetland crossing. Replication shall be done in accordance with the Wetland Replication Area Construction Methodology detailed on the approved plans (which are incorporated in this Order and a copy of which is attached) and the following conditions. The construction of the wetland replication area shall be done under the direction and supervision of a professional wetland scientist whose qualifications and contact information shall be provided to the WNCC prior to any work in the replication area.

a. The erosion control associated with the replication area shall be installed from the upland side of the proposed wetland replication area.

b. All soils removed from the wetland replication area shall be disposed of outside the jurisdictional resource areas as well as the 100-foot wetlands buffer zone.

c. The wetland replication area shall be excavated to the depth necessary to achieve the proper hydrology, but to a depth of at least one (1) foot below the proposed finish grade. The elevation of the bottom of the replication area shall be observed and documented by a certified soil evaluator and/or professional wetland scientist. The documentation shall be submitted to the WNCC prior to the placement of the wetland soils in the wetland replication area. Adjustment to the depth of excavation may be required by field conditions. Any adjustment must be done at the direction of and under the supervision of a professional wetland scientist. The professional wetland scientist shall advise the WNCC of any field adjustment before any materials are placed into the replication area so that the depth of the replication area may be inspected.

d. After the final elevations of the excavated replication area have been approved, stockpiled soils from the wetland area impacted by installation of the wetland crossing shall be placed in the replication area if they are found to be suitable and approved as a soil amendment by the professional wetland scientist overseeing the wetland replication and construction effort and approved and inspected by the WNCC prior to being placed in the replication area. Additional soils amendments required to bring the replication areas to the specified grades shall be as specified in the Wetland Replication Area Construction Methodology detailed on the approved plan. Imported soil shall be clean and free of contaminants.

e Following the placement of soils in the wetland replication area, the area shall be planted using hand tools with the species specified on the approved plan obtained from a nursery specializing in the propagation of wetland plants. The area shall then be scarified with a steel rake and seeded with the seed mix specified in the approved plan at the specified application rate.

f. All planting and seeding in the replication area shall be done under the supervision of a professional wetland scientist.

g Planting shall be done during the spring or fall growing seasons.

h Erosion control shall be maintained until the wetland replication area is fully established and its removal is approved by the WNCC

i In addition to the requirements above, the following are also required:

1) The WNCC shall be notified of the date excavation for the replication area is to begin at least 48 hours before that excavation.

2) The professional wetland scientist supervising the wetland replication area construction effort shall be present at the wetland replication area during excavation and placement of soils to insure correct depth and soil conditions and shall contact the WNCC Conservation Agent after the following key stages so that the agent can also inspect the project:

A. Following excavation of the replication area;

B. After soil amendments are delivered to the site and before deposition into the wetland replication area;

C. Following the deposition of any soil amendments into the wetland replication area.

3) The replication area shall meet the performance standards set out at 310 CMR 10.55(4). The wetland replication area shall be monitored for two (2) consecutive years by a professional wetland scientist. Monitoring reports shall be submitted to the WNCC during the monitoring period, in May and September, that document the number and type of wetland plant species within the replication area, number of plantings during a monitoring period, condition of plantings and progress of the seed mix. Photographs of the area during the time period covered by the report shall accompany the narrative.

4) If less than 75% of the surface area of the replication area is covered with wetland species at the end of the second complete growing season, a supplemental planting plan to achieve that coverage shall be submitted to and be approved by the WNCC and plantings and monitoring shall continue until compliance is achieved.

14. A septic system plan approved by the Board of Health shall be submitted to the WNCC prior to directional drilling for the force main to ensure that no changes to the proposed drilling are necessary.

15. Erosion control in the area of the directional drilling for the septic force main shall be reinspected by the WNCC before drilling begins.
16. The directional drilling shall be done during the driest time of year to minimize the potential for adverse effect on the wetland.
17. The force main shall be installed at a depth of at least five (5) feet and shall consist of a 2" PVC pipe installed within a 3" PVC sleeve.
18. A 401 Water Quality Certificate or confirmation from DEP that such certification is not required shall be submitted to the WNCC before any work under this Order.
19. Fill materials outside the septic system fill limit but in the buffer zone shall be ordinary borrow, free from masonry stumps, wood, tree branches, organic materials (other than topsoil), construction debris, refuse, trash and other similar materials.
20. No sodium-based deicers shall be used on the driveway either crossing or within the buffer zone of a wetland resource area. Deicing compounds to be used on the driveway shall consist of CaCl_2 and calcium magnesium acetate (CMA).
21. Conditions #2, #3, #4, #5, and #20 shall run with the land and shall remain in full force and effect after the issuance of a Certificate of Compliance.

The following Conditions are issued pursuant to Mass. General Laws c. 131 S40 and 301 CMR 10.00 et seq, and regulate those activities conducted in a Resource Area or Buffer Zone thereto.

STANDARD ORDER OF CONDITIONS

PROCEDURES:

1. All work must conform to the plans submitted and to the Notice of Intent unless otherwise stipulated in the Order of Conditions or authorized by the West Newbury Conservation Commission.
2. This Order of Conditions must be recorded at the Registry of Deeds, with the recording information submitted to this Commission, prior to the commencement of site work or construction, or within 60 days of the issuance of this Order if construction is not commenced.
3. If the applicant is not the record owner of the property subject to this Order of Conditions, the applicant must, prior to the recording of this Order, provide to this Commission, a written, notarized statement, executed by the owner of the property approving the recording of the Order of Conditions at said Registry of Deeds.
4. The Conservation Commission shall be notified, in writing, at the time of all transfers of title on this property that occur prior to the issuance of a Certificate of Compliance.
5. In conjunction with the sale of any lot with a resource area under an Order of Conditions, the applicant shall submit to the WNCC a signed statement by the buyer that he is aware of an outstanding Order of Conditions on the property.
6. The applicant or his successor shall notify the WNCC, in writing, and before site work begins, of the name, address, business and home phone numbers of the project supervisor responsible for compliance with this Order.
7. This Order shall be made part of all general and subcontractors' (responsible for site work) written contract.
8. Any modifications or revisions to the referenced plans and/or Notice of Intent shall be submitted to the WNCC for review and to determine if a new Notice of Intent is required. The WNCC reserves the right to require the applicant to file a new Notice of intent for any appropriate plan changes or submittals.
9. No additional new construction or disturbance of a wetland resource area, or the 100ft. buffer zone around a wetland resource area, shall be permitted on this site until the Commission has made a determination.

10. Issuance of this condition does not in any way imply or certify that the site or downstream areas will not be subject to flooding, storm damage, or any other form of damage due to wetness.
11. Upon completion of work, and in order to receive a Certificate of Compliance, the applicant shall submit an as-built plan of all areas within jurisdiction of the Wetlands Protection Act. The professional engineer of record, certifying compliance with this Order of Conditions, shall sign the plan. The plan shall include:
 - a. As-built elevations of all drainage ways constructed within 100 ft. of any wetland resource area.
 - b. As-built elevations and grades of all filled or altered wetland resource areas, buffer zones and replicated wetland areas.
 - c. Distances to all structures within 100ft. of any wetland resource area.
 - d. The original plan can be used and any changes in the elevations or locations be marked in red. Submit the request in writing or use the DEP form (WPA 8A). Make sure all the original Conditions were met.
12. All erosion control shall be removed as soon as disturbed areas have been revegetated and stabilized, but only after consultation with the Agent and a determination by the Agent that disturbed areas have been sufficiently revegetated/stabilized to warrant removal of the erosion control. The erosion control must be removed before a request for Certificate of Compliance is requested.
13. The Order of Conditions is valid for three years. A Certificate of Compliance must be requested before the Order of Conditions expires unless the Order has been extended.

SITE WORK

14. Erosion and siltation prevention measures must be properly installed before construction. Securely installed silt fence backed with doubly staked hay bales, both embedded a minimum of 6" into existing grade, shall be placed between construction areas and wetland areas. Unless otherwise specified. Prior to installation of these devices, the Conservation Agent shall be contacted for instruction as to proper installation. Both hay bales and silt fence shall be maintained throughout the project until all disturbed areas have been mulched, seeded and stabilized to prevent erosion.
15. The erosion control shall indicate the limit of construction on site and there shall be no disturbance between the erosion control and a wetland resource area unless specifically allowed by the Order of Conditions.
16. If during the course of construction, it is found that further erosion or siltation is needed, the WNCC shall direct the applicant upon its placement.

17. Grading shall conform to the plans and data referenced in special condition #1 above. In all cases final grades shall have a minimum of two inches of topsoil (measured in place) over all disturbed areas. In all cases exposed soil areas shall be stabilized with vegetation, e.g., grass or some form of ground cover plant. In no case shall wood chips, mulch, or similar covering be acceptable on sloping ground in lieu of vegetation.
18. Upon completion of construction and grading, all disturbed areas located outside resource areas shall be stabilized permanently against erosion. This shall be done either by sodding, or by loaming, seeding, and mulching according to Soil Conservation Service standards. If the latter course is chosen, stabilization will be complete when the surface shows complete vegetative cover.
19. Unless otherwise stipulated herein, all work within a resource area, or the 100ft. buffer zone, shall cease on October 15th of any given year, and the site shall be stabilized either with winter rye, mulch hay or other suitable material by November 1st. No work in the above stated areas should recommence until April 15th, of the following year.
20. Before hay bales or silt fences are removed, after the area in question has been stabilized by revegetation or at the completion of a project, all accumulated silt behind the fences shall be carefully removed and placed sufficiently far from the wetland area that it cannot wash into the wetlands.
21. No earthen embankment in any buffer zone area shall have a slope steeper than 2:1.
22. Dust control, if required, shall be limited to water; no salts or other wetting agents shall be used.
23. No dirt stockpiles, construction materials, spoils of construction, or equipment shall be stored, placed or operated in a wetland resource area, unless specifically allowed by the Order of Conditions.
24. Fill stored within 100ft. of the wetland of the must have adequate erosion control measures surrounding it.
25. Only clean fill shall be used on this site, as indicated in General Condition #6.
26. No construction site bury holes shall be located within 100ft. of the wetland.

POLLUTION CONTROL

27. No on-site dumpster shall be located within 100ft. of the wetland.
28. During and after work on this project, there shall be no discharge or spillage of fuel, oil, construction debris, or other pollutants into any wetland resource area.

29. Petroleum products, toxic materials, and construction debris shall be disposed of off-site.
30. Since the underground storage of petroleum products cannot be effectively monitored for loss, and presents a hazard to ground water and wetland resources, such storage is prohibited. This condition shall be included with the Certificate of Compliance so as to run with the land.
31. Equipment must be washed prior to entering the work area to remove leaked petroleum products and avoid introduction of invasive plants.
32. To avoid leaks, equipment must be repaired prior to construction.
33. Applicant must be prepared to use petroleum absorbing "diapers" if necessary.
34. Refueling areas and hazardous material containment areas shall be located away from streams and other sensitive areas. All refueling areas shall be outside of the 100 foot buffer zone and the 200 Riverfront Areas.
35. Appropriate areas for washing concrete mixers must be established outside the 100 foot buffer zone of a wetland resource area and outside the Riverfront Area; in order to prevent concrete wash water from entering rivers and streams.
36. Temporary stockpiles must be covered or surrounded with erosion controls to prevent erosion into resource areas



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:

78-725

MassDEP File #

eDEP Transaction #

West Newbury

City/Town

D. Findings Under Municipal Wetlands Bylaw or Ordinance

1. Is a municipal wetlands bylaw or ordinance applicable? ☐ Yes ☒ No
2. The _____ hereby finds (check one that applies):
 Conservation Commission
 - a. ☐ that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw, specifically:

1. Municipal Ordinance or Bylaw	2. Citation
---------------------------------	-------------

Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order of Conditions is issued.
 - b. ☐ that the following additional conditions are necessary to comply with a municipal ordinance or bylaw:

1. Municipal Ordinance or Bylaw	2. Citation
---------------------------------	-------------
3. The Commission orders that all work shall be performed in accordance with the following conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, the conditions shall control.
 The special conditions relating to municipal ordinance or bylaw are as follows (if you need more space for additional conditions, attach a text document):



Massachusetts Department of Environmental Protection
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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.

6/30/21
1. Date of Issuance

four
2. Number of Signers

Signature *[Handwritten Signature]*

Signature *[Handwritten Signature]*

Signature *[Handwritten Signature]*

Signature *[Handwritten Signature]*

Signature

Signature

Signature

Signature

Printed Name *Katharine T. Feeley*

Printed Name *Thomas M. Atwood*

Printed Name *Margaret Hawkins*

Printed Name *Julie H. Mizner*

Printed Name

Printed Name

Printed Name

Printed Name

Printed Name

☒ by hand delivery on

7/1/2021

Date

☐ by certified mail, return receipt requested, on

Date



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

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F. Appeals

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land subject to this Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate MassDEP Regional Office to issue a Superseding Order of Conditions. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and a completed Request for Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

Any appellants seeking to appeal the Department's Superseding Order associated with this appeal will be required to demonstrate prior participation in the review of this project. Previous participation in the permit proceeding means the submission of written information to the Conservation Commission prior to the close of the public hearing, requesting a Superseding Order, or providing written information to the Department prior to issuance of a Superseding Order.

The request shall state clearly and concisely the objections to the Order which is being appealed and how the Order does not contribute to the protection of the interests identified in the Massachusetts Wetlands Protection Act (M.G.L. c. 131, § 40), and is inconsistent with the wetlands regulations (310 CMR 10.00). To the extent that the Order is based on a municipal ordinance or bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.



Massachusetts Department of Environmental Protection
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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.

Merrimac

Conservation Commission

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

To:

West Newbury

Conservation Commission

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

Middle St (Lot, A")

Project Location

45-725

MassDEP File Number

Has been recorded at the Registry of Deeds of:

Essex

County

Book

Page

for: John Gorman
 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:

6/30/2021

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