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:
#33-1600
MassDEP File #

eDEP Transaction #

Haverhill
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: Haverhill
Conservation Commission

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

3. To: Applicant:

Francis
a. First Name

Bevilaqua
b. Last Name

Bevi Builds II, LLC
c. Organization

143 Essex St Unit 217
d. Mailing Address

Haverhill
e. City/Town

MA
f. State

01832
g. Zip Code

4. Property Owner (if different from applicant):

a. First Name

b. Last Name

c. Organization

d. Mailing Address

e. City/Town

f. State

g. Zip Code

5. Project Location:

16 Margin St
a. Street Address

Haverhill
b. City/Town

505-248
c. Assessors Map/Plat Number

3
d. Parcel/Lot Number

Latitude and Longitude, if known: 42.76598
d. Latitude

-71.09482
e. Longitude

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A. General Information (cont.)

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

Southern Essex District
a. County

b. Certificate Number (if registered land)

43394
c. Book

448
d. Page

7. Dates: September 3, 2026 (a. Date Notice of Intent Filed) | September 17, 2026 (b. Date Public Hearing Closed) | October 7, 2026 (c. Date of Issuance)

8. Final Approved Plans and Other Documents (attach additional plan or document references as needed):
See Attachment "A", "Special Conditions", incorporated herein and made part of this Order of Conditions.

b. Prepared By

c. Signed and Stamped by

d. Final Revision Date

e. Scale

f. Additional Plan or Document Title

g. Date

B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act:

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

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

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

Approved subject to:

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

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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) — 35 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. ☐ Bank	a. linear feet	b. linear feet	c. linear feet	d. linear feet
5. ☐ Bordering Vegetated Wetland	a. square feet	b. square feet	c. square feet	d. square feet
6. ☐ Land Under Waterbodies and Waterways	a. square feet	b. square feet	c. square feet	d. square feet
	e. c/y dredged	f. c/y dredged		
7. ☐ 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. ☐ 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. ☒ Riverfront Area	13,000 +/- a. total sq. feet	13,000 b. total sq. feet	Previously Developed R. A.	
Sq ft within 100 ft	3,000 +/- c. square feet	3,000 d. square feet	3,000 e. square feet	3,000 f. square feet
Sq ft between 100-200 ft	10,000 +/- g. square feet	10,000 h. square feet	10,000 i. square feet	10,000 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. ☐ Designated Port Areas	Indicate size under Land Under the Ocean, below			
11. ☐ Land Under the Ocean	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
12. ☐ Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. ☐ Coastal Beaches	a. square feet	b. square feet	c. nourishment (cu yd)	d. nourishment (cu yd)
14. ☐ Coastal Dunes	a. square feet	b. square feet	c. nourishment (cu yd)	d. nourishment (cu yd)
15. ☐ Coastal Banks	a. linear feet	b. linear feet		
16. ☐ Rocky Intertidal Shores	a. square feet	b. square feet		
17. ☐ Salt Marshes	a. square feet	b. square feet	c. square feet	d. square feet
18. ☐ Land Under Salt Ponds	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
19. ☐ Land Containing Shellfish	a. square feet	b. square feet	c. square feet	d. square feet
20. ☐ 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. ☐ Land Subject to Coastal Storm Flowage	a. square feet	b. square feet		
22. ☐ Riverfront Area	a. total sq. feet	b. total sq. feet		
Sq ft within 100 ft	c. square feet	d. square feet	e. square feet	f. square feet
Sq ft between 100-200 ft	g. square feet	h. square feet	i. square feet	j. square feet

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B. Findings (cont.)

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

23. ☐ Restoration/Enhancement *:

a. square feet of BVW | b. square feet of salt marsh

24. ☐ Stream Crossing(s):

a. number of new stream crossings | b. number of replacement stream crossings

C. General Conditions Under Massachusetts Wetlands Protection Act

The following conditions are only applicable to Approved projects.

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
   a. The work is a maintenance dredging project as provided for in the Act; or
   b. The time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
   c. If the work is for a Test Project, this Order of Conditions shall be valid for no more than one year.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order. An Order of Conditions for a Test Project may be extended for one additional year only upon written application by the applicant, subject to the provisions of 310 CMR 10.05(11)(f).
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not extend the issuance date of the original Final Order of Conditions and the Order will expire on October 7, 2029, 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 then two square feet or more than three square feet in size bearing the words,

    "Massachusetts Department of Environmental Protection" [or, "MassDEP"]

    "File Number #33-1600 "

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.

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

g) The responsible party shall:
1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location);
2. Make the maintenance log available to MassDEP and the Conservation Commission ("Commission") upon request; and
3. Allow members and agents of the MassDEP and the Commission to enter and inspect the site to evaluate and ensure that the responsible party is in compliance with the requirements for each BMP established in the O&M Plan approved by the issuing authority.

h) All sediment or other contaminants removed from stormwater BMPs shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.

i) Illicit discharges to the stormwater management system as defined in 310 CMR 10.04 are prohibited.

j) The stormwater management system approved in the Order of Conditions shall not be changed without the prior written approval of the issuing authority.

k) Areas designated as qualifying pervious areas for the purpose of the Low Impact Site Design Credit (as defined in the MassDEP Stormwater Handbook, Volume 3, Chapter 1, Low Impact Development Site Design Credits) shall not be altered without the prior written approval of the issuing authority.

l) Access for maintenance, repair, and/or replacement of BMPs shall not be withheld. Any fencing constructed around stormwater BMPs shall include access gates and shall be at least six inches above grade to allow for wildlife passage.

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

See Attachment "A", "Special Conditions", incorporated herein and made part of this Order of Conditions.

20. For Test Projects subject to 310 CMR 10.05(11), the applicant shall also implement the monitoring plan and the restoration plan submitted with the Notice of Intent. If the conservation commission or Department determines that the Test Project threatens the public health, safety or the environment, the applicant shall implement the removal plan submitted with the Notice of Intent or modify the project as directed by the conservation commission or the Department.

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D. Findings Under Municipal Wetlands Bylaw or Ordinance

1. Is a municipal wetlands bylaw or ordinance applicable? ☒ Yes ☐ No

2. The Haverhill 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:

   An Ordinance to Protect the Wetlands, Related Water Resources and Adjoining Land Areas (1. Municipal Ordinance or Bylaw) Chapter 253 (2. Citation)

3. The Commission orders that all work shall be performed in accordance with the following conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, the conditions shall control.

   The special conditions relating to municipal ordinance or bylaw are as follows (if you need more space for additional conditions, attach a text document):

   See Attachment "A", "Special Conditions", incorporated herein and made part of this Order of Conditions.

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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.

October 7, 2026
1. Date of Issuance

Please indicate the number of members who will sign this form.
This Order must be signed by a majority of the Conservation Commission.

6
2. Number of Signers

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

Pursuant to the vote taken by the Conservation Commission on May 7, 2020, the following signatures are made in accordance with M.G.L. c.110G and pursuant to said Commission's electronic signature authorization vote recorded on May 21, 2020, with the Southern Essex District Registry of Deeds in Book 38538, Page 455.

Signature	Printed Name
/Oliver Aguilo/	Oliver Aguilo
/Evan Barman/	Evan Barman
/Ted Becker/	Ted Becker
/Amy Nelson/	Amy Nelson
/Harmony Wilson/	Harmony Wilson
/Thomas Wylie/	Thomas Wylie

☐ by hand delivery on

Date

☒ by certified mail, return receipt requested, on
October 7, 2026
Date

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F. Appeals

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

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

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

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G. Recording Information

Prior to commencement of work, this Order of Conditions must be recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land subject to the Order. In the case of registered land, this Order shall also be noted on the Land Court Certificate of Title of the owner of the land subject to the Order of Conditions. The recording information on this page shall be submitted to the Conservation Commission listed below.

Haverhill
Conservation Commission

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

To:
Haverhill
Conservation Commission

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

16 Margin St, Haverhill, MA 01832
Parcel ID 505-248-3 — Project Location

#33-1600 — MassDEP File Number

Has been recorded at the Registry of Deeds of:

Southern Essex District — 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

Haverhill
Conservation Department
Phone: 978-374-2334 Fax: 978-374-2366
conservation@haverhillma.gov

ATTACHMENT A: SPECIAL CONDITIONS

MassDEP FILE #33-1600

ISSUING AUTHORITY: Haverhill Conservation Commission ("HCC")

APPLICANT: Bevi Builds II, LLC, Francis Bevilaqua

PROJECT LOCATION: 16 Margin Street - Parcel ID: 505-248-3

PROJECT DESCRIPTION
The project consists of the demolition of an existing single-family house, shed, and above-ground pool, with the construction of a new three-unit townhome with driveway access off Margin Street, municipal sewer and water services, and other related utilities and appurtenances. The project is within the 200' Riverfront Area associated with the Merrimack River and the 100' Buffer Zone of its bank. The parcel also contains bordering land subject to flooding associated with the river; however, no work is proposed within this resource area. The project complies with the locally required 25'-No Disturbance and 50'-No Build Zones. The project includes the installation of subsurface infiltration chambers to facilitate the infiltration of roof runoff. The roof recharge system will be sized to recharge a minimum of a ½"-event from the building. Fencing and signage shall be installed along the rear of the new yard space to prevent future buffer zone and riverfront area encroachments.

RESOURCE AREA FINDINGS
The Haverhill Conservation Commission finds this site to contain, at a minimum, the following resource areas: bank, 100'-buffer zone, 200'-riverfront area, and bordering land subject to flooding, all associated with the Merrimack River.

EXPIRATION DATE
Unless extended, this Order of Conditions ("OOC") will expire October 7, 2029.

PLANS AND DOCUMENTS
Work on this project site shall be performed according to the following listed plans and documents on file with the HCC. Should any conflicts be found to exist between these plans and documents and the conditions of this OOC, the HCC shall be contacted for clarification.

a) "Plans to Accompany Notice of Intent" (3 Sheets), site plan prepared by GA Consultants, Inc. (10 State Street, Newburyport, MA 01950), and dated June 9, 2026 (Sheet 1), September 3, 2026 (Sheet 2), and August 25, 2026 (Sheet 3).

Pursuant to the Massachusetts Wetlands Protection Act (M.G.L. Chapter 131, Section 40), its Regulations (310 CMR 10.00), and Haverhill City Code Chapter 253 ("An Ordinance to Protect the Wetlands, Related Water Resources and Adjoining Land Areas"), the Commission orders that all work shall be performed in accordance with the following additional, special conditions:

GENERAL CONSTRUCTION

21. The HCC may designate one or more Conservation Department Officials as its agent ("HCC Official"), with full powers to act on its behalf in administering and enforcing this OOC.

22. Work on this project shall be performed in accordance with Haverhill Municipal Ordinances Chapter 253 – "An Ordinance to Protect the Wetlands, Related Water Resources, and Adjoining Land Areas".

23. In accordance with Haverhill Municipal Ordinance Chapter 253, there shall be no activities allowed within 25' of the delineated wetland resource areas and no building construction within 50' of these same areas, except as shown on the approved plans referenced above.

24. All wetland resource areas shall be visibly flagged and/or staked every 25 feet along the resource area boundaries to ensure that no intrusion into these areas occurs. Flagging and staking used to identify wetland resource areas shall be of a color different from any others used on the site and shall be maintained until the work is complete.

25. The rows of erosion control devices, as shown on the site plan, shall also act as a limit of site activity.

26. The MassDEP File Number sign shall not be attached to a live tree.

27. Any changes proposed under this OOC might require the Applicant to file a "Request to Amend a Final Order of Conditions" with the HCC.

28. During the life of this Order, should any modifications to the wetland delineations be found to be necessary by the HCC, the applicant shall submit a modified plan reflecting these modifications.

29. While all activities regulated by this Order are being performed and during the construction phase of this project, an on-site foreman, directing engineer, or designated construction manager, shall have a copy of this permit and its associated plans and documents at the site, familiarize him or herself with the conditions of this permit, and adhere to such conditions. This OOC shall be made part of all construction-related documents for this project. All contractors working at the site shall be made aware of the provisions contained within this OOC and adhere to them.

CONSTRUCTION SEQUENCING

30. A minimum of two (2) business days in advance, the Applicant shall provide the HCC with written notification of the commencement of work on site. At this time, the Applicant shall also supply the HCC with a list of names, addresses, and emergency phone numbers (including evenings and weekends) for those parties responsible for compliance with this OOC on the site, including the Pollution Prevention and Erosion and Sedimentation Control ("PPESC") Monitor.

31. Prior to the commencement of work on this site, the Applicant shall schedule a pre-construction meeting with the site contractor, the Applicant's engineers/consultants, the EM, the PPESC Monitor, and the HCC. The purpose of the meeting is to review this OOC and resolve any outstanding issues at that time.

32. **Prior to the commencement of work, the Applicant shall submit to the HCC a <u>revised plan</u>:**
    a) **reflecting Elevation 6' as the top of bank/mean high water elevation. The plan shall include revised Inner Riparian and Outer Riparian Zone boundaries accordingly. The plan shall also reflect revised limits of disturbance areas and total areas for each of these three 100' Zones**
    b) **proposing the planting of one replacement tree for each tree removed along the western sideline as part of project construction. Tree plantings must be of a minimum caliper size of 2" DBH and of species native to northeastern Massachusetts. Trees may be planted throughout the lot area to ensure sufficient space for mature growth.**
    c) **proposing the planting of a minimum of three trees along the front of the lot, consisting of native Massachusetts species with a minimum 4" caliper measured four feet from ground level to comply with City Code C. 255, s. 6.3.3.3.a.**
    d) **locating the installation of erosion and sediment controls. The plan shall identify the locations and types of controls to be used on site during construction to address City Code C. 255, s. 6.3.4.e and s. 6.3.5. At a minimum, entrenched siltation fencing shall be installed along the side property lines, the rear post-and-rail fence line, and along the front property line, except for the location of the stone construction entrance already detailed on the plan set referenced under this Order. No vegetation removal nor soil disturbance shall occur beyond this fencing except for any invasive plant species management pre-approved by an HCC Official and the final construction of the individual driveway access points.**
    e) **demonstrating driveways shall not be graded to sheet runoff into the roadway. Final paving of the driveways shall be graded in such a manner as to sheet flow across the proposed "grassed area" sections to encourage infiltration and reduce impacts on the roadway drainage system.**

33. Prior to the installation of the townhouse foundation, the Applicant's engineer shall conduct soil test pit evaluations to ensure the cellar floor elevation is set above the estimated seasonal high groundwater elevation. The groundwater elevation and the cellar floor elevation shall be identified on the as-built plans required under this OOC.

34. Prior to the issuance of a building ("framing") permit for the townhouse, the Applicant shall provide the HCC with an interim as-built plan showing the installed foundation, limit of work, and resource area locations, all as they pertain to the subject property. This plan shall be drawn up at a scale equal to that of the approved site plan and shall demonstrate compliance with the approved limits of activities. A MA-registered Land Surveyor or Professional Engineer shall stamp this plan. This plan shall be subject to the review and approval of the HCC.

35. Prior to the issuance of an occupancy permit, the Applicant shall effectively stabilize the site to the approval of the HCC. All manmade debris must be removed from the site at this time.

36. **The Applicant shall establish a Condominium Owners Association which shall be responsible for the long-term implementation and maintenance of the roof runoff recharge system and the protective post-and-rail signage and fencing required under this Order. The Applicant shall provide a draft Association agreement indicating these responsibilities to the HCC for review. Prior to the issuance any occupancy permits for this project, the Applicant shall provide the HCC with a copy of the recorded, final agreement.**

37. Prior to the issuance of any occupancy permits for the townhouse, the Applicant shall provide the HCC with an as-built grading plan showing, at a minimum, the following information as it pertains to the subject

property. A MA-registered Professional Engineer shall stamp this plan. This plan shall be subject to the review and approval of the HCC.

a) Wetland resource areas subject to protection under this OOC and their approved delineations;
b) Limits of all Buffer Zones, including No-Disturbance and No-Build Zones, and fence demarcation;
c) Foundations and other structures;
d) Topography at 2' intervals and on North American Vertical Datum 1988, including the boundary for bordering land subject to flooding;
e) Existing limits of lawn/landscaped, forest, and meadow areas;
f) Roof runoff recharge systems with seasonal high groundwater elevations, foundation drains, and/or other project drainage features;
g) Utilities;
h) Date(s) of survey fieldwork; and
i) A statement by the Professional Engineer certifying compliance with the approved plans and conditions of this OOC and setting forth deviations from same, if any exist.

38. Prior to the issuance of any occupancy permits for the townhouse, the Applicant shall provide the HCC with affidavits, signed by the Homebuyers, and notarized by a MA Notary Public, whereby the Buyers acknowledge:
    a) Receipt of a copy of the recorded OOC from the Applicant;
    b) Receipt of a copy of the approved site plan set;
    c) Receipt of a plot plan identifying the locations of wetland resource areas and existing structures on this land from the Applicant (i.e., the occupancy as-built noted above); and
    d) Understanding of his/her terms of and legal responsibilities for implementing these documents.

CONSTRUCTION PERIOD EROSION, SEDIMENTATION, AND POLLUTION PREVENTION

39. The Applicant, site contractor, and their assigns shall implement Construction Period Pollution Prevention and Erosion and Sedimentation Control ("PPESC") measures from the commencement of work until the site is fully and permanently stabilized and the temporary erosion and sedimentation controls are removed, upon HCC approval.

40. The Best Management Practices used during construction must be different from the Best Management Practices that will be used to handle stormwater after construction is completed and the site is stabilized. Many stormwater technologies (particularly infiltration technologies) are not designed to handle the high concentrations of sediments typically found in construction runoff, and thus must be protected from construction-related sediment loadings.

41. The Applicant shall designate a PPESC Monitor for the site. This Monitor shall be a professional with experience in PPESC practices. This Monitor shall inspect PPESC devices daily for proper function and maintenance, including the proper disposal of waste products. This Monitor shall immediately arrange for the maintenance, replacement, augmentation, emergency placement, and any other corrective action of PPESC devices on site. Areas of construction shall remain in a stable condition at the end of each day. The Applicant shall give this Monitor authority to stop construction for PPESC purposes.

42. All vegetation cutting associated with the construction of this project shall be subject to the prior review and approval of the HCC. Prior to the commencement of work, the Applicant's surveyor shall stake out, flag, or mark by other appropriate means, the locations of the approved limits of cutting and the locations of the proposed PPESC devices for inspection by the site contractor, EM, PPESC Monitor, and the HCC. The commencement of vegetation cutting work shall be contingent upon the approval of the HCC at that time.

43. Prior to the commencement of work, the Applicant shall install the initial PPESC devices. The Applicant shall schedule an inspection of the installed devices by the site contractor, EM, PPESC Monitor, and the HCC. Should any of these devices be considered insufficient, the PPESC Monitor shall immediately propose augmentation or other corrective measures to address areas of concern. The continuation of on-site work shall be contingent upon HCC approval of the devices at that time.

44. An adequate stockpile of PPESC materials shall always be on site for emergency or routine replacement and shall include materials to repair silt fences, straw bales, stone riprap, filter dikes or any other devices planned for use during construction.

45. PPESC devices may be modified based on experience at the site. Approval of the HCC must be obtained prior to any non-emergency modification of the approved PPESC measures.

46. The HCC 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.

47. The locations of long term (greater than 30 days) stockpiles and the locations and construction methods of temporary construction entrances, if not addressed in the Construction Period PPESC Plan, shall receive the prior approval of the PPESC monitor and the HCC.

48. During all phases of construction, all disturbed or exposed soil surfaces shall be brought to final finished grade and either a) covered with loam and seeded in accordance with the Massachusetts Erosion and Sediment Control Guidelines for Urban and Suburban Areas (or equivalent document) for permanent stabilization or b) stabilized in another way approved by the HCC. Bare ground that cannot be permanently stabilized within 30 days shall be stabilized with mulch or any other protective covering and/or method approved by the USDA Soil Conservation Service.

49. Graded slopes shall not exceed a slope ratio of 2:1, unless approved by the City Engineer and HCC.

50. Upon completion of the project all disturbed areas shall be permanently stabilized with rapidly growing vegetative cover with enough topsoil to assure long term stabilization of disturbed areas. After seeding, disturbed areas shall be covered with straw mulch, netting, or other protective covering to provide a suitable surface cover until seed germination.

51. All dewatering activities shall be controlled by implementing Best Management Practices. Dewatered fluids shall be prevented from flowing directly into resource areas. Discharge structures, such as temporary sediment basins or other Best Management Practices shall be configured to maximize sediment removal. If discharge towards resource areas cannot be avoided, it shall be via a maximized distance of overland upland sheet flow unless the HCC approves an alternative in advance. The PPESC Monitor shall review and approve all dewatering methods prior to implementation.

52. Topsoil, other soils, stumps, slash, timber, construction materials, debris, or other waste products shall not be deposited, stored, or otherwise accumulated within 100’ of a wetland resource area or within land subject to flooding, unless approved in advance by the HCC.

53. Covered dumpsters shall be maintained on site for appropriate materials. The Applicant shall conduct routine litter pick-ups throughout construction to prevent trash and loose, man-made debris from entering the resource areas and buffer zones.

54. All pumps, drilling machines, and their surrounding areas, whether used for dewatering or other purposes, shall be properly contained to limit the potential for environmental impacts due to fuel leakage, pump leakage, or other failures.

55. Refueling of equipment shall not be done within 100' of a wetland resource area. Fuel, oil, or other potential pollutants shall not be stored within 100' of a wetland resource area.

56. Equipment shall not be stored overnight within 100' of a wetland resource area.

57. Any spills of hazardous materials, including but not limited to diesel fuel and hydraulic oil, shall be appropriately and promptly cleaned up. The Applicant shall notify Federal, Commonwealth, and/or Local agencies of such spills as may be applicable by law. The Applicant or PPESC Monitor shall notify the HCC, within one hour, of any spills within wetland resource areas or buffer zones. Onsite emergency spill kits shall always be available.

58. The Applicant shall ensure a hazardous materials spill containment kit is always maintained on site throughout construction. The kit shall be appropriately sized for the cumulative volumetric capacity of hazardous fluids contained by equipment on site at any one time.

STORMWATER

59. All roof runoff shall be collected from the proposed building and directed to the roof runoff recharge system to provide groundwater recharge. The Applicant's engineer shall design the system to recharge the ½" rain event and the system shall be equipped with overflows for protection during periods of heavy rainfall. The system used shall meet the design criteria outlined in the DEP/MCZM Stormwater Technical Handbook. Prior to the installation of the proposed roof runoff recharge system, the Applicant's engineer shall ensure there is a minimum of a 2' separation between the seasonal high groundwater elevation and the bottom of the proposed systems. Should insufficient groundwater separation or poor soil infiltration conditions be found, the Applicant shall submit a revised roof runoff recharge system design.

60. The final locations and discharge points of all proposed perimeter, under, trench, and/or curtain drains shall be subject to the approval of the HCC. The Applicant shall make every effort to apply such drains in a manner that shall mimic pre-construction groundwater flow patterns.

61. The driveway shall be graded in a manner that allows runoff to flow off the north sides of the driveways to encourage infiltration prior to reaching the roadway. The driveways shall not be graded to run their lengths and discharge into the road or onto abutting properties.

OTHER CONDITIONS

62. If any unforeseen problem occurs during construction, which affects any of the eight statutory interests of the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, upon discovery, the Applicant shall notify the HCC and an immediate meeting shall be held between the Commission, the Applicant, the engineer, contractor, and other concerned parties to determine the corrective measures to be employed. The Applicant shall then act to correct the problems using the corrective measures agreed upon.

63. Upon completion of the project, the Applicant shall request a Certificate of Compliance from the Commission and shall submit the following information with the request in both paper form and in an electronic form found acceptable to an HCC Official:

a) A written statement by a professional engineer registered in the Commonwealth of Massachusetts certifying compliance with the approved plans referenced above and this OOC and setting forth deviations, if any exist.
b) An as-built site plan prepared by a registered land surveyor or registered professional engineer showing grades, utilities, drainage systems, building footprint and detailed landscaping (i.e., all wetland resource areas, limits of work, etc.). These plans shall include the date(s) of fieldwork and shall be prepared in accordance with the "Plot Plan Standards" of the HCC Policy - P2000-02 "Occupancy Permit Checklist Endorsement".

ONGOING CONDITIONS

Certain conditions are ongoing and do not expire upon the completion of the project or the issuance of a Certificate of Compliance. These conditions shall remain in effect after the issuance of a Certificate of Compliance for the project and shall be referenced in the chain of title for the property. These conditions are:

64. The Condominium Owners Association ("COA") shall ensure that a record of at least one copy of all the plans and documents referenced in this Order of Conditions, the subsequent Certificate of Compliance, all Modifications to the Order and their relevant revised plans and/or documents is always maintained. This information shall be made available for use by the Association in its implementation of the activities discussed within and by the Haverhill Conservation Commission ("HCC") during any inspections that may be necessary.

65. **The COA shall be responsible for the maintenance and repair of the roof runoff recharge system. The COA shall operate and maintain the system in accordance with the design plans and the maintenance criteria outlined in the Stormwater Technical Handbook, prepared by the MassDEP and Office of Coastal Zone Management.**

66. The COA shall maintain the permanent stability of this site to prevent the erosion of materials into the wetland resource areas.

67. **Prior to the issuance of any occupancy permit for the townhouse**, the Applicant shall install post-and-rail style fencing with signage at 50'-intervals along the limit shown as "P/R" on the approved plan to prevent encroachment into and protect the site's wetland resource areas and buffer zone. Signage shall identify the area beyond their bounds as "Protected Resource Area". The Property Owners shall maintain all fencing and signage to ensure their continued functions.

68. The City of Haverhill reserves the right to schedule an annual inspection with the COA as part of an operation and maintenance program to inspect the roof runoff recharge system and fencing for proper function and maintenance.

69. The HCC reserves the right to enforce all restrictions and/or requirements established for this property within this OOC under the enforcement powers of the City's wetlands protection ordinance, Municipal Ordinance Chapter 253.

70. When de-icing is proposed, alternative compounds such as calcium chloride ($CaCl_2$) and calcium magnesium acetate (CMA) shall be considered for use.

71. Pesticides, herbicides, and fungicides shall not be used within 100' of any wetland resource area for the purpose of lawn maintenance.

72. Fertilizers utilized for landscaping and lawn care within this property shall be slow-release, low-nitrogen, organic-based types and shall not be used within 35' of any wetland resource area.

73. No future land disturbance, except for hazard tree removal and routine property maintenance, shall occur within 100' of the delineated resource areas without prior consultation with the Haverhill Conservation Department.

74. **The COA shall follow good housekeeping practices, such as regular collection of litter and proper storage and disposal of garbage and household hazardous wastes, such as lawn fertilizers and automotive fluids, to prevent debris from entering the Merrimack River.**

75. All exterior lighting associated with this project shall be directed away from the wetland resource areas.

76. There shall be no unprotected storage of deleterious or hazardous materials (such as auto parts, debris, oil drums, batteries, car washing fluid, etc.) allowed on site.

77. The Commission finds that the 100'-Inner Riparian Zone on this site contains a population of Massachusetts-listed invasive plant species, including but not limited to Japanese knotweed, Tree of Heaven, and Asiatic bittersweet. Should the property owners desire to eradicate any of these species from this site, the owner shall submit a site-specific eradication plan to the Conservation Department for review. If deemed appropriate by Conservation Department staff, the owner may implement the plan in an effort to eradicate these species from this site.

--- END ---

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

A. Request Information

1. Location of Project

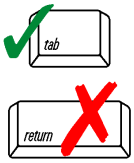
a. Street Address

b. City/Town, Zip

c. Check number

d. Fee amount

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



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

Name

Mailing Address

City/Town

State

Zip Code

Phone Number

Fax Number (if applicable)

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

Name

Mailing Address

City/Town

State

Zip Code

Phone Number

Fax Number (if applicable)

4. DEP File Number:

B. Instructions

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

☐ Superseding Order of Conditions – Fee: $120.00 (single family house projects) or $245 (all other projects)

☐ Superseding Determination of Applicability – Fee: $120

☐ Superseding Order of Resource Area Delineation – Fee: $120

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 https://www.mass.gov/service-details/massdep-regional-offices-by-community).

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.