



Ruthanne Fuller  
Mayor

City of Newton, Massachusetts  
Department of Planning and Development  
1000 Commonwealth Avenue Newton, Massachusetts 02459

**#191-22**  
Telephone  
(617) 796-1120  
Telefax  
(617) 796-1142  
TDD/TTY  
(617) 796-1089  
www.newtonma.gov

Barney S. Heath  
Director

March 11, 2022

Atish Choudhury / Roli Kumar-Choudhury  
52 Oldham Road, Newton, MA 02465  
860-966-3570 [roli\\_kumar@hotmail.com](mailto:roli_kumar@hotmail.com)

RE: Order of Conditions and Certificate of Understanding  
Site: 52 Oldham Road  
DEP file: #239-915

Dear Atish Choudhury and Roli Kumar-Choudhury:

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

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

- You have read and understand the enclosed Order of Conditions (especially Newton's Findings and Special Conditions). It is the responsibility of the owner/applicant to ensure that all conditions and approved plans are complied with. Deviation from the approved plans or conditions may result in a stop work order or further enforcement.
- The owner has signed and returned to me the attached Certificate of Understanding.
- You have waited until all Appeal Periods have lapsed. Whether a permit is approved or denied, any abutter, the applicant, or a 10-citizen group has 10 business days to appeal to the state Department of Environmental Protection.
- You have recorded the original Order and Newton's Special Conditions at the Middlesex South Registry of Deeds and have forwarded proof of recording to the Conservation Commission and to the Building Department. The Order is not valid until it is recorded.
- You have held the required pre-construction site visit.
- Special conditions include, but are not limited to:
  21. Limit of Work: The sediment control line shall be the limit of construction and laydown. Only the hand installation of native plantings may occur outside the limit of work.
  22. Concrete washout shall occur in the front of the house as shown on the approved plan, shall not occur in any wetland resource area, and shall not be discharged to any City storm drain.
  23. Soil from the holes dug for the new native plants near the stream shall be removed from the City flood plain.
  24. Landscape plantings within Commission jurisdiction must:
    - Be installed in compliance with the approved plans (desired changes must be approved by the Conservation office in advance),
    - Stabilize all exposed areas,
    - Have a survival rate of 80% of total number of shrubs (after 2 growing seasons), and
    - Have 75% aerial coverage of the bounded mitigation area (after 2 growing seasons).
  25. If any trees within the wetland or buffer within the project area die within 2 years of the start of construction or have been demonstrably harmed by construction activities, they shall be replaced at a ratio of 2:1 with native canopy saplings (of roughly 2 caliper inches). Plywood should be considered for root protection for the arborvitae near the access path along the side of the house.
  26. The stormwater infiltration system must be installed as per the approved plans and the existing outfall will be tied into the new system.
  - 27d. The request for a Certificate of Compliance must include an as-built plan and letter from a landscaper certifying compliance with the approved planting scheme.
  31. The infiltration system of clean stone must be maintained as open/exposed stone and must be kept fully functional.

**Upon completion of the project, you must do the following.**

- Submit a "Request for a Certificate of Compliance" (state WPA Form 8a).
- Submit a letter from an engineer stating that the project was completed in substantial compliance with the order and plans.
- Submit an engineer-stamped and signed "civil as-built plan."
- Submit a landscaper signed "landscape as-built plan."

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

For the Commission,

*Jennifer Steel*

Jennifer Steel, Chief Environmental Planner

Enclosures: *Order of Conditions*

*Certificate of Understanding*

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

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

Street Address: \_\_\_\_\_

DEP File # \_\_\_\_\_

Owner: \_\_\_\_\_

OOC Issue Date: \_\_\_\_\_

I, \_\_\_\_\_, one of the owners of \_\_\_\_\_, Newton, Massachusetts, do hereby acknowledge and understand that:

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

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

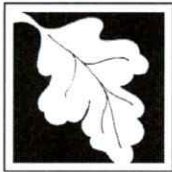
\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Date)

**Please complete this form and return it to:**

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



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

Provided by MassDEP:  
239-915  
MassDEP File #  
eDEP Transaction #  
Newton  
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: Newton  
Conservation Commission

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

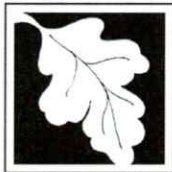
3. To: Applicant:  
Atish / Roli      Choudhury / Kumar-Choudhury  
a. First Name      b. Last Name

c. Organization  
52 Oldham Road  
d. Mailing Address  
Newton      MA      02465  
e. City/Town      f. State      g. Zip Code

4. Property Owner (if different from applicant):  
Atish / Roli      Choudhury / Kumar-Choudhury  
a. First Name      b. Last Name

c. Organization  
52 Oldham Road  
d. Mailing Address  
Newton      MA      02465  
e. City/Town      f. State      g. Zip Code

5. Project Location:  
52 Oldham Road      Newton  
a. Street Address      b. City/Town  
32 024      0043  
c. Assessors Map/Plat Number      d. Parcel/Lot Number  
Latitude and Longitude, if known:      d      m      s      d      m      s  
d. Latitude      e. Longitude



Massachusetts Department of Environmental Protection  
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**A. General Information (cont.)**

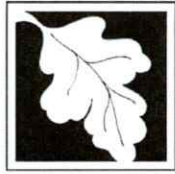
6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):
- |                 |  |
|-----------------|--|
| Middlesex South | 261962                                     |
| a. County       | b. Certificate Number (if registered land) |
| 1488            | 50   |
| c. Book         | d. Page                                    |
7. Dates:      2/16/2022                      3/10/2022                      3/11/2022  
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):  
"Topographic Site Plan Newton, MA, Proposed Conditions at #52 Oldham Road", VTP Assoc
- |   |                          |
|---|--------------------------|
| Joe Porter  | Joe Porter               |
| b. Prepared By  | c. Signed and Stamped by |
| <u>2/10/2022</u>  | <u>1"=10'</u>            |
| d. Final Revision Date  | e. Scale                 |
| "Planting Schematic for Enhancement Planting Area, 52 Oldham Road, Newton", by EcoTec | <u>2/23/2022</u>         |
|   | 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. <input checked="" type="checkbox"/> Public Water Supply  | b. <input type="checkbox"/> Land Containing Shellfish          | c. <input checked="" type="checkbox"/> Prevention of Pollution        |
| d. <input checked="" type="checkbox"/> Private Water Supply | e. <input checked="" type="checkbox"/> Fisheries               | f. <input checked="" type="checkbox"/> Protection of Wildlife Habitat |
| g. <input checked="" type="checkbox"/> Groundwater Supply   | h. <input checked="" type="checkbox"/> Storm Damage Prevention | i. <input checked="" type="checkbox"/> Flood Control                  |
2. This Commission hereby finds the project, as proposed, is: (check one of the following boxes)

**Approved** subject to:

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



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 Bureau of Resource Protection - Wetlands  
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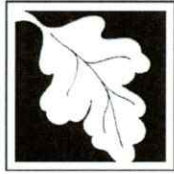
**B. Findings (cont.)**

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) 25  
 a. linear feet

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

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



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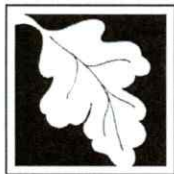
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**B. Findings (cont.)**

**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. nourishment cu yd	_____ d. nourishment cu yd
14. <input type="checkbox"/> Coastal Dunes	_____ a. square feet	_____ b. square feet	_____ c. nourishment cu yd	_____ d. nourishment cu yd
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 \*:
  - 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 3/11/2025 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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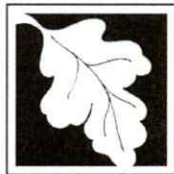
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**C. General Conditions Under Massachusetts Wetlands Protection Act**

- 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            239-915            "
- 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 "Findings and Special Conditions of the Newton Conservation Commission" pages 10-A et seq.**

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



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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 Newton 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:  
City Floodplain Ordinance 22-22  
1. Municipal Ordinance or Bylaw 2. Citation

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

- b.  that the following additional conditions are necessary to comply with a municipal ordinance or bylaw:  
City Floodplain Ordinance 22-22  
1. Municipal Ordinance or Bylaw 2. Citation

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

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

Findings and Special Conditions of the Newton Conservation Commission  
DEP #239-915, 52 Oldham Rd, two story addition and retaining wall

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

Site: 52 Oldham Road  
Owner: Atish Choudhury / Roli Kumar-Choudhury  
52 Oldham Road, Newton, MA 02465  
860-966-3570 [roli\\_kumar@hotmail.com](mailto:roli_kumar@hotmail.com)  
Applicant: Atish Choudhury / Roli Kumar-Choudhury  
52 Oldham Road, Newton, MA 02465  
860-966-3570 [roli\\_kumar@hotmail.com](mailto:roli_kumar@hotmail.com)  
Representative John P. Rockwood, Ph.D., SPWS EcoTec, Inc.  
102 Grove Street, Worcester, MA 01605  
508-752-9666 x 3 [jrockwood@ecotecinc.com](mailto:jrockwood@ecotecinc.com)

Date of Issuance: March 11, 2022

Existing Conditions: Single family home in Buffer Zone

Approved Project Purpose: Addition to single family home and new patio

Approved Project Summary:

- Remove existing rear patio; partial house demo; construct a 2-story addition on a slab foundation; infill adjacent first floor patio; construct a new patio with steps, supported by a proposed retaining wall, install a 279 sf (~5'x60') bounded enhancement planting area along stream bank with 22 native shrubs and 140 native forbs.

Final Approved Plans

- "Topographic Site Plan Newton, MA, Showing Existing Conditions at #52 Oldham Road", by VTP Associates, stamped by Joe Porter, scale 1"=10', dated July 1, 2021, revised Feb 10, 2022
- "Topographic Site Plan Newton, MA, Showing Proposed Conditions at #52 Oldham Road", by VTP Associates, stamped by Joe Porter, scale 1"=10', dated July 1, 2021, dated Feb 10, 2022
- "Planting Schematic for Enhancement Planting Area, 52 Oldham Road, Newton", by EcoTec, Feb 23, 2022

Plan Revisions

- Any required or desired deviations from this plan shall be requested in writing of the Commission Office. Relatively minor changes which result in the same or decreased impact on the interests protected by the Act may be considered by the Conservation Commission for an amended Order of Conditions. If, however, the project purpose or scope changes substantially or the interests of the Wetlands Protection Act are not protected, the Conservation Commission will require the filing of a new Notice of Intent.
- When plans are updated it is the responsibility of the applicant to provide all City Departments involved in the permitting and approval process complete and consistent plans.
- The Newton Conservation Commission retains the right to require the submittal of additional information or impose additional conditions deemed necessary to ensure the protection of wetland resource areas.

Jurisdiction

- Buffer Zone: 301 CMR 10.53(1)
- City Floodplain: Sec. 22-22

Reasons for Approval (Impact Analysis)

- Buffer Zone: Overall impervious area in the Buffer Zone is being maintained. Lawn is being eliminated right along the bank of Cheese Cake Brook and a narrow strip of native vegetation is being established.
- Protective measures include: tight erosion controls and limit of work boundaries.

Conclusion: The site is extensively developed already. The majority of the approved construction is within prior developed buffer zone. Stream health will be enhanced by the plantings, and exterior lighting is being limited.

Limit of Work: The sediment control line shall be the limit of construction and laydown. Only the hand installation of native plantings may occur outside the limit of work.

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

Findings and Special Conditions of the Newton Conservation Commission  
DEP #239-915, 52 Oldham Rd, two story addition and retaining wall

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**Newton's Standard Conditions Prior to the Start of Work**

21. To ensure broad understanding of this Order and good lines of communication, the applicant must:
  - a. Must provide a signed Certificate of Understanding.
  - b. Provide contact information for those responsible for compliance with the Order on site. An emergency telephone number must be provided in the event that action is required during non-working hours.
  - c. Provide the anticipated timeline.
  - d. Review all conditions with all contractors and workers involved in on-site operations prior to the commencement of construction on this project. Any contractors and workers arriving after construction commences must also be apprised of these conditions. The project supervisor overseeing daily operations at the site must read this Order.
  - e. Include this document in all contracts, subcontracts, and specifications associated with the proposed work and shall supersede any conflicting contract requirements. The Applicant shall ensure that all contractors, subcontractors and personnel performing the permitted work are aware of the permit's terms and conditions. Thereafter, the contractor will be held jointly liable for any violation of this Order. Nothing in this paragraph shall limit or restrict the liability of the Applicant for violations of this Order.
22. The applicant must schedule and attend a pre-construction site visit with the applicant, construction supervisor and Conservation agent, to review:
  - a. Proof of Recording the Order and the Operations and Maintenance Plan appended hereto
  - b. A signed Certificate of Understanding
  - c. Contact information for those responsible for construction, sediment controls, and landscaping
  - d. Anticipated timeline
  - e. DEP File number sign (minimum size 2'x2', clearly visible from the street)
  - f. Sedimentation/erosion controls (properly installed in the correct locations)
  - g. Protection of all trees and shrubs as shown within the limit of work, and as necessary outside the limit of work, with orange snow fence installed at the dripline, plywood sheeting over the roots, and boards tied to the trunk.
23. Notice shall be given to the Conservation Commission at least two business days prior to the start of work.

**Newton's Standard Conditions During Work**

24. A copy of the approved plans and Order of Conditions shall be on-site and available at all times. All contractors must adhere to the approved plan and conditions. Should any damage occur during the project, the applicant or any successor shall be responsible for the full cost of restoration of the wetland to the satisfaction of the Commission.
25. Erosion controls must be inspected and properly maintained during construction until the site is stable. If a breach of the erosion control barriers occurs, the Newton Conservation Commission shall be notified, and measures shall be taken to remediate said breach. City streets shall be kept clean and catch basins in the immediate area shall be protected from eroding soils. An adequate supply of extra erosion control materials shall be stored on-site at all times for repair or replacement. Hay bales are prohibited without permission from the Commission. Erosion control barriers shall remain in place until written authorization for their removal has been received from the Newton Conservation Commission.
26. The Applicant must inform the Commission of any violation of this Order and any other project related spill or accident that may impact wetland resource areas as soon as possible and at least by the end of the business day, and must take appropriate action to mitigate impacts from such spill or accident.
27. "Good housekeeping practices" shall be implemented at all times, including:
  - a. appropriate limits to stormwater discharges
  - b. appropriate stockpile area management
  - c. appropriate limits to vehicle refueling, washing, etc.
  - d. appropriate litter management
  - e. appropriate controls for tire tracking
28. Work shall be immediately halted on the site if an Agent of the Commission or DEP determines that any of the work is not in compliance with this Order of Conditions or Special Conditions.

Findings and Special Conditions of the Newton Conservation Commission  
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**Newton's Site-Specific Conditions During Work**

29. Limit of Work: The sediment control line shall be the limit of construction and laydown. Only the hand installation of native plantings may occur outside the limit of work.
30. Concrete washout shall occur in the front of the house as shown on the approved plan, shall not occur in any wetland resource area, and shall not be discharged to any City storm drain.
31. Soil from the holes dug for the new native plants near the stream shall be removed from the City flood plain.
32. Landscape plantings within Commission jurisdiction must:
  - a. Be installed in compliance with the approved plans (desired changes must be approved by the Conservation office in advance) ,
  - b. Stabilize all exposed areas,
  - c. Have a survival rate of 80% of total number of shrubs (after 2 growing seasons), and
  - d. Have 75% aerial coverage of the bounded mitigation area (after 2 growing seasons).
33. If any trees within the wetland or buffer within the project area die within 2 years of the start of construction or have been demonstrably harmed by construction activities, they shall be replaced at a ratio of 2:1 with native canopy saplings (of roughly 2 caliper inches). Plywood should be considered for root protection for the arborvitae near the access path along the side of the house.
34. The stormwater infiltration system must be installed as per the approved plans and the existing outfall will be tied into the new system.

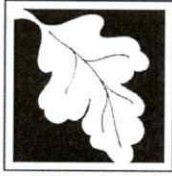
**Newton's Standard Conditions After Work has been Completed**

35. The applicant must apply for a Certificate of Compliance in accordance with DEP Condition #12, by submitting:
  - a. A completed "Request for Certificate of Compliance (WPA Form 8A)."
  - b. An as-built plan signed and stamped by a professional engineer or land surveyor registered in Massachusetts. This plan will include all structures, grading (topography), drainage, and landscape features and plantings.
  - c. A written statement from a Professional Engineer registered in Massachusetts certifying that the work has been completed in substantial compliance with this Order of Conditions and the approved plans referenced herein (or approved revisions). If the completed work differs from that in the approved plans and conditions, the report must specify how the project differs.
  - d. The request for a Certificate of Compliance must include an as-built plan and letter from a landscaper certifying compliance with the approved planting scheme.

**Newton's Site-Specific Perpetual Conditions that Shall Not Expire upon the Issuance of a Certificate of Compliance**

36. To protect the water quality of area wetlands, fertilizers shall be of low-nitrogen content and be used in moderation
37. To protect the full suite of benefits of area wetlands, wildlife, and native insects and pollinators, no herbicides and pesticides shall be used.
38. To protect wetland wildlife, exterior lighting shall be limited to "dark sky", focused lighting. No spotlights or floodlights shall be directed at Cheesecake Brook.
39. The infiltration system of clean stone must be maintained as open/exposed stone and must be kept fully functional.





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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.

3/11/2022

1. Date of Issuance

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

4

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

2. Number of Signers

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

I, Jennifer Steel, Chief Environmental Planner of the City of Newton, am authorized to execute on behalf of the members of the City of Newton Conservation Commission all Determinations of Applicability, Orders of Condition, and Certificates of Compliance pursuant to the Commission's vote dated April 2, 2020, and recorded with the Middlesex South District Registry of Deeds in Book 74537, Page 433.

*Jennifer Steel 3/11/22*

Signature

s/ Daniel Green

Printed Name

Daniel Green

Signature

s/ Susan Lunin

Printed Name

Susan Lunin

Signature

s/ Judith Hepburn

Printed Name

Judith Hepburn

Signature

s/ Ellen Katz

Printed Name

Ellen Katz

Signature

Printed Name

Signature

Printed Name

Signature

Printed Name

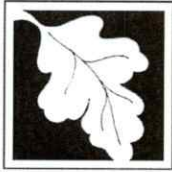
by hand delivery on <sup>to Federico Arcellano</sup>

by certified mail, return receipt requested, on

3/11/22

Date

Date



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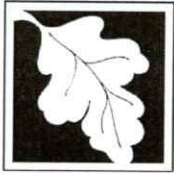
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**F. Appeals**

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.

Conservation Commission

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

To:

Conservation Commission

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

Project Location

MassDEP File Number

Has been recorded at the Registry of Deeds of:

County

Book

Page

for:

Property Owner

and has been noted in the chain of title of the affected property in:

Book

Page

In accordance with the Order of Conditions issued on:

Date

If recorded land, the instrument number identifying this transaction is:

Instrument Number

If registered land, the document number identifying this transaction is:

Document Number

Signature of Applicant