



Setti D. Warren  
Mayor

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

Telephone  
(617) 796-1120  
Telefax  
(617) 796-1142  
TDD/TTY  
(617) 796-1142  
www.newtonma.gov  
Barney S. Heath  
Director  
RECEIVED  
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28 JUL 11 AM 8:28  
David Osborn, Clerk  
Newton, MA 02459

March 3, 2017

Yang Su and Yu Zheng  
170-172 Sumner St.  
Newton, MA 02459

RE: Order of Conditions and  
Certificate of Understanding  
Site: 170-172 Sumner St.  
DEP#: 239-777

Dear Mr/Ms. Su and Zheng:

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, as well as the inability to obtain a Certificate of Compliance at project completion. Special Conditions include, but are not limited to:
  - a. The applicant must schedule a pre-construction site visit to review construction activities must be scheduled with the Conservation office at which time sediment controls around the site and for the stockpile area must be installed, DEP File number sign must be in place, and Proof of Recording must have been received
  - b. Landscape plantings within Commission jurisdiction must be installed in compliance with the approved plans on or before the first fall after the foundation is poured.
  - c. The area under the cantilevered deck shall not be enclosed or used for storage.
- The owner has signed and returned to me the attached Certificate of Understanding.
- The 10-business day appeal period had elapsed. The appeal period begins on the date of issue (pages 1 and 11 of the Order).
- 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.
- The DEP file-number sign has been erected at the project entrance (see Condition 10 of the Order).
- You have contacted the Conservation office to arrange for a "pre-construction site visit" to inspect and approve erosion controls, to submit the name(s) and phone number(s) of the parties responsible for work on the site (e.g., contractor, erosion control monitors, field engineer, and wetland scientist), and to discuss other matters of construction as applicable.

**Upon completion of the project, you must:**

- 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 "as-built plan"
- Submit a letter from a landscaper stating that the project was completed in substantial compliance with the plans.
- Record your Certificate of Compliance at the Middlesex South Registry of Deeds (& send proof of recording to Cons. Office)

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

For the Commission,  
Jennifer Steel, Sr. Environmental Planner

Enclosures: Order of Conditions

Certificate of Understanding

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



**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:  
 239-777

MassDEP File #

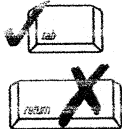
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Newton  
 City/Town

**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

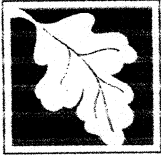
2. This issuance is for (check one):  
 a.  Order of Conditions b.  Amended Order of Conditions

3. To: Applicant:  
Yang / Yu Su / Zheng  
 a. First Name b. Last Name

c. Organization  
170 Sumner St.  
 d. Mailing Address  
Newton MA 02459  
 e. City/Town f. State 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:  
170-172 Sumner St. Newton  
 a. Street Address b. City/Town  
61-27-8A  
 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

a. County

b. Certificate Number (if registered land)

66154

569

c. Book

d. Page

7. Dates: February 7, 2017 March 3, 2017 March 3, 2017  
 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, Proposed Conditions at 170-172 Sumner St., Sheet 2 of 2

a. Plan Title

VTP Associates

Joe Porter

b. Prepared By

c. Signed and Stamped by

January 31, 2017

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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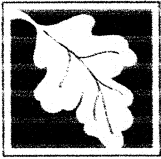
**B. Findings (cont.)**

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) \_\_\_\_\_ a. linear feet

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

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input type="checkbox"/> Bank	a. linear feet _____	b. linear feet _____	c. linear feet _____	d. linear feet _____
5. <input type="checkbox"/> Bordering Vegetated Wetland	a. square feet _____	b. square feet _____	c. square feet _____	d. square feet _____
6. <input type="checkbox"/> Land Under Waterbodies and Waterways	a. square feet _____	b. square feet _____	c. square feet _____	d. square feet _____
	e. cu/y dredged _____	f. cu/y dredged _____		
7. <input type="checkbox"/> Bordering Land Subject to Flooding	a. square feet _____	b. square feet _____	c. square feet _____	d. square feet _____
	Cubic Feet Flood Storage	e. cubic feet _____	f. cubic feet _____	g. cubic feet _____
8. <input type="checkbox"/> Isolated Land Subject to Flooding	a. square feet _____	b. square feet _____		
	Cubic Feet Flood Storage	c. cubic feet _____	d. cubic feet _____	e. cubic feet _____
9. <input checked="" type="checkbox"/> Riverfront Area	a. total sq. feet	b. total sq. feet		
	2935	2935		
	Sq ft within 100 ft	c. square feet	d. square feet	e. square feet
	2050	2050		
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.)**

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

22.  Restoration/Enhancement \*:

a. square feet of BWV

b. square feet of salt marsh

23.  Stream Crossing(s):

a. number of new stream crossings

b. number of replacement stream crossings

**C. General Conditions Under Massachusetts Wetlands Protection Act**

The following conditions are only applicable to Approved projects.

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
  - a. The work is a maintenance dredging project as provided for in the Act; or
  - b. The time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
  - 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 3/3/21 unless extended in writing by the Department.
7. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.
8. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.



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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                      239-777                      "

11. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before MassDEP.

12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.

13. The work shall conform to the plans and special conditions referenced in this order.

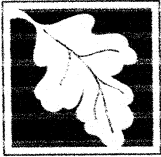
14. Any change to the plans identified in Condition #13 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.

15. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.

16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.

17. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.

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



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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

**Special Conditions**

Please see Findings and Special Conditions starting on page 6-A

**D. Findings Under Municipal Wetlands Bylaw or Ordinance**

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

1. Municipal Ordinance or Bylaw

2. Citation

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

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

1. Municipal Ordinance or Bylaw

2. Citation

**Special Conditions**

All work shall be outside the City Flood elevation.

Findings and Special Conditions of the Newton Conservation Commission  
DEP #239-777, 170-172 Sumner St, addition and deck

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

- **Owner:** Yang Su and Yu Zheng
- **Applicant:** Yang Su and Yu Sheng
- **Representative:** John Rockwood, EcoTec
- **In case of emergencies, problems, or questions,** contact: Jennifer Steel: 617-796-1134.
- **Existing Conditions:** 2-family home, asphalt driveway, deck, lawn
- **Jurisdiction, Performance Standards, and Ecological Issues:**
  - **City Flood Zone:** 30 foot wide flood zone was re-interpreted by the Conservation Commission to coincide, probably, with the 136.0' CNVD contour.
  - **Riverfront Area:** Covers the majority of the lot. Much of the project is construction over existing pavement and so must meet redevelopment standards, but the "cantilevered" bump outs, some of the driveway, some of the addition, and the deck are new development within the Riverfront Area.
  - **The area under the cantilevered deck shall for all purposes be considered to be non-degraded area under 310 CMR 10.58 (4) and (5).**
  - 920 sf of **mitigation planting** have been proposed and approved under 310 CMR 10.58 (5).
  - **Stormwater Management Standards** do not apply.
- **Conclusion:** The project represents a minor expansion of the developed footprint of the site (the deck and cantilevered second story), but a significant expansion of the developed mass on the site. The currently limited wildlife value of the stream corridor will be enhanced by the proposed mitigation planting.
- **Approved Project:**
  - **Project Purpose:** The project is and expansion of living space and creation of a garage.
  - **Permitted Activities:**
    - Construction of an addition on a full foundation, and cantilevered deck and 1<sup>st</sup>/2<sup>nd</sup> story "bump outs".
  - **Construction period protective measures include:** Compost socks and sediment fence as sediment control.
- **Final Approved Plans:**
  - Topographic Site Plan, Newton, Proposed Conditions at 170-172 Sumner St., Sheet 2 of 2, prepared by VTP Associates, stamped and signed by Joe Porter, dated January 31, 2017.
- **Plan Revisions**
  - The Newton Conservation Commission shall retain the **right to require the submittal of additional information or additional construction measures** deemed necessary to ensure the protection of wetland resource areas
  - **Any required or desired deviations from this plan** shall be requested in writing of the Commission Office, who shall determine if said changes require filing 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.**

**Newton's Conditions (Note: Violation of any condition stated herein may result in Enforcement Action.)**

**Conditions Specific to this Project**

21. Prior to the start of work
    - a. The applicant must schedule a **pre-construction site visit** to review construction activities must be scheduled with the Conservation office with:
      - i. Applicant or Applicant's Representative(s)
      - ii. Applicant's Construction Supervisor (person responsible for compliance with this Order and who may be held jointly responsible for any violations and the penalties under the law for said violations)
      - iii. Applicant's Contractor(s)
      - iv. Agent(s) of the Commission
- At the **pre-construction site visit** the following will be checked by an agent of the Conservation Commission:
- v. **Sedimentation/erosion controls** are properly installed in the correct locations – Limit of Work Line and catch basin protection.
  - vi. **The stockpile area** which shall be established with properly installed compost sock and sediment fence.
  - vii. **DEP File number sign** of minimum size 2'x2' shall be displayed clearly visible from the street
  - viii. **Proof of Recording the Order** has been supplied to the Conservation office



Findings and Special Conditions of the Newton Conservation Commission  
DEP #239-777, 170-172 Sumner St, addition and deck

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- ix. Contact information for those responsible for construction, sediment controls, and landscaping has been supplied to the Conservation office
  - x. Anticipated timeline has been supplied to the Conservation office
22. Landscape plantings within Commission jurisdiction must:
- a. Be installed in compliance with the approved plans. Permanent bounds must be set as per the plans. Desired deviations from the approved plans must be approved by the Conservation office in advance
  - b. Occur on or before the first fall after the foundation is poured.
  - c. Survive over 75% of the planting area for 2 growing seasons for a Certificate of Compliance to be granted
23. The area under the cantilevered deck:
- d. shall not be enclosed with lattice or walls
  - e. shall not be used for storage
  - f. shall be maintained in a vegetated manner (lawn or plantings).

**Perpetual Conditions Specific to this Project** that shall not expire upon completion of the project or the issuance of a Certificate of Compliance

- 24. Required mitigation planting area shall be maintained in perpetuity in its predominantly natural condition as per 310 CMR 10.58(5).
- 25. The area under the cantilevered deck, shall for all purposes be considered to be non-degraded area under 310 CMR 10.58 (4) and (5) and:
  - g. shall not be enclosed with lattice or walls
  - h. shall not be used for storage
  - i. shall be maintained in a vegetated manner (lawn or plantings).

**Prohibitions Specific to this Project**

- a. No activities shall damage or deposit any material in the stream.
- 

**Before Work Begins**

- 26. Before any work on-site begins, all other applicable federal, state &/or local permits and/or approvals must be obtained.
- 27. Notice shall be given to the Newton Conservation Commission no less than two (2) business days prior to the commencement of construction activities.
- 28. This document shall be included in all construction contracts, subcontracts, and specifications dealing with the work proposed and shall supersede any conflicting contract requirements. The Applicant shall assure that all contractors, subcontractor and other personnel performing the permitted work are fully aware of the permit's terms and conditions. Thereafter, the contractor will be held jointly liable for any violation of this Order resulting from failure to comply with its conditions. Nothing in this paragraph shall limit or restrict the liability of the Applicant for violations of this Order.

**During Construction**

- 29. Appropriate erosion control measures must be installed, inspected, and maintained during the construction period until the site is stable. Erosion control measures shall be installed as shown on the approved Plan and shall indicate the limit of work. Earth shall not be backfilled against or allowed to overtop erosion control barriers. Silt and sand accumulating behind said barriers shall be removed regularly. 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 under the guidance of the Commission. All soils must be contained on the site. City streets shall be kept clean and catch basins in the immediate area shall be protected from eroding soils. Hay bales, for any purpose without explicit permission from the Commission, are prohibited by this Order. An adequate supply of extra erosion control materials shall be stored on-site at all times for repair or replacement. Erosion control barriers shall remain in place until a Certificate of Compliance is issued for said work or upon written authorization from the Newton Conservation Commission.
- 30. The applicant shall ensure that throughout the construction period, all measures necessary to prevent any damage to the wetland resource area are taken. Should any damage occur during the course of the project, the applicant,

Findings and Special Conditions of the Newton Conservation Commission  
DEP #239-777, 170-172 Sumner St, addition and deck

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any successor in interest, or successor in control shall be responsible for and bear the full cost of restoration of the wetland to the satisfaction of the Conservation Commission.

31. A copy of the approved plans and Order of Conditions shall be kept on-site and available for review at all times. All contractors are expected to adhere to the approved plan and these Conditions.
32. "Good housekeeping practices" shall be implemented at all times, including:
  - a. appropriate limits to discharges within a Resource Area, Buffer Zone, or an area leading to a stormwater conveyance system
  - b. appropriate stockpile area management
  - c. appropriate limits to vehicle refueling, washing, etc.
  - d. appropriate litter management
  - e. appropriate controls for tire tracking
33. During the construction period and prior to issuance of a Certificate of Compliance, members and agents of the Conservation Commission shall have the right to inspect the applicant's project to evaluate compliance with the approved plans and these conditions.
34. 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.

**Upon Completion of the Project**

35. Upon completion of the project, all exposed soil areas shall be stabilized and re-vegetated. Any excess spoil material which is to remain on Applicant's premises and all areas of disturbed soil shall be left stabilized with mulch, grass or other plantings and protected against erosion and sedimentation. All materials not to remain on Applicant's premises shall be removed from said premises and disposed of in a legal manner.
36. Upon completion of the project, the Conservation Office shall be notified, and permission to remove sediment barriers and the DEP file number sign shall be sought.
37. No Certificate of Occupancy shall be approved by Conservation unless a Certificate of Compliance has been issued or the request receives the written approval of the Sr. Environmental Planner.
38. Upon completion of the project, 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. 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.
  - c. An as-built plan signed and stamped by a professional land surveyor registered in Massachusetts. This plan will include all structures, grading (topography), drainage, and landscape features and plantings.
  - d. A letter from a landscaper certifying compliance with the approved planting scheme. A Certificate of Compliance shall not be issued until after two growing seasons after plantings have been installed and found to be well established.

## 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.

3/3/17

1. Date of issuance

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

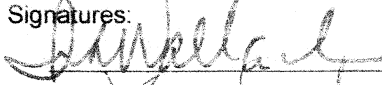
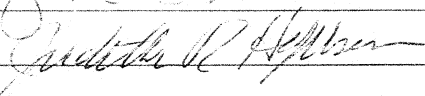
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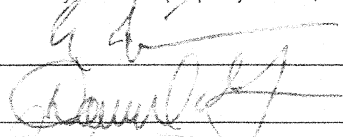

This Order must be signed by a majority of the Conservation Commission.

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.

Signatures:

  
\_\_\_\_\_  
*James L. Luce*  
\_\_\_\_\_  
  
\_\_\_\_\_

  
\_\_\_\_\_  
  
\_\_\_\_\_  
\_\_\_\_\_

by hand delivery on

by certified mail, return receipt requested, on

3-3-17

Date

Date

## F. Appeals

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land subject to this Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate MassDEP Regional Office to issue a Superseding Order of Conditions. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and a completed Request 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.