

Middlesex South Registry of Deeds  
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Recording Information

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**Middlesex South Registry of Deeds**  
**Maria C. Curtatone, Register**  
208 Cambridge Street  
Cambridge, MA 02141  
617-679-6300  
[www.middlesexsouthregistry.com](http://www.middlesexsouthregistry.com)



**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:  
 239-833  
 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:  
Enrique Darer  
 a. First Name b. Last Name  
145 Warren Street LLC  
 c. Organization  
767 Beacon Street  
 d. Mailing Address  
Newton MA 02459  
 e. City/Town f. State g. Zip Code

4. Property Owner (if different from applicant):  
145 Warren Street LLC 145 Warren Street LLC  
 a. First Name b. Last Name  
767 Beacon Street  
 c. Organization  
Newton MA 02459  
 d. Mailing Address e. City/Town f. State g. Zip Code

5. Project Location:  
145 Warren Street Newton  
 a. Street Address b. City/Town  
61039 0010  
 c. Assessors Map/Plat Number d. Parcel/Lot Number

Latitude and Longitude, if known: d m s d m s  
 d. Latitude 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):  
Middlesex  
a. County \_\_\_\_\_ b. Certificate Number (if registered land) \_\_\_\_\_  
69584 \_\_\_\_\_ 189 \_\_\_\_\_  
c. Book \_\_\_\_\_ d. Page \_\_\_\_\_
7. Dates: 4/2/19 4/18/19 4/19/19  
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):  
Proposed Conditions at 145 Warren Street  
a. Plan Title \_\_\_\_\_  
VTP Associates \_\_\_\_\_ Maro Besio \_\_\_\_\_  
b. Prepared By \_\_\_\_\_ c. Signed and Stamped by \_\_\_\_\_  
4/1/19 \_\_\_\_\_ 1" = 10' \_\_\_\_\_  
d. Final Revision Date \_\_\_\_\_ e. Scale \_\_\_\_\_  
Additions and Alterations to 145 Warren Street, Newton MA – Landscape Plan \_\_\_\_\_ 3/26/19  
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) 20.8'  
 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 _____ e. c/y dredged _____	b. square feet _____ f. c/y dredged _____	c. square feet _____	d. square feet _____
7. <input type="checkbox"/> Bordering Land Subject to Flooding	a. square feet _____	b. square feet _____	c. square feet _____	d. square feet _____
Cubic Feet Flood Storage	e. cubic feet _____	f. cubic feet _____	g. cubic feet _____	h. cubic feet _____
8. <input type="checkbox"/> Isolated Land Subject to Flooding	a. square feet _____	b. square feet _____		
Cubic Feet Flood Storage	c. cubic feet _____	d. cubic feet _____	e. cubic feet _____	f. cubic feet _____
9. <input type="checkbox"/> Riverfront Area	a. total sq. feet _____	b. total sq. feet _____		
Sq ft within 100 ft	c. square feet _____	d. square feet _____	e. square feet _____	f. square feet _____
Sq ft between 100-200 ft	g. square feet _____	h. square feet _____	i. square feet _____	j. square feet _____



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**B. Findings (cont.)**

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

	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
10. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below			
11. <input type="checkbox"/> Land Under the Ocean	_____	_____		
	a. square feet	b. square feet		
	_____	_____		
	c. c/y dredged	d. c/y dredged		
12. <input type="checkbox"/> Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. <input type="checkbox"/> Coastal Beaches	_____	_____	_____	_____
	a. square feet	b. square feet	c. nourishment	d. nourishment
			cu yd	cu yd
14. <input type="checkbox"/> Coastal Dunes	_____	_____	_____	_____
	a. square feet	b. square feet	c. nourishment	d. nourishment
			cu yd	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 4/19/22 unless extended in writing by the Department.
7. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.



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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            239-833 "
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:  

<u>City Floodplain Ordinance</u>	<u>22-22</u>
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:  

<u>City Floodplain Ordinance</u>	<u>22-22</u>
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, please see attached "Findings and Special Conditions of the Newton Conservation Commission" pages 10-A et seq.**

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Findings and Special Conditions of the Newton Conservation Commission  
DEP #239-833, 145 Warren St, construction of 3 units onto SFH

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

- **Site:** 145 Warren Street
- **Owner:** 145 Warren Street LLC
- **Applicant:** Enrique Darer, 145 Warren Street LLC
- **Representative:** John Rockwood, EcoTec, Inc.
- **In case of emergencies, problems, or questions,** contact: Jennifer Steel: 617-796-1134.
- **Approved Project:**
  - **Project Summary:** Applicant is proposing to maintain a historic home and add on to the rear of it three additional units and central parking. Drainage is proposed to be put into underground chambers. Infiltration systems and a robust restoration planting plan have been proposed.
  - **Jurisdiction:**
    - **Buffer Zone** to an intermittent stream: 301 CMR 10.53(1)
  - **Impact Summary:**
    - Currently the Buffer Zone is free of impervious area. After development, 3,920 sf of house, green roof, and pavement will be in the Buffer Zone. (Overall expansion of impervious area is from 5,879 to 11,862 sf (an increase of 5,983 sf))
    - Post development runoff shall not exceed current runoff
    - 11 trees (8-24") will be cut totaling ~134 caliper inches. A robust planting plan with 52 saplings (~144 caliper inches), 11 understory trees, 2 evergreen trees, 142 shrubs and 10 ferns will be installed.
  - **Reasons for Approval:**
    - Work shall not affect the adjacent resource area. A robust planting plan has been proposed.
- **Final Approved Plans:**
  - "Proposed Conditions at 145 Warren Street" (3 Sheets), prepared by VTP Associates, stamped and signed by Marc Besio, P.E. 45010, dated 4/1/19 and last revised 4/18/19.
  - "Additions and Alterations to 145 Warren Street, Newton MA – Landscape Plan" (1 Sheet), prepared by Sangiolo Associates Architects, Susan Sangiolo, dated 3/26/19.
- **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.
- **Limit of Work:** The sediment control line shall be the limit of work.

**Newton's Conditions Specific to this Site**

**Prior to the start of work**

21. The applicant must schedule and attend a pre-construction site visit to review:
  - a. Sedimentation/erosion controls (properly installed in the correct locations)
  - b. DEP File number sign (minimum size 2'x2', clearly visible from the street)
  - c. Proof of Recording the Order
  - d. Contact information for those responsible for construction, sediment controls, and landscaping
  - e. Anticipated timeline
 Present should be:
  - f. Applicant or Applicant's Representative(s)
  - g. 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)
  - h. Agent(s) of the Commission
22. Contingencies

**Findings and Special Conditions of the Newton Conservation Commission  
DEP #239-833, 145 Warren St, construction of 3 units onto SFH**

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- a. Dewatering plans and accommodations: If dewatering on the project site is required, the Applicant shall provide to the Conservation Commission for review and approval prior to dewatering a dewatering plan designed to limit any effects of dewatering on the wetlands resource area adjacent to the project site.
  - b. Concrete washout plans and accommodations: If any concrete work will occur on the site, the Applicant shall provide to the Conservation Commission for review and approval prior to washouts a concrete washout plan designed to limit and control any effects of concrete washouts on the wetlands resource area adjacent to the project site.
23. Natural Areas. The Applicant shall protect trunks and roots of the trees designated on the plan as to remain by installing orange snow fence or similar at the drip line of each.

**During Work**

- 24. Landscape plantings within Commission jurisdiction must be installed in compliance with the approved plans (desired deviations from the approved plans must be approved by the Conservation office in advance) survive over 75% of the planting area for 2 growing seasons for a Certificate of Compliance to be granted
- 25. The stormwater infiltration system must be installed as per the approved plans. The City Engineer must inspect the infiltration system. The applicant must submit proof of inspection to the Conservation Office.
- 26. The Operations and Maintenance Plan must be recorded at the Registry of Deeds.

**After Work**

- 27. An as-built plan signed by the engineer certifying compliance with the approved plans and order must be submitted.
- 28. A letter from a landscaper certifying compliance with the approved planting scheme must be submitted. A Certificate of Compliance shall not be issued until after two growing seasons after plantings have been installed and found to be well established.

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

- 29. The approved Operations and Maintenance Plan is appended hereto and must be adhered to.
- 30. The use of herbicides and other pesticides is prohibited and fertilizers shall be limited to slow-release organic fertilizers to improve water quality in the adjacent wetlands and waterways.
- 31. In order to protect wildlife and/or vernal pool species, artificial lighting shall be designed to prevent lighting of the wetlands. Any outdoor lights within 200 feet of the wetland shall be directed so as not to radiate light towards those areas. Any such lights shall be limited to no more than 1,800 lumens per fixture and the fixture shall not illuminate any part of the wetland more than 0.2 footcandles. Exterior lights shall not be mounted higher than 25' above the ground.

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

**Before Work Begins**

- 32. All other applicable federal, state &/or local permits and/or approvals must be obtained.
- 33. Notice shall be given to the Newton Conservation Commission no less than two (2) business days prior to the commencement of construction activities.
- 34. 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**

- 35. 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

Findings and Special Conditions of the Newton Conservation Commission  
DEP #239-833, 145 Warren St, construction of 3 units onto SFH

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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.

36. 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, 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.
37. 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.
38. "Good housekeeping practices" shall be implemented at all times, including:
  - a. appropriate limits to discharges within the 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
39. 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.
40. 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**

41. 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.
42. 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.
43. 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.
44. 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.

**OPERATION & MAINTENANCE PLAN  
145 WARREN STREET  
NEWTON, MASSACHUSETTS**

The proposed project includes stormwater runoff controls associated with the redevelopment of the existing site into a new residential development that will require continued maintenance by the property owner. The major components associated with maintenance needs are the catch basins and infiltration systems. These will need to be cleaned periodically as noted below. Cleaning of these structures shall be done by the developer & property owners via a specialty contractor with hydraulic cleaning ability. In addition to the facilities noted below, the property owner should maintain any roof gutters/drains on a regular basis to prevent clogging and carry over of debris into the driveway system. The property owner should also provide for the periodic cleaning of the driveway areas to remove large debris, grass cuttings and sand particles prior to discharge through the catch basin units. The following outlines the major maintenance issues associated with the project:

**Catch basin Cleaning:**

The catch basin structures should be inspected after completion of construction to assure that all debris was removed and no construction material will be cause the system to clog. This inspection should also include the drain lines within the system.

The catch basin sumps should be inspect quarterly; if depth of sediment in sumps exceeds 50% capacity, sediment must be removed. The catch basin should be cleaned with a hydraulic vacuum system two (2) times per year (spring and fall season) to remove accumulated solids and debris. At the same time, the drain lines should be inspected and cleaned if needed. Assuming the catch basins, and drain lines are maintained and cleaning is in accordance with normal standards, the solids removal efficiency should be as required to prevent carry over of large solids to the infiltration systems.

**Storage / Infiltration System**

The storage/infiltration system should be inspected after completion of construction to assure that all debris was removed and no construction material will be cause the system to clog.

The storage/infiltration system should be inspected over the first year of operation on a quarterly basis to determine the level of required maintenance. This inspection should be performed by the Owner's Engineer and a report issued to the City as to any cleaning / maintenance needs of that system. At the same time, the inspection of the catch basins and piping should be performed to determine any flushing / cleaning needs. As a preliminary schedule, the system piping should be cleaned once a year to remove accumulated sediments and sediments in the infiltration chambers should be removed when they reach two (2) inches in depth.

**Maintenance Responsibilities**

The maintenance of the Drainage System is the responsibility of the Property Owner(s), via their owners association. The actual work should be subcontracted to a company that specializes in the cleaning of storm drainage facilities. Inspections should be performed by independent individual such as the design engineer or other experienced individual in the field.



**OPERATION & MAINTENANCE PLAN  
145 WARREN STREET  
NEWTON, MASSACHUSETTS**

**INSPECTION REPORT:**

Inspection Firm: \_\_\_\_\_

Inspectors Name: \_\_\_\_\_ Date: \_\_\_\_\_

Components Inspected: \_\_\_\_\_  
\_\_\_\_\_

Signed: \_\_\_\_\_

**SYSTEM MAINTENANCE:**

Maintenance Firm: \_\_\_\_\_ Date: \_\_\_\_\_

Catch basins Cleaned: Yes \_\_\_ No \_\_\_ Comments \_\_\_\_\_  
\_\_\_\_\_

Drain lines Inspected: Yes \_\_\_ No \_\_\_ Comments: \_\_\_\_\_  
\_\_\_\_\_

Infiltration System(s) Cleaned: Yes \_\_\_ No \_\_\_ Comments: \_\_\_\_\_  
\_\_\_\_\_

Estimate of Material Removed: \_\_\_\_\_

Other Comments: \_\_\_\_\_  
\_\_\_\_\_

Signed: \_\_\_\_\_



**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:  
 239-833  
 MassDEP File #  
 eDEP Transaction #  
 Newton  
 City/Town

**E. Signatures**

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

4/19/19  
 1. Date of Issuance

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

5  
 2. Number of Signers

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

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

Signatures:

*Glenn Katz*  
*Susan H. Gunn*  
*Kathleen Cole*

*[Signature]*  
*[Signature]*

by hand delivery on John Reinwood  
4/19/19  
 Date

by certified mail, return receipt requested, on \_\_\_\_\_  
 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.



**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:  
 239-833  
 MassDEP File #  
 eDEP Transaction #  
 Newton  
 City/Town

**G. Recording Information**

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

Conservation Commission

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

To:

Conservation Commission

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

Project Location

MassDEP File Number

Has been recorded at the Registry of Deeds of:

County

Book

Page

for: Property Owner

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

Book

Page

In accordance with the Order of Conditions issued on:

Date

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

Instrument Number

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

Document Number

Signature of Applicant



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

DEP File Number:

**Request for Departmental Action Fee  
Transmittal Form**

Provided by DEP

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

**A. Request Information**

1. Location of Project

a. Street Address	b. City/Town, Zip
c. Check number	d. Fee amount

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

Name

Mailing Address

City/Town	State	Zip Code
Phone Number	Fax Number (if applicable)	

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

Name

Mailing Address

City/Town	State	Zip Code
Phone Number	Fax Number (if applicable)	

4. DEP File Number:

\_\_\_\_\_

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



**B. Instructions**

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

- Superseding Order of Conditions – Fee: \$120.00 (single family house projects) or \$245 (all other projects)
- Superseding Determination of Applicability – Fee: \$120
- Superseding Order of Resource Area Delineation – Fee: \$120



**Massachusetts Department of Environmental Protection**  
Bureau of Resource Protection - Wetlands

DEP File Number:

**Request for Departmental Action Fee  
Transmittal Form**

\_\_\_\_\_  
Provided by DEP

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

**B. Instructions (cont.)**

Send this form and check or money order, payable to the *Commonwealth of Massachusetts*, to:

Department of Environmental Protection  
Box 4062  
Boston, MA 02211

2. On a separate sheet attached to this form, state clearly and concisely the objections to the Determination or Order which is being appealed. To the extent that the Determination or Order is based on a municipal bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.
3. Send a **copy** of this form and a **copy** of the check or money order with the Request for a Superseding Determination or Order by certified mail or hand delivery to the appropriate DEP Regional Office (see <http://www.mass.gov/eea/agencies/massdep/about/contacts/>).
4. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

