

Newton Conservation Commission  
c/o Jennifer Steel, Chief Environmental Planner  
City of Newton  
1000 Commonwealth Ave  
Newton, MA 02459  
jsteel@newtonma.gov

November 22, 2021

Jeremy Osinski  
Homeowner  
40 Albemarle Rd  
Newton, MA 02460  
908-421-0662  
jeremy.osinski@gmail.com

Re.: Minor Plan Change Request, 40 Albemarle Road (DEP File Number 239-880)

Dear Ms. Steel and members of the Conservation Commission:

I am writing to you as the homeowner at 40 Albemarle Road where we are currently rebuilding our single-family home. The project is progressing nicely, and we are eagerly anticipating its completion in February 2022.

As a refresher, our home is a corner lot on Albemarle Road and Nevada Street. Our project was approved by the Commission on January 7, 2021 and an Order of Conditions was signed and recorded shortly thereafter. The wetlands resource, Cheesecake Brook, flows in a channel across the street and a City-maintained grassy area, from our property.

As the new structure itself is largely complete and the layout of our overall future home has taken shape, we have been working with a landscape architect around the outdoor space. We would like to propose several minor plan changes. Our overall desire is to place the mitigation planting areas closer to the wetlands resource area to maximize habitat value, while also keeping all living and play areas confined to the backyard. This way, children's play areas and our family's outdoor living space will remain segregated from the mitigation planting areas. We believe these will better enhance the function of the overall space and positive impacts of the mitigation areas.

We would like to propose the minor plan changes detailed below, as well as depicted within Attachment 1, "L-1 Landscape Design Plan as of November 22, 2021."

1. Shifting restoration/mitigation planting areas to be placed along front of the property along Albemarle Road: three areas which are more square-like (less narrow/rectangular) and generally closer to the resource area. The total square footage would remain as planned (+/-1,890 sq. ft), but would be split into three areas:

Approved restoration/mitigation planting areas	Proposed restoration/mitigation planting areas
1,350	985
540	210
	695
<b>Total = +/- 1,890 sq ft.</b>	<b>Total = +/- 1,890 sq ft.</b>

2. Within the three restoration/mitigation planting areas, we commit to meeting or exceeding the planting list we presented to the Commission accompanying our Notice of Intent. We intend to proportionally distribute plantings across the three defined planting areas; with your approval, we are happy to assemble a specific breakdown of plantings for the Staff's review and approval.
3. We were thankfully able to save one mature pear tree during construction. This tree was originally designated to be removed. The grading has been adjusted around it.
4. Relocate the existing shed to the southeast corner of our property.
5. Addition of a small retaining wall (12" – 30") along the side yard alongside Nevada Street to smoothen the grade from our property.
6. Defining two permeable patios/sitting areas in the backyard, which we understand may be exempt.
7. Detailed definition of all planting beds, lawn areas and mitigation areas.

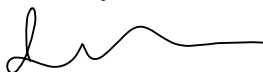
As noted above, all conditions from our recorded Order of Conditions dated January 8, 2021 will remain and we will continue closely adhering to them. These include, but are not limited to, the following special conditions:

- Patios shall "be installed on a fully pervious bed of pea stone with similar (1-2") spacing between the stones to maximize infiltration."
- Swale: "A swale of at least 6 inches in depth and 1-2' in width must be installed all along the northern property boundary to direct runoff to the smaller mitigation area fronting on Albemarle Road to alleviate runoff from the subject property to the adjacent property
- "The top of mulch within the permanent mitigation landscape planting areas must be and remain in perpetuity at least 6" below the top of the adjacent lawn and sidewalk to facilitate infiltration and preclude stormwater runoff from leaving the site.

We appreciate your time and consideration. I am happy to speak live at or prior to the Commission's next hearing. I can be reached directly at 908-421-0662 or [Jeremy.Osinski@gmail.com](mailto:Jeremy.Osinski@gmail.com) .

I appreciate your assistance.

Sincerely,



Jeremy Osinski  
Homeowner

Enclosures:

Attachment 1: L-1 Landscape Design Plan – Updated November 22, 2021

Attachment 2: Approved site plan (with an overlay to highlight originally proposed restoration/mitigation areas)

Attachment 3: Approved planting plan

Attachment 4: Copy of Order of Conditions issued January 8, 2021 and recorded

## **Attachment 1**

L-1 Landscape Design Plan - Updated November 22, 2021

*(Please see next page)*



## **Attachment 2**

Approved site plan with an overlay to highlight original restoration/mitigation area

*Original large file accessible online at:*

<https://www.newtonma.gov/home/showpublisheddocument/63546/637453532106900000>

11/22/2021 Overlay: Original restoration/mitigation planting areas highlighted in yellow

**EXISTING DEGRADED AREA**

AREA	100 S.F.
PERCENT	43.5%
MIN. YARD FRONT	25'
MIN. YARD SIDE	7.5'
MIN. YARD REAR	15'
MIN. OPEN SPACE	50%
MIN. FRONTAGE	70'
MIN. HEIGHT	35'

**PROPOSED DEGRADED AREA**

AREA	100 S.F.
PERCENT	43.5%
MIN. YARD FRONT	25'
MIN. YARD SIDE	7.5'
MIN. YARD REAR	15'
MIN. OPEN SPACE	50%
MIN. FRONTAGE	70'
MIN. HEIGHT	35'

**ZONING LEGEND**  
ZONING DISTRICT: SR3 (LOT CREATED BEFORE 12/07/1953)

	REQUIRED	PROPOSED
MIN. AREA	7,000 S.F.	8,613.25± S.F.
MIN. YARD FRONT	25'	25.1'
MIN. YARD SIDE	7.5'	7.8'
MIN. YARD REAR	15'	15.9'
MAX. LOT COVERAGE	30%	24.51%
MIN. OPEN SPACE	50%	70.42%
MIN. FRONTAGE	70'	173.04'
MAX. BLDG. HEIGHT	35'	31.75'

**AVERAGE GRADE CALCULATION**

POINT	ELEVATION	AREA	PRODUCT
1	100.00	100.00	10000.00
2	100.00	100.00	10000.00
3	100.00	100.00	10000.00
4	100.00	100.00	10000.00
5	100.00	100.00	10000.00
6	100.00	100.00	10000.00
7	100.00	100.00	10000.00
8	100.00	100.00	10000.00
9	100.00	100.00	10000.00
10	100.00	100.00	10000.00
11	100.00	100.00	10000.00
12	100.00	100.00	10000.00
13	100.00	100.00	10000.00
14	100.00	100.00	10000.00
15	100.00	100.00	10000.00
16	100.00	100.00	10000.00
17	100.00	100.00	10000.00
18	100.00	100.00	10000.00
19	100.00	100.00	10000.00
20	100.00	100.00	10000.00
21	100.00	100.00	10000.00
22	100.00	100.00	10000.00
23	100.00	100.00	10000.00
24	100.00	100.00	10000.00
25	100.00	100.00	10000.00
26	100.00	100.00	10000.00
27	100.00	100.00	10000.00
28	100.00	100.00	10000.00
29	100.00	100.00	10000.00
30	100.00	100.00	10000.00
31	100.00	100.00	10000.00
32	100.00	100.00	10000.00
33	100.00	100.00	10000.00
34	100.00	100.00	10000.00
35	100.00	100.00	10000.00
36	100.00	100.00	10000.00
37	100.00	100.00	10000.00
38	100.00	100.00	10000.00
39	100.00	100.00	10000.00
40	100.00	100.00	10000.00
41	100.00	100.00	10000.00
42	100.00	100.00	10000.00
43	100.00	100.00	10000.00
44	100.00	100.00	10000.00
45	100.00	100.00	10000.00
46	100.00	100.00	10000.00
47	100.00	100.00	10000.00
48	100.00	100.00	10000.00
49	100.00	100.00	10000.00
50	100.00	100.00	10000.00
51	100.00	100.00	10000.00
52	100.00	100.00	10000.00
53	100.00	100.00	10000.00
54	100.00	100.00	10000.00
55	100.00	100.00	10000.00
56	100.00	100.00	10000.00
57	100.00	100.00	10000.00
58	100.00	100.00	10000.00
59	100.00	100.00	10000.00
60	100.00	100.00	10000.00
61	100.00	100.00	10000.00
62	100.00	100.00	10000.00
63	100.00	100.00	10000.00
64	100.00	100.00	10000.00
65	100.00	100.00	10000.00
66	100.00	100.00	10000.00
67	100.00	100.00	10000.00
68	100.00	100.00	10000.00
69	100.00	100.00	10000.00
70	100.00	100.00	10000.00
71	100.00	100.00	10000.00
72	100.00	100.00	10000.00
73	100.00	100.00	10000.00
74	100.00	100.00	10000.00
75	100.00	100.00	10000.00
76	100.00	100.00	10000.00
77	100.00	100.00	10000.00
78	100.00	100.00	10000.00
79	100.00	100.00	10000.00
80	100.00	100.00	10000.00
81	100.00	100.00	10000.00
82	100.00	100.00	10000.00
83	100.00	100.00	10000.00
84	100.00	100.00	10000.00
85	100.00	100.00	10000.00
86	100.00	100.00	10000.00
87	100.00	100.00	10000.00
88	100.00	100.00	10000.00
89	100.00	100.00	10000.00
90	100.00	100.00	10000.00
91	100.00	100.00	10000.00
92	100.00	100.00	10000.00
93	100.00	100.00	10000.00
94	100.00	100.00	10000.00
95	100.00	100.00	10000.00
96	100.00	100.00	10000.00
97	100.00	100.00	10000.00
98	100.00	100.00	10000.00
99	100.00	100.00	10000.00
100	100.00	100.00	10000.00

**PROPOSED BUILDING PROFILE**  
NOT TO SCALE

**AVERAGE GRADE PLANE**

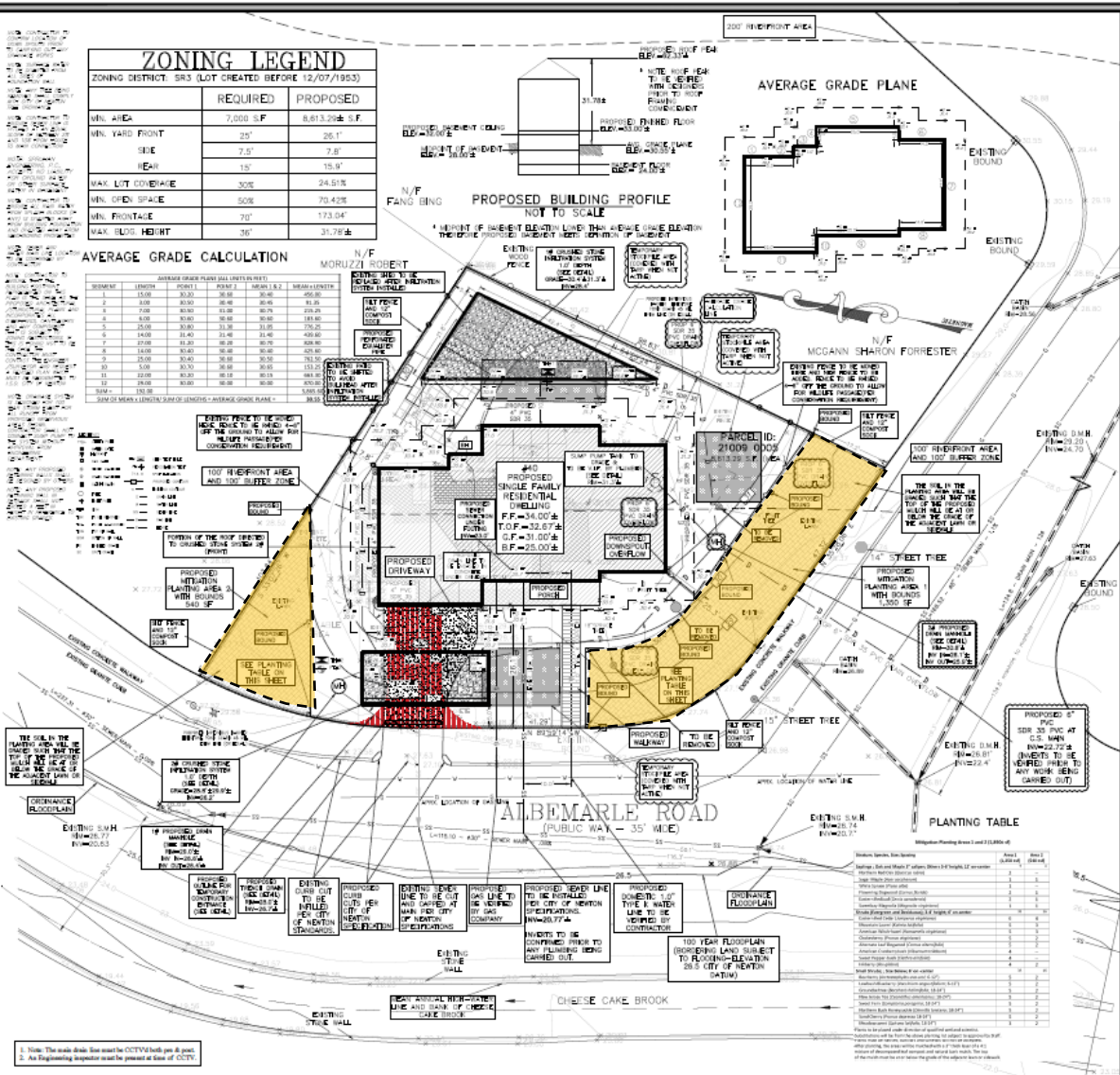
**PLANTING TABLE**

**REVISION BLOCK**

NO.	DESCRIPTION	DATE
1	REVISIONS REPORT OF DESIGN	10/15/20
2	EXISTING TREATMENT	10/15/20

**PROPOSED CIVIL PLAN**

2 OF 5



**Spartan Engineering, P.C.**  
40 ALBEMARLE ROAD  
NEWTON  
MASSACHUSETTS

**CIVIL PLAN**

**REVISION BLOCK**

NO.	DESCRIPTION	DATE
1	REVISIONS REPORT OF DESIGN	10/15/20
2	EXISTING TREATMENT	10/15/20

**PROPOSED CIVIL PLAN**

2 OF 5

# Attachment 3

## Original planting plan

### Mitigation Planting Areas 1 and 2 (1,890± sf)

Stratum; Species, Size; Spacing	Area 1 (1,350 ±sf)	Area 2 (540 ±sf)
<b>Saplings ; Oak and Maple 3" caliper; Others 5-6' height; 12' on-center</b>	9	4
Northern Red Oak ( <i>Quercus rubra</i> )	2	--
Sugar Maple ( <i>Acer saccharum</i> )	1	1
White Spruce ( <i>Picea alba</i> )	1	--
Flowering Dogwood ( <i>Cornus florida</i> )	2	1
Eastern Redbud ( <i>Cercis canadensis</i> )	2	1
Sweetbay Magnolia ( <i>Magnolia virginiana</i> )	1	1
<b>Shrubs (Evergreen and Deciduous); 3-4' height; 6' on-center</b>	38	16
Eastern Red Cedar ( <i>Juniperus virginiana</i> )	6	4
Mountain Laurel ( <i>Kalmia latifolia</i> )	5	3
American Witch-hazel ( <i>Hamamelis virginiana</i> )	5	3
Chokecherry ( <i>Prunus virginiana</i> )	5	2
Alternate Leaf Dogwood ( <i>Cornus alternifolia</i> )	5	2
American Cranberrybush ( <i>Viburnum trilobum</i> )	4	--
Sweet Pepper-bush ( <i>Clethra alnifolia</i> )	4	--
Inkberry ( <i>Ilex glabra</i> )	4	2
<b>Small Shrubs; ; Size Below; 6' on -center</b>	38	16
Bearberry ( <i>Arctostaphylos uva-ursi</i> ; 6-12")	5	2
Lowbush Blueberry ( <i>Vaccinium angustifolium</i> ; 6-12")	5	2
Groundseltree ( <i>Baccharis halimifolia</i> ; 18-24")	5	2
New Jersey Tea ( <i>Ceanothus americanus</i> ; 18-24")	5	2
Sweet Fern ( <i>Comptonia peregrina</i> ; 18-24")	5	2
Northern Bush Honeysuckle ( <i>Diervilla lonicera</i> ; 18-24")	5	2
Sand Cherry ( <i>Prunus depressa</i> 18-24")	5	2
Meadowsweet ( <i>Spiraea latifolia</i> ; 18-24")	3	2

- Plants to be placed under direction of qualified wetland scientist.
- Substitutions will be from the above planting list subject to approval by Staff.
- Plants must be natives; cultivars and varieties will not be accepted.
- After planting, the areas will be mulched with a 3" thick layer of a 4:1 mixture of decomposed leaf compost and natural bark mulch. The top of the mulch must be at or below the grade of the adjacent lawn or sidewalk.

## **Attachment 4**

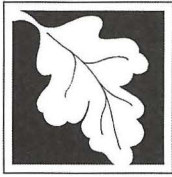
Copy of Order of Conditions issued January 8, 2021 and recorded

*(Please see next pages)*









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:  
 239-880  
 MassDEP File # \_\_\_\_\_

eDEP Transaction # \_\_\_\_\_  
 Newton  
 City/Town

**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 _____ 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 checked="" type="checkbox"/> Riverfront Area	4970 _____ a. total sq. feet	4970 _____ b. total sq. feet		
Sq ft within 100 ft	2820 _____ c. square feet	2820 _____ d. square feet	2820 _____ e. square feet	2820 _____ f. square feet
Sq ft between 100-200 ft	2150 _____ g. square feet	2150 _____ h. square feet	2150 _____ i. square feet	2150 _____ j. square feet



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:  
239-880  
MassDEP File #

eDEP Transaction #  
Newton  
City/Town

## 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	_____	_____	_____ cu yd	_____ cu yd
	a. square feet	b. square feet	c. nourishment	d. nourishment
14. <input type="checkbox"/> Coastal Dunes	_____	_____	_____ cu yd	_____ cu yd
	a. square feet	b. square feet	c. nourishment	d. nourishment
15. <input type="checkbox"/> Coastal Banks	_____	_____		
	a. linear feet	b. linear feet		
16. <input type="checkbox"/> Rocky Intertidal Shores	_____	_____		
	a. square feet	b. square feet		
17. <input type="checkbox"/> Salt Marshes	_____	_____	_____	_____
	a. square feet	b. square feet	c. square feet	d. square feet
18. <input type="checkbox"/> Land Under Salt Ponds	_____	_____		
	a. square feet	b. square feet		
	_____	_____		
	c. c/y dredged	d. c/y dredged		
19. <input type="checkbox"/> Land Containing Shellfish	_____	_____	_____	_____
	a. square feet	b. square feet	c. square feet	d. square feet
20. <input type="checkbox"/> Fish Runs	Indicate size under Coastal Banks, Inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above			
	_____	_____		
	a. c/y dredged	b. c/y dredged		
21. <input type="checkbox"/> Land Subject to Coastal Storm Flowage	_____	_____		
	a. square feet	b. square feet		
22. <input type="checkbox"/> Riverfront Area	_____	_____		
	a. total sq. feet	b. total sq. feet		
Sq ft within 100 ft	_____	_____	_____	_____
	c. square feet	d. square feet	e. square feet	f. square feet
Sq ft between 100-200 ft	_____	_____	_____	_____
	g. square feet	h. square feet	i. square feet	j. square feet



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:  
239-880  
MassDEP File #

eDEP Transaction #  
Newton  
City/Town

## 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 1/8/24 unless extended in writing by the Department.
7. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.



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:  
239-880  
MassDEP File #

eDEP Transaction #  
Newton  
City/Town

### 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            239-880 "
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.



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:  
239-880  
MassDEP File #

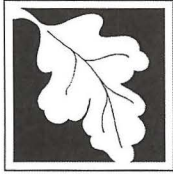
eDEP Transaction #  
Newton  
City/Town

**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;



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

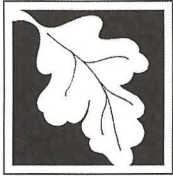
Provided by MassDEP:  
239-880  
MassDEP File #

eDEP Transaction #  
Newton  
City/Town

**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.





**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:  
 239-880  
 MassDEP File #

eDEP Transaction #  
 Newton  
 City/Town

**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.



**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:  
 239-880  
 MassDEP File #

eDEP Transaction #  
 Newton  
 City/Town

**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:

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, 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 #239-880, 40 Albemarle Road, teardown/rebuild SFH

---

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

Site: 40 Albemarle Road  
Owner/Applicant: Jeremy Osinski and Megan McHugh  
40 Albemarle Road, Newton, MA 02460  
908-421-0662 jeremy.osinski@gmail.com  
Representative John Rockwood, EcoTec, Inc.  
102 Grove Street, Worcester, MA 01605  
508-752-9666 jrockwood@ecotecinc.com  
Date of Issuance January 8, 2021

Existing Conditions: Existing single family home with driveway, lawn, patio, and shed.

Approved Project Summary:

- The demolition of the existing 1,047± square foot single-family house with one car garage and bulkhead and associated site features including paved driveway and front and side/rear walkways and stairs, and the removal of one 18" spruce tree and two fruit trees (3 trees removed in total).
- The construction of a 2,027± square foot single-family house with a two-car garage, front porch, and bulkhead; paved driveway; and front walkway and stairs with associated grading, lawn, and landscaping.
- The project will result in 901± s.f. increase in total impervious area on the site.
- Drainage improvements proposed include a trench drain, manhole sump, and two infiltration systems to accommodate driveway and roof runoff.
- Two mitigation planting areas with a total of 13 saplings, 54 shrubs, and several types of groundcover are proposed, totaling 1,890± s.f. (a 2:1 ratio for the increase in impervious area).

Final Approved Plans

- "40 Albemarle Road", prepared by Spruhan Engineering, stamped and signed by Edmond Spruhan.
  - Sheet 1: "Existing Conditions," scale 1" = 10', last revised 11/13/2020
  - Sheet 2: "Proposed Civil Plan," scale 1" = 10', last revised 12/8/2020
  - Sheet 3: "Details," no scale, last revision 12/8/2020
  - Sheet 4: "Details," no scale, last revision 12/8/2020
  - Sheet 5: "Dewatering Plan," scale 1" = 10', last revision 12/8/2020
- "Operation and Maintenance Plan – 40 Albemarle Road," dated 11/13/2020

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

- Riverfront Area: Riverfront Area: 10.58(4)

Reasons for Approval (Impact Analysis): The relevant interests of the Act are being protected and performance standards are being met.

- Riverfront Area:
  - The project is resulting in ~900 sf of increased impervious area and is mitigating with a robust planting plan of ~1800 sf.
  - The relevant interests of the Act are being protected.
    - Protect public and private water supply – n.a.

Findings and Special Conditions of the Newton Conservation Commission  
DEP #239-880, 40 Albemarle Road, teardown/rebuild SFH

---

- Protect ground water supply – n.a. (N.B. The new basement will be 0-1' within Estimated Seasonal High Groundwater, based on mottles in the test pits. Significant displacement of groundwater is not anticipated.)
- Provide flood control – With a large, depressed planting area and swale and only 900 sf of new impervious area, this project is not likely to increase area flooding frequency. The current lawn and grading do not provide much on-site infiltration.
- Prevent storm damage – The site does not currently provide storm damage prevention qualities.
- Prevent pollution – The large, depressed mitigation planting areas and swale will increase water quality on and near the site.
- Protect land containing shellfish – n.a.
- Protect fisheries – The large, depressed mitigation planting areas and swale will increase water quality on and near the site and so could improve the health of local fish populations.
- Protect wildlife habitat -- The large, depressed, permanently protected, native mitigation planting areas will increase wildlife habitat value on the site. The current lawn and non-native cover do not provide much wildlife habitat value.

Limit of Work: The sediment control line shall be the limit of work.

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

### Conditions Prior to the Start of Work

21. All other applicable federal, state and/or local permits and/or approvals must be obtained.
22. This document shall be included in all construction 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.
23. A concrete washout plan designed to limit and control any adverse on the wetlands resource area(s) must be presented to the Conservation Commission for review and approval.
24. A stabilized construction entrance must be created to minimize track of mud and silt onto the roadway.
25. Engineering requirements
  - a. Prior to construction, the applicant must apply for Street Opening and Utilities connecting permits.
  - b. Prior to an Occupancy Permit being issued, the Applicant's Engineer must submit to the Engineering Division an As Built drawing in digital and hard copy formats.
  - c. The existing street line stone bounds must be protected from damage by construction; post-construction verification by a Registered Land Surveyor will be required to ensure the accuracy and condition of the City stone bounds on the rounding of Albemarle Road.
  - d. As required by Ordinance the existing sidewalks shall be updated to current standards.
  - e. If at time of construction the roadway is under a 5-year moratorium, the roadway must be milled and paved gutter-to-gutter for a distance of 25 feet in each direction from the outermost trenches.
26. 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.
27. Notice shall be given to the Conservation Commission at least two business days prior to the start of work.

### Conditions During Work

Findings and Special Conditions of the Newton Conservation Commission  
DEP #239-880, 40 Albemarle Road, teardown/rebuild SFH

---

28. 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.
29. 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.
30. Wetlands flags in the vicinity of the work area are to be clearly numbered as they are on the approved plan and must be maintained at all times.
31. “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
32. 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.
33. 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.
34. A swale of at least 6 inches in depth and 1-2' in width must be installed all along the northern property boundary to direct runoff to the smaller mitigation area fronting on Albemarle Road to alleviate runoff from the subject property to the adjacent property.
35. The patio, shown as to be replaced, must be installed on a fully pervious bed of pea stone with similar (1-2") spacing between the stones to maximize infiltration.
36. The permanent mitigation landscape plantings within Commission jurisdiction must:
  - a. Be installed in compliance with the approved plans and condition #36 (desired changes must be approved by the Conservation office in advance)
  - b. Stabilize all exposed areas
  - c. Have a survival rate of 100 % of total number of trees (after 2 growing seasons)
  - d. Have a survival rate of 75 % of total number of medium-larger shrubs (after 2 growing seasons)
  - e. Have a survival rate of 75 % of total number of smaller shrubs (after 2 growing seasons)
37. The top of mulch within the permanent mitigation landscape planting areas must be and remain in perpetuity at least 6" below the top of the adjacent lawn and sidewalk to facilitate infiltration and preclude stormwater runoff from leaving the site.
38. The permanent mitigation landscape planting areas must be bounded with stone posts. Bounds must be buried roughly 3.5 feet and protrude at least 4" above the ground.
39. Mulch applications shall diminish over time and eventually cease as ground cover species and shrubs spread (Note: This is due to be maintained as a naturalized area).
40. The stormwater infiltration system must be installed as per the approved plans.
41. The City Engineer must inspect the infiltration system. The applicant must submit proof of inspection to the Cons. Office.

#### **Conditions after Work has been Completed**

42. 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.

Findings and Special Conditions of the Newton Conservation Commission  
DEP #239-880, 40 Albemarle Road, teardown/rebuild SFH

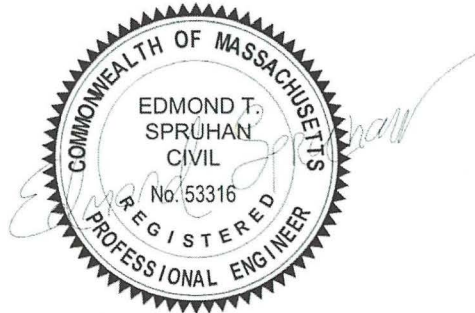
---

- 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. As-built plan and letter from a landscaper certifying compliance with the approved planting scheme.
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 Chief Environmental Planner.

**Perpetual Conditions that Shall Not Expire upon the Issuance of a Certificate of Compliance**

44. The required Riverfront mitigation areas shall be maintained in perpetuity in their predominantly natural condition and bounded as per the approved plans
45. The approved stormwater Operations and Maintenance Plan is appended hereto and must be adhered to.
46. To protect the water quality of the adjacent wetland resource area fertilizers used on this lot shall be of low-nitrogen content and be used in moderation, and to protect the full suite of benefits of Cheesecake Brook, herbicides and pesticides shall not be used.
47. To protect wetland wildlife, exterior lighting shall:
- a. be no more than 1,800 lumens per fixture and the fixture shall not illuminate any part of the wetland more than 0.2 footcandles.
  - b. be shielded to prevent any “up lighting” and “backlighting” (i.e., no emissions above 90 degrees or behind the fixture if that creates spill closer to the wetland resource area),
  - c. be focused to prevent any spill beyond hardscape or edge of maintained lawn or play areas,
  - d. have limited blue content to decrease skyglow and disruption of diurnal animals.
  - e. be switched off when not in active use for safety, and
  - f. not exceed the illumination shown on the approved photometric plan sheet.

**OPERATION AND MAINTENANCE PLAN  
40 ALBEMARLE ROAD  
NEWTON, MASSACHUSETTS**



**13-Nov-20**

**Prepared by Spruhan Engineering, P.C.**

The proposed project includes stormwater runoff controls associated with the redevelopment of the site with a new larger single-family house that will require continued maintenance by homeowner. The major components associated with maintenance needs are the trench drain, manhole, and infiltration systems. These will need to be inspected and cleaned periodically as noted below. Cleaning of these structures shall be contracted by the homeowner via a specialty contractor with hydraulic cleaning ability. In addition to the facilities noted below, the homeowners should maintain any roof gutters/drains on a regular basis to prevent clogging and carry over of debris into the drainage systems. 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 trench drain. The following outlines the major maintenance issues associated with the project:

**Maintenance Responsibilities:**

The maintenance of the stormwater runoff controls is the responsibility of the homeowner or successive homeowner(s).

The actual work to inspect and clean the trench drain, manhole sump, and infiltration systems shall be subcontracted to a company that specializes in the cleaning of storm drainage facilities.

**Trench Drains and Manhole Sumps:**

The trench drain and manhole sump shall be inspected after completion of construction to assure that all debris has been removed and construction material will not cause the system to clog. This inspection should also include the drain lines within the system.

The trench drains shall be inspected twice per year and after significant storm events and all debris removed. The manhole sump should be inspected twice per year; if depth of sediment in sumps exceeds 50% capacity, sediment must be removed. The structures should be cleaned with a hydraulic vacuum system at least once per year to remove accumulated solids and debris. At the same time, the drain lines should be inspected and cleaned, if needed. Assuming the structures 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.

### **Infiltration Systems:**

The storage/infiltration systems should be inspected after completion of construction to assure that all debris has been removed and construction material will not cause the systems to clog.

The storage/infiltration systems should be inspected two times over the first year of operation to determine the level of required maintenance. This inspection should be performed by the homeowner's engineer. As a preliminary schedule, the system piping should be cleaned once a year to remove any accumulated sediments and sediments in the infiltration chambers should be removed when they reach two inches in depth.

### **Other Activities:**

**Pavement Sweeping:** The paved area shall be swept twice per year, once in the spring right after snowmelt, and once in the fall.

**Lawn and Landscape Repairs:** The lawn and landscaped areas on the site shall be inspected in the spring and fall of each year and the areas shall be restabilized as needed by seeding as lawn or mulching of landscaped areas.



**OPERATION & MAINTENANCE PLAN  
LOG SHEET  
40 ALBEMARLE ROAD  
NEWTON, MASSACHUSETTS**

**INSPECTION REPORT:**

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

Inspector's Name: \_\_\_\_\_ Date: \_\_\_\_\_

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

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

**SYSTEM MAINTENANCE:**

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

Trench Drain Cleaned: Yes \_\_\_\_\_  
No \_\_\_\_\_ Comments: \_\_\_\_\_  
\_\_\_\_\_

Manhole Sump Cleaned: Yes \_\_\_\_\_ No \_\_\_\_\_ Comments: \_\_\_\_\_  
\_\_\_\_\_

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

Infiltration Systems 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:  
 239-880  
 MassDEP File #

eDEP Transaction #  
 Newton  
 City/Town

**E. Signatures**

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



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

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

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

1/8/21

1. Date of Issuance

6

2. Number of Signers

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

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.

Duly authorized by MGL Ch. 110G.

Signatures: *Jennifer Steel*

/s/ Daniel Green

/s/ Susan Lunin

/s/ Ellen Katz

/s/ Leigh Gilligan

/s/ Katherine Cade

/s/ Jeff Zabel

by hand delivery on *Jeremy Osinski*

by certified mail, return receipt requested, on

1/8/21  
 Date

Date



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

Provided by MassDEP:  
239-880  
MassDEP File #

eDEP Transaction #

Newton

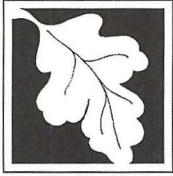
City/Town

## 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:  
239-880  
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  
**Request for Departmental Action Fee  
Transmittal Form**

DEP File Number:

\_\_\_\_\_  
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.