



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

Western Regional Office • 436 Dwight Street, Springfield MA 01103 • 413-784-1100

Maura T. Healey
Governor

Kimberley Driscoll
Lieutenant Governor

Rebecca L. Tepper
Secretary

Bonnie Heiple
Commissioner

ISSUED ELECTRONICALLY ONLY

Todd Cellura
Sovereign Builders, Inc.
710 Southamptton Road
Westfield, MA 01085
Tcellura@sovereignbuilders.com

August 7, 2025

RE: MassDEP Wetlands File #246-0785
Request for Superseding Order of Conditions
8 View Ave, 56 Northern Ave
Northampton, Massachusetts

Dear Mr. Cellura:

The Massachusetts Department of Environmental Protection (hereinafter the Department) conducted an informal meeting per 310 CMR 10.05(7)(i) for the above-referenced project on December 4, 2024. In accordance with the provisions of the Massachusetts Wetlands Protection Act [the “Act”], MGL c. 131, § 40, and as a result of information gathered at the above-referenced meeting and information sent to the Department on November 8, 2024, January 10, 2025, March 21, 2025, and July 11, 2025 the Department hereby issues the attached Superseding Order of Conditions (SOC). This SOC approves the construction of 12 single-family ‘efficiency’ dwellings, two covered bicycle parking structures, a common park space gathering area, a private two-lane paved road, pedestrian sidewalks, and associated stormwater infrastructure; all as depicted on the plan(s) of record (dated March 21, 2025) and supplemental information.

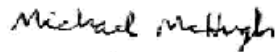
The Resource Areas specified above and within the SOC have been determined to be significant to the following statutory “interests” of the Act: public and private water supply, groundwater supply, flood control, storm damage prevention, prevention of pollution, protection of land containing shellfish, and protection of fisheries and wildlife habitat.

The attached SOC conditions proposed work to adequately protect the “interests” of the Act. The reasons given here are sufficient to justify this decision. However, the Department reserves the right, should there be further proceedings in this matter, to raise additional issues and present further evidence as may be appropriate.

The Department urges the applicant and landowner to carefully read and comply with this document, including each of the General and Special Conditions therein, as this SOC confers legal obligations upon them and their contractors. Additionally, all contractors performing work subject to this SOC should be provided a copy and asked to read, understand, and comply with it.

If you have any questions or need additional information, please contact Mary Grover at mary.grover@mass.gov or at 1-617-352-9918.

Sincerely,



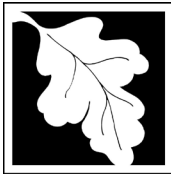
Michael McHugh
Chief, Division of Wetlands and Waterways

--Acknowledgement of electronic receipt requested

cc Northampton Conservation Commission
Slavalley@northamptonma.gov

Jeff Squire
Berkshire Design Group
Jeff@berkshiredesign.com

Caroline E. Smith, Esq.
Csmith@mcgregorlaw.com



Massachusetts Department of Environmental Protection
Bureau of Water Resources – Division of Wetlands and Waterways

Superseding Order of Conditions

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

Provided by MassDEP:

246-0785

MassDEP File #

1702421

eDEP Transaction #

Northampton

City/Town

A. General Information

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: Massachusetts Department of Environmental Protection (Department/MassDEP)

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

3. To: Applicant:

Todd

a. First Name

Cellura

b. Last Name

Sovereign Builders, Inc.

c. Organization

710 Southampton Road

d. Mailing Address

Westfield

e. City/Town

MA

f. State

01085

g. Zip Code

4. Property Owner (if different from applicant):

a. First Name

b. Last Name

c. Organization

d. Mailing Address

e. City/Town

f. State

g. Zip Code

5. Project Location:

8 View Ave, 56 Northern Ave

a. Street Address

Northampton

b. City/Town

25C

c. Assessors Map/Plat Number

012, 017

d. Parcel/Lot Number

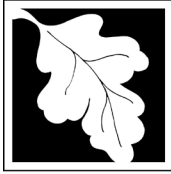
Latitude and Longitude, if known:

42.32877N

e. Latitude

-72.62962W

f. Longitude



Superseding Order of Conditions

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

A. General Information (cont.)

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

Hampshire

a. County

14874

c. Book

N/A

b. Certificate Number (if registered land)

111, 129

d. Page

7. Dates: 4/11/2024 9/26/2024 10/3/2024
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):

Plan Set View Ave Northampton Massachusetts

a. Plan Title

Berkshire Design Group

b. Prepared By

03/21/2025

d. Final Revision Date

Christopher M. Chamberland

c. Signed and Stamped by

Varies

e. Scale

Refer to the attached findings and conditions

f. Additional Plan or Document Title

g. Date

B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act:

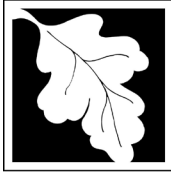
Following the review of the above-referenced Notice of Intent and based on the information provided in this application and supplemental information, the Department finds that the area(s) in which work is/are proposed is/are significant to the following interests of the Massachusetts Wetlands Protection 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 Preventionⁱ. ☒ Flood Control

2. The Department 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 Regulations at 310 CMR 10.00. The Department 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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Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

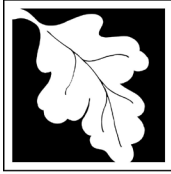
B. Findings (cont.)

Denied because:

- b. ☐ the proposed work cannot be conditioned to meet the performance standards set forth in the Regulations at 310 CMR 10.00. 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 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 Resource Area specified in 310 CMR 10.02(1)(a) 35
a. linear feet

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

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



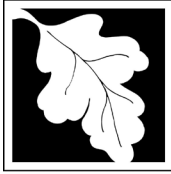
Superseding Order of Conditions

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B. Findings (cont.)

Coastal Resource Area Alteration: 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	<u> </u> a. square feet	<u> </u> b. square feet		
	<u> </u> c. c/y dredged	<u> </u> 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	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. nourishment	<u> </u> d. nourishment
14. <input type="checkbox"/> Coastal Dunes	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. nourishment	<u> </u> d. nourishment
15. <input type="checkbox"/> Coastal Banks	<u> </u> a. linear feet	<u> </u> b. linear feet		
16. <input type="checkbox"/> Rocky Intertidal Shores	<u> </u> a. square feet	<u> </u> b. square feet		
17. <input type="checkbox"/> Salt Marshes	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. square feet	<u> </u> d. square feet
18. <input type="checkbox"/> Land Under Salt Ponds	<u> </u> a. square feet	<u> </u> b. square feet		
	<u> </u> c. c/y dredged	<u> </u> d. c/y dredged		
19. <input type="checkbox"/> Land Containing Shellfish	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. square feet	<u> </u> 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			
	<u> </u> a. c/y dredged	<u> </u> b. c/y dredged		
21. <input type="checkbox"/> Land Subject to Coastal Storm Flowage	<u> </u> a. square feet	<u> </u> b. square feet		



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B. Findings (cont.)

22. ☐ Restoration/Enhancement *:

* #22. If the project is for the purpose of restoring or enhancing a 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.

a. square feet of BVW

b. square feet of salt marsh

23. ☐ Stream Crossing(s):

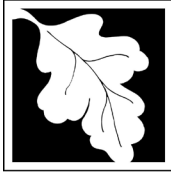
a. number of new stream crossings

b. number of replacement stream crossings

C. General Conditions Under Massachusetts Wetlands Protection Act

The following conditions are only applicable to Approved projects.

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
 - a. the work is a maintenance dredging project as provided for in the Act; or
 - b. the time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
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.
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 August 7, 2028 unless extended in writing by the Department.
7. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.
8. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.



Massachusetts Department of Environmental Protection
Bureau of Water Resources – Division of Wetlands and Waterways

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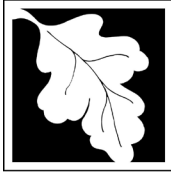
Northampton

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

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 Department 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 246-0785 "
11. Where the Massachusetts 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 Department.
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 Department 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 Massachusetts Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.
17. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland and/or Bank (Inland), the boundary of the each in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the boundary markers shall be maintained until a Certificate of Compliance has been issued by the Department.



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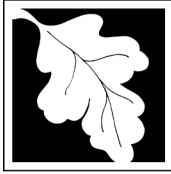
City/Town

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

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 Department, 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.

NOTICE OF STORMWATER CONTROL AND MAINTENANCE REQUIREMENTS

19. **The work associated with this Order (the “Project”) is (1) ☒ is not (2) ☐ 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;
 - 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.



Superseding Order of Conditions

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

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.

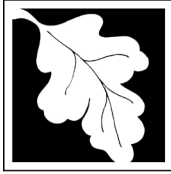
d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination 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.

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.



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

- 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.

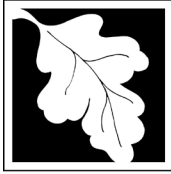
Brief Project Description of Permitted Activities:

The development of 12 single-family 'efficiency' dwellings, two covered bicycle parking
Structures, a common park space gathering area, a private two-lane, twenty-foot-wide
dead-end paved access road, pedestrian sidewalks, and associated stormwater
infrastructure, located within the Buffer Zone.

Special Conditions (See the attached sheet(s) for additional conditions numbered 20 through 45).

D. Findings Under Municipal Wetlands Bylaw or Ordinance

To the extent that the Order is based on a municipal bylaw or ordinance, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no jurisdiction to supersede the local by-law order.



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E. Signature and Issuance

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

Issued by the Massachusetts Department of Environmental Protection:

Michael McHugh, Chief, Wetlands Program

August 7, 2025

Date

This Order has been mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy has been sent via mail or e-mail to the appropriate local Conservation Commission, if not filing electronically, and the property owner, if different from applicant.

F. Appeals

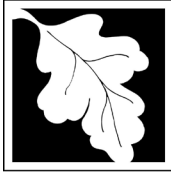
Appeal Rights and Time Limits

The applicant, the landowner, any person aggrieved by the Superseding Order, Determination or other Reviewable Decision as defined at 310 CMR 10.04, who previously participated in the proceedings leading to this Reviewable Decision, the conservation commission, or any ten (10) residents of the city or town where the land is located if at least one resident was previously a participant in the permit proceeding, are hereby notified of their right to appeal this Reviewable Decision pursuant to M.G.L. c.30A, § 10, provided the request is made by certified mail or hand delivery to the Department, along with the appropriate filing fee and a MassDEP Fee Transmittal Form within ten (10) business days of the date of issuance of this Superseding Order or Determination, and addressed to:

Case Administrator
Office of Appeals and Dispute Resolution
Massachusetts Department of Environmental Protection
100 Cambridge Street
Boston, MA 02108.

A copy of the request (hereinafter also referred to as Appeal Notice) shall at the same time be sent by certified mail or hand delivery to the Conservation Commission, the applicant, the person that requested the Superseding Order or Determination, and the issuing office of the MassDEP at:

Michael McHugh, Wetlands Program
Massachusetts Department of Environmental Protection
436 Dwight Street
Springfield MA 01103-1361



Massachusetts Department of Environmental Protection
Bureau of Water Resources – Division of Wetlands and Waterways

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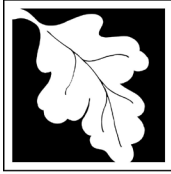
City/Town

In the event that a ten resident group requested the Superseding Order or Determination, the Appeal Notice shall be served on the designated representative of the ten resident group, whose name and contact information is included in this Reviewable Decision (when relevant).

Contents of Appeal Notice

An Appeal Notice shall comply with the Department's Rules for Adjudicatory Proceedings, 310 CMR 1.01(6) and 310 CMR 10.05(7)(j), and shall contain the following information:

- (a) the MassDEP Wetlands File Number, name of the applicant, landowner if different from applicant, and address of the project;
- (b) the complete name, mailing address, email address, and fax and telephone numbers of the party filing the Appeal Notice; if represented by consultant or counsel, the name, fax and telephone numbers, email address, and mailing address of the representative; if a ten residents group, the same information for the group's designated representative;
- (c) if the Appeal Notice is filed by a ten (10) resident group, then a demonstration of participation by at least one resident in the previous proceedings that led to this Reviewable Decision;
- (d) if the Appeal Notice is filed by an aggrieved person, then a demonstration of participation in the previous proceeding that lead to this Reviewable Decision and sufficient written facts to demonstrate status as a person aggrieved;
- (e) the names, telephone and fax numbers, email addresses, and mailing addresses of all other interested parties, if known;
- (f) a clear and concise statement of the alleged errors contained in the Department's decision and how each alleged error is inconsistent with 310 CMR 10.00 and does not contribute to the protection of the interests identified in the Wetlands Protection Act, M.G.L. c. 131, § 40, including reference to the statutory or regulatory provisions that the party filing the Appeal Notice alleges has been violated by the Department's Decision, and the relief sought, including any specific desired changes to the Department's decision;
- (g) a copy of the Department's Reviewable Decision that is being appealed and a copy of the underlying Conservation Commission decision if the Reviewable Decision affirms the Conservation Commission decision;
- (h) a statement that a copy of the request has been sent by certified mail or hand delivery to the applicant and the conservation commission; and
- (i) if asserting a matter that is Major and Complex, as defined at 310 CMR 10.04(1), a statement requesting that the Presiding Officer make a designation of Major and Complex, with specific reasons supporting the request.



Massachusetts Department of Environmental Protection
Bureau of Water Resources – Division of Wetlands and Waterways

Superseding Order of Conditions

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

Provided by MassDEP:

246-0785

MassDEP File #

1702421

eDEP Transaction #

Northampton

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 Department of Environmental Protection.

Detach or photocopy and submit to the Department of Environmental Protection.

To: Massachusetts Department of Environmental Protection
Wetlands Program
436 Dwight Street
Springfield MA 01103

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

Findings and Special Conditions

Findings:

- This Superseding Order of Conditions applies to and involves two (2) parcel(s) of land with street addresses of 8 View Avenue and 56 Northern Avenue, located within the City of Northampton, Hampshire County, Massachusetts, and additionally referred to as City of Northampton Assessors Map 25C, Lots 12 and 17 (hereinafter the “Project Locus”);
- The Department has reviewed and approved the boundary of the “project site” (as defined at 310 CMR 10.04 Project Site) at the “project locus” (as defined at 310 CMR 10.04 Project Locus), which in this case is coterminous with the proposed erosion and sedimentation barrier shown on the plan(s) of record. The Department has determined that the boundaries (as defined at 310 CMR 10.04 Boundary) of Resource Areas (as defined at 310 CMR 10.04 Resource Area) *within* the “project site”, or which cast boundaries into the “project site”, are accurate, as further clarified below;
- The activity, as defined at 310 CMR 10.04 Activity, described within the Notice of Intent will occur within the 100-foot Buffer Zone (as defined at 310 CMR 10.04 Buffer Zone) to Bordering Vegetated Wetland [as defined at 310 CMR 10.55(2)];
- The Department finds that the project, as proposed in the Notice of Intent and supplemental information submitted to the department on November 8, 2024, January 10, 2025, March 21, 2025, and July 11, 2025 (hereinafter referred to as “supplemental information”), is subject to 310 CMR 10.02(2)(b)3. as, in the judgment of the Department, the project will alter (as defined at 310 CMR 10.04 Alter) Resource Areas **if not** properly conditioned per this Superseding Order of Conditions;
- The Department finds that the natural path connection located within the Riverfront Area (as defined at 210 CMR 10.58(2) Riverfront Area) and Bordering Vegetated Wetland (as defined at 310 CMR 10.55(2)), as proposed in the Notice of Intent and supplemental information, is not subject to 310 CMR 10.02(2)(b)3., as in the judgment of the Department, the natural path connection does not meet the definition of Activity (as defined at 310 CMR 10.04 Activity) and will **not** alter Riverfront Area or Bordering Vegetated Wetland, and is therefore not subject to this Superseding Order or to the jurisdiction of the Department;
- The Department finds that the project, as proposed in the Notice of Intent and supplemental information, and as conditioned within this Superseding Order per the Department’s authority at 310 CMR 10.05(7), will meet the General Performance Standards for Bordering Vegetated Wetland per 310 CMR 10.05(6)(b), and therefore meets the provision at 310 CMR 10.53(1) per the burden of proof at 310 CMR 10.03(1)(a)3;
- Per 310 CMR 10.53(1), the Department finds that the project, as proposed in the Notice of Intent and supplemental information, and as conditioned within this Superseding Order, will not destroy or otherwise impair any portion of Bordering Vegetated Wetland in accordance with 310 CMR 10.55(4)(a) and the provision at 310 CMR 10.05(6)(b);
- The Department reviewed the Site for the presence of Bordering Land Subject to Flooding (BLSF) in accordance with 310 CMR 10.57(2)(a)(3). The Department determined that Federal Emergency Management Agency (FEMA) National Flood Insurance Program flood profile data is unavailable for the Site. The Applicant stated that the project site is located at or above elevation 133 feet and that the closest flood elevation according to the FEMA Flood map is 125 feet. The appellants stated that flooding has been reported by several residents whose property abuts the stream channel and that the “Flood and Natural Hazard Mitigation Plan, City of Northampton, Office of Planning and Development,” as approved by the City

Findings and Special Conditions

Council on August 19 and September 4, 2004 identifies the perennial stream flowing through the parcel as having flooded during Tropical Storm Floyd in 1999. Pursuant to 310 CMR 10.57(2)(a)(3), as there was a conflict during the review of this project, the Department required the applicant to determine the boundary of BLSF by engineer calculations. On March 21, 2025, the applicant submitted engineering calculations which were:

- A. Based upon a design storm of seven inches of precipitation in 24 hours;
- B. Based upon the standard methodologies set forth in U.S. Soil Conservation Service Technical Release No. 55, *Urban Hydrology for Small Watersheds* and Section 4 of the U.S. Soil Conservation Service, *National Engineering Hydrology Handbook*; and
- C. Prepared by a registered professional engineer or other professional competent in such matters.

Based on the Department's review of the engineering calculations prepared per 310 CMR 10.57(2)(a)(3), the Department determined that the BLSF boundary is located within the Project Locus but not within the Project Site. Therefore, the Department has determined that the project will not remove, fill, dredge or alter BLSF.

- The Department has determined that Bank (Inland) [as defined at 310 CMR 10.54(2)], Land Under Water Bodies and Waterways [as defined at 310 CMR 10.56(2)], and Riverfront Area [as defined at 310 CMR 10.58(2)] occur within the Project Locus in question but beyond the "project site". The boundaries (as defined at 310 CMR 10.04 Boundary) of all Resource Areas beyond the "project site" have not been established by the Department in this Superseding Order, save where specified herein;
- The boundary of Bank (Inland) of the perennial stream on the parcel(s) in question is demarcated via flags WF/S-102 through and including WF/S-117, as shown on the plan(s) of record and excluding those flags located off the parcel(s) in question. The Bank flags are coincident with the Mean Annual High Water Line (MAHWL), which was determined via the procedure described at 310 CMR 10.58(2)(a)(2);
- The boundary of the Bordering Vegetated Wetland on the Project Locus was determined to be accurate by the Department and is demarcated via flags WF/B6 through and including WF/B28 and WFA39 through and including WF/A82, as shown on the plan(s) of record and excluding those flags located off the parcel(s) in question;
- As the project entails the construction of a "discharge from a point source" of "stormwater" within Buffer Zone, per 310 CMR 10.05(6)(b), the Department has determined that this project is subject to, and as conditioned in this Order meets, the applicable Standards of the Department's Stormwater Management Regulations at 310 CMR 10.05(6)(k) through and including (q).
- In accordance with 310 CMR 10.05(6)(b), this project has been conditioned to set limits on the quantity and quality of discharge from a point source as necessary to protect the interests identified in M.G.L c. 131, §40.

Findings and Special Conditions

Special Conditions:

Administrative and Procedural Requirements

20. These Special Conditions do not supersede or negate the requirements of the General Conditions above. All successors and assigns in interest or control of the property subject to this Superseding Order (hereinafter Order) and any contractor or other person performing work conditioned by this Order shall adhere to ALL applicable procedural and technical conditions in this Order.

21. This Order specifically prohibits any activity, as defined at 310 CMR 10.04, other than that specifically authorized by this Order, on a: Bank [310 CMR 10.54(2)] or within Bordering Vegetated Wetland [310 CMR 10.55(2)] or within Land Under Water Bodies and Waterways [310 CMR 10.56(2)] or within Bordering Land Subject to Flooding [310 CMR 10.57(2)(a)] or within Riverfront Area [310 CMR 10.58(2)] as delineated on the plan(s) of record and demarcated on the parcel in question, or as found at the “project locus”, as defined at 310 CMR 10.04. Any proposed activity above and beyond that described in the Notice of Intent and supplemental information within jurisdictional Resource Areas and their Buffer Zones (as defined at 310 CMR 10.04) must be preceded by a negative Determination of Applicability or an Order of Conditions from the Conservation Commission, unless said activity is a “minor exempt activity” as defined at 310 CMR 10.58(6)(b) and 310 CMR 10.02(2)(b). Failure to abide by this Special Condition will result in potential enforcement action on the part of the Department, and possibly other regulatory agencies.
22. The contractor(s) employed to execute earth-moving, vegetation removal, demolition, and/or motorized vehicle operation activities on the property subject to this Order must be provided a copy of this Order prior to the commencement of any such activities. Said contractor(s) may be held responsible with the permittee and property owner for violations by the contractor, and may be subject to penalties authorized by law and/or regulation for those violations.
23. By close-of-business September 5, 2025, the permittee shall submit to the Department a good resolution copy of the final plans of record, which are subject to the review and approval of the Department. The plans of record, titled “Sovereign Builders 8 View Avenue Northampton MA” dated March 21, 2025 shall become the final plans of record and shall include the following requirements:
- a. Plans of record and calculations stamped by a registered professional engineer (PE);
 - b. Final compilation of the Stormwater Report and Stormwater Checklist, stamped by a PE, and supporting documentation;
24. Upon review and acceptance of these plans of record by the Department, the permittee will affix a prominent “Approved by MassDEP on Month, Date, Year” label upon each sheet and shall electronically resubmit the plans to the Department. A copy shall be retained by the Department as a permanent record, and a copy shall be retained by the permittee and the general contractor (or equivalent) and made available on appropriately sized paper when requested. Thereafter, all work conducted per this Order shall fully and completely comply with these plans of record, save when the permittee requests modifications thereof, and the Department agrees to such modifications at its sole discretion. In the event of such a modification, the Department reserves the right to add, strike, or amend Special Conditions

Findings and Special Conditions

herein in accordance with the General Performance Standards for each affected Resource Area.

25. Prior to the initiation of activities permitted by this Order, the permittee shall arrange for a videoconference to be held with the Department's Western Region Wetlands Program. It shall be the responsibility of the permittee to propose a platform for this videoconference, with whatever security protocols they may require; and to ensure that their representative(s) (if any), as well as the general contractor, all appointed compliance monitors and environmental consultants required within this Order (if any), and all other pertinent firms or persons, are in attendance. The permittee shall also ensure that all plans of record, contracts, and other pertinent documents are made available and viewable at this videoconference. No activities otherwise permitted by this Order may proceed until this videoconference has been held.
26. Should contractors not be able to build according to the plan(s) of record (or any sheet, detail, schematic, or collar note therein) approved in this Order, because said plans do not accurately reflect site conditions (or standard construction methodologies, or practical construction considerations), the Department maintains the right to require an immediate cessation of work, in whole or in part. Should the Department, at its sole discretion, require such cessation, it shall do so in writing to the permittee, and such notice shall require adequate interim erosion and sedimentation controls and the submittal of proposed plan revisions that address the inadequacies, and result in the same or reduced alterations to Resource Areas as approved in the plan(s) of record. Activities shall not recommence until written approval to proceed has been issued by the Department.
27. Refueling, servicing, and repair of motorized construction vehicles shall take place outside of all "Areas Subject to Protection Under MGL c. 131, § 40" and related Buffer Zones (as defined at 310 CMR 10.02). Equipment operators shall be prepared to immediately respond to accidental releases of fuel, motor oil, and other liquids through containment. There shall be located on-site absorbent materials for use in containing accidental spills. If any release of fuel, motor oil, lubricating oils, etc. occurs, the permittee and other responsible parties identified at Special Condition #20 and #22 of this Order, in addition to all obligations under GL c. 21E (Massachusetts Oil and Hazardous Material Release Prevention and Response Act) and the Massachusetts Contingency Plan (MCP), shall immediately notify the Department's Western Regional Office at 1-413-784-1100. Any response action or cleanup shall be conducted pursuant to GL c. 21E and the MCP.
28. The Permittee shall properly manage and dispose of all solid waste excavated/generated by this project pursuant to 310 CMR 16.00 and 310 CMR 19.000, including the regulations at 310 CMR 19.017 (waste ban). Any solid waste discovered at the site that has been dumped or buried during prior operations shall be removed by the permittee and disposed of in accordance with all subject regulations including regulations for the handling and disposal of asbestos and hazardous waste. Asphalt, brick, and concrete (ABC) generated through crushing and reuse on-site must be handled in accordance with regulation and policy.
29. Upon completion of the project, the permittee shall submit with their request for a Certificate of Compliance, an affidavit prepared by a professional engineer or land surveyor registered in the Commonwealth of Massachusetts, stating that the Site has been developed in accordance with the requirements of this Order and the referenced site plan(s).

Findings and Special Conditions

Site Stabilization Requirements

30. Prior to commencement of any work on the Site, adequate erosion and sedimentation control measures shall be implemented, including any necessary controls not specifically referenced in the plan(s) of record, and they shall be maintained in effect throughout the entire project, and until the Site has become stabilized with an adequate vegetative or landscaping cover. Structural failure of the erosion and sedimentation controls required by this Order would constitute a violation of this Order, and could result in enforcement actions taken by the Department, and possibly other regulatory agencies.
31. Prior to the commencement of any earth-moving activity, a double-staked weed-free straw bale barrier (end to end) shall be placed along the limit of activity between all disturbed areas and jurisdictional Resource Areas, regardless of what is shown on the plan(s) of record. Each bale shall be properly bound with at least two (2) lengths of twine or wire, and shall be entrenched to an excavated depth of at least four (4) inches, but no greater than six (6) inches. Excavated spoils from entrenching shall be deposited on the up-gradient side of the barrier. Bales shall be tightly butted against each other. A geotextile siltation fence shall be placed on the down-gradient side of the aforementioned straw bale barrier, and shall be entrenched in a like manner such that the base of the fabric lies below grade extending at least six (6) inches away from the fence. This fence shall be located no further than twelve (12) inches from the down-gradient side of the straw bale barrier. These erosion and sedimentation controls shall be constructed and installed per this Special Condition, and shall be maintained in proper functioning condition until all disturbed areas have been stabilized, or until the Department has determined that the control measures are no longer necessary. The geotextile siltation fence shall constitute a limit-of-work-line. No work shall be permitted on the down-gradient side (the Resource Area side) of this line under this Order.
32. All final grades of unconsolidated material within 100-foot Buffer Zones to “Areas Subject to Protection Under MGL c. 131, § 40” (as defined at 310 CMR 10.02) that are proposed (in the Notice of Intent and subsequent submittals) to be stabilized with turf or landscaping material, shall be stabilized by the application of loam and turf and/or landscaping material within three (3) business days of completion of the project. Within thirty (30) calendar days of final grading, or within 30 calendar days after the commencement of the following growing season if the project is completed after October 31st, all disturbed areas shall be permanently stabilized with rapidly growing cover and sufficient topsoil and/or landscaping material to assure long-term stabilization of disturbed areas. Maintenance of these areas in a manner that assures permanent stabilization and precludes any soil erosion shall be the responsibility of the owner of record of the property subject to this Order.
33. Stockpiles of soils, aggregate, or any other unconsolidated construction materials permitted by this Order within 100-foot Buffer Zones to “Areas Subject to Protection Under MGL c. 131, § 40” (as defined at 310 CMR 10.02) shall be covered with tarpaulins when not being worked with. Stockpiles in place for greater than twenty-four (24) hours shall be ringed with an entrenched hay bale barrier and covered by properly secured tarpaulins at the close of each workday. The areas of construction shall remain in a stable condition at the close of each construction day. Erosion controls shall be inspected daily, and maintained or reinforced if necessary.
34. Prior to the initiation of any activities otherwise permitted in this Order the permittee shall insure that a “Construction Sequencing Plan” appropriate to project and site conditions is

Findings and Special Conditions

submitted to the Department and approved in writing by the Department. Such a plan shall minimally follow the US Environmental Protection Agency's National Pollutant Discharge Elimination System (NPDES) "Construction Sequencing" Best Management Practice at <http://cfpub.epa.gov/npdes/stormwater/menuofbmps/index.cfm?action=browse&Rbutton=detail&bmp=51>. In addition, at no time shall greater than ½ acre of land be disturbed or in a state of disturbance in any catchment at the Site without the express written permission of the Department.

Compliance with the Department's Stormwater Management Regulations

35. The permittee shall take full legal responsibility for implementation of the "Operation and Maintenance Plan", as submitted within the Notice of Intent, and modified per Condition #23 of this Order, until such time as another party or entity exerts legal responsibility and the Department is so notified in writing and grants approval in writing for such a transfer. Upon this transfer of responsibility, that party shall maintain all stormwater structures within the Department's jurisdiction. This Special Condition is ongoing and does not end upon the completion of this project or the issuance of a Certificate of Compliance.
36. All stormwater management structures within the Department's jurisdiction shall be maintained according to the "Maintenance Criteria" for each enumerated "Structural Best Management Practice" specified in specified within the *Massachusetts Stormwater Handbook* for each proposed structural BMP, unless a given practice is specifically modified in the "Operation and Maintenance Plan" required per Standard 9. Any failure of any stormwater structure or structural component that leads to a discharge of untreated stormwater shall be immediately repaired after written notification to the Department within forty-eight (48) hours of failure. This Special Condition is ongoing and does not end upon the completion of this project or the issuance of a Certificate of Compliance.
37. All stormwater management structures constructed as a result of this project, and per the plan(s) of record, are subject to the provisions of 310 CMR 10.02(3) regarding normal and routine maintenance conducted according to Special Condition #36 of this Order.
38. The project conditioned by this Order is fully subject to the Department's Bureau of Resource Protection "Snow Disposal Guidance" (Effective Date March 8, 2001) (Guideline BRPG 01-01). All management of snow on the subject parcel(s) shall conform to this Guidance. This Special Condition is ongoing and does not end upon the completion of this project or the issuance of a Certificate of Compliance.
39. The project conditioned by this Order is subject to the United States Environmental Protection Agency's (EPA) "Construction General Permit" (CGP) issued under the National Pollutant Discharge Elimination System (NPDES) (re-issued February 16, 2017). In accordance with 310 CMR 10.05(6)(k)8., Standard 8, and the *Massachusetts Stormwater Handbook*, the Department has determined that the "Stormwater Pollution Prevention Plan" (SWPPP) prepared under the CGP will legally serve as the "Construction Period Erosion, Sedimentation and Pollution Prevention Plan" (CPESP). A copy of the Notice of Intent submitted to the EPA per the CGP shall be provided to the Department at the time of filing. The Department reserves the right to inspect the SWPPP (which, in accordance with the CGP must be maintained on Site), and Notice of Termination (NOT) during compliance inspections conducted in accordance with General Condition #15 of this Order. Failure to comply with the SWPPP may constitute a violation of General Conditions #1 and #3 of this

Findings and Special Conditions

Order, and may result in an enforcement action on the part of the Department, and possibly other regulatory agencies. Electronic copies of SWPPP inspection reports shall be sent to the Department following each inspection. Copies of reports shall be sent to:

Mary.Grover@mass.gov.

Compliance Monitoring

40. At least ten (10) days prior to construction, the permittee shall nominate a Primary Compliance Monitor in writing, who shall be subject to approval by the Department. The nominated Primary Compliance Monitor shall have adequate and relevant education, training, and/or experience necessary to understand and perform the duties described herein, and the Department reserves the right to accept nominees based upon its review of such education, training, and/or experience, as documented in resumes submitted to the Department. The approved Primary Compliance Monitor shall conduct a thorough inspection of the site within 24 hours of any rainfall which equals or exceeds 0.5 inches within 24 hours (as measured from the nearest applicable station on the NOAA “Daily Summaries Map”, see <https://www.ncei.noaa.gov/maps/daily-summaries/> or other source as approved by the Department) or at least once every calendar week during active construction in the absence of a threshold rainfall event as outlined above. Failure of the Compliance Monitor to adequately perform the required duties in the opinion of the Department shall be grounds for revoking the approval of the Compliance Monitor.
41. The permittee may also nominate Alternative Compliance Monitor(s). The nominated Alternative compliance monitor(s) shall be nominated and subject to the same approval and conditions as the primary compliance monitor. The Alternative Compliance Monitor(s) may perform the duties of the Primary Compliance Monitor in the event the Primary Compliance Monitor is unavailable. However, the Alternative Compliance Monitor(s) may not serve as the Primary Compliance Monitor without the express written approval of the MassDEP. In all cases, the Primary Compliance Monitor is responsible for ensuring the duties of any Alternative Compliance Monitor are adequately performed.
42. While performing their inspection the Primary Compliance Monitor shall confirm that all relevant Conditions of this Order are being complied with. The compliance monitor(s) shall sufficiently document any and all observed conditions of the Project Site as well as any noncompliance with any of the Conditions of this Certification. Within 48 hours of the inspection event, compliance monitor(s) shall submit such electronic documentation to: Mary.Grover@mass.gov. This electronic documentation shall be in the form of a concise written report which adequately describes the activities and/or conditions and cites any Condition(s) which have been violated (if appropriate), and shall always be accompanied by the submittal of digital photographs, which shall clearly and adequately show the nature and extent of activities and/or conditions and support the written report.

Additional Conditions

43. As proposed by the applicant, the applicant shall donate a permanent Conservation Restriction on that portion of land shown as ‘Proposed Conservation Restriction’ on plan sheet CR-01 to the City of Northampton, acting by and through its Conservation Commission. Prior to the preconstruction meeting, the applicant shall execute a purchase

Findings and Special Conditions

and sale agreement for the donation. The applicant shall work with the City to submit a restriction for state approval and endorsement.

44. The area shown as “35-foot protected zone” on project plans shall be marked as a no disturb area with boulders or other permanent markings.
45. A detailed planting plan and operations and maintenance plan for buffer areas, including ongoing invasive species management, must be submitted for review and approval of the Department prior to the preconstruction meeting. Such plan shall be incorporated by reference.