

Middlesex North Registry of Deeds

Electronically Recorded Document

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Recording Information

Document Number	: 5850
Document Type	: ORD
Recorded Date	: January 29, 2021
Recorded Time	: 09:30:24 AM
Recorded Book and Page	: 35265 / 222
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Receipt Number	: 918952
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Middlesex North Registry of Deeds
Richard P. Howe Jr., Register
360 Gorham Street
Lowell, Massachusetts 01852
978/322-9000
www.lowelldeeds.com



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 5 – Order of Conditions

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

Provided by MassDEP:

145-1114

MassDEP File #

eDEP Transaction #

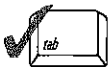
Dracut

City/Town

A. General Information

Please note:
this form has
been modified
with added
space to
accommodate
the Registry
of Deeds
Requirements

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



1. From: Dracut
Conservation Commission

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

3. To: Applicant:

Steven

a. First Name

Joncas

b. Last Name

Common Ground Development Corp

c. Organization

155 Merrimack St. 2nd Floor

d. Mailing Address

Lowell

e. City/Town

MA

f. State

01852

g. Zip Code

4. Property Owner (if different from applicant):

a. First Name

b. Last Name

Town of Dracut

c. Organization

62 Arlington St

d. Mailing Address

Dracut

e. City/Town

MA

f. State

01826

g. Zip Code

5. Project Location:

144 Greenmont Ave.

a. Street Address

Dracut

b. City/Town

47

c. Assessors Map/Plat Number

Parcel 249 and 115

d. Parcel/Lot Number

Latitude and Longitude, if known:

d. Latitude

e. Longitude

BK 32540 Pg. 275



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A. General Information (cont.)

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

North Middlesex

a. County

32840

c. Book

b. Certificate Number (if registered land)

275

d. Page

7. Dates: 7/23/2020 8/19/20 1/8/21
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):

Dracut Senior Housing 40B Site Plan

a. Plan Title

Places Associates, Inc.

b. Prepared By

1/7/21

d. Final Revision Date

Susan E. Carter, P.E., LEED AP

c. Signed and Stamped by

1"=20'

e. Scale

f. Additional Plan or Document Title

g. Date

B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act:

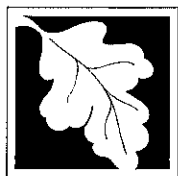
Following the review of the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act (the Act). Check all that apply:

- a. ☐ Public Water Supply b. ☐ Land Containing Shellfish c. ☐ Prevention of Pollution
d. ☐ Private Water Supply e. ☐ Fisheries f. ☐ Protection of Wildlife Habitat
g. ☐ Groundwater Supply h. ☐ Storm Damage Prevention i. ☐ Flood Control

2. This Commission hereby finds the project, as proposed, is: (check one of the following boxes)

Approved subject to:

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



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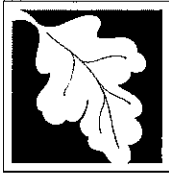
B. Findings (cont.)

Denied because:

- b. ☐ the proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect the interests of the Act, and a final Order of Conditions is issued. **A description of the performance standards which the proposed work cannot meet is attached to this Order.**
- c. ☐ the information submitted by the applicant is not sufficient to describe the site, the work, or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the Act's interests, and a final Order of Conditions is issued. **A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(6)(c).**
3. ☒ Buffer Zone Impacts: Shortest distance between limit of project disturbance and the wetland resource area specified in 310 CMR 10.02(1)(a) _____ a. linear feet

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

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input type="checkbox"/> Bank	_____ a. linear feet	_____ b. linear feet	_____ c. linear feet	_____ d. linear feet
5. <input checked="" type="checkbox"/> Bordering Vegetated Wetland	2600 _____ a. square feet	_____ b. square feet	5200 _____ c. square feet	_____ d. square feet
6. <input type="checkbox"/> Land Under Waterbodies and Waterways	_____ a. square feet	_____ b. square feet	_____ c. square feet	_____ d. square feet
	_____ e. c/y dredged	_____ f. c/y dredged		
7. <input type="checkbox"/> Bordering Land Subject to Flooding	_____ a. square feet	_____ b. square feet	_____ c. square feet	_____ d. square feet
Cubic Feet Flood Storage	_____ e. cubic feet	_____ f. cubic feet	_____ g. cubic feet	_____ h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding	_____ a. square feet	_____ b. square feet		
Cubic Feet Flood Storage	_____ c. cubic feet	_____ d. cubic feet	_____ e. cubic feet	_____ f. cubic feet
9. <input type="checkbox"/> Riverfront Area	_____ a. total sq. feet	_____ b. total sq. feet		
Sq ft within 100 ft	_____ c. square feet	_____ d. square feet	_____ e. square feet	_____ f. square feet
Sq ft between 100-200 ft	_____ g. square feet	_____ h. square feet	_____ i. square feet	_____ j. square feet



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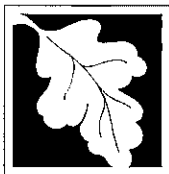
Dracut

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	a. square feet	b. square feet	c. ^{cu yd} nourishment	d. ^{cu yd} nourishment
14. <input type="checkbox"/> Coastal Dunes	a. square feet	b. square feet	c. ^{cu yd} nourishment	d. ^{cu yd} 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



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B. Findings (cont.)

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

23. ☐ Restoration/Enhancement *:

a. square feet of BVW

b. square feet of salt marsh

24. ☐ Stream Crossing(s):

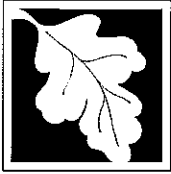
a. number of new stream crossings

b. number of replacement stream crossings

C. General Conditions Under Massachusetts Wetlands Protection Act

The following conditions are only applicable to Approved projects.

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
 - a. The work is a maintenance dredging project as provided for in the Act; or
 - b. The time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
 - c. If the work is for a Test Project, this Order of Conditions shall be valid for no more than one year.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order. An Order of Conditions for a Test Project may be extended for one additional year only upon written application by the applicant, subject to the provisions of 310 CMR 10.05(11)(f).
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not extend the issuance date of the original Final Order of Conditions and the Order will expire on 1/8/2024 unless extended in writing by the Department.
7. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.



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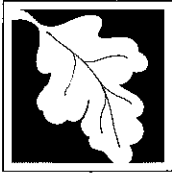
Dracut

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 145-1114 "
11. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before MassDEP.
12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
13. The work shall conform to the plans and special conditions referenced in this order.
14. Any change to the plans identified in Condition #13 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
15. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.



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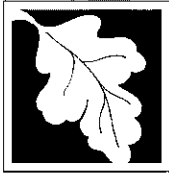
City/Town

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;



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

iv. all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition;

v. any vegetation associated with post-construction BMPs is suitably established to withstand erosion.

c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 18(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMP Operation and Maintenance Plan ("O&M Plan") and certifying the following:

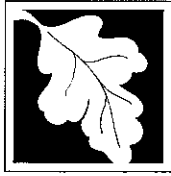
i.) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and

ii.) the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.

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

e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 18(f) through 18(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 18(f) through 18(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.

f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.



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

- g) The responsible party shall:
1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location);
 2. Make the maintenance log available to MassDEP and the Conservation Commission ("Commission") upon request; and
 3. Allow members and agents of the MassDEP and the Commission to enter and inspect the site to evaluate and ensure that the responsible party is in compliance with the requirements for each BMP established in the O&M Plan approved by the issuing authority.
- h) All sediment or other contaminants removed from stormwater BMPs shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.
- i) Illicit discharges to the stormwater management system as defined in 310 CMR 10.04 are prohibited.
- j) The stormwater management system approved in the Order of Conditions shall not be changed without the prior written approval of the issuing authority.
- k) Areas designated as qualifying pervious areas for the purpose of the Low Impact Site Design Credit (as defined in the MassDEP Stormwater Handbook, Volume 3, Chapter 1, Low Impact Development Site Design Credits) shall not be altered without the prior written approval of the issuing authority.
- l) Access for maintenance, repair, and/or replacement of BMPs shall not be withheld. Any fencing constructed around stormwater BMPs shall include access gates and shall be at least six inches above grade to allow for wildlife passage.

Special Conditions (if you need more space for additional conditions, please attach a text document):

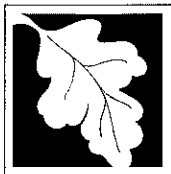
***See Attached Standard Conditions Boilerplate**

***No Additional Structures Within 50' of the Wetland**

***Certified Foundation Plan of building before framing**

***Pre construction meeting required.**

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



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D. Findings Under Municipal Wetlands Bylaw or Ordinance

1. Is a municipal wetlands bylaw or ordinance applicable? ☒ Yes ☐ No
2. The Dracut hereby finds (check one that applies):
Conservation Commission

- a. ☐ that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw, specifically:

1. Municipal Ordinance or Bylaw

2. Citation

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

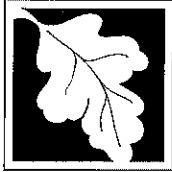
- b. ☐ that the following additional conditions are necessary to comply with a municipal ordinance or bylaw:

1. Municipal Ordinance or Bylaw

2. Citation

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):



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E. Signatures

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

1/8/21

1. Date of Issuance

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

6

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

2. Number of Signers

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

Signatures:

John Taylor /lc
Stephen Graham /lc
David Martin /lc

David Sutherland /lc
Arthur Taylor /lc
John Swick /lc

☒ by hand delivery on

1/11/21

Date

☐ by certified mail, return receipt requested, on

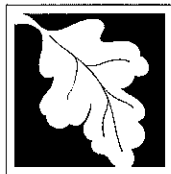
Date

F. Appeals

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land subject to this Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate MassDEP Regional Office to issue a Superseding Order of Conditions. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and a completed Request for Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

Any appellants seeking to appeal the Department's Superseding Order associated with this appeal will be required to demonstrate prior participation in the review of this project. Previous participation in the permit proceeding means the submission of written information to the Conservation Commission prior to the close of the public hearing, requesting a Superseding Order, or providing written information to the Department prior to issuance of a Superseding Order.

The request shall state clearly and concisely the objections to the Order which is being appealed and how the Order does not contribute to the protection of the interests identified in the Massachusetts Wetlands Protection Act (M.G.L. c. 131, § 40), and is inconsistent with the wetlands regulations (310 CMR 10.00). To the extent that the Order is based on a municipal ordinance or bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.



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G. Recording Information

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

Dracut
Conservation Commission

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

To:

Dracut
Conservation Commission

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

144 Greenmont Ave.
Project Location

145-1114
MassDEP File Number

Has been recorded at the Registry of Deeds of:

Middlesex
County

Book

Page

for: Town of Dracut
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

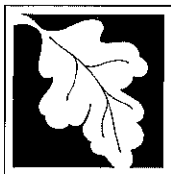
If recorded land, the instrument number identifying this transaction is:

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

**Request for Departmental Action Fee
Transmittal Form**

DEP File Number:

145-1114

Provided by DEP

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

A. Request Information

1. Location of Project

144 Greenmont Ave.

a. Street Address

Dracut, MA 01826

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)):

Steven Joncas, Common Ground Development Corp.

Name

155 Merrimack St. 2nd floor

Mailing Address

Lowell

MA

01852

City/Town

State

Zip Code

978-459-0551

Phone Number

Fax Number (if applicable)

4. DEP File Number:

145-1114

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

DEP File Number:

145-1114

Provided by DEP

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.

ATTACHMENT TO MA DEP ORDER OF CONDITIONS

STANDARD CONDITIONS

DEP FILE #145- 1114

Project Address: 144 Greenmont Ave
Dracut, MA 01826

Recording Requirements

1- This Order of Conditions must be recorded in its entirety, after the 10 day appeal period has lapsed, at the Middlesex 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.

2- Recording information (Registry book and page numbers or Land Court certificate number) must be submitted to the Conservation Commission in writing, before any work approved in this Order commences.

It shall be understood by the Applicant that the issuance of this Order of Conditions shall apply to the Massachusetts Wetlands Protection Act, the Town of Dracut's Wetland Bylaw, the MA DEP Stormwater Regulations and the Army Corps of Engineers.

Under Massachusetts Law and Dracut Bylaws, members and agents of the Dracut Conservation Commission and Conservation Administrator have the right to enter and inspect the premises to evaluate compliance with the conditions stated in this Order. The applicant may be required to submit data deemed necessary by this Commission for that evaluation.

The following are standard conditions that apply to all Order of Conditions along with any special conditions noted for the project.

Continuing Project Conditions

- a. This Order shall apply to any successor in control or successor in interest of the property described in the Notice of Intent and accompanying plans. Within ten (10) calendar days inclusive of the transfer of ownership of the subject parcel, in whole or in part, including lots or buildings conveyed under individual deeds, the Conservation Commission shall be notified in writing of the name and address of the new owner. Within ten (10) calendar days inclusive of such transfer, a written, notarized affidavit shall be filed with the Conservation Commission by the new owner, stating that he or she has read and understood the Order of Conditions and all terms applicable to the project site and intends to comply with all provisions of the Order.
- b. This document and the approved plans shall be included in all construction contracts and subcontracts for the proposed work and shall supersede any conflicting contract requirements. It shall also be kept on file at the job site at all times during construction. The contractor employed to execute the activities within the Buffer Zone and/or Resource Area must be provided with a copy of this Order and thereafter will be held jointly responsible for any violation and the penalties under law for such violation. A copy of this Order and referenced plans and documents shall be onsite during all construction activities. Any other plans not consistent with this Order shall not be onsite.
- c. Any changes, additions or omissions, including those due to review by other boards, in the plans identified above, unless specified otherwise in this Order, shall require the Applicant to inquire of the Conservation Commission in writing whether the change is substantial enough to require the filing of a new Notice of Intent. Only those changes which have no potential adverse impact to the interests of the Act and those which will reduce direct alteration to the resource area will be considered.

Pre-Construction

- a. DEP signage must be visible at the project site for the general public. The sign shall clearly show the DEP file number and be 2' x 3' in size. Sign shall read: "DEP #145-(fill in last four digits)". The DEP number is found on Order of Conditions, top right corner.
- b. Field flags indicating the delineation of Bordering Vegetated Wetlands (BVW) must be in place and maintained for the duration of the project, until the Certificate of Compliance is issued. Applicant is responsible for wetland flags until Certificate of Compliance is issued. It is recommended that a Certificate of Compliance be applied for within three (3) years of the expiration of the Order of Conditions.
- c. No clearing of vegetation, other than what is necessary to clear for erosion controls, including trees or disturbance of soil shall occur prior to construction and placement of erosion controls. Minimal disturbance of shrubs and herbaceous plants shall be allowed prior to pre-construction if absolutely necessary in order to place sedimentation and erosion control barriers.
- d. Install sedimentation and erosion control barriers prior to the performance of any other site work. Sedimentation and erosion control barriers documented by the approved plan shall be properly installed and adherence to plan verified by the Commission or its Agent. However, protection measures documented in the approved plan will supersede if providing equivalent or superior protection. The Commission's Agent is authorized to require the installation of any other erosion/sedimentation/work limit controls on the site as deemed necessary to protect the wetlands.
- e. Sequence of Construction is required to be submitted prior to the commencement of any work on site. The Applicant shall submit to the Conservation Commission for approval, a detailed Sequence of Construction with a timetable and details, including but not limited to: placement of sediment and erosion controls, site preparation, removal of pavement and new paving, stockpiling locations, landscaping and stabilization of the site, installation of utilities, the construction of the drainage infrastructure, floodplain storage areas, retention/detention areas, replication area, plan to re-use wetland soils, wetland soil stockpile location(s), maintenance plan to keep wetland soils from drying out and any re-vegetation to be completed before other work begins on site. The Applicant shall also include the name(s) and telephone number(s) of the person(s) responsible on site for compliance with this Order.
- f. Permanent wetland markers identified by the approved plan must be placed prior to the commencement of construction where feasible, and adherence to plan verified by the Conservation Commission or its Agent. The permanent wetland markers should reflect the flag number such as Berntsen markers. Markers unable to be installed until during or after construction must be verified by the Conservation Commission or its Agent. Said permanent markers must remain in place during and after construction, in perpetuity. This condition shall survive the expiration of this Order, and shall be included as a continuing condition in perpetuity on the Certificate of Compliance.
- g. The erosion control required shall designate the limit of disturbance. Heavy equipment shall not traverse the limits of disturbance, and vegetation shall not be removed from the area to remain undisturbed in perpetuity. The protected area is defined by the Dracut Conservation Commission as a "No Disturbance Zone" which includes the approved delineated wetland area, the Buffer Zone and other areas determined by the Commission. Limit of Work sign requirements: the sign shall be visible with the wording "Do Not Disturb" - "Protected Wetland Area" and when necessary "Endangered Species Area".

- h. **The following condition applies**, if the project involves the filling of Bordering Vegetated Wetland (BVW), the Applicant is served notice that a filing with the United States Army Corps of Engineers (USACOE 1-800-362-4367) relative to securing a Section 404 Permit under the Federal Clean Waters Act may be required and the issuance of a Water Quality Certificate from the MA Department of Environmental Protection (DEP) may be required BEFORE any FILLING commences. This Order of Conditions issued under MA General Law Ch. 131, s.40, (MA Wetlands Protection Act) does not relieve the Applicant of his/her responsibilities to secure these additional permits/certificates or any other necessary local permits or licenses. The Applicant shall provide copies of the permit(s) and/or waivers prior to the commencement of any work on site.
- i. **The following condition applies for work on any dock under this Order.** Prior to the commencement of work on any dock, the Applicant shall submit a copy of the Ch. 91 waterways license or permit for the dock or proof it is not needed. The dock is to be removed during the winter months and shall be stored up gradient of the water line.
- j. **The following condition applies for projects requiring a NPDES Stormwater Prevention Pollution Plan ("SWPPP").** Prior to the commencement of activities, the Applicant shall provide the Commission with a copy of the NPDES Stormwater Prevention Pollution Plan ("SWPPP") as well as copies of written inspection reports required by EPA's Construction General Permit throughout the duration of construction activities for the record file.
- k. The Conservation Commission reserves the right to require additional erosion control or storm damage prevention controls if deemed necessary.

During Construction

- a. All equipment shall be operated and maintained so as to comply with the Wetlands Protection Act, M.G.L. Ch. 131, s.40; and this Order of Conditions. Hazardous materials, including but not limited to gasoline, motor oil, hydraulic fluid, etc. shall not be stored nor shall heavy equipment be serviced or parked overnight within 100 feet of wetlands during construction. All construction equipment, including, but not limited to machinery, heavy equipment and vehicles shall be parked and stored more than 100 feet from any wetlands when not in use. All fuels, lubricants and hydraulic fluids shall be stored more than 100 feet from any wetlands. All refueling and maintenance involving transfer of oils and hydraulic fluids shall be performed more than 100 feet from any wetlands.
- b. Vehicles of any type shall not be washed out in any wetland resource or buffer zone area or into any drainage system. Vehicles should be washed in a separate designated wash area before and after entering the wetland area. Upon the washing of vehicles, any deposit of cement, asphalt, concrete or lawn enhancing materials products into a buffer zone or wetland resource area shall be immediately removed.
- c. All excavate, fill, loam and any other earthen materials associated with the project shall be stored and stockpiled more than 100 feet from any wetlands. No excavate, fill, loam or other material shall be stockpiled against the sediment or erosion control feature. Excavated material shall not be stockpiled within the 100-foot Buffer Zone or area subject to protection under the Act. All wetland material temporarily excavated shall be stored as close to the excavation site as possible.
- d. No fill, excavate, construction debris or equipment or any other material shall be allowed to enter the wetlands; any such material entering the wetlands shall be removed immediately. No trees or shrubs shall be felled into or disposed of in the wetlands.

- e. Only clean fill shall be used for the project. Clean fill shall be free from contamination, trash, debris, asphalt, brick, concrete, metal, wood, recycled construction materials or other deleterious materials. No unsuitable material of any kind (stumps, roots, trash, debris, etc.) may be buried, placed or dispersed on the property.
- f. The burial of stumps and any other type of construction refuse or waste material is prohibited in the 100-foot Buffer Zone or Adjacent Upland Resource Area. The project and all associated activities shall be in full compliance with the State of Massachusetts Stormwater Management.
- g. **The following condition applies for projects including wetland replication.** Wetland replication areas shall be created as the first stage of construction. Once the work associated with the wetland crossing and impacted areas have begun, the wetland replication area shall be completed within thirty (30) days or completed in another timeframe approved by the Conservation Commission. See section titled: "Replication Area" in this document.
- h. **The following condition applies for projects that include reuse of wetland soils in replication areas.** Top soil shall be removed from the wetlands to be filled and used in the replication wetlands in order to establish a wetland more closely resembling the one destroyed. The wetland soils removed from wetland areas shall be installed directly into replication areas or as soon as practicably possible with approval of the Conservation Commission. Temporary disturbances of wetland areas to be restored back in place shall have wetland soils stored in designated stockpile area to prevent additional disturbance of wetland until they are placed back in place as soon as practicably possible or as directed by the Conservation Commission.
- i. **The following condition applies for projects where permanent and/or temporary Stormwater detention basins are required.** The Stormwater detention basin(s) shall be completely constructed and functional prior to the start of earthmoving on other portions of the project which generate runoff to the basin(s). A temporary outlet riser pipe or other similar structure shall be installed to allow the basin to function as a sediment basin and shall remain in place through construction until the area draining to the basin(s) has been fully stabilized.
- j. **The following condition applies for projects where existing pavement may be cold planed/milled in preparation for resurfacing.** Should the Applicant choose to mill existing pavement areas in preparation for placement of new asphalt surface, said milled asphalt materials shall be removed from the site and properly disposed. Milled area shall be swept clean of all asphalt particles. All waste asphalt from the project shall be removed to a proper disposal or recycling facility. No asphalt materials shall be stored on site.
- k. All existing and proposed catch basins and oil traps on the site or on the streets adjacent to the project shall be protected by Silt Sacks to prevent sediment from entering the drainage system. Silt Sacks shall be maintained and regularly cleaned of sediments until all areas associated with the work permitted by this Order have been permanently stabilized and the Commission or its Agent has formerly approved their removal.