

Town of Ayer CONSERVATION COMMISSION

Town Hall ♦ One Main Street ♦ Ayer, MA 01432
Phone 978-772-8220 ext. 143 ♦ Fax 978-772-8208 ♦ concom@ayer.ma.us



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TOWN OF AYER
TOWN CLERK

2:00pm
CJ

MEETING AGENDA Thursday, June 9, 2022

Due to the ongoing COVID-19 Pandemic, in accordance with Chapter 22 of the Acts of 2022, suspending certain provisions of the Open Meeting Law (OML), public bodies otherwise governed by the OML are temporarily relieved from the requirement that meetings be held in public places, open and physically accessible to the public, so long as measures are taken to ensure public access to the bodies' deliberations "through adequate, alternative means." This meeting will be live on Zoom. The public may participate remotely by joining Zoom (Meeting ID# 840 4058 0886) or by calling (929-205-6099). For additional information about remote participation, please contact Conservation Commission at concom@ayer.ma.us or by calling 978-772-8220 ext. 143 prior to the meeting.

7:00 PM GENERAL BUSINESS / OPEN SESSION

- Approval of Meeting Minutes for May 26, 2022
- Public Input

Public Meeting: Request for Determination of Applicability (RDA): Grove Pond Invasive Water Chestnut Pull, PACE (People of Ayer Concerned About the Environment), Laurie Nehring

Public Meeting: RDA: 3 Trevor Trail, Rob Steeman, Assessor's Map 13, Parcel 9

Emergency Certification: Ayer Fire Station, hazard tree removal

Discussion: Field Change 22 Hibiscus Lane, David Badger DEP#100-0439

Discussion: Conservation Restriction priorities list, contract with NCLT

Discussion: Pre-management Survey, Water & Wetland, 2022 Pond Management

CONSERVATION OFFICE AND MEMBER UPDATES

9:00 PM ADJOURN

Next Scheduled Meeting: 7 PM, June 23, 2022



Town of Ayer Conservation Commission

Town Hall * One Main Street * Ayer, MA 01432 * 978-772-8249

Minutes for 5/26/2022

Location: Remote Meeting via Zoom, accessible to public, due to ongoing COVID 19 Pandemic
Present: Jon Schmalenberger (JS, Chair), Mark Phillips (MP, Vice-Chair), George Bacon (GB, Member), Jennifer Amaya (JA, Member), Jessica Gugino (JG, Interim Office Administrator; Member/Clerk)
Also Present: Heather Hampson

APAC Recorded: Yes

7:00 PM – Open Meeting

- **Confirmation of Agenda**
 - GB moved to confirm the agenda as posted; MP 2nd.
 - Motion approved unanimously by Roll Call Vote 5-0.
- **Approval of Meeting Minutes**
 - GB moved to accept the minutes for 5/12/2022 as written; MP 2nd.
 - Motion approved unanimously by Roll Call Vote 5-0.
- **Announcements**
 - Water & Wetland LLC will begin its 2022 pond treatment program for Sandy, Flannagan, and Pine Meadow ponds on Wednesday, June 1.
 - They will start with a pre-treatment survey of the three ponds but will also include spot treatments for invasive fanwort in a few spots based on the post-treatment survey done last fall.
 - Pan Am Railways, Inc. will be commencing their herbicide application program, to maintain clearance on the tracks, between May 1 and August 15.
- **Public Input**
 - None received.
- **Public Meeting: Request for Determination of Applicability (RDA) – 8 Standish Avenue, Ron and Colleen Krieser, Assessor's Map 15, Parcel 46**
 - Ron Krieser was present via Zoom.
 - A revised RDA and plan has been submitted for the project to replace steps running down the bank on Sandy Pond.
 - The previously existing steps were destroyed in the aftermath of a severe lightning strike in fall 2021.
 - The revised plan, approved by the Building Inspector per requirements, proposes the use of 6 Diamond Pier footings to support the new stairway down the steep bank.
 - Diamond Pier footings are driven into the ground without any digging.
 - The lowest set of piers will be driven in approximately 18 inches from the edge of the pond, where the old block supports were located.



Town of Ayer Conservation Commission

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Minutes for 5/26/2022

- Each set of piers will be about 48 in. apart to allow for 36-in. wide steps.
 - Pressure-treated wood will be used for the 12 steps and balusters, and composite wood for handrails.
- GB moved to issue a Negative Determination of Applicability (DOA); MP 2nd.
 - Motion approved unanimously by Roll Call Vote 5-0.
 - JG will hand-deliver the DOA in the following week.
- **Public Meeting: RDA – 9 Jonathan Drive, Caleb Ford, Assessor’s Map 12, Parcel 81**
 - Caleb Ford was present via Zoom.
 - Following the discussion at ConCom’s last meeting, the Commission visited the site on Saturday, 5/21.
 - Mr. Ford proposes to level out his backyard inside an existing chainlink fence by removing soil from a higher (SE) portion of the yard in one corner and redistributing it to build up the opposite (NW) corner by about 18 inches.
 - The yard slopes gently down to the west, and a few feet outside the chainlink fence, drops more steeply to a wetland drainage system about 30 ft. away.
 - Mr. Ford proposes to use approximately 20-25 ft. length of railroad ties at the lower corner, outside the fence, to act as a small retaining wall.
 - He will also redirect the gutter downspout inside the fencing that is currently causing wash across the lower NW corner.
 - He plans to extend and bury the gutter pipe about 4 ft. down, running it underneath the grassed area outside of the fence and letting it daylight closer to the wetland system.
 - For this project, the Commission will require erosion controls along the full length of the top of the slope to the wetland system, adjacent to where work will be being done.
 - The controls, haybales or wattles, should be staked every two feet, and will need to be inspected by a representative of the Commission prior to the commencement of work.
 - GB moved to issue a Negative Determination of Applicability for the work as described above, with conditions requiring the use of erosion controls, staked every two feet, to be inspected by ConCom prior to work; MP 2nd.
 - Motion approved unanimously by Roll Call Vote 5-0.
 - Once the DOA is ready, JG will mail it certified to Mr. Ford.
 - He was apprised of the 10-day waiting period for MassDEP to appeal.
- **Discussion: Field Change, Order of Conditions, Catania Oils, 1 Nemco Way, MassDEP # 100-0458**
 - JG met on site on 5/24 with Scott Whitney, of Concord Building Services, to look at a proposed change to the plans recorded under OOC 100-0458.
 - The overall project, approved by ConCom on 5/13/2021, involves the filling in of a retention basin to the south of the existing building in order to construct a building



Town of Ayer Conservation Commission

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Minutes for 5/26/2022

expansion; running redirected stormwater via underground pipes from that side to the north of building, with the piping running along the eastern side of the building.

- The previously grassed in area on the east side of the building is being used as the staging area and, upon completion of the project, was to be reloaded and seeded to return to its previous grassy state.
- Mr. Whitney is seeking ConCom approval of a field change that would allow Catania to gravel this area instead of grassing it back in.
 - Both Catania and nearby Ardent Mills would like to have this area available for excess parking when needed.
- While the overall project is under an OOC, this particular area is outside of the 100 ft. buffer zone.
- In addition and previously, at Ms. Hampson's suggestion, JG brought this to the attention of DPW Director Dan Van Schalkwyk as this change might affect stormwater calculations.
 - Mr. Van Schalkwyk has since contacted Mr. Whitney and will be asking for some sort of additional infiltration measures given that the graveled area will be less permeable than the initially designed grassed area.
- With the acknowledgement that the specific area in question is outside of ConCom jurisdiction, GB moved to approve graveling this area as a field change to OOC 100-0458 on the assumption that DPW concerns regarding stormwater infiltration will be satisfactorily addressed; MP 2nd.
 - Motion approved unanimously by Roll Call Vote 5-0.

Discussion: Overview of Conservation Restriction (CR) work to be done

- ConCom expects to enter into a contract with North County Land Trust (NCLT) in the new fiscal year (July 1).
 - Prior to meeting with Anna Wilkins, Executive director of NCLT, along with Town Manager Robert Pontbriand, at ConCom's June 23rd meeting, members wanted to review all that will need to be done over the coming years and develop their own priorities for the first year of the contract.
- GB said his priority was to have Baseline Monitoring documentation prepared for all of the old CRs for which this was never done.
- MP doesn't want to fall behind on the CRs currently being developed (i.e. Panther Place, Shaker Mill Pond, Solar II).
 - While the State still has a job vacancy for its CR reviewer, these CRs, while still fresh, should be as complete as possible nevertheless.
- JG will prepare a list of priorities for member review and edit at the June 9 meeting.

Conservation Commission Office and Member Updates

- Kiddie Junction, Pirone Park, on Grove Pond
 - ConCom also visited the Kiddie Junction area for an informal site walk on 5/21, following JG's meeting with Jeff Thomas and Jason Mayo, of the Parks Department, and two contractors.



Town of Ayer Conservation Commission

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Minutes for 5/26/2022

- The Kiddie Junction playground was closed last fall, by order of MassDEP, because of the levels of arsenic contamination in the wood play structures and the surrounding soils via leaching.
 - All of the playground equipment plus up to 12 inches of soil will have to be removed before a new playground can be rebuilt.
- This will be a two phase project – first, remediation of the contaminated site, and second, the rebuild.
 - To prevent holdups, the Parks Department wanted a sense of ConCom’s permitting requirements, hence the meeting on site with the contractor who will oversee the remediation phase (“Joe”), and the contractor who is designing the new playground (“Randy”).
- Kiddie Junction itself is just at the edge of the 100 ft. buffer zone, but soil and pea gravel from within the fenced-in playground have migrated outside of the fence and into the buffer zone between the playground and the paved perimeter path.
 - On the other (south) side of the perimeter path, downslope and closer to Grove Pond, Randy said the current plan is to build a new playground expansion area, to be permanent, that children can use while the rest of the playground is being rebuilt.
 - In addition, one large deciduous tree with a cracked trunk in the play expansion area will need to be taken down, and in another nearby area outside of the fencing, the Parks Dept. would like to take down a number of large pines.
 - One of the pines is already dead, and the others are nearing their ends and will begin to drop branches, etc.
 - To save costs, while tree removing equipment is already onsite, Parks would like to take these down as well and begin plantings for the “next generation” of trees.
- The Commission’s consensus thus far is that the remediation work that comes into the buffer zone outside of the playground fencing, as well as the tree removals, can be handled through the Request for Determination of Applicability process.
 - The second phase, however, should be handled through the Notice of Intent process as the playground expansion work will involve some grading and leveling, installation of a concrete foundation for a slide, and 8-12 inches of woodchips.
 - The Commission also noted during the site walk that a very large pile of composting leaves, right on the shore of the pond, will need to be permanently removed.
- JG will ask the Parks Department for clarification of when the tree removals would be done – likely to be during the remediation phase – and what the plans are for dealing with the stumps, including whether they can be chipped.



Town of Ayer Conservation Commission

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Minutes for **5/26/2022**

- Long Pond water level
 - Another inquiry was received from a Pond View Estates resident asking if the Long Pond water level was now too low, given that the community dock is high above the water.
 - Water is still flowing over the spillway dam, and the water level is where it should be.
 - As for the dock, DPW Director Dan Van Schalkwyk took a look and observed that the brackets on the poles that hold the dock in place are askew – one much higher than another – and the barrels that are supposed to rest on top of the water are not doing so.
 - The brackets need some adjustment and maintenance to allow the dock barrels to rest on the water again.
 - JG send a letter via Pond View resident Merle Adelman to be passed onto the management company for the development.
- Waterways Signs Project
 - MP is waiting for a final quote from Liddell Company before completing the order.
- **7:54 PM – Adjourn Meeting**
 - GB moved to adjourn; MP 2nd.
 - Motion approved unanimously by Roll Call Vote 5-0.

Minutes Recorded and Submitted by Jessica G. Gugino, Clerk

Date / Signature of Approval: _____



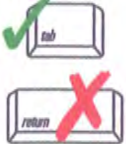
Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
**WPA Form 1- Request for Determination of
 Applicability**

Ayer
 City/Town

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

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. Applicant:
 Name: Laurie S. NEHRING E-Mail Address: LNEHRING10@gmail.com
 Mailing Address: 35 HIGHLAND AVE.
 City/Town: AYER State: MA Zip Code: 01432
 Phone Number: 978-400-6716 Fax Number (if applicable): _____

2. Representative (if any):
 Firm: PACE (People of Ayer Concerned About The Environ)
 Contact Name: Same as above E-Mail Address: _____
 Mailing Address: _____
 City/Town: _____ State: _____ Zip Code: _____
 Phone Number: _____ Fax Number (if applicable): _____

B. Determinations

1. I request Ayer make the following determination(s). Check any that the Conservation Commission apply:
- a. whether the area depicted on plan(s) and/or map(s) referenced below is an area subject to jurisdiction of the Wetlands Protection Act.
 - b. whether the boundaries of resource area(s) depicted on plan(s) and/or map(s) referenced below are accurately delineated.
 - c. whether the work depicted on plan(s) referenced below is subject to the Wetlands Protection Act.
 - d. whether the area and/or work depicted on plan(s) referenced below is subject to the jurisdiction of any municipal wetlands ordinance or bylaw of:
 Name of Municipality: _____
 - e. whether the following scope of alternatives is adequate for work in the Riverfront Area as depicted on referenced plan(s).



C. Project Description

1. a. Project Location (use maps and plans to identify the location of the area subject to this request):

Street Address 35 City/Town Williston
Assessors Map/Plot Number 022 231 3 10 M FA Parcel/Lot Number 157860 2

b. Area Description (use additional paper, if necessary):

Plants observed in Oct. 2021 in eastern portion of Grove Pond, northeast of Ayer's Grove Pond Well Filtration buildings

c. Plan and/or Map Reference(s):

Title	Date

2. a. Work Description (use additional paper and/or provide plan(s) of work, if necessary):

Hand-pulling of invasive water chestnuts from Grove Pond in Area indicated on map. Weeds will either be removed by Ayer Pond for composting or left to compost in the nearby woods, with minimal impact to birds or wildlife. Pulling will be done in 2 Phases, both prior to the release of the nuts. First, late June or early July, and and, late August to early Sept.

C. Project Description (cont.)

b. Identify provisions of the Wetlands Protection Act or regulations which may exempt the applicant from having to file a Notice of Intent for all or part of the described work (use additional paper, if necessary).

3. a. If this application is a Request for Determination of Scope of Alternatives for work in the Riverfront Area, indicate the one classification below that best describes the project.

- Single family house on a lot recorded on or before 8/1/96
- Single family house on a lot recorded after 8/1/96
- Expansion of an existing structure on a lot recorded after 8/1/96
- Project, other than a single family house or public project, where the applicant owned the lot before 8/7/96
- New agriculture or aquaculture project
- Public project where funds were appropriated prior to 8/7/96
- Project on a lot shown on an approved, definitive subdivision plan where there is a recorded deed restriction limiting total alteration of the Riverfront Area for the entire subdivision
- Residential subdivision, institutional, industrial, or commercial project
- Municipal project
- District, county, state, or federal government project
- Project required to evaluate off-site alternatives in more than one municipality in an Environmental Impact Report under MEPA or in an alternatives analysis pursuant to an application for a 404 permit from the U.S. Army Corps of Engineers or 401 Water Quality Certification from the Department of Environmental Protection.
- b. Provide evidence (e.g., record of date subdivision lot was recorded) supporting the classification above (use additional paper and/or attach appropriate documents, if necessary.)

D. Signatures and Submittal Requirements

I hereby certify under the penalties of perjury that the foregoing Request for Determination of Applicability and accompanying plans, documents, and supporting data are true and complete to the best of my knowledge.

I further certify that the property owner, if different from the applicant, and the appropriate DEP Regional Office were sent a complete copy of this Request (including all appropriate documentation) simultaneously with the submittal of this Request to the Conservation Commission.

Failure by the applicant to send copies in a timely manner may result in dismissal of the Request for Determination of Applicability.

Laurie S. Melvin
4-4-2022

Name and address of the property owner:

Name

Mailing Address

City/Town

State

Zip Code

Signatures:

I also understand that notification of this Request will be placed in a local newspaper at my expense in accordance with Section 10.05(3)(b)(1) of the Wetlands Protection Act regulations.

Signature of Applicant

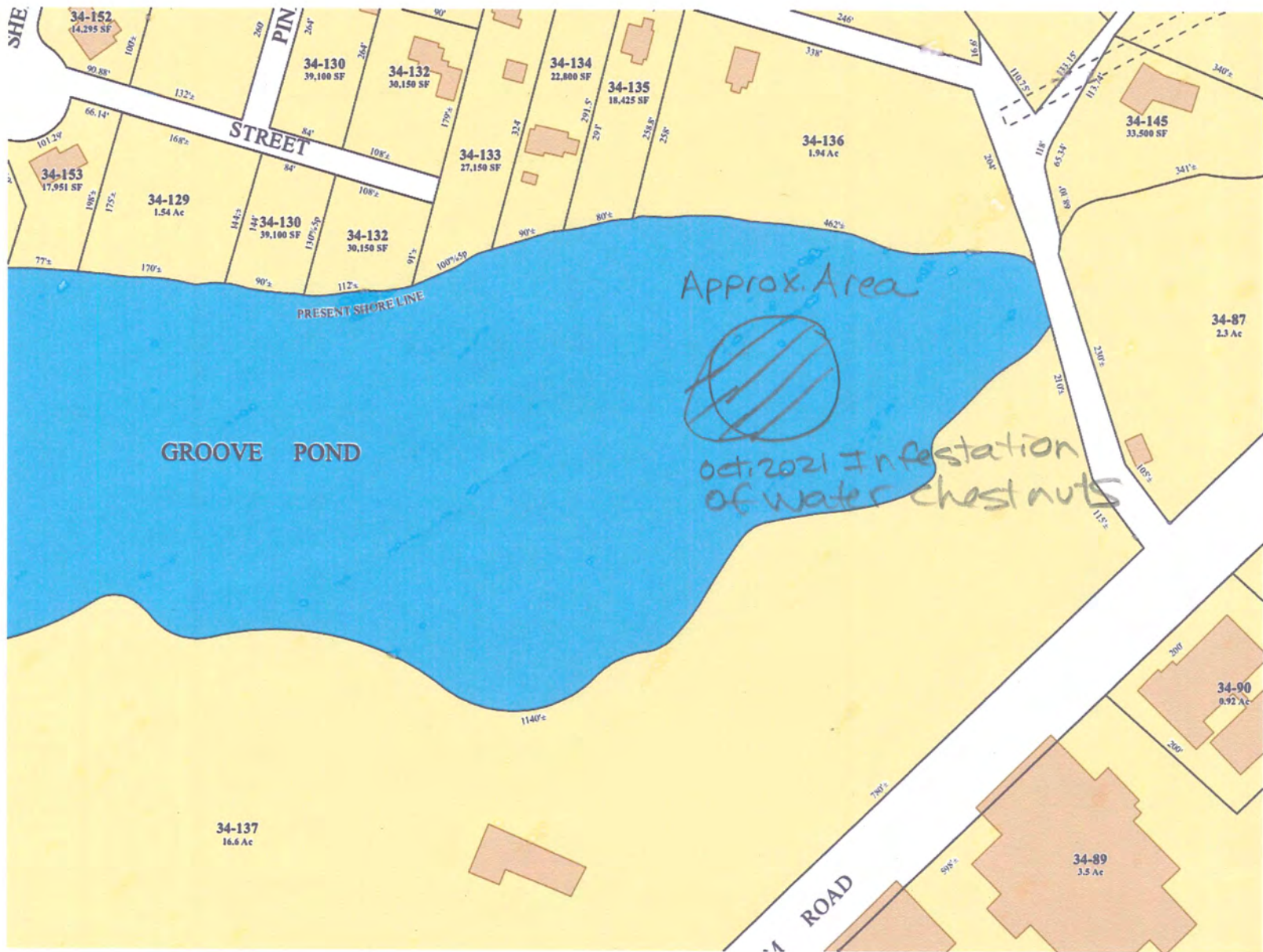
Date

Signature of Representative (if any)

Date

Wetlands Protection Act, Section 10.05(3)(b)(1)

Notification of this Request will be placed in a local newspaper at my expense in accordance with Section 10.05(3)(b)(1) of the Wetlands Protection Act regulations.



file



Ayer
City/Town



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 1- Request for Determination of Applicability

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

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. Applicant:

Rob A. Steeman rob.and.fedra@gmail.com
Name E-Mail Address
3 Trevor Trail
Mailing Address
Ayer MA 01432
City/Town State Zip Code
781-354-9614
Phone Number Fax Number (if applicable)

2. Representative (if any):

Firm
Contact Name E-Mail Address
Mailing Address
City/Town State Zip Code
Phone Number Fax Number (if applicable)

B. Determinations

1. I request the Ayer Conservation Commission make the following determination(s). Check any that apply:

- a. whether the **area** depicted on plan(s) and/or map(s) referenced below is an area subject to jurisdiction of the Wetlands Protection Act.
- b. whether the **boundaries** of resource area(s) depicted on plan(s) and/or map(s) referenced below are accurately delineated.
- c. whether the **work** depicted on plan(s) referenced below is subject to the Wetlands Protection Act.
- d. whether the area and/or work depicted on plan(s) referenced below is subject to the jurisdiction of any **municipal wetlands ordinance** or **bylaw** of:

Ayer
Name of Municipality

- e. whether the following **scope of alternatives** is adequate for work in the Riverfront Area as depicted on referenced plan(s).



WPA Form 1- Request for Determination of Applicability

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

C. Project Description

1. a. Project Location (use maps and plans to identify the location of the area subject to this request):

3 Trevor Trail _____ Ayer _____
Street Address _____ City/Town _____

Assessors Map/Plat Number _____ Parcel/Lot Number _____

b. Area Description (use additional paper, if necessary):

This parcel is the location of our home. The house is surrounded by a lawn. The lawn borders wetlands with vegetation (trees and shrubs).

c. Plan and/or Map Reference(s):

_____	_____
Title	Date
_____	_____
Title	Date
_____	_____
Title	Date

2. a. Work Description (use additional paper and/or provide plan(s) of work, if necessary):

Removal of hazardeous (dead) trees that present a danger to our home and that of our neighbors.



WPA Form 1- Request for Determination of Applicability

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

C. Project Description (cont.)

b. Identify provisions of the Wetlands Protection Act or regulations which may exempt the applicant from having to file a Notice of Intent for all or part of the described work (use additional paper, if necessary).

3. a. If this application is a Request for Determination of Scope of Alternatives for work in the Riverfront Area, indicate the one classification below that best describes the project.

- Single family house on a lot recorded on or before 8/1/96
- Single family house on a lot recorded after 8/1/96
- Expansion of an existing structure on a lot recorded after 8/1/96
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- New agriculture or aquaculture project
- Public project where funds were appropriated prior to 8/7/96
- Project on a lot shown on an approved, definitive subdivision plan where there is a recorded deed restriction limiting total alteration of the Riverfront Area for the entire subdivision
- Residential subdivision; institutional, industrial, or commercial project
- Municipal project
- District, county, state, or federal government project
- Project required to evaluate off-site alternatives in more than one municipality in an Environmental Impact Report under MEPA or in an alternatives analysis pursuant to an application for a 404 permit from the U.S. Army Corps of Engineers or 401 Water Quality Certification from the Department of Environmental Protection.

b. Provide evidence (e.g., record of date subdivision lot was recorded) supporting the classification above (use additional paper and/or attach appropriate documents, if necessary.)



WPA Form 1- Request for Determination of Applicability

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

D. Signatures and Submittal Requirements

I hereby certify under the penalties of perjury that the foregoing Request for Determination of Applicability and accompanying plans, documents, and supporting data are true and complete to the best of my knowledge.

I further certify that the property owner, if different from the applicant, and the appropriate DEP Regional Office were sent a complete copy of this Request (including all appropriate documentation) simultaneously with the submittal of this Request to the Conservation Commission.

Failure by the applicant to send copies in a timely manner may result in dismissal of the Request for Determination of Applicability.

Name and address of the property owner:

Robertus Antonius Steeman
Name
3 Trevor Trail
Mailing Address
Ayer
City/Town
MA
State
01432
Zip Code

Signatures:

I also understand that notification of this Request will be placed in a local newspaper at my expense in accordance with Section 10.05(3)(b)(1) of the Wetlands Protection Act regulations.


Signature of Applicant
June 2, 2022
Date

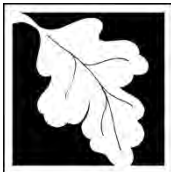
Signature of Representative (if any) Date

Last year, during a storm on March 1, 2021 one of the dead trees standing at the border of our garden (edge of the wetlands) came down and miraculously missed our home and a parked car. After that incident, we were granted permission to remove two dead trees.

During a recent storm, another tree came down, luckily falling away from the house into the forest.

This spring, with the leaves coming back, we discovered two more dead trees that pose a direct hazard for our house, parking space and driveway (see pictures below). We are requesting permission to remove those trees as well. We will most likely use Flagg Tree Service from Ayer.





Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
WPA Form 2 – Determination of Applicability
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

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.



From:

Ayer
 Conservation Commission

To: Applicant

Rob A. Steeman
 Name
3 Trevor Trail
 Mailing Address

Property Owner (if different from applicant):

 Name

 Mailing Address

<u>Ayer</u>	<u>MA</u>	<u>01432</u>	_____	_____	_____
City/Town	State	Zip Code	City/Town	State	Zip Code

1. Title and Date (or Revised Date if applicable) of Final Plans and Other Documents:

<u>RDA and photos</u>	<u>June 2, 2022</u>
Title	Date

_____	_____
Title	Date

_____	_____
Title	Date

2. Date Request Filed:

June 2, 2022

B. Determination

Pursuant to the authority of M.G.L. c. 131, § 40, the Conservation Commission considered your Request for Determination of Applicability, with its supporting documentation, and made the following Determination.

Project Description (if applicable):

Removal of hazardous trees

Project Location:

3 Trevor Trail
 Street Address
13
 Assessors Map/Plat Number

Ayer
 City/Town
9
 Parcel/Lot Number



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 2 – Determination of Applicability

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

B. Determination (cont.)

The following Determination(s) is/are applicable to the proposed site and/or project relative to the Wetlands Protection Act and regulations:

Positive Determination

Note: No work within the jurisdiction of the Wetlands Protection Act may proceed until a final Order of Conditions (issued following submittal of a Notice of Intent or Abbreviated Notice of Intent) or Order of Resource Area Delineation (issued following submittal of Simplified Review ANRAD) has been received from the issuing authority (i.e., Conservation Commission or the Department of Environmental Protection).

1. The area described on the referenced plan(s) is an area subject to protection under the Act. Removing, filling, dredging, or altering of the area requires the filing of a Notice of Intent.

2a. The boundary delineations of the following resource areas described on the referenced plan(s) are confirmed as accurate. Therefore, the resource area boundaries confirmed in this Determination are binding as to all decisions rendered pursuant to the Wetlands Protection Act and its regulations regarding such boundaries for as long as this Determination is valid.

2b. The boundaries of resource areas listed below are not confirmed by this Determination, regardless of whether such boundaries are contained on the plans attached to this Determination or to the Request for Determination.

3. The work described on referenced plan(s) and document(s) is within an area subject to protection under the Act and will remove, fill, dredge, or alter that area. Therefore, said work requires the filing of a Notice of Intent.

4. The work described on referenced plan(s) and document(s) is within the Buffer Zone and will alter an Area subject to protection under the Act. Therefore, said work requires the filing of a Notice of Intent or ANRAD Simplified Review (if work is limited to the Buffer Zone).

5. The area and/or work described on referenced plan(s) and document(s) is subject to review and approval by:

Ayer

Name of Municipality

Pursuant to the following municipal wetland ordinance or bylaw:

Name

Ordinance or Bylaw Citation



Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
WPA Form 2 – Determination of Applicability
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

B. Determination (cont.)

- 6. The following area and/or work, if any, is subject to a municipal ordinance or bylaw but not subject to the Massachusetts Wetlands Protection Act:

- 7. If a Notice of Intent is filed for the work in the Riverfront Area described on referenced plan(s) and document(s), which includes all or part of the work described in the Request, the applicant must consider the following alternatives. (Refer to the wetland regulations at 10.58(4)c. for more information about the scope of alternatives requirements):

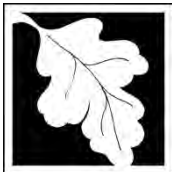
- Alternatives limited to the lot on which the project is located.
- Alternatives limited to the lot on which the project is located, the subdivided lots, and any adjacent lots formerly or presently owned by the same owner.
- Alternatives limited to the original parcel on which the project is located, the subdivided parcels, any adjacent parcels, and any other land which can reasonably be obtained within the municipality.
- Alternatives extend to any sites which can reasonably be obtained within the appropriate region of the state.

Negative Determination

Note: No further action under the Wetlands Protection Act is required by the applicant. However, if the Department is requested to issue a Superseding Determination of Applicability, work may not proceed on this project unless the Department fails to act on such request within 35 days of the date the request is post-marked for certified mail or hand delivered to the Department. Work may then proceed at the owner's risk only upon notice to the Department and to the Conservation Commission. Requirements for requests for Superseding Determinations are listed at the end of this document.

- 1. The area described in the Request is not an area subject to protection under the Act or the Buffer Zone.
- 2. The work described in the Request is within an area subject to protection under the Act, but will not remove, fill, dredge, or alter that area. Therefore, said work does not require the filing of a Notice of Intent.
- 3. The work described in the Request is within the Buffer Zone, as defined in the regulations, but will not alter an Area subject to protection under the Act. Therefore, said work does not require the filing of a Notice of Intent, subject to the following conditions (if any).

- 4. The work described in the Request is not within an Area subject to protection under the Act (including the Buffer Zone). Therefore, said work does not require the filing of a Notice of Intent, unless and until said work alters an Area subject to protection under the Act.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 2 – Determination of Applicability

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

B. Determination (cont.)

5. The area described in the Request is subject to protection under the Act. Since the work described therein meets the requirements for the following exemption, as specified in the Act and the regulations, no Notice of Intent is required:

Exempt Activity (site applicable statutory/regulatory provisions)

6. The area and/or work described in the Request is not subject to review and approval by:

Name of Municipality

Pursuant to a municipal wetlands ordinance or bylaw.

Name

Ordinance or Bylaw Citation

C. Authorization

This Determination is issued to the applicant and delivered as follows:

- by hand delivery on _____ by certified mail, return receipt requested on _____

Date

Date

This Determination is valid for **three years** from the date of issuance (except Determinations for Vegetation Management Plans which are valid for the duration of the Plan). This Determination does not relieve the applicant from complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.

This Determination must be signed by a majority of the Conservation Commission. A copy must be sent to the appropriate DEP Regional Office (see <https://www.mass.gov/service-details/massdep-regional-offices-by-community>) and the property owner (if different from the applicant).



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 2 – Determination of Applicability

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

C. Authorization (cont.)

Signatures:

Signature

Jon Schamalenberger, Chair

Printed Name

Signature

Mark Phillips

Printed Name

Signature

George Bacon

Printed Name

Signature

Jen Amaya

Printed Name

Signature

Jess Gugino

Printed Name

Signature

Printed Name

Signature

Printed Name

Signature

Printed Name

D. Appeals

The applicant, owner, any person aggrieved by this Determination, any owner of land abutting the land upon which the proposed work is to be done, 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 Department of Environmental Protection Regional Office (see <https://www.mass.gov/service-details/massdep-regional-offices-by-community>) to issue a Superseding Determination of Applicability. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and Fee Transmittal Form (see 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 Determination. 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. The request shall state clearly and concisely the objections to the Determination which is being appealed. To the extent that the Determination is based on a municipal ordinance or bylaw and not on the Massachusetts Wetlands Protection Act or regulations, the Department of Environmental Protection has no appellate jurisdiction.



Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
Request for Departmental Action Fee
Transmittal Form

DEP File Number:

 Provided by DEP

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

A. Request Information

1. Location of Project

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

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



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

 Name

 Mailing Address

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

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

 Name

 Mailing Address

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

4. DEP File Number:

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

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

Department of Environmental Protection
 Box 4062
 Boston, MA 02211



Massachusetts Department of Environmental Protection

Bureau of Resource Protection - Wetlands

**Request for Departmental Action Fee
Transmittal Form**

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

DEP File Number:

Provided by DEP

B. Instructions (cont.)

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 <https://www.mass.gov/service-details/massdep-regional-offices-by-community>).
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.



Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
WPA Emergency Certification Form
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

A. Emergency Information

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



Issuance From: Ayer Conservation Commision
Issuing Authority

1. Site Location: West Main Street - Ayer Fire Station

2. Reason for Emergency:
Beaver damage to tree

3. Applicant to perform work: TBA

4. Public agency to perform work or public agency ordering the work to be performed:
Ayer Fire Department

5. Date of Site Visit: 6/3/22 photos Start Date: _____ End Date*: _____

* no later than 30 days from start date or 60 days in the case of an Immediate Response Action approved by DEP to address an oil/hazardous material release.

6. Work to be allowed*:
Cut one hazard tree damaged by beavers, stump to remain intact

* May not include work beyond that necessary to abate the emergency.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Emergency Certification Form
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

B. Signatures

Certified to be an Emergency by this Issuing Authority.

Ayer Conservation Agent - Heather Hampson

Signatures:

Signature

Printed Name

Signature

Printed Name

Signature

Printed Name

Signature

Printed Name

Signature

Printed Name

Signature

Printed Name

Signature

Printed Name

Signature

Printed Name

A copy of this form must be provided to the appropriate DEP Regional Office.

C. General Conditions

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 Emergency Certification or subject to enforcement action.
2. This Emergency Certification does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of property rights.
3. This Emergency Certification does not relieve the applicant or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. Any work conducted beyond that described above, and any work conducted beyond that necessary to abate the emergency, shall require the filing of a Notice of Intent.
5. 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 Emergency Certification at reasonable hours to evaluate compliance with this Certification, and may require the submittal of any data deemed necessary by the Conservation Commission or the Department for that evaluation.
6. This Emergency Certification shall apply to any contractor or any other person performing work authorized under this Certification.
7. No work may be authorized beyond 30 days from the date of this certification without written approval of the Department.



Massachusetts Department of Environmental Protection

Bureau of Resource Protection - Wetlands

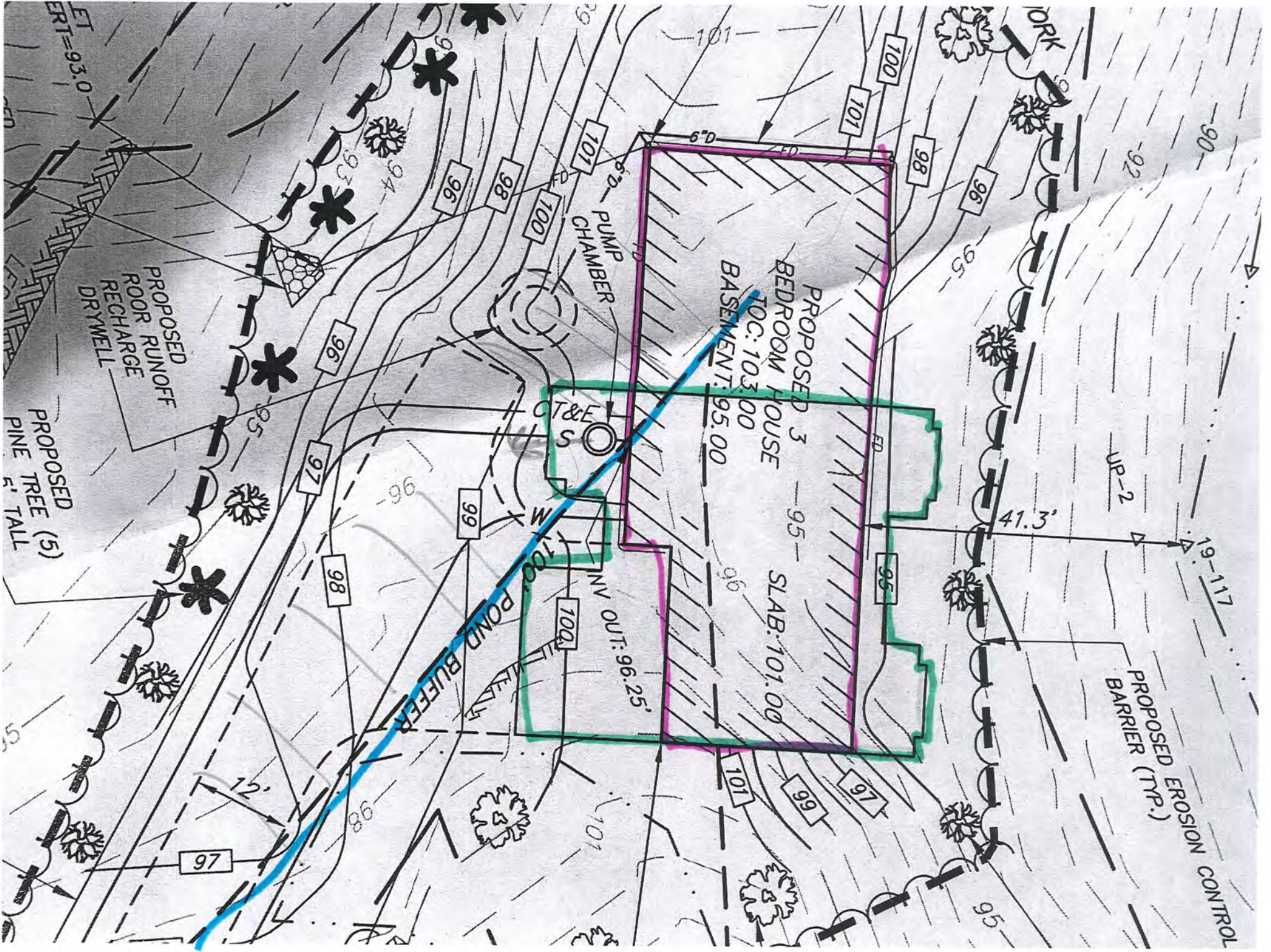
WPA Emergency Certification Form

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

D. Special Conditions

E. Appeals

The Department may, on its own motion or at the request of any person, review: an emergency certification issued by a conservation commission and any work permitted thereunder; a denial by a conservation commission of a request for emergency certification; or the failure by a conservation commission to act within 24 hours of a request for emergency certification. Such review shall not operate to stay the work permitted by the emergency certification unless the Department specifically so orders. The Department's review shall be conducted within seven days of: issuance by a conservation commission of the emergency certification; denial by a conservation commission of the emergency certification; or failure by a conservation commission to act within 24 hours of a request for emergency certification. If certification was improperly granted, or the work allowed thereunder is excessive or not required to protect the health and safety of citizens of the Commonwealth, the Department may revoke the emergency certification, condition the work permitted thereunder, or take such other action as it deems appropriate.



PROPOSED EROSION CONTROL BARRIER (TYP.)

PROPOSED 3 BEDROOM HOUSE
TOC: 103.00
BASEMENT: 95.00
SLAB: 101.00

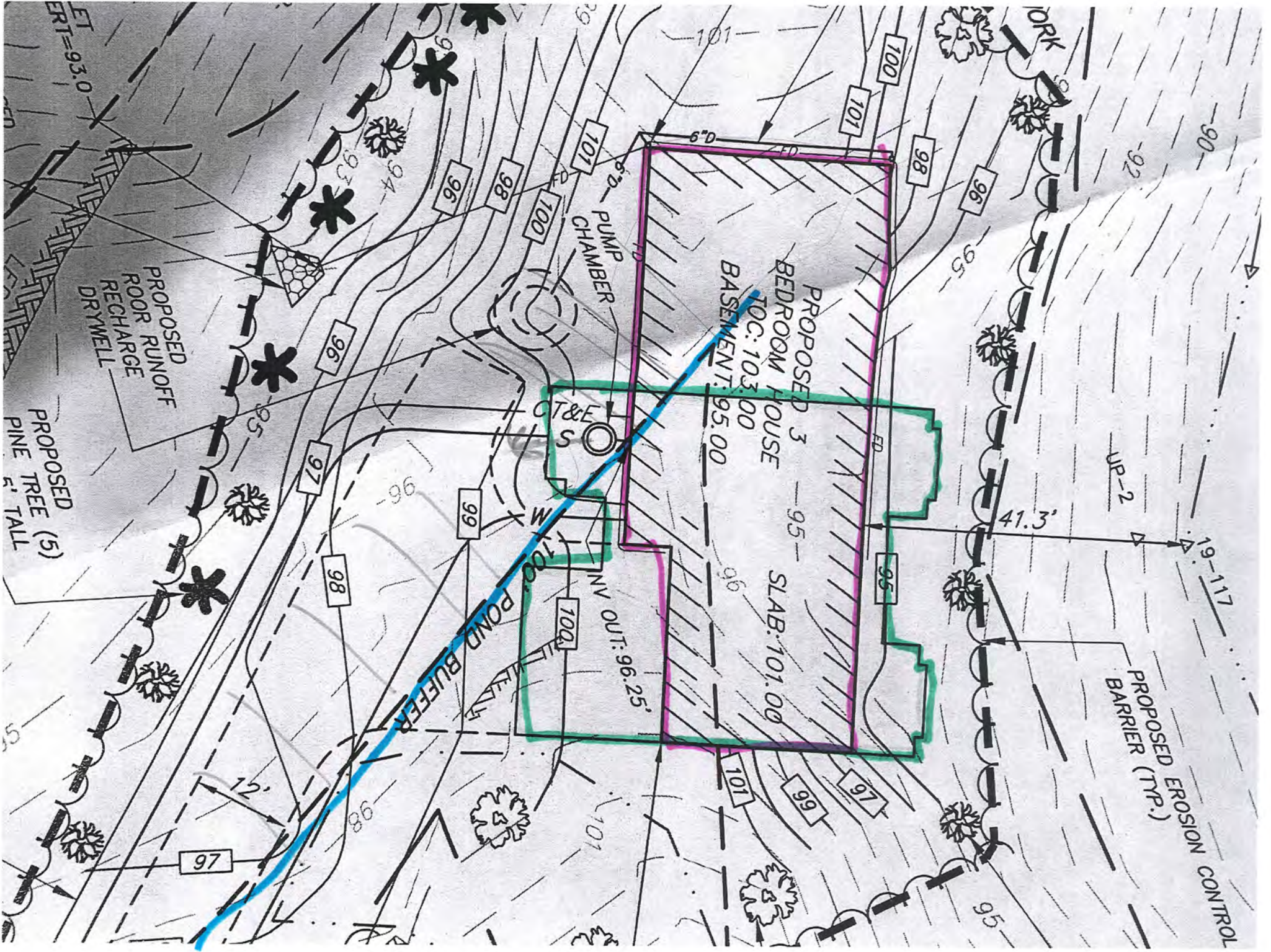
PUMP CHAMBER

POND BUFFER

PROPOSED RUNOFF ROOF RECHARGE DRYWELL

PROPOSED PINE TREE (5) 4' TALL

FT
ERT=93.0



From: bbadger007@verizon.net,
To: davidbadger@verizon.net,
Subject: house
Date: Mon, Jun 6, 2022 8:06 pm

Original house is 1800 inside 100' buffer approx.

Proposed house is 1665 sf inside 100' buffer

200 sf is 9' closer to limit of work , these areas will also be walkout areas and will keep the grade lowered

BUT everything is inside of the limit of work

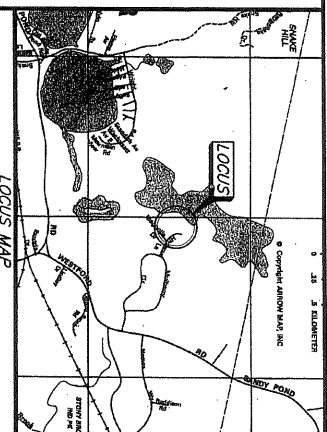
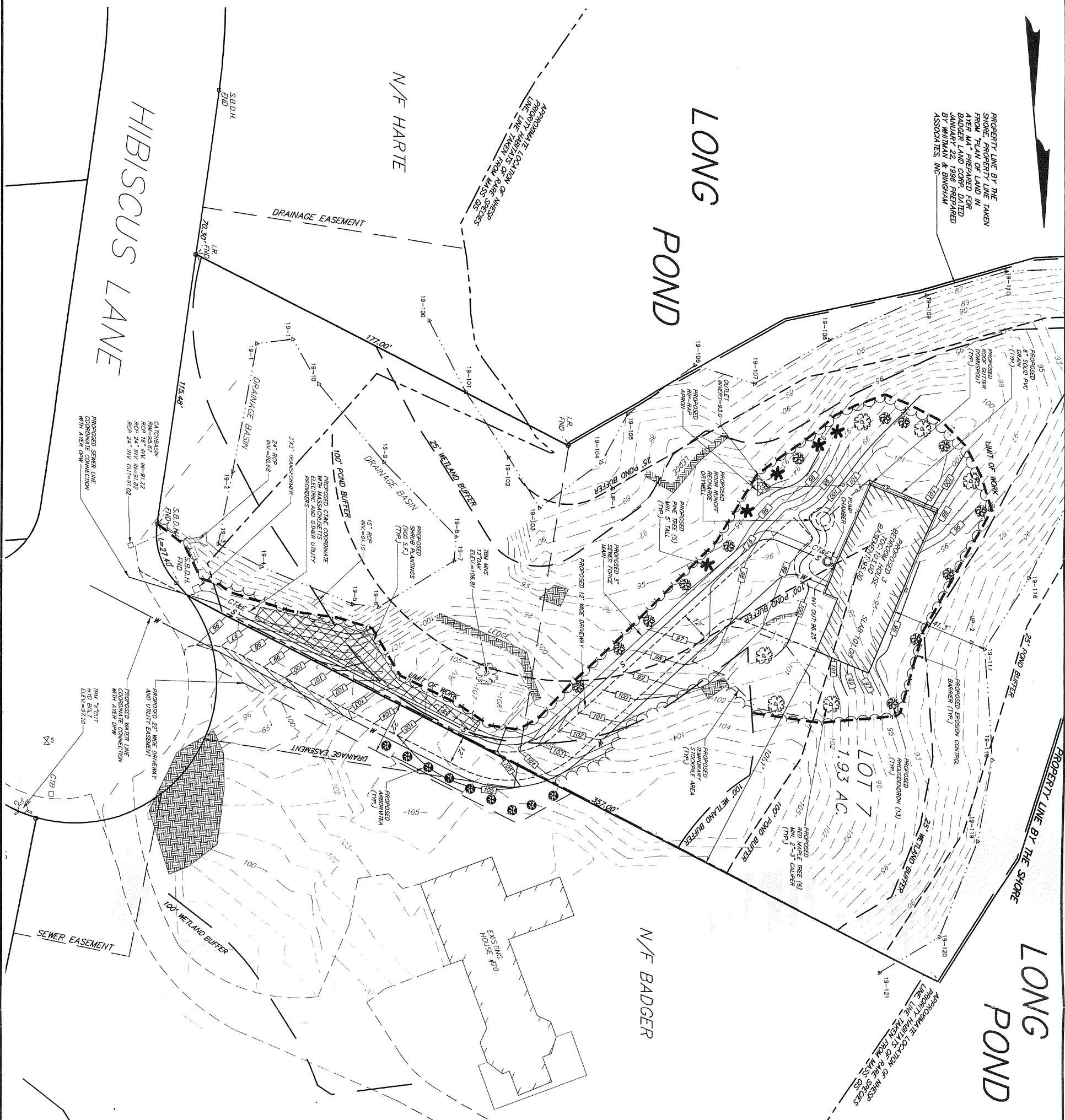


This email has been checked for viruses by Avast antivirus software.
www.avast.com

LEGEND

	EXISTING MAJOR CONTOUR
	EXISTING MINOR CONTOUR
	EXISTING LEDGE
	WETLAND BARRIER
	PROPOSED PAVEMENT
	PROPOSED FORCE MAIN
	PROPOSED CABLE TELEPHONE AND ELECTRIC LINE
	PROPOSED WATERLINE
	PROPOSED MAJOR CONTOUR
	PROPOSED MINOR CONTOUR
	PROPOSED PLANTING
	EROSION CONTROL BARRIER / LIMIT OF WORK
	WETLAND BOUNDARY
	POST DEVELOPMENT TREELINE
	POUND BUFFER

PROPERTY LINE BY THE SHORE
 PROPERTY LINE TAKEN FROM PLAN OF LAND IN AYER MA PREPARED FOR BUDGET AND FOR PARTIAL BUDGET LAND FOR PARTIAL BY WHITMAN & BINGHAM ASSOCIATES, INC.



- NOTES:**
1. THE EROSION CONTROL BARRIER ALSO SERVES AS THE MAXIMUM EXTENT OF CLEARING
 2. USE BARNES SGV ULTRAGRIND 2022L 1 HP OR APPROVED EQUAL
 3. THIS SITE IS IN AN AREA OF CRITICAL ENVIRONMENTAL CONCERN (ACEC)
 4. WETLANDS DELINEATED BY STEVEN SEARS OF DAVID E. ROSS ASSOCIATES, INC ON 4/5/2019

CONSTRUCTION SEQUENCE:
 1. SITUATION AND EROSION CONTROL BARRIERS TO BE INSTALLED PRIOR TO THE START OF CONSTRUCTION.
 2. EXCAVATION AND EROSION CONTROL BARRIERS TO BE INSTALLED PRIOR TO THE START OF CONSTRUCTION.
 3. ROUGH GRADE PROPOSED DRIVEWAY AND INSTALL GRAVEL PAD.
 4. EXCAVATE HOLE FOR NEW FOUNDATION.
 5. INSTALL FOUNDATION.
 6. BACKFILL FOUNDATION AND GRADE DISTURBED AREAS.
 7. BACKFILL FOUNDATION AND GRADE DISTURBED AREAS.
 8. MANDATORY STABILIZE DISTURBED SLOPES OF 3:1 OR GREATER WITH MULCH.
 9. INSTALL UTILITIES, ELECTRIC LINE, WATER LINE AND SEWER LINE.
 10. CONSTRUCT FOOTING, WALLS AND ROOF RAINOFF RECHARGE PERMIT.
 11. FINISH GRADING AND SURROUNDING PROPOSED DRIVEWAY.
 12. PLANT GRASS AND MULCH ALL DISTURBED AREAS WITH STRAW.
 13. LOAM, SEED AND MULCH ALL DISTURBED AREAS WITH STRAW.



DATE:	12-4-19
DRAWN BY:	DAVID E. ROSS
CHECKED BY:	DAVID E. ROSS
DESIGNED BY:	DAVID E. ROSS
SCALE:	1"=20'
PROJECT NO.:	32804
SHEET NO.:	1 of 2

DAVID E. ROSS ASSOCIATES, INC.
 CIVIL ENGINEERS - LAND SURVEYORS
 ENVIRONMENTAL CONSULTANTS
 61 Lancaster County Road
 P.O. Box 795
 Harvard, MA 01451-0795
 978-779-6232
 FAX 978-779-6236
 www.davidross.com

DESIGNED FOR:	DAVID BADGER
ADDRESS:	20 HIBISCUS LANE AYER MA
LOT NO.:	29
ASSESSOR MAP:	7
ASSESSOR PARCEL:	7-29

Out



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:
 100-0439
 MassDEP File #
 eDEP Transaction #
 Ayer
 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: Ayer
 Conservation Commission

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

3. To: Applicant:
 a. First Name David b. Last Name Badger

c. Organization
P.O.Box 148
 d. Mailing Address
Littleton MA 01460
 e. City/Town f. State g. Zip Code

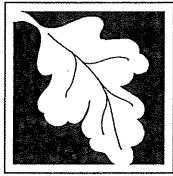
4. Property Owner (if different from applicant):
 a. First Name _____ b. Last Name _____

Lily Pad Realty Trust, David W. Badger, Trustee
 c. Organization
347 King Street
 d. Mailing Address
Littleton MA 01460
 e. City/Town f. State g. Zip Code

5. Project Location:
 a. Street Address 20 Hibiscus Lane b. City/Town Ayer
 c. Assessors Map/Plat Number 7 d. Parcel/Lot Number 29

Latitude and Longitude, if known: 42d34m12.29s -71d32m35.91s
 d. Latitude e. Longitude

file



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:
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A. General Information (cont.)

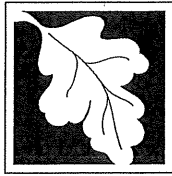
6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):
 Middlesex South
 a. County 28390 b. Certificate Number (if registered land) 110
 c. Book 28390 d. Page 110
7. Dates: 9/9/19 11/21/19
 a. Date Notice of Intent Filed b. Date Public Hearing Closed c. Date of Issuance
8. Final Approved Plans and Other Documents (attach additional plan or document references as needed):
 Site Plan
 a. Plan Title David E. Ross Associates Daniel B. Wolfe, P.E.
 b. Prepared By 11/20/19 c. Signed and Stamped by 1"=20'
 d. Final Revision Date 11/20/19 e. Scale 1"=20'
- 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.



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:
100-0439

MassDEP File #

eDEP Transaction #

Ayer

City/Town

B. Findings (cont.)

Denied because:

- b. [] the proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect the interests of the Act, and a final Order of Conditions is issued. A description of the performance standards which the proposed work cannot meet is attached to this Order.
c. [] the information submitted by the applicant is not sufficient to describe the site, the work, or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the Act's interests, and a final Order of Conditions is issued. A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(6)(c).
3. [] Buffer Zone Impacts: Shortest distance between limit of project disturbance and the wetland resource area specified in 310 CMR 10.02(1)(a) 25 a. linear feet

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

Table with 5 columns: Resource Area, Proposed Alteration, Permitted Alteration, Proposed Replacement, Permitted Replacement. Rows include Bank, Bordering Vegetated Wetland, Land Under Waterbodies and Waterways, Bordering Land Subject to Flooding, Isolated Land Subject to Flooding, and Riverfront Area with sub-categories for different distances.



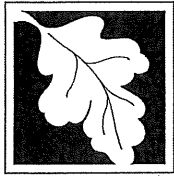
Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
 100-0439
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 City/Town

B. Findings (cont.)

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

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



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

Provided by MassDEP:
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 City/Town

B. Findings (cont.)

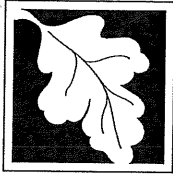
* #23. If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.5.c (BVW) or B.17.c (Salt Marsh) above, please enter the additional amount here.

23. Restoration/Enhancement *:
 a. square feet of BVW _____ b. square feet of salt marsh _____
24. Stream Crossing(s):
 a. number of new stream crossings _____ b. number of replacement stream crossings _____

C. General Conditions Under Massachusetts Wetlands Protection Act

The following conditions are only applicable to Approved projects.

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



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 5 – Order of Conditions

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

Provided by MassDEP:
100-0439

MassDEP File #

eDEP Transaction #

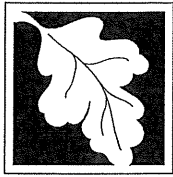
Ayer

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 100-0439 "
11. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before MassDEP.
12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
13. The work shall conform to the plans and special conditions referenced in this order.
14. Any change to the plans identified in Condition #13 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
15. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 5 – Order of Conditions

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

Provided by MassDEP:

100-0439

MassDEP File #

eDEP Transaction #

Ayer

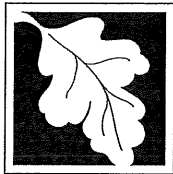
City/Town

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

17. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.
18. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.
19. The work associated with this Order (the "Project")
- (1) is subject to the Massachusetts Stormwater Standards
- (2) is NOT subject to the Massachusetts Stormwater Standards

If the work is subject to the Stormwater Standards, then the project is subject to the following conditions:

- a) All work, including site preparation, land disturbance, construction and redevelopment, shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Construction General Permit as required by Stormwater Condition 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.
- b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that:
- i.* all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures;
 - ii.* as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized;
 - iii.* any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10;



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 5 – Order of Conditions

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

Provided by MassDEP:

100-0439

MassDEP File #

eDEP Transaction #

Ayer

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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:

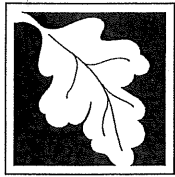
i.) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and

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

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

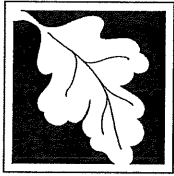
- g) The responsible party shall:
 1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type 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 Attachment A- Special Conditions

- 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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 City/Town _____

D. Findings Under Municipal Wetlands Bylaw or Ordinance

1. Is a municipal wetlands bylaw or ordinance applicable? Yes No

2. The _____ 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 _____

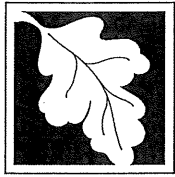
Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order of Conditions is issued.

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.

12/10/19
 1. Date of Issuance

Please indicate the number of members who will sign this form. This Order must be signed by a majority of the Conservation Commission.

4
 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:

[Signature]
[Signature]
[Signature]

[Signature]

by hand delivery on

by certified mail, return receipt requested, on

12/10/19
 Date

 Date

F. Appeals

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

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

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



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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.

Ayer
 Conservation Commission

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

To:
 Conservation Commission

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

Project Location MassDEP File Number

Has been recorded at the Registry of Deeds of:

County Book Page

for: Property Owner

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

Book Page

In accordance with the Order of Conditions issued on:

Date

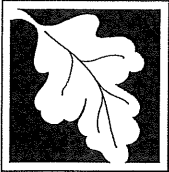
If recorded land, the instrument number identifying this transaction is:

Instrument Number

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

Document Number

Signature of Applicant



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

DEP File Number:

**Request for Departmental Action Fee
Transmittal Form**

Provided by DEP

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

A. Request Information

1. Location of Project

a. Street Address

b. City/Town, Zip

c. Check number

d. Fee amount

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

Name

Mailing Address

City/Town

State

Zip Code

Phone Number

Fax Number (if applicable)

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

Name

Mailing Address

City/Town

State

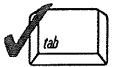
Zip Code

Phone Number

Fax Number (if applicable)

4. DEP File Number:

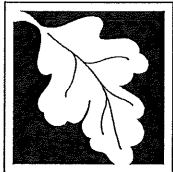
Important:
When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



B. Instructions

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

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



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

DEP File Number:

**Request for Departmental Action Fee
Transmittal Form**

Provided by DEP

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

B. Instructions (cont.)

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

Department of Environmental Protection
Box 4062
Boston, MA 02211

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

ATTACHMENT A
SPECIAL CONDITIONS
Order of Conditions
20 Hibiscus Lane, Ayer Assessor’s Map 7, Parcel 29
DEP File # 100-04139

FINDINGS:

Under the Order of Conditions (“the Order”) issued under MassDEP File Number 100-0439 to David Badger (“the Applicant”), the Ayer Conservation Commission (“the Commission”) hereby finds that in addition to the preceding General Conditions #1-20, Special Conditions listed herewith are necessary to achieve Performance Standards set forth in the Wetlands Protection Act (“WPA”) as codified in 310 CMR 10.00 (“the Regulations”). “Resource Areas” are enumerated under 310 CMR 10.02(1), and “Buffer Zone” is defined in 310 CMR 10.04, as amended. Any violation of these Conditions is considered a breach of the Wetlands Protection Act, which may make the Applicant subject to an Enforcement Order or a fine from this Commission and from MassDEP.

The proposed project at 20 Hibiscus Lane will construct a 325’ long paved driveway, a single family house, utility connections, grading, and landscaping. 130’ of the driveway is in the 100’ buffer zone to Long Pond. Approximately 12,350 square feet of buffer zone disturbance will be created for the construction of the house, associated grading, and landscaping. The house will be served by public sewer and public water. Extensive planting of native trees and shrubs (56) will be undertaken to partially compensate for the removal of approximately 35 existing trees on the site. NHESP has determined that, while the project site is in the Petapawag ACEC, the project will not result in a prohibited take of rare or endangered species. Long Pond, the wetland resource area on this project, has been described as especially pristine due to the limits of access to power boats. All reasonable precautions will be taken during the construction of this project to protect Long Pond from impacts due to work in the adjacent buffer zone.

The Commission orders that all work shall be performed in accordance with said General and Special Conditions, the referenced Notice of Intent, and all other relevant documents listed below in Special Condition 2. The Commission designates the “limit of work” under this Order as the erosion control barriers concurrent with the limit of work line depicted on the referenced plan(s) listed in Special Condition 2.

According to the Bylaws of the Town of Ayer, Article LIII (Enforcement), the Conservation Commission is considered an enforcement officer for Article XXVII (Wetlands Protection). While the Wetlands Bylaw does not specify a fine amount for a violation, Article LIII specifies the fine to be three hundred dollars per violation. Each day a violation exists shall constitute a separate offence.

ADMINISTRATIVE CONDITIONS

General Conditions 1-20 on the DEP WPA Form 5 are in force under this Order, and are all required for compliance, without exception. These Administrative Special Conditions are expanding upon General Condition 1.

1. All work must be in compliance with DEP General Conditions 1-20, and all Special Conditions from the Ayer Conservation Commission herein.
2. The work shall conform to the following plans and documents, unless otherwise specified in this Order. All of these plans will be submitted to the Conservation Administrator in an agreed upon electronic format, if that office does not possess them already:
 - a. WPA Form 3/Notice of Intent:
Submitted on behalf of: David W. Badger
Property Owner: Lily Pad Realty Trust

Project Location: 20 Hibiscus Lane
Ayer, MA 01432

Prepared by: David E. Ross Associates, Inc.
Stamped by: Daniel B. Wolfe
 - b. Site Plan: Site Plan September 2019
Final Rev. Date/Sheet Name: 11/20/19 / Site Plan

The approved wetland boundaries pertaining to this Order are only valid for the particular project associated with DEP #100-0439, and not for any future projects.

3. **This Order shall apply to any successor(s) in interest or successor(s) in control and shall survive the issuance of the Certificate of Compliance.** All future deeds shall reference this Order and the recording information for the same in the following format “This property may be subject to an Order of Conditions issued by the Town of Ayer Conservation Commission, which Order is recorded with the Middlesex South District Registry of Deeds in Book _____, Page _____, of which some conditions therein survive the issuance of a Certificate of Compliance”. 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 Commission shall be notified in writing by the seller of the name and address of the new owner.

Within ten (10) calendar days inclusive of such transfer, a written and notarized affidavit signed by the Seller and Buyer shall be filed with the Commission by the seller, stating that:

- o The Seller has provided the Buyer with a copy of this Order of Conditions and the Buyer has read this Order of Conditions;
- o The Buyer certifies that the Buyer understands all terms applicable to the project site;
- o The Buyer certifies that the Buyer understands that any work within Resource Areas and Buffer Zones pursuant to definitions in 310 CMR 10.00, as amended, requires a permit from the Conservation Commission;
- o In addition, this affidavit shall include the following sentence: “I, _____, the new owner of _____, understand that any work within Resource Areas and Buffer Zones pursuant to definitions in 310 CMR

- 10.00, as amended, requires approval by the Ayer Conservation Commission and that dumping of yard waste, brush, or other materials in said areas is not allowed.”;
- This affidavit shall also include a plan of the lot indicating the wetland boundary, building(s), and any other features.
4. All current and future new tenants shall be provided with a copy of this Order and a signed affidavit as described above acknowledging receipt shall be provided to the Commission. ***This condition shall extend beyond the issuance of the Certificate of Compliance, in perpetuity, and shall be referred to in all future deeds to this property.***
 5. Any violation of these Conditions will make the Applicant subject to an Enforcement Order or a fine.
 6. Members and agents of the Commission shall have the right to enter and inspect the premises at reasonable times, in reasonable intervals, with reasonable notification to the Site Supervisor, to evaluate compliance with the Conditions, up to such a time that the Certificate of Compliance is issued. Because of the environmental sensitivity of this site, these inspections may occur on a daily basis during the active constructive phase of this project. The Commission may require the submittal of additional data (such as work or data logs, purchase receipts, or product specifications) reasonably deemed necessary by the Commission to determine whether the project is in compliance with the Conditions. Potential violations of perpetual Conditions shall not grant the Commission or its agents' passage over private property.
 7. **The Applicant (or Applicant's representatives, who in this instance may be any of the Environmental Monitor, Site Superintendent, the Contractor, or design project Engineer) is responsible for the Project's completion in accordance with the Plans and these Conditions, and shall have on site at all times a copy of this Order, including all referenced documents, while activities regulated by this Order are being performed.**
 8. Any change in the Plans approved under this Order, including those due for review by other boards or resulting from the aforementioned conditions, must be submitted to the Commission in writing for approval prior to implementation. The Commission will then decide whether the change is substantial enough to require a new Notice of Intent filing or a request for an amendment to this Order of Conditions. Any errors found in the Plans or information submitted by the Applicant shall be considered as changes. If any unforeseen problem occurs during construction of the Project which affects any of the seven statutory interests of the WPA, the Applicant shall notify the Commission, and shall convene an immediate meeting between the Commission and/or the Agent, the Applicant (or the Applicant's representative(s) which may include the Environmental Monitor, Engineer, Site Supervisor, or Contractor), and other invited parties to determine and agree upon the appropriate corrective measures. In the event of a dispute amongst the participants of any meeting, the Commission's view shall prevail.
 9. The Site Supervisor is responsible for ensuring all parties on site abide by the Conditions set forth in this Order. This oversight responsibility extends to any sub-contractors, and persons delivering items or materials to the project.

10. No proposed earthen embankment in the buffer zone shall have a slope steeper than 2:1 (horizontal : vertical) without prior written approval of the Commission.
11. Pumps, generators, or other stationary equipment containing fuel, oil, hydraulic fluid, or other potential contaminants shall not be stored or operated within the wetland resource area, wetland buffer zone, or riverfront area without written approval of the Commission, the Agent, or a Commission-approved consultant/contractor. Equipment shall be located in a containment area on an impervious barrier. The barrier shall be of light color to allow observation of any liquid spillage. If spillage is observed, the equipment shall be taken out of service immediately.
12. All inorganic debris shall be removed from the site, including pre-existing and construction related debris. The Applicant or his designee shall be responsible for removing and disposing of such materials and surplus soils promptly and properly to an off-site disposal area which complies with all federal, state, and local requirements and regulations. Records as to the destination of all materials, including stumps, brush, and excess fill, shall be kept on file by the Contractor and supplied to the Commission if requested.
13. No oil, calcium chloride, or other salt shall be used within Resource Areas or Buffer Zones during any construction phase for the control of dust.
14. Non-organic fertilizers, pesticides, and herbicides shall not be used. Organic fertilizers used shall be slow-release. Additionally, soil and plant fertilization must be done in accordance with the Act Relative to the Regulation of Plant Nutrients (Act) (330 CMR 31.00). The Act includes, but is not limited to, the following provisions:
 - a. Phosphorous-containing fertilizer may only be applied when a soil test indicates that it is needed or when a lawn is being established, patched or renovated;
 - b. Do not apply plant nutrients to sidewalks or other impervious surfaces. Plant nutrients that land on these surfaces must be swept back onto the grass or cleaned up.
 - c. No applications of plant nutrients shall be made: – between December 1 and March 1; – to frozen and/or snow covered soil; – to saturated soil, or soils that are frequently flooded; – within 20 feet of waterways if using a broadcast method, or 10 feet if using a more targeted application method, such as a drop spreader; – within a Zone I of a public water supply well or within 100 feet of surface waters that are used for public drinking water supply.
15. The Commission reserves the right to require additional conditions if deemed necessary to protect the Resource Areas, Buffer Zones, and environmental interests as defined in MGL Chapter 131 Section 40 (310 CMR 10.00) with proper notification of all parties.
16. No vehicles or equipment are to enter or cross a Resource Area or Buffer Zone outside of the limits of work, unless the location of disturbance is marked on the Plans referenced in this Order, submitted for review to the Commission with a plan for restoration of the Resource Area disturbance, and approved by the Commission prior to the entry or crossing. Equipment is considered anything motorized, or that may potentially leak harmful materials such as fuels or lubricants into Resource Areas or Buffer Zones.

PRE-CONSTRUCTION CONDITIONS: These Pre-Construction Special Conditions are an expansion of General Conditions 8, 9, and 10.

17. Prior to commencement of any work on site:

- a. The wetland boundaries shall be clearly marked. All re-flagging, as needed, shall be made with biodegradable flags/stakes so that said areas are clearly distinguishable, and shall be confirmed by the Commission or its Agent. Degradable, photodegradable, UV-degradable, oxo-degradable, or oxo-biodegradable flags/stakes are not acceptable and shall not be used. **The Applicant shall maintain wetland flagging until the Certificate of Compliance is issued.**
- b. The Applicant shall submit in writing to the Commission the names, addresses, and telephone numbers (both business and 24-hour emergency numbers) of the person(s) responsible on-site for compliance with this Order and his/her alternate. The Applicant shall also notify the Commission in writing of any changes to this information.
- c. The Applicant, or designee, shall hold a pre-construction meeting with the Agent, Environmental Monitor, Engineer, Site Superintendent, and Contractor (if different), prior to the start of any work to ensure this Order is fully understood by all parties. At this meeting, a Method of Procedures (MOP) shall be outlined, discussed, and written down for submitted to the Commission. The MOP shall address protocols and contingencies for protecting Resource Areas during construction, responding to unforeseen conditions, and reporting back to the Commission. This MOP shall be established therewith and implemented throughout construction.
- d. **All erosion and sedimentation control measures shall be installed for inspection and approval by the Commission or its Agent.** The Commission must be notified at least 7 days in advance of the need for an inspection of work, for scheduling purposes.
- e. Proof of recording of this Order at the South Middlesex Registry of Deeds must be presented to the Commission or its Agent.
- f. The approved Limits of Work (LOW) from the Plans shall be survey-located and approved by the Commission or its Agent prior to the commencement of work. The LOW should be demarcated using orange construction snow fence staked in the ground to ensure that work is contained to the locations approved on the Plans throughout the duration of the Project construction.
- g. The Applicant or designee shall assign an Environmental Monitor (EM) company or individual who will report to the Commission throughout the duration of the Project construction. The EM shall submit a report via email to the Commission prior to the commencement of construction, every seven (7) days during construction, and for as long thereafter as the ground remains unstable, as well as upon completion of the project. These reports shall include the status of the erosion controls, status of stormwater management structures, status of

wetland replication areas, construction activity within Resource Areas and Buffer Zones, and anticipated work to occur within the upcoming week. The EM should ensure that the work in the field matches the work permitted on the plans, and any deviations should be reported to the Commission. The Commission email is concom@ayer.ma.us.

DURING CONSTRUCTION CONDITIONS: INVASIVE SPECIES MANAGEMENT

18. Any fill brought on site must be clean, debris-free, and be devoid of invasive plants, their parts, or their seeds.
19. All construction vehicles must be cleaned of accumulated soil or plant matter from other sites prior to entering the site, through washing, brooming, or other method approved in advance by the Commission.
20. In order to prevent the spread of invasive species from one portion of the project site to another, construction vehicles may not enter locations infested with invasive species. If this is unavoidable, vehicles shall be washed or cleaned prior to leaving the infested portion of the site.
21. Construction vehicles to be stored overnight on site within the Buffer Zone are to be inspected daily for any sign of oil, gasoline, or other fuel leakage. The Commission is to be notified immediately of any such occurrence, so that a solution is discussed and approved by the Conservation Administrator.

DURING CONSTRUCTION CONDITIONS: SEDIMENT AND EROSION CONTROLS

These During Construction Special Conditions are an expansion of General Condition 18.

22. Soil erosion and deposition into wetland resource areas shall be prevented at all times by effective control methods. The Applicant shall implement the methods indicated in the referenced Notice of Intent and as specified below:
 - a. The *minimum* required erosion control barriers shall consist of a staked compost filter sock/wattle, as inspected and approved by the Commission or its Agent before work commences. Temporary erosion and sediment control products that are not fully biodegradable should be promptly removed upon issuance of the Certificate of Compliance.
 - b. Erosion control measures shall be installed and maintained in accordance with the Plans listed in Special Condition 2.
 - c. The limit of work shall be the staked orange snow fencing, beyond which no work shall occur. These limits are laid out in the approved plan set listed in Special Condition 2.
 - d. The Commission may require the Applicant to employ additional erosion and/or damage prevention measures as it reasonably deems necessary. Supplemental

erosion controls deemed necessary shall be implemented in accordance with the Massachusetts Erosion & Sediment Control Guidelines for Urban and Suburban Areas (2003).

- e. Erosion controls shall be inspected weekly and immediately following storm events. Damaged or non-functioning erosion control devices shall be maintained, reinforced, or replaced as necessary.
- f. Upon the discovery of any failure of erosion control measures resulting in deposition of soils into Resource Areas, the incident shall be immediately reported to the Commission at (978) 772-8249 and to concom@ayer.ma.us .
- g. The Applicant shall take steps as soon as reasonably practical to control any erosion that occurs on site that impacts areas under jurisdiction of the Wetlands Protection Act and the Ayer Wetlands Bylaw and Regulations.
- h. Any sedimentation that takes place beyond the limit of the erosion control barriers shall be removed using hand tools. The cause of the erosion/sedimentation shall be addressed as soon as reasonably practical with reasonable measures.
- i. All accumulated sediment shall be removed from the face of the erosion control barriers using hand tools (e.g. shovels, rakes, and wheelbarrows) whenever the level of sediment is within six (6) inches of the top of the barrier.
- j. The Applicant shall maintain a reserve of the approved erosion control product(s) equal to at least 15% of the maximum extent of erosion control materials used on site. This reserve shall be easily accessible for the duration of the project, and be explicitly dedicated to emergency repairs.
- k. Soil, sediment, debris, or other material removed during maintenance or repair of erosion control barriers, or remediation of erosion damage, shall be disposed of outside the wetlands or riverfront buffer zone.
- l. Exposed soils shall be stabilized as soon as practical following disturbance. Slopes and other disturbed areas not subject to construction activities shall be stabilized (either temporarily or permanently) immediately following excavation/grading. Temporary stabilization shall consist of seeding with **annual oats** or other approved species, or the use of erosion control products that meet the requirements set forth in Special Condition 17(a).
- m. As soon as reasonably practical following any storm event, or significant warming period when snow/ice is present on the ground, the Applicant shall inspect all stabilized areas for erosion, wash-out, rills, or other damage caused by flowing water. Any noted damage shall be repaired as soon as reasonably practicable using the original stabilization method, or a pre-approved alternative method.

23. Erosion control devices and wetland flags shall remain in place until all disturbed surfaces have been permanently stabilized and a Certificate of Compliance is signed by the Commission. The erosion control devices may only be removed once the Applicant has submitted a Request for a Certificate of Compliance AND the Commission and/or its Agent has conducted a site visit and granted permission to do so. Biodegradable erosion controls may be broken up and spread on site, but not within any wetland resource area(s) or Conservation Easement. Any non-biodegradable material approved for use must be removed and discarded off-site.

DURING CONSTRUCTION CONDITIONS: SOIL STOCKPILES AND FILL STORAGE

24. At no time shall debris or other material be buried or disposed of within the buffer zone, other than that fill which is explicitly allowed by this Order and as shown on the referenced plans.
25. All fill not drawn from the site itself, stumps, brush, logs, rubbish, construction debris, excavated materials, construction equipment and vehicles, and construction materials (i.e. gravel, bentonite, etc.), if permitted to be stored on-site, shall be stored in a designated location approved by the Commission. See Project Specific Condition 30 for exception.
26. Stockpiled earth and other materials shall be piled outside the 100-foot Buffer Zone and/or the 200-foot Riverfront Area, and shall be stabilized to prevent erosion into wetland resource areas and/or prevent any runoff off-site. See Project Specific Conditions.
27. Any soil stockpiles that will remain on site for longer than thirty (30) days must be seeded with the same mixture of seeds already intended for use within the area and/or the upstream area that will be seeded in accordance with Special Condition 22(l).

DURING CONSTRUCTION CONDITIONS: STORMWATER MANAGEMENT

28. There shall be no direct discharge of stormwater runoff into streams or other wetland resource areas. Runoff from the site shall be directed overland to maximize groundwater recharge and cleansing of the runoff through contact with natural soils and vegetation.
29. The Applicant or his designee shall report any runoff problems/concerns immediately upon discovery of such conditions to the Ayer Conservation Commission office at (978) 772-8249 and via email to concom@ayer.ma.us.

PROJECT SPECIFIC CONDITIONS:

30. Soil shall be stockpiled only in the location shown on the plan.
31. There is to be no direct discharge of water into the pond under any circumstances. If dewatering of soil is necessary (i.e. during excavation of the foundation), the Conservation Administrator is to be notified. A location for the set-up of a dewatering

- basin is to be determined in consultation with the Conservation Administrator who is also to be notified for inspection of the dewatering basin after its construction and before its use.
32. Following construction of the foundation, the Commission will be provided with a letter from the engineer certifying the completed foundation elevation matches the elevation in the plan. This letter is to be received by the Commission before building construction commences.
 33. Since stormwater runoff cannot be directly discharged into the Bordering Vegetated Wetland or the pond, and given the close proximity of the house to these resource areas, the Commission is to be notified for approval of any future plans for a sump pump or French drain or other structures used to dissipate roof runoff or water around the foundation.
 34. Aside from those already marked on the plans, no new trees beyond the limit of work are to be cut down without prior notification and approval by the Conservation Commission or Conservation Administrator.
 35. All new plants are to be planted in accordance locations shown on the approved plan.
 36. Only sand (no salt) is to be used on the portions of the driveway within the buffer zone. No other material is to be used on the driveway.
 37. Conservation signs are to be placed every 50' along the 350' driveway and another 5 signs posted around the house in locations to be determined by the Conservation Administrator.
 38. The use of phosphorous-based fertilizer on the lawn within the buffer zone is banned.

END OF CONSTRUCTION CONDITIONS:

39. Upon completion of this project, and within two years of the completion of the wetland replication area, the owner or his designee shall submit the following to the Conservation Commission to receive a Certificate of Compliance per Condition 12:
 - a. A letter from the owner or his designee requesting a Certificate of Compliance for DEP File # 100-0439.
 - b. A written statement from a registered professional engineer of the Commonwealth of Massachusetts certifying that the work has been completed in compliance with this Order of Conditions and the approved plans referenced herein (or approved revisions). Any discrepancies shall be noted. Phrases such as: *“The project has been completed in general compliance...”* will NOT be acceptable. If the work completed differs significantly from the work proposed in the Notice of Intent and approved by the Commission, the Commission may

require the Applicant implement measures necessary to comply with this Order.

- c. An as-built topographic plan signed and stamped by a registered professional land surveyor of the Commonwealth of Massachusetts, for the public record. This plan will include as-built elevations of all drainage ways constructed within 100 feet of any wetland or 200 feet of a perennial stream, and distances to all structures and elevations within 100 feet of wetlands and 200 feet of perennial streams.

PERPETUAL CONDITIONS:

Special Condition 4 is also a perpetual condition.

40. No alterations to soil, waterbodies, or vegetation both alive and deceased, except as approved by the Commission and shown on approved plan(s), shall be conducted within any wetland resource area, wetland buffer area, or riverfront area. ***This condition shall extend beyond the issuance of the Certificate of Compliance, in perpetuity, and shall be included in the required affidavit detailed in Special Condition 4.***
41. No vehicles or equipment are to enter or cross a Resource Area or Buffer Zone, unless the location of the disturbance is first marked on a plan and approved by the Commission. ***This condition shall extend beyond the issuance of the Certificate of Compliance, in perpetuity, and shall be included in the required affidavit detailed in Special Condition 4.***
42. Any runoff resulting from washing of vehicles or equipment shall neither be directed to, nor dumped into, any on-site drainage system, Resource Area or Buffer Zone. Runoff shall be managed in accordance with the stormwater management plan developed for this project. ***This condition shall extend beyond the issuance of the Certificate of Compliance, in perpetuity, and shall be included in the required affidavit detailed in Special Condition 4.***
43. Equipment fuel storage, refueling, and lubrication operations shall be situated in an upland area outside Resource Areas and Buffer Zones. The Commission shall be notified immediately of any leakage of contaminants from this area and all fueling operations shall be suspended. ***This condition shall extend beyond the issuance of the Certificate of Compliance, in perpetuity, and shall be included in the required affidavit detailed in Special Condition 4.***
44. Pumps, generators, or other stationary equipment containing fuel, oil, hydraulic fluid, or other potential contaminants shall not be stored or operated within Resource Areas or Buffer Zones without written approval of the Commission, its Agent, or a Commission approved consultant/contractor. ***This condition shall extend beyond the issuance of the Certificate of Compliance, in perpetuity, and shall be included in the required affidavit detailed in Special Condition 4.***

45. No debris may be deposited within Resource Areas or Buffer Zones. This includes concentrated stockpiles of soils, vegetation, cuttings, leaves, or otherwise “natural” materials that would impede natural ecological functions. ***This condition shall extend beyond the issuance of the Certificate of Compliance, in perpetuity, and shall be included in the required affidavit detailed in Special Condition 4.***
46. No oil, calcium chloride, or other salt shall be used for the control of dust. ***This condition shall extend beyond the issuance of the Certificate of Compliance, in perpetuity, and shall be included in the required affidavit detailed in Special Condition 4.***
47. Non-organic fertilizers, pesticides, and herbicides shall not be used. Organic fertilizers used shall be slow-release. Additionally, soil and plant fertilization must be done in accordance with the Act Relative to the Regulation of Plant Nutrients (Act) (330 CMR 31.00). The Act includes, but is not limited to, the following provisions:
- a. Phosphorous-containing fertilizer may only be applied when a soil test indicates that it is needed or when a lawn is being established, patched or renovated;
 - b. Do not apply plant nutrients to sidewalks or other impervious surfaces. Plant nutrients that land on these surfaces must be swept back onto the grass or cleaned up.
 - c. No applications of plant nutrients shall be made: – between December 1 and March 1; – to frozen and/or snow covered soil; – to saturated soil, or soils that are frequently flooded; – within 20 feet of waterways if using a broadcast method, or 10 feet if using a more targeted application method, such as a drop spreader; – within a Zone I of a public water supply well or within 100 feet of surface waters that are used for public drinking water supply.

This condition shall extend beyond the issuance of the Certificate of Compliance, in perpetuity, and shall be included in the required affidavit detailed in Special Condition 4.

48. No underground storage of fuels is allowed within Resource Areas or Buffer Zones. ***This condition shall extend beyond the issuance of the Certificate of Compliance, in perpetuity, and shall be included in the required affidavit detailed in Special Condition 4.***
49. The Commission shall be notified in writing when any maintenance functions that may impact Resource Areas are to be performed, such as, but not limited to, replacing leach fields, repairing drains, road maintenance/repaving, and cleaning of stormwater appurtenances. ***This condition shall extend beyond the issuance of the Certificate of Compliance, in perpetuity, and shall be included in the required affidavit detailed in Special Condition 4.***
50. The Applicant/current owner or his designee shall maintain all elements of the drainage systems within any areas subject to the Commission’s jurisdiction under 310 C.M.R. 10.00 and M.G.L. Chapter 131, Section 40, as amended, unless put into an easement to the Town of Ayer, in order to avoid blockages and siltation which might cause failure of the system. Vegetative cover shall also be maintained on-site to ensure the proper functioning of the drainage system. This Condition shall in no way impede the control of invasive species, should a conflict arise. ***This condition shall extend beyond the***

issuance of the Certificate of Compliance, in perpetuity, and shall be included in the required affidavit detailed in Special Condition 4.

51. No plants listed on the Massachusetts Invasive Plant Advisory Group’s “Invasive”, “Likely Invasive”, or “Potentially Invasive” lists; New York’s “Prohibited & Regulated Invasive Species List”; or on New Jersey’s “Target Species Spotlight”, within the Invasive Species fact sheet library, or on the “Do Not Plant” List; may be brought onto or planted anywhere on the property. ***This condition shall extend beyond the issuance of the Certificate of Compliance, in perpetuity, and shall be included in the required affidavit detailed in Special Condition 4.***

Invasive Species List Websites:

MA lists (<http://www.massnrc.org/mipag/index.htm>);

NY List: (http://www.dec.ny.gov/docs/lands_forests_pdf/islist.pdf)

NJ Lists: (<http://www.njisst.org/target-species-spotlight.asp>),

(<http://www.njisst.org/fact-sheets.htm>),

(<http://www.njisst.org/documents/DoNotPlantList.pdf>)

Ure

Some information contained in this document refers to federal income tax deductions. Nothing contained herein shall be construed as legal advice for those seeking federal income tax deductions. Anyone seeking a federal income tax deduction is encouraged to seek legal counsel and other professional assistance.

Italics indicate guidance to drafter

[plain text in brackets is optional or alternate language]

NOTE TO DRAFTER: Please use track changes and comments to show and explain deviations from the Model CR. This will be very helpful for the EEA CR Reviewer

GRANTOR:

GRANTEE:

ADDRESS OF PREMISES:

FOR GRANTOR’S TITLE SEE: _____ County

Registry of Deeds at Book _____, Page _____.

Commented [GJ(1)]: Type names of Grantor(s), Grantee(s), address of the CR Premises and the Grantor’s deed reference(s). If the Grantor will take title to the Premises immediately prior to recording the CR, leave the deed references blank and write in the recording information before recording the CR

GRANT OF CONSERVATION RESTRICTION

I. STATEMENT OF GRANT

[Enter Grantor name(s), marital status if applicable, address, County (and state or country if not in MA)], being the [enter ownership – sole, joint, etc...] owner of the Premises as defined herein, constituting all of the owner(s) of the Premises as defined herein, for my successors and assigns (“Grantor”), acting pursuant to Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws, grant, with QUITCLAIM COVENANTS, to [enter Grantee(s) legal name and address. If more than one Grantee, specify Primary Grantee and Secondary Grantee (see Paragraph III for further references to CRs with two grantees). If the Grantee is a municipality, insert name of municipality, acting by and through its Conservation Commission by authority of Section 8C of Chapter 40 of the Massachusetts General Laws, if Grantee is a Water Commission, then by authority of Section 41 of Chapter 40 of the Massachusetts General Laws, or if held by another government body then it must be eligible to hold a CR and add citation to the relevant statutory authority.], their permitted successors and assigns (“Grantee”), for [Enter the amount of the consideration or enter “for nominal consideration” or “for charitable consideration as this conveyance is to be considered and characterized as a gift [in accordance with 26.U.S.C. Section 170(h)]” but DO NOT use “and other valuable consideration”], IN PERPETUITY AND EXCLUSIVELY FOR CONSERVATION PURPOSES, the following Conservation Restriction on land located in [Name of City or Town] containing [Enter either: “the entirety of a XX-acre parcel of land” OR “a XX-acre portion of a XX-acre property] (“Premises”), which Premises is

more particularly described in Exhibit A¹ and shown in the attached reduced copy of a survey plan in Exhibit B², both of which are incorporated herein and attached hereto. *[Use the following sentence if the CR has two Grantees: As used herein, the terms “Grantee” and “Grantees” shall refer to the Primary Grantee and the Secondary Grantee collectively.]*

The [fee interest in the Premises *or* Conservation Restriction] was acquired utilizing, in part, Community Preservation Act funds pursuant to Chapter 44B of the Massachusetts General Laws, which funds were authorized for such purposes by a vote of the [enter municipality name] Town Meeting [or City Council Meeting] held on [enter date of Town Meeting or City Council Meeting that authorized use of CPA funds], an attested copy of which vote is attached hereto as Exhibit C (the “CPA Vote”). Pursuant to Section 12(b) of Chapter 44B of the Massachusetts General Laws, and pursuant to the CPA Vote, the fee interest in the Premises, and therefore the management of the Premises, is under the care, custody, and control of the Conservation Commission of the City/Town of _____.

Commented [GJ(2): Where CPA funding was used to acquire the fee interest in the Premises, unless the authorizing vote explicitly authorizes the Conservation Commission to convey the CR, then the municipal executive (e.g., the Select Board or the Mayor) must act as Grantor. In such cases, the Conservation Commission may elect to sign the CR in approval.

II. PURPOSES:

This Conservation Restriction is defined in and authorized by Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws and otherwise by law. The purposes of this Conservation Restriction (“Purposes”) are to ensure that the Premises will be maintained in perpetuity in its natural, scenic, or open condition *[and, if applicable, choose which may apply, and available for agricultural use, forestry use, passive outdoor recreational use, or community park use], and to prevent any use or change that would materially impair the Conservation Values (as defined below).*

Commented [GJ(3): This last sentence should be included where the fee interest has been acquired using CPA funding, provided that the vote does deem the land under the care, custody, and control of the Conservation Commission.

[Choose from below, if applicable, for CRs connected with state or federal funding, permits, etc]

[Permit Requirement] This Conservation Restriction is required by *[Describe all permits by issuing agency and permit number and recording information and a brief description of the permitted activity or project, i.e., commercial development, subdivision, etc.]*

[LAND Grant] The [fee interest in the Premises *or* Conservation Restriction] was acquired utilizing, in part, assistance from the Local Acquisitions for Natural Diversity (LAND) program pursuant to Section 11 of Chapter 132A of the Massachusetts General Laws and Section 2A of Chapter 286 of the Acts of 2014, and therefore the Premises is subject to a LAND Grant Project Agreement (“Project Agreement”) recorded at the [enter proper name] Registry of Deeds in Book _____ Page _____.

[Conservation Partnership] The [fee interest in the Premises *or* Conservation Restriction] was acquired utilizing, in part, assistance from the Conservation Partnership program which requires,

¹ The Legal Description of a CR must contain metes and bounds measurements pursuant to MGL c. 184 s. 26(c) – this requirement can be satisfied with a narrative metes and bounds description OR with a reference to a recorded plan that contains metes and bounds measurements. When using a plan, identify the following: the name or label for the pertinent parcel or CR area, the title of the plan, etc.

² If a recorded plan is being used as the legal description, attach a reduced copy of the recorded plan in Exhibit B. The CR area and any excluded areas or building envelopes must be clearly marked.

pursuant to Section 2A of Chapter 286 of the Acts of 2014, the conveyance of this Conservation Restriction.

[Landscape Partnership] The [fee interest in the Premises *or* Conservation Restriction] was acquired utilizing, in part, assistance from the Landscape Partnership program pursuant to Section 2A of Chapter 286 of the Acts of 2014 (the “Landscape Partnership Grant”), and therefore the Premises is subject to a Landscape Partnership Grant Program Project Agreement (“Project Agreement”) recorded at the [*enter county*] County Registry of Deeds at Book _____ Page _____.

[PARC] The [fee interest in the Premises *or* Conservation Restriction] was acquired utilizing, in part, assistance from the Parkland Acquisitions and Renovations for Communities (PARC) program pursuant to Section 2A of Chapter 286 of the Acts of 2014, and therefore the Premises is subject to a Project Agreement (“PARC Project Agreement”) recorded at the [*enter county*] County Registry of Deeds at Book _____ Page _____.

[Drinking Water Supply Protection Program] The [fee interest in the Premises *or* Conservation Restriction] was acquired utilizing, in part, assistance from the Drinking Water Supply Protection program, pursuant to Chapter 312 of the Acts of 2008, § 2A, 2200-7017 and therefore the Premises is subject to a Project Agreement recorded with [*enter county*] Registry of Deeds at Book _____, Page _____.

[Land and Water Conservation Fund] The [fee interest in the Premises *or* Conservation Restriction] was acquired utilizing, in part, assistance from the National Park Service Land and Water Conservation Fund (L&WCF), authorized by the Land and Water Conservation Fund Act of 1965, Stat. 897 (1964), Public Law 88-578, as it may be amended, such assistance described under Project Agreement Number # _____, recorded at the [*enter county*] Registry of Deeds at Book _____ Page _____.

[Conservation Land Tax Credit] The [fee interest in the Premises *or* Conservation Restriction] was acquired utilizing, in part, the Conversation Land Tax Credit Program authorized under the Chapter 509 Acts of 2008 Sections 1-4 as amended by Chapter 409 Acts of 2010 Sections 4-13 of the Massachusetts General Court.

The Conservation Values protected by this Conservation Restriction include the following:

[Use the examples listed below that apply to the Premises and adapt them to the specific conditions of the Premises and add other Conservation Values not stated below as applicable. Provide detailed information rather than broad generalities. The Conservation Values should sufficiently describe the features of the Premises that necessitate its permanent protection and that provide a significant public benefit.]

- **Open Space.** The Premises contributes to the protection of the scenic and natural character of _____ and the protection of the Premises will enhance the open-space value of these and nearby lands. The Premises abuts land already conserved, including *[If*

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applicable, list abutting or nearby lands already conserved, e.g., 'the 12,455 acre Mount Greylock State Reservation']

- **Floodplain.** The *[Enter 'majority' or acreage or 'a portion of', as applicable]* of the Premises lies within the 100-year floodplain of the *[Enter the name of the river/stream/water body and reference the data source]*. The protection of this floodplain will ensure the continued availability of this flood storage during major storm events.
- **Soils and Soil Health.** The Premises includes _____ *[Enter acreage or 'a majority of' or 'a portion of' as preferred]* of *[Enter all Farm and Forest Land soil types that apply, e.g., Prime Farmland, Farmland of Unique Importance, Farmland of Statewide Importance, Prime Forest Land, Forest Land of Statewide Importance, Forest Land of Local Importance, etc. Use Mass GIS' OLIVER to explore these soil types - http://maps.massgis.state.ma.us/map_ol/oliver.php]* as identified by the USDA Natural Resources Conservation Service. The protection of the Premises will promote healthy soils and healthy soils practices as such terms are defined in Chapter 358 of the Acts of 2020, which added definitions of these terms to Section 7A of Chapter 128 of the Massachusetts General Laws.
- **Wildlife Habitat.** The Premises includes areas designated by the MA Division of Fisheries and Wildlife acting by and through its Natural Heritage and Endangered Species Program (NHESP) as "Priority Habitats of Rare and Endangered Species", the protection of which aligns with NHESP's wildlife and habitat protection objectives. *[Look for other NHESP characteristics, such as vernal pools, potential habitat, and natural communities]*
- **Public Access.** Public access to the Premises will be allowed for *[Enter activities, e.g., passive outdoor recreation, education, nature study. Also explain here how the Premises connects with other Public Access opportunities, if applicable. E.g., 'The Premises will permanently conserve 1.3 miles of the Bay Circuit Trail & Greenway, a 230-mile trail that connects 37 towns in the Greater Boston area from Plum Island to Kingston Bay and provides close-to-home multi-use recreational opportunities to millions of Massachusetts residents.']*
- **Biodiversity.** The Premises includes areas designated as *[Enter here the components of BioMap2 that overlap with the Premises, e.g., Core Habitat, Critical Natural Landscape, - <http://maps.massgis.state.ma.us/dfg/biomap2.htm>]*, as defined by the Massachusetts Natural Heritage and Endangered Species Program. BioMap2, published in 2010, was designed to guide strategic biodiversity conservation in Massachusetts over the next decade by focusing land protection and stewardship on the areas that are most critical for ensuring the long-term persistence of rare and other native species and their habitats, exemplary natural communities, and a diversity of ecosystems. *BioMap2* is also designed to include the habitats and species of conservation concern identified in the State Wildlife Action Plan.
- **Habitat Connectivity and Ecosystem Integrity.** The Premises includes areas identified by the UMass Conservation Assessment and Prioritization System (CAPS) as *[Describe here*

the CAPS designation – <https://www.umass.edu/landeco/research/caps/data/iei/iei.html>]. CAPS measures the ecosystem integrity of land and can be used to demonstrate the value of land as having outstanding unfragmented habitat value

- **Water Quality.** *[Explain here how protection of the Premises will maintain or improve water quality on the Premises or in a connected water body. E.g., ‘Protection of a Forest Core area or other large, forested landscape can help maintain water quality for public drinking water; protection of a riparian corridor can help maintain water quality critical to cold water fisheries’];*
- **Wetlands.** *The [Enter type of wetland] wetlands on the Premises provide valuable habitat for a diverse array of wildlife species as well as provide the many other public benefits of wetlands protection recognized by the Commonwealth of Massachusetts (Section 40 of Chapter 131 of the Massachusetts General Laws).*
- **Indigenous Cultural Landscape.** *Explain here how the protection of the Premises ensures protection of an area important to Indigenous cultural heritage. E.g., “The Premises is identified by _____ as an Indigenous cultural landscape with attributes relevant to the intrinsic values of contemporary Indigenous communities within the Commonwealth of Massachusetts.*
- **Working Farmland and/or Forest Land.** *The protection of the Premises will ensure that the open fields and forests contained on the Premises will be permanently available for agriculture and forestry that is consistent with the Purposes.*
- **Climate Change Resiliency.** *The Premises is identified as an area of _____ [average, slightly above average, above average, far above average] Terrestrial [or Coastal, as applicable] Resilience according to The Nature Conservancy’s (TNC) Resilient Land Mapping Tool, including _____ Landscape Diversity and _____ Local Connectedness. TNC’s Resilient Land Mapping Tool was developed in order to map ‘climate-resilient’ sites that are ‘more likely to sustain native plants, animals, and natural processes into the future.’ The protection of these climate resilient sites is an important step in both reducing human and ecosystem vulnerability to climate change and adapting to changing conditions. [Link to TNC’s Resilient Land Mapping Tool: <http://maps.tnc.org/resilientland/>]*
 - Also see the UMass Amherst I-CARES model, which may be used to demonstrate significant climate resilience for reducing heat islands and flooding.
- **Consistency with Clearly Delineated Federal, State, or Local Governmental Conservation Policy.** *[Explain here how protection of the Premises advances a governmental policy regarding conservation of natural resources, such as the State Wildlife Action Plan, the Statewide Comprehensive Outdoor Recreation Plan, a local Comprehensive or Open Space and Recreation Plan, or any other federal, state, or local governmental conservation policy, report, etc. This is where CRs commonly cite the IRS definitions of ‘conservation*

purposes' found at 26 CFR 1.170A-14(d)(1), or other IRS definitions regarding 'qualified conservation contributions' found at 26 CFR 1.170A-14.]

- **Heritage Landscape Inventory.** The Premises is located within a Massachusetts Department of Conservation and Recreation (DCR) *[Insert here 'Agricultural', 'Archaeological', 'Civic', etc.]* Heritage Landscape, as determined by the DCR Heritage Landscape Inventory of 2012. Heritage Landscapes are vital to the history, character, and quality of life of communities. Heritage landscapes are the result of human interaction with the natural resources of an area, which influence the use and development of land and contain both natural and cultural resources, such as cemeteries, parks, estates, and agricultural properties.

[Explore heritage landscapes here: <http://maps.massgis.state.ma.us/dcr/hli/>]

- **Historic and Archaeological Resources.** Conservation and appropriate management of the Premises has an important public benefit by preserving historic and archeological resources within the Premises. *[Consult with the Massachusetts Historical Commission for specific information to include in this stipulation.]*
- **Water Supply.** The Premises includes [Zone I, II Wellhead Protection Areas, Zone A, B, C Surface Water Supply Protection Areas– as identified by the MA Department of Environmental Protection], the protection of which is critical to maintaining the public drinking water supply.
- *[Add any other applicable conservation values that the CR will help to protect]*

III. PROHIBITED and PERMITTED ACTS AND USES

A. Prohibited Acts and Uses

The Grantor will not perform or allow others to perform the following acts and uses which are prohibited on, above, and below the Premises:

1. **Structures and Improvements.** Constructing, placing, or allowing to remain any temporary or permanent structure including without limitation any building, tennis court, landing strip, mobile home, swimming pool, asphalt or concrete pavement, graveled area, roads, sign, fence, gate, billboard or other advertising, antenna, utilities or other structures, utility pole, tower, solar panel, solar array, conduit, line, septic or wastewater disposal system, storage tank, or dam;
2. **Extractive Activities/Uses.** Mining, excavating, dredging, withdrawing, or removing soil, loam, peat, gravel, sand, rock, surface water, ground water, or other mineral substance or natural deposit, or otherwise altering the topography of the Premises;

3. Disposal/Storage. Placing, filling, storing or dumping of soil, refuse, trash, vehicle bodies or parts, rubbish, debris, junk, tree and other vegetation cuttings, liquid or solid waste or other substance or material whatsoever;
4. Adverse Impacts to Vegetation. Cutting, removing, or destroying trees, shrubs, grasses or other vegetation;
5. Adverse Impacts to Water, Soil, and Other Features. Activities detrimental to drainage, flood control, water conservation, water quality, erosion control, soil conservation, natural habitat, archaeological conservation, or ecosystem function;
6. Introduction of Invasive Species. Planting or introducing any species identified as invasive by the Massachusetts Invasive Plant Advisory Group or identified as invasive in such recognized inventories as the Massachusetts Introduced Pests Outreach Project, the Northeast Aquatic Nuisance Species Panel, or other such inventories, and any successor list as mutually agreed to by Grantor and Grantee;
7. Motor Vehicles. Using, parking, or storing motorized vehicles, including motorcycles, mopeds, all-terrain vehicles, off-highway vehicles, motorboats or other motorized watercraft, snowmobiles, launching or landing aircraft, or any other motorized vehicles, acknowledging that vehicles necessary for public safety (i.e., fire, police, ambulance, other government officials) may have a legal right to enter the Premises;
8. Subdivision. Subdividing or conveying a part or portion of the Premises (as compared to conveyance of the Premises in its entirety which shall be permitted), it being the Grantor's and Grantee's intention to maintain the entire Premises under unified ownership;
9. Use of Premises for Developing Other Land. Using the Premises towards building or development requirements on this or any other parcel;
10. Adverse Impacts to Stone Walls, Boundary Markers. *[Add, delete, or edit, if applicable]* Disrupting, removing, or destroying stone walls, granite fence posts, or any other boundary markers;
11. *[Add any other prohibited acts or uses on the Premises;]*
12. Residential or Industrial Uses. Using the Premises for residential or industrial purposes;
13. Inconsistent Uses. Using the Premises for commercial purposes that are inconsistent with the Purposes or that would materially impair the Conservation Values, or for any other uses or activities that are inconsistent with the Purposes or that would materially impair the Conservation Values.

B. Permitted Acts and Uses

Notwithstanding the Prohibited Acts and Uses described in Paragraph III.A., the Grantor may conduct or permit the following acts and uses on the Premises, provided they do not materially impair the Purposes and/or Conservation Values. In conducting any Permitted Act and Use, Grantor shall minimize impacts to the Conservation Values to ensure any such impairment thereto is not material.

[Add, delete, or edit any acts or uses the Grantor wishes to engage in or permit and provide comments in the margins explaining the intention behind such addition(s), deletion(s), and/or edit(s).]

1. Vegetation Management. Maintaining vegetation, including pruning, trimming, cutting, and mowing, and removing brush, all to prevent, control, and manage hazards, disease, insect or fire damage, and/or in order to maintain the condition of the Premises as documented in the Baseline Report (see Paragraph XV.);
2. Non-native, Nuisance, or Invasive species. Removing non-native, nuisance, or invasive species, interplanting native species, and controlling species in a manner that minimizes damage to surrounding, non-target species and preserves water quality;
3. Composting. Stockpiling and composting stumps, trees, brush, limbs, and similar biodegradable materials originating on the Premises. [Add fact specific limitations as needed, such as wetland setbacks];
4. Natural Habitat and Ecosystem Improvement. With prior written approval of the Grantee, conducting measures designed to restore native biotic communities, or to maintain, enhance or restore wildlife, wildlife habitat, ecosystem function, or rare or endangered species including planting native trees, shrubs, and other vegetation;
5. Indigenous Cultural Practices. [With prior written notice or approval of the Grantee], allowing indigenous peoples to:
 - a. Conduct cultural land ceremonial uses. Cultural practices are defined, for the purposes of this Conservation Restriction, as including traditional spiritual ceremonies, seasonal celebrations, offerings, and cultural, educational, and interpretive programming; and
 - b. Harvest plant-life for traditional cultural practices, using methods which, in the sole judgment of the Grantee, ensure sustainable populations of the harvested species within the Premises, including regrowth and replanting; [in some areas there are published lists, so this could be added: Plants and plant materials that may be removed include those referenced in _____.]
6. Archaeological Investigations. Conducting archaeological activities, including without limitation archaeological research, surveys, excavation and artifact retrieval, but only in accordance with an archaeological field investigation plan, which plan shall also address restoration following completion of the archaeological investigation, prepared by or on behalf of the Grantor and approved in advance of such activity, in writing, by

Commented [GJ(4)]: Practitioners have suggested that an MOU with the particular group(s) engaging in this permitted act/use may be useful in establishing parameters

the Massachusetts Historical Commission State Archaeologist (or appropriate successor official) and by the Grantee. A copy of the results of any such investigation on the Premises is to be provided to the Grantee;

7. Trails. Maintaining and constructing trails as follows:
 - a. Trail Maintenance. Conducting routine maintenance of trails, which may include widening trail corridors up to X (X) feet in width overall, with a treadway up to Y (Y) feet in width. *[drafters are encouraged to review professional guidance for appropriate trail and treadway widths, such as AMC's or DCR's guidance.]*
 - b. New Trails. With prior written approval of the Grantee, constructing new trails or relocating existing trails, provided that any construction or relocation results in trails that conform with the width limitations above.
 - c. Trail Features. With prior written approval of the Grantee, constructing bog bridging, boardwalks, footbridges, railings, steps, culverts, benching, cribbing, contouring, or other such features, together with the use of motorized equipment to construct such features;
8. Signs. Constructing, installing, maintaining, and replacing signs and informational kiosks with respect to the Permitted Acts and Uses, the Purposes, the Conservation Values, trespass, public access, identity and address of the Grantor, sale of the Premises, the Grantee's interest in the Premises, boundary and trail markings, any gift, grant, or other applicable source of support for the conservation of the Premises;
9. Motorized Vehicles. Using motorized vehicles by persons with mobility impairments *[provided however the manner of such motorized vehicle use is approved in advance by Grantee] [and as otherwise permitted herein]. [Add references to other Permitted Acts and Uses for which motorized vehicles may be used, such as Forest Management, Agricultural Activities, etc.]*
10. Outdoor Passive Recreational and Educational Activities. Fishing, canoeing and other non-motorized boating, swimming, hunting, trapping *[delete if hunting is to be prohibited or clarify whether Grantor reserves right unto him/herself and/or that hunting may only be allowed with express permission of the Grantor]*, *[include, delete from, or supplement the following list]* hiking, horseback riding, cross-country skiing, snowshoeing, ice-skating, nature observation, nature and educational walks and outings, outdoor educational activities, and other non-motorized outdoor recreational and educational activities;
11. Forest Management. *[If the CR is to allow harvest of forest products, or other forest management activities that exceed the scope of those described in sub-paragraph (c), include sub-paragraphs (a) and (b) below, otherwise delete (a) and (b) and allow (c) to stand alone]*
 - a. Permitted Activities. Conducting sound silvicultural uses of the Premises, including the right to harvest forest products (as such term may be defined from

Commented [GJ(5)]: For example, "Using motorized vehicles by persons with mobility impairments or as necessary for engaging in Agricultural Activities or Forestry Activities as permitted herein.

time to time in Section 1 of Chapter 61 of the Massachusetts General Laws, or successor law) or conduct other forest management activities, reestablish historic woods roads and establish new woods roads, and the use of motorized vehicles, all as necessary to conduct such activities (“Forestry Activities”), provided that any Forestry Activities are carried out pursuant to a Forest Stewardship Plan (as defined below). All Forestry Activities shall avoid any stone structures or historical and cultural resources and shall prevent damage thereto to the extent feasible. All cutting operations shall be supervised by a licensed forester.

- b. Requirement of a Forest Stewardship Plan. Before any Forestry Activities occur on the Premises, Grantor shall submit a Forest Stewardship Plan to the Grantee, the Massachusetts Department of Conservation and Recreation (“DCR”) or appropriate successor agency, and to any other required state agencies for their approval. The Forest Stewardship Plan shall:
 - i. be prepared by a forester licensed through DCR and shall follow the “Directions for the Preparation of the Chapter 61 Forest Management Plans and Forest Stewardship Plans” (as such guidelines may be amended by DCR or its successor agency) and such statutes, regulations and directions in effect at the time of the approval of said Forest Stewardship Plan; and
 - ii. include provisions designed to comply with the recommended activities and guidelines and required best management practices established in the Massachusetts Forestry Best Management Practices Manual (Catanzaro, Fish & Kittredge, University of Massachusetts, Amherst & DCR; 2013) and subsequent versions as may be approved by the Massachusetts Bureau of Forest Fire Control and Forestry (“Forestry BMPs”); and
 - iii. address how the Forest Stewardship Plan complies with this Paragraph II.B.10; and
 - iv. be effective for a ten (10) year period and shall be resubmitted once every ten (10) years as necessary if additional Forestry Activities are desired.
- c. Harvesting For Personal Use. The sustainable cutting of trees only for the Grantor’s personal use, not to exceed xxx board feet [*consider property-specific advice from forester*] or XX cords [*consider 0.5 cords/acre/year*] or equivalent volume, shall not require a Forestry Plan provided that any such cutting complies with the Forestry BMPs.

12. Agricultural Activities.

- a. Permitted Activities. “Agricultural Activities” are collectively defined as “Animal Husbandry” and “Horticulture,” defined below:
 - i. Animal Husbandry. Raising animals, including but not limited to dairy cattle, beef cattle, poultry, sheep, swine, horses, ponies, mules, goats, and bees, for the purpose of using, consuming, or selling such animals

- or a product derived from such animals in the regular course of business; or when primarily and directly used in a related manner which is incidental thereto and represents a customary and necessary use in raising such animals and preparing them or the products derived therefrom for use, consumption, or market.
- ii. Horticulture. Raising fruits, vegetables, berries, nuts, and other foods for human consumption, feed for animals, flowers, trees, nursery or greenhouse products, and ornamental plants and shrubs, all for the purpose of selling such products in the regular course of business; or when primarily and directly used in raising forest products under a Forest Stewardship Plan designed to improve the quantity and quality of a continuous crop for the purpose of using, consuming, or selling these products in the regular course of business; or when primarily and directly used in a related manner which is incidental to those uses and represents a customary and necessary use in raising such products and preparing them for use, consumption, or market.
- b. Requirement to Follow Best Agricultural Practices. Agricultural Activities shall be conducted in a manner consistent with generally accepted best management practices for sustainable farming as those practices may be identified from time to time by appropriate governmental or educational institutions such as the USDA Natural Resources Conservation Service (NRCS), UMass Extension, Northeast Organic Farming Association (NOFA), Massachusetts Department of Agricultural Resources, and the like, (collectively, “Best Agricultural Practices”) and in a manner that promotes healthy soils and healthy soil practices, as such terms are defined in Chapter 358 of the Acts of 2020, which added definitions of these terms to Section 7A of Chapter 128 of the Massachusetts General Laws (“Healthy Soils and Practices”), and in a manner that does not hinder the ability of future generations to engage in Agricultural Activities on the Premises;
- c. Requirement for a Farm Conservation Plan. Agricultural Activities shall require a farm conservation plan, such as an NRCS Conservation Plan (“Farm Conservation Plan”), prepared for the Premises, and approved in writing by the Grantee. The Farm Conservation Plan shall be developed in accordance with generally-accepted Best Agricultural Practices, and shall, at a minimum, address the following:
- i. establish wetland buffers and/or filter strips to prevent adverse impacts to the water quality of existing wetlands and waterways;
 - ii. in the event animal husbandry activities are proposed, establish and govern the type and number of each type of animal unit permitted on the Premises, and analyze the pasturage potential of the Premises and establish and govern the cycling of pasturage, and any other measures necessary to ensure the carrying capacity of the Premises is not exceeded in order to protect water quality, prevent soil erosion, and otherwise protect the Conservation Values; and

- iii. describe how Agricultural Activities will maximize soil and water conservation, and promote Healthy Soils and Practices.
- d. Agricultural Structures and Improvements. Constructing and maintaining structures and improvements to conduct Agricultural Activities, provided:
 - i. The total footprint (as defined herein) of all permanent structures and any temporary structures (as defined below) that have a roof shall not exceed two percent (2%) of the total area of the Premises in the aggregate. For the purposes of this Conservation Restriction, the term “footprint” shall mean that measurement encompassing the enclosed ground floor area, as measured from the exterior, at the point of contact with the ground.
 - ii. Grantor must obtain prior written approval from the Grantee for the following improvements:
 - 1. Wells, including but not limited to artesian wells, and any irrigation structures that require subsurface installation;
 - 2. [*List any other specific structures that need prior approval. Allowances for permanent structures must receive prior written approval*]
 - iii. The following improvements are permitted without prior approval from the Grantee:
 - 1. Temporary Structures. Constructing, using, maintaining, repairing, and/or replacing temporary structures and improvements directly related to or in support of Agricultural Activities, including, but not limited to, fencing, hayracks, “run-in” shelters or other three-sided shelters, hoop houses (also known as “high tunnels”), and the like. For the purposes of this Conservation Restriction, the term “temporary” shall mean any improvement without a foundation that can be constructed or removed without significant disturbance of the soil;
 - 2. [*List any other improvements that don’t require prior approval*]
- e. Agri-tourism. The use of the Premises for “Agri-tourism” activities, which activities shall be defined as ancillary commercial activities and events that support the financial viability of the use of the Premises for Agricultural Activities, which activities shall be limited to farm-based entertainment such as harvest festivals and farm-based education addressing the subjects of sustainable agriculture, food production and nutrition, and/or environmental conservation and ecology; with prior approval of the Grantee, Grantor may host unrelated educational activities such as painting or yoga classes, and the like, and up to four (4) recreational events, weddings, or similar types or scale of events per year, provided that said events shall be incidental and subordinate to the primary use of the Premises for Agricultural Activities.

13. Green Energy. With prior written approval of the Grantee, constructing energy producing structures and associated transmission lines that produce negligible or no pollution or carbon emissions (“Green Energy Structures”) to supply power for any Permitted Acts and Uses on the Premises. In addition to the terms of Paragraph III.E., when considering whether to grant approval, the Grantee will take into consideration the energy needs related to the relevant Permitted Act(s) and Use(s). While it is agreed that some power may be fed back into the public power grid during high production periods, such Green Energy Structures shall be limited to a capacity not higher than that necessary to meet, or exceed by up to 20% at the time of installation, the power requirements of the Permitted Acts and Uses;

[C. Special Use Area. For CRs with residential areas or other special use areas, insert this and continue lettering below for Site Restoration at “D”. Special use areas must be in fixed locations and must be described either by metes and bounds, shown on a recorded plan, or shown on a sketch map. Consider adding language to the Purpose paragraph to explain the importance of including a Special Use Area in the CR, and to explain how the location of such Special Use Area and the activities allowed within it will not materially impair the Conservation Values.]

The Grantor reserves the right to conduct or permit the following activities and uses only within the area shown on the Plan as “_____” in addition to the Permitted Acts and Uses described in Paragraph III.B., and otherwise subject to this Conservation Restriction:

1. Using, maintaining, repairing, and replacing the existing single-family dwelling, as documented in the Baseline Report, with the same footprint at grade of _____ square feet and a maximum height of any part of the dwelling of ____ feet, provided that there shall be no more than one (1) single-family dwelling at any one time within the Special Use Area [*OR*: The right to construct, use, repair, and replace one (1) single-family dwelling within the Special Use Area, such a dwelling not to exceed _____ square feet of footprint at grade and a maximum height of any part of the dwelling of ____ feet, provided that there shall be no more than one (1) single-family dwelling at any one time within the Residential Area];
2. Constructing, using, maintaining, repairing, improving, or replacing, the existing driveway, yard, parking area, well, and septic system (“Improvements”) but not to locate such Improvements outside of the Residential Area unless a qualified professional certifies in writing that there is no feasible location for any such improvement within the Special Use Area, such a finding not to consider financial feasibility, and the Grantee approves of any such Improvements to be located outside of the Special Use Area, and further provided that any of these Improvements serves only the permitted single family dwelling located within the Special Use Area.
3. [*Add, delete, or edit, any other additional permitted uses and activities allowed within the Special Use Area*]

C. Site Restoration

Upon completion of any Permitted Acts and Uses, any disturbed areas shall be restored substantially to the conditions that existed prior to said activities, including with respect to soil material, grade, and vegetated ground cover.

D. Compliance with Permits, Regulations, Laws

The exercise of any Permitted Acts and Uses under Paragraph III.B. shall be in compliance with all applicable federal, state and local laws, rules, regulations, zoning, and permits, and with the Constitution of the Commonwealth of Massachusetts. The inclusion of any Reserved Right requiring a permit, license or other approval from a public agency does not imply that the Grantee or the Commonwealth takes any position whether such permit, license, or other approval should be issued.

E. Notice and Approval

1. Notifying Grantee. Whenever notice to or approval by Grantee is required, Grantor shall notify or request approval from Grantee, by a method requiring proof of receipt, in writing not less than sixty (60) days prior to the date Grantor intends to undertake the activity in question, unless a different time period is specified herein. The notice shall:
 - a. Describe the nature, scope, design, location, timetable and any other material aspect of the proposed activity;
 - b. Describe how the proposed activity complies with the terms and conditions of this Conservation Restriction, and will not materially impair the Purposes and/or Conservation Values;
 - c. Identify all permits, licenses, or approvals required for the proposed activity, and the status of any such permits, licenses, or approvals.
 - d. Describe any other material aspect of the proposed activity in sufficient detail to permit the Grantee to make an informed judgment as to its consistency with the Purposes and Conservation Values.
2. Grantee Review. *[Use this paragraph for CRs with 1 Grantee]* Where Grantee's approval is required, Grantee shall grant or withhold approval in writing within sixty (60) days of receipt of Grantor's request. Grantee's approval shall only be granted upon a showing that the proposed activity will minimize impacts to the Conservation Values and will not materially impair the Purposes and/or Conservation Values. Grantee may require Grantor to secure expert review and evaluation of a proposed activity by a mutually agreed upon party.

[Use this paragraph for CRs with 2 Grantees] Where Grantee's approval is required, the Secondary Grantee, within thirty (30) days of receipt of Grantor's request, shall notify the Primary Grantee of the Secondary Grantee's decision. Within sixty (60) days of the Primary Grantee's receipt of Grantor's request, the Primary Grantee shall either affirm, amend or reverse the decision of the Secondary Grantee, shall notify the Secondary Grantee thereof in writing, and shall issue its decision to the Grantor in

Commented [GJ(6)]: Delete this paragraph if the CR has only 1 Grantee

writing. The Primary Grantee's decision shall in all cases be the final and controlling decision binding on both Grantees. In the event that no decision is received from the Secondary Grantee within thirty (30) days, the Primary Grantee shall proceed to issue its decision within sixty (60) days of Grantor's request. Grantee's approval shall only be granted upon a showing that the proposed activity will minimize impacts to the Conservation Values and will not materially impair the Purposes and/or Conservation Values. Grantee may require Grantor to secure expert review and evaluation of a proposed activity by a mutually agreed upon party.

3. Resubmittal. Grantee's failure to respond within sixty (60) days of receipt shall not constitute approval of the request. Grantor may subsequently submit the same or a similar request for approval.

Commented [GJ(7)]: Use this paragraph regardless of the number of Grantees

IV. INSPECTION AND ENFORCEMENT

A. Entry onto the Premises

The Grantor hereby grants to the Grantee, and its duly authorized agents or representatives, the right to enter the Premises upon reasonable notice and at reasonable times, for the purpose of inspecting the Premises to determine compliance with or to enforce this Conservation Restriction.

B. Legal and Injunctive Relief

1. Enforcement. The rights hereby granted shall include the right to enforce this Conservation Restriction by appropriate legal proceedings and to obtain compensatory relief, [including without limitation, compensation for interim losses (i.e., ecological and public use service losses that occur from the date of the violation until the date of restoration)] and equitable relief against any violations, including, without limitation, injunctive relief and relief requiring restoration of the Premises to its condition prior to the time of the injury (it being agreed that the Grantee will have no adequate remedy at law in case of an injunction). The rights hereby granted shall be in addition to, and not in limitation of, any other rights and remedies available to the Grantee for the enforcement of this Conservation Restriction.
2. Notice and Cure. In the event the Grantee determines that a violation of this Conservation Restriction has occurred and intends to exercise any of the rights described herein, the Grantee shall, before exercising any such rights, notify the Grantor in writing of the violation. The Grantor shall have thirty (30) days from receipt of the written notice to halt the violation and remedy any damage caused by it, after which time Grantee may take further action, including instituting legal proceedings and entering the Premises to take reasonable measures to remedy, abate or correct such violation, without further notice. Provided, however, that this requirement of deferment of action for thirty (30) days applies only if Grantor immediately ceases the violation and Grantee determines that there is no ongoing violation. In instances where a violation may also constitute a violation of local, state, or federal law, the Grantee may notify the proper authorities of such violation.

3. Reimbursement of Costs and Expenses of Enforcement. Grantor covenants and agrees to reimburse to Grantee all reasonable costs and expenses (including counsel fees) incurred by the Grantee in enforcing this Conservation Restriction or in taking reasonable measures to remedy, abate or correct any violation thereof. In the event of a dispute over the boundaries of the Conservation Restriction, Grantor shall pay for a survey by a Massachusetts licensed professional land surveyor and to have the boundaries permanently marked.
4. Coordination between Primary and Secondary Grantee. Whenever there is a question of whether there is a violation of this Conservation Restriction, or how to proceed in addressing the violation, the Primary Grantee shall consult with the Secondary Grantee. The Primary Grantee shall then determine whether there is a violation and how to proceed in addressing the violation. The Primary Grantee's decision shall in all cases be the final and controlling decision binding on both Grantees. In the event that no response is received from the Secondary Grantee within thirty (30) days, the Primary Grantee shall notify Grantor and proceed as provided in Paragraph IV.B.2.

Commented [GJ(8)]: Delete this paragraph if the CR has only 1 Grantee

C. Non-Waiver

Enforcement of the terms of this Conservation Restriction shall be at the sole discretion of Grantee. Any election by the Grantee as to the manner and timing of its right to enforce this Conservation Restriction or otherwise exercise its rights hereunder shall not be deemed or construed to be a waiver of such rights.

D. Disclaimer of Liability

By acceptance of this Conservation Restriction, the Grantee does not undertake any liability or obligation relating to the condition of the Premises pertaining to compliance with and including, but not limited to, hazardous materials, zoning, environmental laws and regulations, or acts not caused by the Grantee or its agents.

E. Acts Beyond the Grantor's Control

Nothing contained in this Conservation Restriction shall be construed to entitle the Grantee to bring any actions against the Grantor for any injury to or change in the Premises resulting from natural causes beyond the Grantor's control, including but not limited to fire, flood, weather, climate-related impacts, and earth movement, or from any prudent action taken by the Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Premises resulting from such causes. In the event of any such occurrence, the Grantor and Grantee will cooperate in the restoration of the Premises, if desirable and feasible.

V. PUBLIC ACCESS

This Conservation Restriction does not grant any right of access to the general public and the Grantor retains its rights to prohibit access to the Premises by the general public.

Commented [GJ(9)]: Use one of the following two paragraphs and delete the other

OR

[Delete if public access is not being granted] Subject to the provisions of this Conservation Restriction, the Grantor hereby grants access to the Premises to the general public and agrees to take no action to prohibit or discourage access to and use of the Premises by the general public, but only for daytime use and only as described in Paragraph III.B.10, provided that such agreement by Grantor is subject to the Grantor's reserved right to establish reasonable rules, regulations, and restrictions on such permitted recreational use by the general public for the protection of the Purposes and Conservation Values. Grantor has the right to control, limit, or prohibit by posting and other reasonable means activities or uses of the Premises not authorized in Paragraph III.B.10. The Grantee may require the Grantor to post the Premises against any use by the public that results in material impairment of the Conservation Values. This grant of public access to the Premises is solely for the purposes described in Section 17C of Chapter 21 of the Massachusetts General Laws and the Grantor and Grantee hereto express their intent to benefit from exculpation from liability to the extent provided in such section.

Commented [GJ(10): Update paragraph # as necessary - this should be a reference to the Permitted Act/Use describing Passive Outdoor Recreational Activities

VI. TERMINATION/RELEASE/EXTINGUISHMENT

A. Procedure

If circumstances arise in the future that render the Purposes impossible to accomplish, this Conservation Restriction can only be terminated, released, or extinguished, whether in whole or in part, by a court of competent jurisdiction under applicable law after review and approval by the Secretary of Energy and Environmental Affairs of the Commonwealth of Massachusetts, or successor official ("Secretary"), and any other approvals as may be required by Section 32 of Chapter 184 of the Massachusetts General Laws.

B. Grantor's and Grantee's Right to Recover Proceeds

If any change in conditions ever gives rise to termination, release, or extinguishment of this Conservation Restriction under applicable law, then Grantee, on a subsequent sale, exchange, or involuntary conversion of the Premises, shall be entitled to a portion of the proceeds in accordance with Paragraph VI.C., subject, however, to any applicable law which expressly provides for a different disposition of the proceeds, and after complying with the terms of any gift, grant, or funding requirements. The Grantee shall use its share of any proceeds in a manner consistent with the Purposes or the protection of the Conservation Values.

C. Grantee's Receipt of Property Right

[This language to be used for a donated CR for which a deduction will be taken] Grantor and Grantee agree that the conveyance of this Conservation Restriction gives rise to a real property right, immediately vested in the Grantee, with a fair market value that is at least equal to the proportionate value that this Conservation Restriction, determined at the time of the conveyance, bears to the value of the unrestricted Premises. The proportionate value of the Grantee's property right as of the Effective Date (See Paragraph XII.) was determined to be ___ %. Such proportionate

Commented [GJ(11): Choose one of the following three paragraphs, depending on the particular circumstances, and delete the other two

value of the Grantee's property right shall remain constant. *[Drafter's alternative for the previous sentence in cases where a proportionate value for the CR is not established at the time of its recording: The proportionate value of the Grantee's property right is as of the Effective Date (See Paragraph XII.) and will be determined by an appraisal. Such proportionate value of the Grantee's property right shall remain constant.]*

[This language to be used for a CR for which NO deduction will be taken] Grantor and Grantee agree that the conveyance of this Conservation Restriction gives rise to a real property right, immediately vested in the Grantee, with a fair market value that is at least equal to the proportionate value that this Conservation Restriction bears to the value of the unrestricted Premises. The proportionate value of the Grantee's property right will be determined as of the date of termination, release, or extinguishment.

[This language to be used for a CR for which the Grantee is receiving no proportionate value] Grantor and Grantee agree that the conveyance of this Conservation Restriction gives rise to a real property right, immediately vested in the Grantee, for the purpose of enforcing this Conservation Restriction, but does not entitle Grantee, upon extinguishment, release, or termination, to any proceeds received by the Grantor from the subsequent sale, exchange or involuntary conversion of the Premises. Any proceeds that result from any such extinguishment, release, or termination will be distributed only after complying with the terms of any gift, grant, or other funding requirements.

D. Cooperation Regarding Public Action

Whenever all or any part of the Premises or any interest therein is taken by public authority under power of eminent domain or other act of public authority, then the Grantor and the Grantee shall cooperate in recovering the full value of all direct and consequential damages resulting from such action. All related expenses incurred by the Grantor and the Grantee shall first be paid out of any recovered proceeds, and the remaining proceeds shall be distributed between the Grantor and Grantee in accordance with Paragraph VI.B. and Paragraph VI.C. If a less than fee interest is taken, the proceeds shall be equitably allocated according to the nature of the interest taken. The Grantee shall use its share of any proceeds in a manner consistent with the Purposes or the protection of the Conservation Values.

VII. DURATION and ASSIGNABILITY

A. Running of the Burden

The burdens of this Conservation Restriction shall run with the Premises in perpetuity, and shall be enforceable against the Grantor and the successors and assigns of the Grantor holding any interest in the Premises.

B. Execution of Instruments

The Grantee is authorized to record or file any notices or instruments appropriate to assuring the perpetual enforceability of this Conservation Restriction. The Grantor, on behalf of itself and its successors and assigns, appoints the Grantee its attorney-in-fact to execute, acknowledge and

deliver any such instruments on its behalf. Without limiting the foregoing, the Grantor and its successors and assigns agree themselves to execute any such instruments upon request.

C. Running of the Benefit

The benefits of this Conservation Restriction shall run to the Grantee, shall be in gross and shall not be assignable by the Grantee, except when all of the following conditions are met:

1. the Grantee requires that the Purposes continue to be carried out;
2. the assignee is not an owner of the fee in the Premises;
3. the assignee, at the time of the assignment, qualifies under and 26.U.S.C. 170(h), and applicable regulations thereunder, if applicable, and is eligible to receive this Conservation Restriction under Section 32 of Chapter 184 of the Massachusetts General Laws; and
4. the assignment complies with Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, if applicable.

VIII. SUBSEQUENT TRANSFERS

A. Procedure for Transfer

The Grantor agrees to incorporate by reference the terms of this Conservation Restriction in any deed or other legal instrument which grants any interest in all or a portion of the Premises, including a leasehold interest and to notify the Grantee not less than twenty (20) days prior to the effective date of such transfer. *[If the Premises was acquired by a Land Trust or similar conservation organization with a Conservation Partnership grant, insert the following: Any transfers shall receive prior approval by Grantee to assure that the Premises is transferred to a qualified conservation organization.]* Failure to do any of the above shall not impair the validity or enforceability of this Conservation Restriction. If the Grantor fails to reference the terms of this Conservation Restriction in any deed or other legal instrument which grants any interest in all or a portion of the Premises, then the Grantee may record, in the applicable registry of deeds, or registered in the applicable land court registry district, and at the Grantor's expense, a notice of this Conservation Restriction. Any transfer will comply with Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, if applicable.

B. Grantor's Liability

The Grantor shall not be liable for violations occurring after their ownership. Liability for any acts or omissions occurring prior to any transfer and liability for any transfer if in violation of this Conservation Restriction shall survive the transfer. Any new owner shall cooperate in the restoration of the Premises or removal of violations caused by prior owner(s) and may be held responsible for any continuing violations.

IX. ESTOPPEL CERTIFICATES

Upon request by the Grantor, the Grantee shall, within thirty (30) [60 days for municipalities unless otherwise agreed upon] days execute and deliver to the Grantor any document, including an estoppel certificate, which certifies the Grantor's compliance or non-compliance with any obligation of the Grantor contained in this Conservation Restriction.

X. NON MERGER

The parties intend that any future acquisition of the Premises shall not result in a merger of the Conservation Restriction into the fee. The Grantor agrees that it will not grant, and the Grantee agrees that it will not take title, to any part of the Premises without having first assigned this Conservation Restriction following the terms set forth in Paragraph VII.C to ensure that merger does not occur and that this Conservation Restriction continues to be enforceable by a non-fee owner.

XI. AMENDMENT

A. Limitations on Amendment

Grantor and Grantee may amend this Conservation Restriction only to correct an error or oversight, clarify an ambiguity, maintain or enhance the overall protection of the Conservation Values, or add real property to the Premises, provided that no amendment shall:

1. affect this Conservation Restriction's perpetual duration;
2. be inconsistent with or materially impair the Purposes;
3. affect the qualification of this Conservation Restriction as a "qualified conservation contribution" or "interest in land" under any applicable laws, including 26 U.S.C. Section 170(h), and related regulations;
4. affect the status of Grantee as a "qualified organization" or "eligible donee" under any applicable laws, including 26 U.S.C. Section 170(h) and related regulations, and Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws; or
5. create an impermissible private benefit or private inurement in violation of federal tax law, as determined by an appraisal, conducted by an appraiser selected by the Grantee, of the economic impact of the proposed amendment; or
6. alter or remove the provisions described in Paragraph VI (Termination/Release/Extinguishment); or
7. cause the provisions of this Paragraph XI to be less restrictive; or
8. cause the provisions described in Paragraph VII.C (Running of the Benefit) to be less restrictive

B. Amendment Approvals and Recording

No amendment shall be effective unless documented in a notarized writing executed by Grantee and Grantor, approved by the [Town/City of Name of Municipality] and by the Secretary in the public interest pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws, and recorded in the applicable registry of deeds or registered in the applicable land court registry district.

XII. EFFECTIVE DATE

This Conservation Restriction shall be effective when the Grantor and the Grantee have executed it, the administrative approvals required by Section 32 of Chapter 184 of the Massachusetts General Laws have been obtained, and it has been recorded in the applicable registry of deeds or registered in the applicable land court registry district.

XIII. NOTICES

Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by first class mail, postage pre-paid, addressed as follows:

To Grantor: Name(s)
Address
Municipality, State, Zip code

To Grantee: Name
Address
Municipality, State, Zip code

or to such other address as any of the above parties shall designate from time to time by written notice to the other or, if notice is returned to sender, to an address that is reasonably ascertainable by the parties.

XIV. GENERAL PROVISIONS

A. Controlling Law

The interpretation and performance of this Conservation Restriction shall be governed by the laws of the Commonwealth of Massachusetts.

B. Liberal Construction

Any general rule of construction to the contrary notwithstanding, this Conservation Restriction shall be liberally construed in order to effect the Purposes and the policy and purposes of Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws. If any provision in this instrument is found to be ambiguous, any interpretation consistent with the Purposes that would render the provision valid shall be favored over any interpretation that would render it invalid.

C. Severability

If any provision of this Conservation Restriction or the application thereof to any person or circumstance is found to be invalid, the remainder of the provisions of this Conservation Restriction shall not be affected thereby.

D. Entire Agreement

This instrument sets forth the entire agreement of the Grantor and Grantee with respect to this Conservation Restriction and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Conservation Restriction, all of which are merged herein.

XV. BASELINE DOCUMENTATION REPORT

The Conservation Values, as well as the natural features, current uses of, and existing improvements on the Premises, such as, but not limited to, trails, woods roads, structures, meadows or other cleared areas, agricultural areas, and scenic views, as applicable, are described in a Baseline Documentation Report (“Baseline Report”) prepared by Grantee with the cooperation of the Grantor, consisting of maps, photographs, and other documents and on file with the Grantee and included by reference herein. The Baseline Report (i) is acknowledged by Grantor and Grantee to be a complete and accurate representation of the condition and values of the Premises as of the date of this Conservation Restriction, (ii) is intended to fully comply with applicable Treasury Regulations, (iii) is intended to serve as an objective information baseline for subsequent monitoring of compliance with the terms of this Conservation Restriction as described herein, and (iv) may be supplemented as conditions on the Premise change as allowed over time. Notwithstanding the foregoing, the parties may utilize any evidence of the condition of the Premises at the time of this grant in addition to the Baseline Report.

XVI. MISCELLANEOUS

A. Pre-existing Public Rights

Approval of this Conservation Restriction pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws by any municipal officials and by the Secretary, is not to be construed as representing the existence or non-existence of any pre-existing rights of the public, if any, in and to the Premises, and any such pre-existing rights of the public, if any, are not affected by the granting of this Conservation Restriction.

B. Release of Homestead

The Grantor attests that there is no residence on or abutting the Premises (including areas excluded from the Premises) that is occupied or intended to be occupied as a principal residence by a spouse, former spouse, or children of the grantor, or a spouse, former spouse, or children of a beneficiary of the trust, if Premises is owned by a trust.

Or

The Grantor hereby agrees to waive, subordinate, and release any and all Homestead rights pursuant to Chapter 188 of the Massachusetts General Laws it may have in favor of this Conservation Restriction with respect to any portion of the Premises affected by this Conservation Restriction, and hereby agrees to execute, deliver and/or record any and all instruments necessary

Commented [GJ(12): Use one of the following two paragraphs and delete the other

to effectuate such waiver, subordination and release. In all other respects, the Grantor reserves and retains any and all Homestead rights, subject to this Conservation Restriction, pursuant to Section 10(e) of Chapter 188 of the Massachusetts General Laws.

C. Subordination

Commented [GJ(13)]: Use one of the following two paragraphs and delete the other

The Grantor shall record at the applicable registry of deeds or shall register in the applicable land court registry district simultaneously with this Conservation Restriction all documents necessary to subordinate any mortgage, promissory note, loan, lien, equity credit line, refinance assignment of mortgage, lease, financing statement or any other agreement which gives rise to a surety interest affecting the Premises.

OR

C. No Surety Interest

The Grantor attests that there is no mortgage, promissory note, loan, lien, equity credit line, refinance assignment of mortgage, lease, financing statement or any other agreement which gives rise to a surety interest affecting the Premises.

D. Executory Limitation

[Use this paragraph for CRs with 1 Grantee] If Grantee shall cease to exist or to be qualified to hold conservation restrictions pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws, or to be qualified organization under 26 U.S.C. 170(h), and applicable regulations thereunder, if applicable, and a prior assignment is not made pursuant to Paragraph VII, then Grantee's rights and obligations under this Conservation Restriction shall vest in such organization as a court of competent jurisdiction shall direct pursuant to the applicable Massachusetts law and with due regard to the requirements for an assignment pursuant to Paragraph VII.

[Use this paragraph for CRs with 2 Grantees] If either Grantee shall cease to exist or to be qualified to hold conservation restrictions pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws, or to be qualified organization under 26 U.S.C. 170(h), and applicable regulations thereunder, if applicable, and a prior assignment is not made pursuant to Paragraph VII, then that Grantee's rights and obligations under this Conservation Restriction shall run to the other Grantee. If both Grantees shall cease to exist or to be qualified to hold conservation restrictions pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws, or to be qualified organization under 26 U.S.C. 170(h), and applicable regulations thereunder, if applicable, and a prior assignment is not made pursuant to Paragraph VII, then their rights and obligations under this Conservation Restriction shall run to the [Town/City of Name of Municipality] Conservation Commission. If the [Town/City of Name of Municipality] Conservation Commission is no longer in existence at the time the rights and obligations under this Conservation Restriction would otherwise vest in it, or if the [Town/City of Name of Municipality] Conservation Commission is not qualified or authorized to hold conservation restrictions as provided for assignments pursuant to Paragraph VII, or if it shall refuse such rights and obligations, then the rights and obligations under this Conservation Restriction shall vest in such organization as a court of competent

jurisdiction shall direct pursuant to the applicable Massachusetts law and with due regard to the requirements for an assignment pursuant to Paragraph VII.

E. Prior Encumbrances

This Conservation Restriction shall be in addition to and not in substitution of any other restrictions or easements of record affecting the Premises.

F. The following signature pages are included in this Grant:

- Grantor
- Grantee Acceptance
- Approval of Select Board or City Council and Mayor
- [Enter any other applicable signatures or certifications]*
- Approval of the Secretary of Energy and Environmental Affairs of the Commonwealth of Massachusetts.

Commented [GJ(14): If the Grantor is a Trust, a draft Trustee's Certificate or a recorded copy of the Trustee's Certificate should be submitted with the CR for review. We encourage you to check with your registry to determine particular requirements regarding attaching Trustee's Certificates to the CR

G. The following exhibits are attached and incorporated herein:

- Exhibit A: Legal Description of Premises
- Exhibit B: Reduced Copy of Recorded Plan of Premises
- [Applies to CPA purchases]*
- Exhibit C: Town or City Vote Authorizing the Use of CPA Funds

WITNESS my hand and seal this ____ day of _____, 2021,

_____, duly authorized
[Name of Grantor and Title if Grantor is corporate entity or Trust.]

THE COMMONWEALTH OF MASSACHUSETTS

_____ County, ss:

On this ____ day of _____, 2021, before me, the undersigned notary public, personally appeared _____, and proved to me through satisfactory evidence of identification which was _____ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that s/he signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

Commented [GJ(15): If Grantor is a corporation, then pursuant to Section 8 of Chapter 155 of the Massachusetts General Law, the President or Vice President AND Treasurer or Assistant Treasurer must sign the CR, so this page will need a second signatory in such an instance.

If only one person will sign on behalf of a corporate entity, then proof of corporate authority, such as a certificate of vote, demonstrating that person's authority to act in such capacity on behalf of the corporation, must be provided.

GRANT AND APPROVAL OF [TOWN] SELECT BOARD

[Use this signature page if Grantor is a Town]

Commented [GJ(16): The executive of the municipality shall act as Grantor and sign the CR on behalf of the municipality. If the municipality prefers the Conservation Commission act as Grantor, explicit authority must be given to the Conservation Commission, such as through a Town Meeting vote or City Council order.

We, the undersigned, being a majority of the Select Board of the [Town] of _____, Massachusetts, hereby certify that at a public meeting duly held on _____, 2021, the Select Board voted to approve in the public interest and grant the foregoing Conservation Restriction to [GRANTEE] pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws and do hereby approve in the public interest and grant the foregoing Conservation Restriction.

TOWN OF _____ SELECT BOARD:

THE COMMONWEALTH OF MASSACHUSETTS

_____ County, ss:

On this ____ day of _____, 2021, before me, the undersigned notary public, personally appeared _____, _____, _____, _____, and _____, and proved to me through satisfactory evidence of identification which was _____ to be the persons whose names are signed on the proceeding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

GRANT AND APPROVAL OF MAYOR OF CITY OF _____

[Use this signature page if Grantor is a City]

The undersigned, Mayor of the City of _____, Massachusetts, hereby approves in the public interest and grants the foregoing Conservation Restriction to [GRANTEE] pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws.

[Name], Mayor of the City of _____, duly authorized

THE COMMONWEALTH OF MASSACHUSETTS

_____ County, ss:

On this _____ day of _____, 2021, before me, the undersigned notary public, personally appeared _____, and proved to me through satisfactory evidence of identification which was _____ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that s/he/they signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

Commented [GJ(17): The executive of the municipality shall act as Grantor and sign the CR on behalf of the municipality. If the municipality prefers the Conservation Commission act as Grantor, explicit authority must be given to the Conservation Commission, such as through a Town Meeting vote or City Council order.

[If Grantor is a Conservation Commission]

We, the undersigned, being a majority of the Conservation Commission of the [Town/City] of _____, Massachusetts, hereby certify that at a public meeting duly held on _____, 2021, the Conservation Commission voted to approve in the public interest and grant the foregoing Conservation Restriction to [GRANTEE] pursuant to Section 32 of Chapter 184 and Section 8C of Chapter 40 of the Massachusetts General Laws and do hereby approve in the public interest and grant the foregoing Conservation Restriction.

[TOWN/CITY] OF _____ CONSERVATION COMMISSION:

Commented [GJ(18): If the Conservation Commission is acting as Grantor, there must be a Town Meeting vote or City Council Order authorizing it to do so. In the absence of said vote/order, the Select Board or Mayor, as the case may be, shall be the Grantor, and the Conservation Commission may elect to sign the CR in approval.

THE COMMONWEALTH OF MASSACHUSETTS

_____ County, ss:

On this _____ day of _____, 2021, before me, the undersigned notary public, personally appeared _____, _____, _____, _____, and _____, and proved to me through satisfactory evidence of identification which was _____ to be the persons whose names are signed on the proceeding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

ACCEPTANCE OF GRANT

Commented [GJ(19): To be used if Grantee is a charitable corporation or trust

The foregoing Conservation Restriction from [GRANTOR] was accepted by [GRANTEE] this _____ day of _____, 2021.

By: _____
[Enter name]

Its: _____, duly authorized

THE COMMONWEALTH OF MASSACHUSETTS

_____ County, ss:

On this _____ day of _____, 2021, before me, the undersigned notary public, personally appeared _____, and proved to me through satisfactory evidence of identification which was _____ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that s/he signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

ACCEPTANCE OF [TOWN/CITY] OF _____ CONSERVATION COMMISSION

Commented [GJ(20)]: To be used if Grantee is a Conservation Commission

We, the undersigned, being a majority of the Conservation Commission of the [Town/City] of _____, Massachusetts, hereby certify that at a public meeting duly held on _____, 2021, the Conservation Commission voted to approve and accept the foregoing Conservation Restriction from [GRANTOR] pursuant to Section 32 of Chapter 184 and Section 8C of Chapter 40 of the Massachusetts General Laws and do hereby accept the foregoing Conservation Restriction.

[TOWN/CITY] OF _____
CONSERVATION COMMISSION:

THE COMMONWEALTH OF MASSACHUSETTS

_____ County, ss:

On this _____ day of _____, 2021, before me, the undersigned notary public, personally appeared _____, _____, _____, _____, and _____, and proved to me through satisfactory evidence of identification which was _____ to be the persons whose names are signed on the proceeding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

APPROVAL OF TOWN OF _____ SELECT BOARD

Commented [GJ(21): If the meeting at which the Select Board approves occurs remotely, this page may be used. If the meeting occurs in person, a majority of the Select Board should sign, so the following page should be used.

The undersigned, Chair of the Select Board of the Town of _____, hereby certifies that at a public meeting duly held on _____, 2021, the Select Board voted to approve the foregoing Conservation Restriction from [GRANTOR] to [GRANTEE] in the public interest pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws.

[NAME], Chair of the Town of _____ Select Board, duly authorized

THE COMMONWEALTH OF MASSACHUSETTS

_____ County, ss:

On this ____ day of _____, 2021, before me, the undersigned notary public, personally appeared _____, and proved to me through satisfactory evidence of identification which was _____ to be the person whose name is signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose as Select Board Member.

Notary Public
My Commission Expires:

APPROVAL OF TOWN OF _____ SELECT BOARD

We the undersigned, being a majority of the Select Board of the Town of _____, hereby certify that at a public meeting duly held on _____, 2021, the Select Board voted to approve the foregoing Conservation Restriction from [GRANTOR] to [GRANTEE] in the public interest pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws.

TOWN OF [TOWN NAME] SELECT BOARD

THE COMMONWEALTH OF MASSACHUSETTS

_____ County, ss:

On this ____ day of _____, 2021, before me, the undersigned notary public, personally appeared _____, _____, _____, _____, and _____, and proved to me through satisfactory evidence of identification which was _____ to be the persons whose names are signed on the proceeding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

APPROVAL OF MAYOR OF _____

Commented [GJ(22)]: If the CR is within a city, mayoral and city council approval are required

The undersigned, Mayor of the City of _____, hereby approves the foregoing Conservation Restriction from [GRANTOR] to [GRANTEE] in the public interest pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws.

[NAME], Mayor of the City of _____, duly authorized

THE COMMONWEALTH OF MASSACHUSETTS
_____ County, ss:

On this _____ day of _____, 2020, before me, the undersigned notary public, personally appeared _____ proved to me through satisfactory evidence of identification which was personal knowledge to be the person whose name is signed on the preceding or attached document, and acknowledged to me that s/he signed it voluntarily for its stated purpose as _____.

Notary Public
My Commission Expires:

APPROVAL OF _____ CITY COUNCIL

Commented [GJ(23): If the meeting at which the City Council approves occurs remotely, this page may be used. If the meeting occurs in person, a majority of the City Council should sign, so the following page should be used.

The undersigned, President of the City Council of the City of _____ hereby certifies that at a meeting duly held on _____, 2020 the City Council voted to approve the foregoing Conservation Restriction from [GRANTOR] to [GRANTEE] in the public interest pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws.

[NAME], _____ City Council President, duly authorized

THE COMMONWEALTH OF MASSACHUSETTS

_____ County, ss:

On this _____ day of _____, 2021, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification which was personal knowledge to be the persons whose names are signed on the preceding or attached document, and acknowledged to me that s/he signed it voluntarily for its stated purpose as a City Counselor.

Notary Public
My Commission Expires:

APPROVAL OF _____ CITY COUNCIL

We, the undersigned, being a majority of the City Council of the City of _____ hereby certify that at a meeting duly held on _____, 2021, the City Council voted to approve the foregoing Conservation Restriction from [GRANTOR] to [GRANTEE] in the public interest pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws.

THE COMMONWEALTH OF MASSACHUSETTS

_____ County, ss:

On this _____ day of _____, 2021, before me, the undersigned notary public, personally appeared _____, _____, _____, _____, and _____, and proved to me through satisfactory evidence of identification which was _____ to be the persons whose names are signed on the proceeding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

**APPROVAL OF SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS OF
THE COMMONWEALTH OF MASSACHUSETTS**

The undersigned, Secretary of Energy and Environmental Affairs of the Commonwealth of Massachusetts, hereby approves the foregoing Conservation Restriction from [GRANTOR] to [GRANTEE] in the public interest pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws.

Dated: _____, 2021

Bethany A. Card
Secretary of Energy and Environmental Affairs

THE COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss:

On this _____ day of _____, 2021, before me, the undersigned notary public, personally appeared Bethany A. Card, and proved to me through satisfactory evidence of identification which was _____ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

EXHIBIT A

Legal Description of Premises

If you do not have a survey plan for the Premises, or if you choose to provide a written description in addition to the survey plan, insert that written description here.

ALL Building Envelopes and Exclusion areas MUST be defined by metes and bounds.

If providing a written metes and bounds description along with a survey plan, the written metes and bounds and those shown on the survey MUST match.

OR

If Exhibit B is a reduced copy of a survey plan and you will not provide a written metes and bounds description, follow the template provided below. This is the recommended option if you have a survey plan.]

Description of the Premises

The land in [TOWN/CITY, COUNTY], Massachusetts, containing _____ acres, +/-, shown as [Insert parcel name as given on plan, i.e., "Parcel A" or "Lot 10"] on a plan of land titled [Insert Plan Name], dated [Insert Plan Date], by [Insert Plan creator / professional land surveyor / company name, address], recorded at [Insert recording information].

EXHIBIT B

[Reduced Copy of OR Sketch] Plan of Premises

For official full size plan see [*enter County*] Registry of Deeds Plan Book _____ Page _____

[This plan/map must show the Premises. The CR area and any exclusions or building envelopes must be clearly labeled.]

If a party other than the PLS or other professional preparer of the Plan has added features (e.g., planned trails), this should be labeled as a ‘Sketch Plan of Premises’ and should clarify which features are not associated with the official copy.

If this is a copy of the full size plan that has not been altered in any way, then it should be labeled as a ‘Reduced Copy of Plan of Premises’.]

CRS NOT YET IN PLACE – NO BASELINE DOCUMENTATION

Panther Place
Shaker Mill Pond
Ayer Solar IIB
John Carroll Reserve
Orion Place
Tooker Property
Pine Meadow Conservation Land
Minnie French
Mountain Laurel/Sandy Pond II
Groton School Road????
Stratton Hill

CRS IN PLACE ONLY

Pond View Estates

CR IN PLACE - BASELINE DOCUMENTATION IN PLACE – NEEDS MONITORING & ENFORCEMENT PLAN + ANNUAL MONITORING

Kohler Place

CRS IN PLACE – BASELINE DOCUMENTATION COMPLETE - ANNUAL MONITORING & ENFORCEMENT PLAN IMPLEMENTED – STEVE SMITH STEWARD + VOLUNTEERS

Autumn Ridge

	CONSERVATION RESTRICTION IN PLACE, RECORDED	BASELINE DOCUMENTATION	MONITORING & ENFORCEMENT PLAN	M & E PLAN IMPLEMENTED
Autumn Ridge	yes	yes	yes	yes
Kohler Place	yes	yes		
Pond View Estates	yes			
John Carroll Reserve	no			
Shaker Mill Pond	no - draft			
Panther Place	no - draft			
Ayer Solar IIB	no - draft			
Orion Place	no			
Stratton Hill	no			
Mountain Laurel/Sandy Pond II	no – BIG PROBLEMS			
Tooker Property	no			
Pine Meadow Conservation Land	no			
Minnie French	???			
Groton School Road ?????	no			

June 7, 2022

Ayer Conservation Commission
c/o Office of the Board of Selectmen
Town Hall, One Main Street
Ayer, MA 01432

Dear Ms. Hampson and Commission Members:

On June 1st, Senior Environmental Scientist, James Lacasse, conducted the pre-treatment surveys at Flannagan Pond, Sandy Pond, and Pine Meadow Pond. Additionally, while on-site, the fanwort areas observed during the 2021 post-treatment survey in Flannagan Pond, and Sandy Pond were treated with the initial dose of Sonar (fluridone). Sonar works best early in the season; therefore, the earlier season approach gives us the best chance of success. The Conservation Commission was notified in advance of this treatment, and the shoreline was also posted with neon posters several days in advance. Conditions during the visit were cloudy with, at times, heavy rain. The survey was intermittently delayed during periods of heavy rains, and continued following the rain stopping/slowing.

The pre-treatment survey was conducted to document the distribution and densities of invasive species in all three waterbodies. Visual observation was paired with the use of a throw-rake. Rakes were thrown approximately every 10' throughout the waterbodies (within the littoral zone). This approach was paired with ArcGIS Field Maps and an external GPS to document the locations of the invasive species. Points were input into ArcGIS Field Maps when invasive species were encountered during the rake tosses.

The attached maps note our findings and planned treatment areas using diquat. Sandy Pond has historically battled several invasive species, including fanwort, variable milfoil, and curly-leaf pondweed. The fanwort was not managed last year due to budget constraints. The survey results from Sandy Pond included invasive species in the typical spots. Three submerged invasive species were documented; fanwort, variable milfoil, and curly-leaf pondweed. This is consistent with the historical records. The northern point contained all three invasive species, with the fanwort being very immature. The western point, at the outlet to Flannagan Pond, contained trace to sparse fanwort. A spot of variable milfoil was also documented on the eastern portion of Sandy Pond. The fanwort spots were treated with Sonar One, time released granular formulation, as planned. Sonar One allows for spot-treatment of fanwort, which is typically difficult with Sonar as it requires roughly 60+ days of contact exposure time at concentrations above 8+ parts per billion. The planned diquat treatment will target the invasive milfoil and curly-leaf pondweed. The phragmites stands treated in 2021 appeared primarily dead, with very little regrowth. Phragmites regrowth will be targeted during the later season treatment. The surface dissolved oxygen collected during the survey was 7.5 mg/l, which is sufficient to support fish and wildlife. The pH was documented at 7.0, which is within a standard range for freshwaters, and is considered neutral.

Pine Meadow Pond has historically contained two invasive species, these being variable milfoil and curly-leaf pondweed. The June 1st survey was consistent with the 2021 pre-treatment survey. Curly-leaf

pondweed was found in the middle to western half of the Pond, with scattered variable milfoil mixed in. Milfoil was found mixed within the open areas of waterlilies. Fanwort was not found in Pine Meadow Pond, which is consistent with previous years. The waterlily population is notably reduced from last year's treatment. This will help promote open water habitat. The surface dissolved oxygen collected during the survey was 7.4 mg/l, which is sufficient to support fish and wildlife. The pH was documented at 6.7, which is within a standard range for freshwaters, and is considered fairly neutral. The planned diquat treatment will target the areas of variable milfoil and curly-leaf pondweed. Diquat is highly effective at providing seasonal control of both species.

The approach to Flannagan Pond in 2021 utilized Sonar (fluridone), throughout the Pond. While we anticipated drastic reduction in fanwort, and milfoil, curly-leaf pondweed reproduces through winter buds called turions. Because the Pond contains a seed bed of curly-leaf pondweed, we anticipated significant regrowth of the curly-leaf. Varying densities of curly-leaf were observed throughout the Pond, primarily the western half of the Pond through most of the middle channel. This ranged from low near the bottom, to surfacing at certain points. Variable was considerably reduced from prior years and was only found in two spots, the northwestern corner, and the middle towards the southern shoreline. While the fanwort population regrowth was drastically reduced from the 2021 Sonar treatment effort, both in terms of density and cover, it was still observed in many areas, predominantly the eastern portion of the Pond. It was noted at only trace to sparse densities as we moved towards the middle of the Pond away from the inlet at Sandy Pond. Approaching the eastern basin, where fanwort was more prevalent, densities increased and were surfacing in spots. The eastern basin of Flannagan Pond might have had lesser carry over control of fanwort for a few reasons. This area was subject to much higher flows at the inlet in 2021, especially given the consistent heavy rains throughout the entire treatment season. Additionally, at the request of Conservation, we left a buffer around a swan's nest in this area, where product was intentionally not applied. The surface dissolved oxygen collected during the survey was 8.2 mg/l, which is sufficient to support fish and wildlife. The pH was documented at 6.4, which is within a standard range for freshwaters, and is considered fairly neutral. Sonar was applied to the contracted areas near the inlet where it was documented during the 2021 post-treatment survey, however additional areas extended beyond this. We may see some control outside of the treated areas in Flannagan Pond. The upcoming diquat treatment will target predominantly curly-leaf pondweed and will also control the small areas of variable milfoil. Unfortunately, diquat does not control fanwort.

License to Apply Chemicals Permits (WM04) have been obtained for all three waterbodies, which of course preceded the initial Sonar treatments in Flannagan Pond and Sandy Pond. We have the contact herbicide treatment with diquat, scheduled for all three waterbodies on **Wednesday, June 15th**. At this time, we will also be "bumping" the Sonar (fluridone) concentrations in the fanwort treatment areas of Sandy Pond and Flannagan Pond, using Sonar One granular. This plan is consistent with our scope of work approved by the Town/Conservation Commission. We will be posting the shoreline of the three ponds several days in advance with brightly colored neon posters noting the treatment and affiliated water-use restrictions. Please let us know if any special considerations need to be taken at Sandy Pond as to not interfere with the recreational uses of the beach. None of the products being used at the ponds have a label restriction on recreational uses such as swimming, boating, or fishing, however we typically impose a one-day use restriction simply to keep users out of the way of the treatment boat.

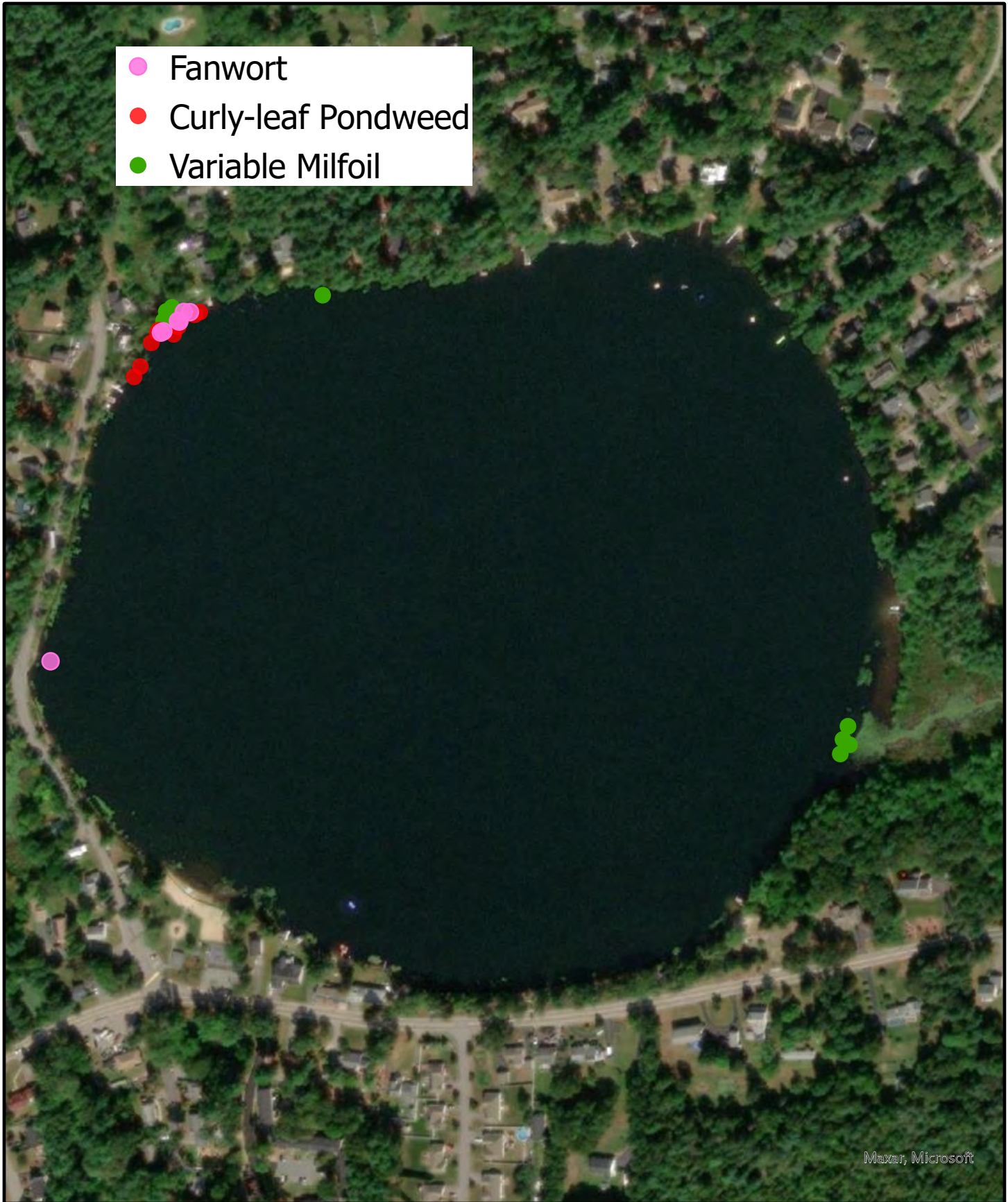


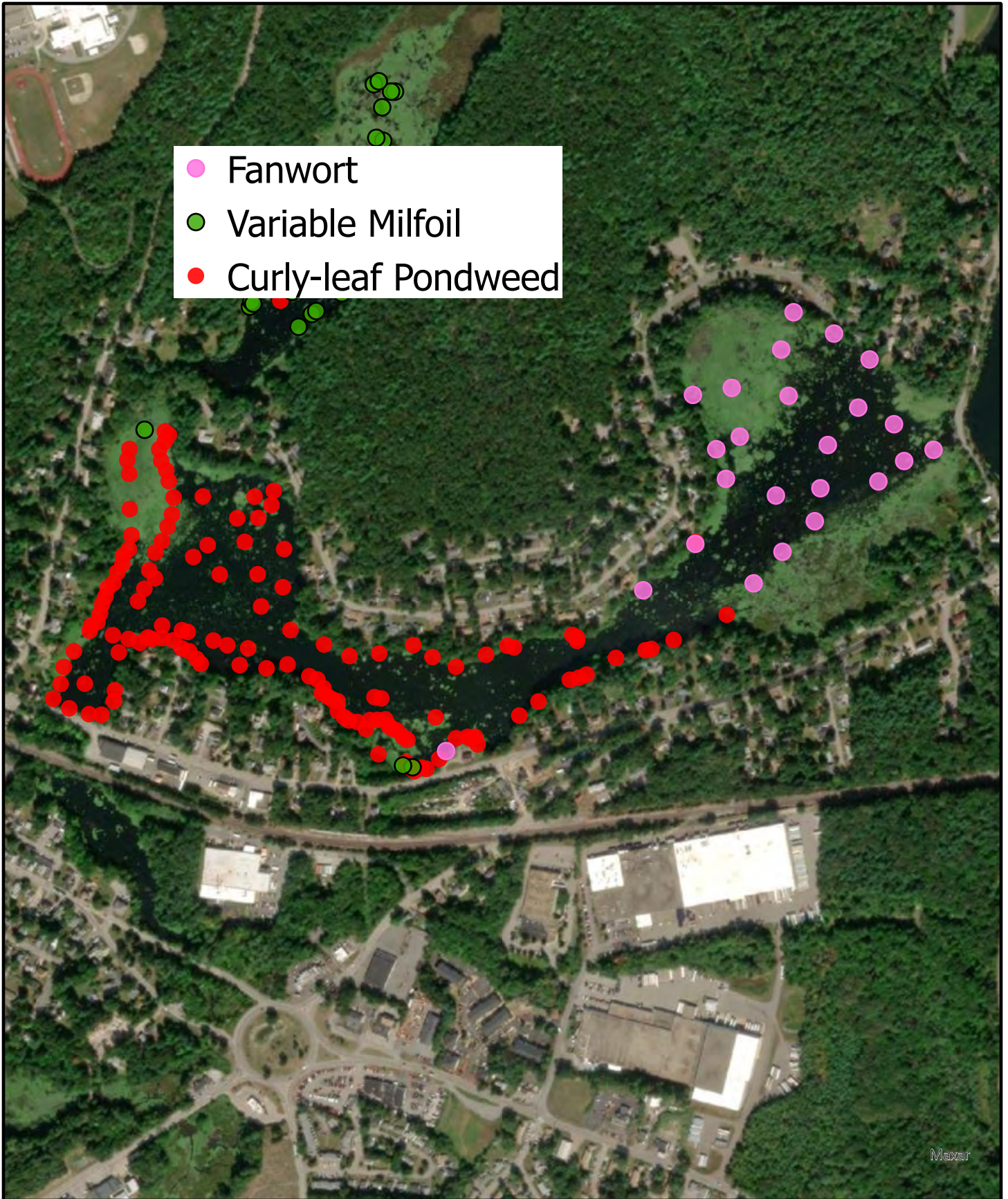
We welcome any questions from the Commission and look forward to working with you through the remainder of the season to control the invasive species throughout the three Ayer Ponds.

Sincerely,

A handwritten signature in black ink, appearing to read "J Onorato". The signature is fluid and cursive, with a large initial "J" and "O".

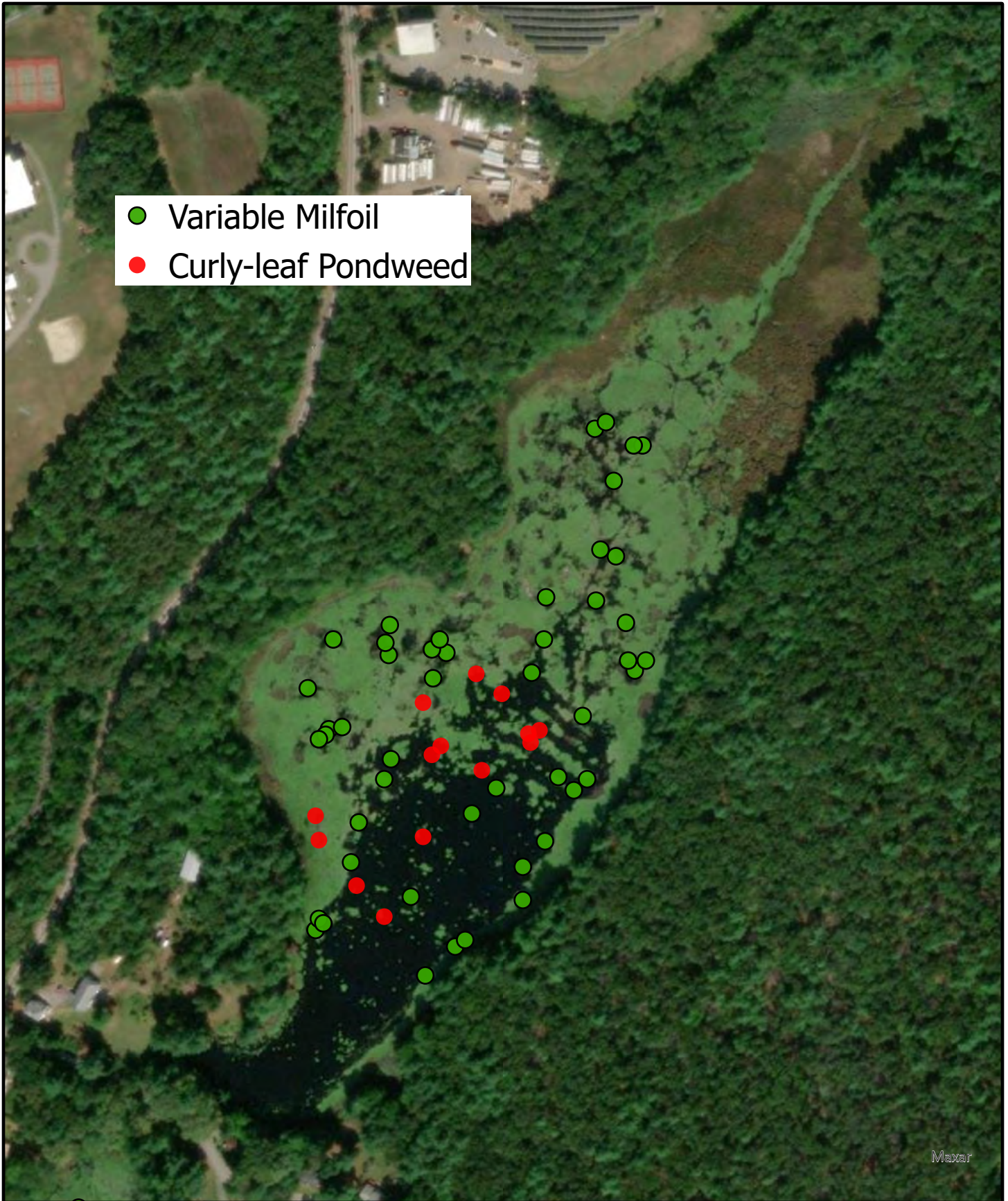
Joe Onorato, Co-Owner
Water & Wetland, LLC
joe@waterandwetland.com
c: (508) 250-6238
o: (888) 493-8526





- Fanwort
- Variable Milfoil
- Curly-leaf Pondweed





- Variable Milfoil
- Curly-leaf Pondweed

