

CONSERVATION  
COMMISSION



Town Hall  
Room 212  
135 School Street  
Walpole, MA 02081  
Phone (508) 660-7268  
Fax (508) 668-2071

**Town of Walpole  
Commonwealth of Massachusetts**

June 15, 2021

David Hale  
55BH LLC/55 SLLC  
6 Liberty Way, Suite 203  
Westford, MA 01886

**Enclosed is the Walpole Conservation Commission's *Order of Conditions for The Proposed Multifamily Development 51,-53-55 Summer Street, Walpole, MA-DEP #315-1227***

Please note that no work shall commence until the following steps are completed:

1. **Record the Order of Conditions at the Registry of Deeds and return recording information to the Conservation Commission office;**
2. Pre-construction meeting;
3. Provide the name and number of the contractor to the Conservation Commission

Please return a copy of the new recording to the Conservation Commission for our records

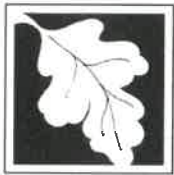
Very Truly Yours,  
Conservation Commission

/lh

Enclosure

Cc:

Zoning Board of Appeals  
Planning Board  
Town Engineer  
DEP-SERO



**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:  
 315-1227  
 MassDEP File # \_\_\_\_\_  
 eDEP Transaction # \_\_\_\_\_  
 Walpole  
 City/Town

### A. General Information

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

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: Walpole  
 Conservation Commission

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

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

55 BH LLC/55 SS LLC  
 c. Organization

6 Lyberty Way, Suite 203  
 d. Mailing Address

Westford      MA      01886  
 e. City/Town      f. State      g. Zip Code

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

\_\_\_\_\_  
 c. Organization

\_\_\_\_\_  
 d. Mailing Address

\_\_\_\_\_  
 e. City/Town      \_\_\_\_\_      \_\_\_\_\_  
 f. State      g. Zip Code

5. Project Location:  
51, 53 & 55 Summer Street      Walpole  
 a. Street Address      b. City/Town

Map 52      Lots 59, 60 and portion 78  
 c. Assessors Map/Plat Number      d. Parcel/Lot Number

Latitude and Longitude, if known:      42.10567 N      71.26473W  
 d. Latitude      e. Longitude



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### A. General Information (cont.)

6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):  
 Norfolk  
 a. County \_\_\_\_\_ b. Certificate Number (if registered land) \_\_\_\_\_  
 37303 (portion of lot 78) 37105 (Lots 59,60) 11 and 482  
 c. Book \_\_\_\_\_ d. Page \_\_\_\_\_
7. Dates: May 21, 2020 May 26, 2021 June 15, 2021  
 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 for Proposed Multifamily Development – 51-53-55 Summer Street (Sheets 1-59)  
 a. Plan Title \_\_\_\_\_  
 Howard Stein Hudson b. Prepared By \_\_\_\_\_ Katie L Enright  
 4/13/21 c. Signed and Stamped by \_\_\_\_\_  
 d. Final Revision Date \_\_\_\_\_ 1" = 40'  
 e. Scale \_\_\_\_\_  
 Supplement Data Report (stormwater report) f. Additional Plan or Document Title \_\_\_\_\_ 4/2021  
 g. Date \_\_\_\_\_

### B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act:
- Following the review of the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act (the Act). Check all that apply:
- a.  Public Water Supply b.  Land Containing Shellfish c.  Prevention of Pollution  
 d.  Private Water Supply e.  Fisheries f.  Protection of Wildlife Habitat  
 g.  Groundwater Supply h.  Storm Damage Prevention i.  Flood Control
2. This Commission hereby finds the project, as proposed, is: (check one of the following boxes)

#### Approved subject to:

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



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## B. Findings (cont.)

Denied because:

- b.  the proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect the interests of the Act, and a final Order of Conditions is issued. **A description of the performance standards which the proposed work cannot meet is attached to this Order.**
- c.  the information submitted by the applicant is not sufficient to describe the site, the work, or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the Act's interests, and a final Order of Conditions is issued. **A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(6)(c).**
3.  Buffer Zone Impacts: Shortest distance between limit of project disturbance and the wetland resource area specified in 310 CMR 10.02(1)(a) 0  
a. linear feet

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

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input checked="" type="checkbox"/> Bank	<u>152</u> a. linear feet	<u>79</u> b. linear feet	<u>73</u> c. linear feet	<u>73</u> d. linear feet
5. <input checked="" type="checkbox"/> Bordering Vegetated Wetland	<u>4,689</u> a. square feet	<u>4,689</u> b. square feet	<u>7,106</u> c. square feet	<u>7,106</u> d. square feet
6. <input type="checkbox"/> Land Under Waterbodies and Waterways	_____ a. square feet	_____ b. square feet	_____ c. square feet	_____ d. square feet
	_____ e. c/y dredged	_____ f. c/y dredged		
7. <input type="checkbox"/> Bordering Land Subject to Flooding	_____ a. square feet	_____ b. square feet	_____ c. square feet	_____ d. square feet
Cubic Feet Flood Storage	_____ e. cubic feet	_____ f. cubic feet	_____ g. cubic feet	_____ h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding	_____ a. square feet	_____ b. square feet		
Cubic Feet Flood Storage	_____ c. cubic feet	_____ d. cubic feet	_____ e. cubic feet	_____ f. cubic feet
9. <input checked="" type="checkbox"/> Riverfront Area	<u>470,336</u> a. total sq. feet	<u>0</u> b. total sq. feet		
Sq ft within 100 ft	<u>253,178</u> c. square feet	<u>0</u> d. square feet	<u>0</u> e. square feet	<u>0</u> f. square feet
Sq ft between 100-200 ft	<u>217,188</u> g. square feet	<u>0</u> h. square feet	<u>0</u> i. square feet	<u>0</u> j. square feet



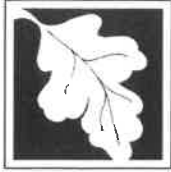
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**B. Findings (cont.)**

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

	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
10. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below			
11. <input type="checkbox"/> Land Under the Ocean	_____ a. square feet	_____ b. square feet		
	_____ c. c/y dredged	_____ d. c/y dredged		
12. <input type="checkbox"/> Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. <input type="checkbox"/> Coastal Beaches	_____ a. square feet	_____ b. square feet	_____ cu yd c. nourishment	_____ cu yd d. nourishment
14. <input type="checkbox"/> Coastal Dunes	_____ a. square feet	_____ b. square feet	_____ cu yd c. nourishment	_____ cu yd 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



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## B. Findings (cont.)

\* #23. If the project is for the purpose of restoring or enhancing a wetland resource area

23.  Restoration/Enhancement \*:

a. square feet of BVW

b. square feet of salt marsh

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.

24.  Stream Crossing(s):

2

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.



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**C. General Conditions Under Massachusetts Wetlands Protection Act**

8. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.
9. No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to the Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of work.
10. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words,
 

"Massachusetts Department of Environmental Protection" [or, "MassDEP"]  
"File Number                    315-1227 "
11. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before MassDEP.
12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
13. The work shall conform to the plans and special conditions referenced in this order.
14. Any change to the plans identified in Condition #13 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
15. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.



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

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

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

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





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

- iv. all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition;
- v. any vegetation associated with post-construction BMPs is suitably established to withstand erosion.
- c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 18(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMP Operation and Maintenance Plan ("O&M Plan") and certifying the following:
- i.) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and
  - ii.) the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.
- d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Multi-Sector General Permit.
- e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 18(f) through 18(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 18(f) through 18(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.
- f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.



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

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

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

**See attached Special conditions**

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



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**D. Findings Under Municipal Wetlands Bylaw or Ordinance**

1. Is a municipal wetlands bylaw or ordinance applicable?  Yes  No
2. The Walpole \_\_\_\_\_ 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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## 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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**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.

6/15/2021

1. Date of Issuance

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

4

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

2. Number of Signers

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

*\*Jack V. Wiley (digital)*

Signature

Jack V. Wiley

Printed Name

*\*Al Goetz (digital)*

Signature

Al Goetz

Printed Name

*\*Betsey Dyer (digital)*

Signature

Betsey Dyer

Printed Name

*\*Emidio DiVirgilio (digital)*

Signature

Emidio DiVirgilio

Printed Name

Signature

Printed Name

Signature

\*\*

Signature

Printed Name

Landis Hershey, Conservation Agent

Printed Name

\*\*Landis Hershey, Conservation Agent

Certificate of Vote: Book 37967, pg 2 duly authorized

Printed Name

"Pursuant to the vote taken by the Walpole Conservation Commission on May 6, 2020, the following signatures are made in accordance with M.G.L. c.110G and pursuant to said Commission's electronic signature authorization vote recorded on **May 18, 2020** with the Norfolk Registry of Deeds / Norfolk Registry District of the Land Court in BOOK 37884 and PAGE 386 or as Document # 45327.

by hand delivery on

by certified mail, return receipt requested, on

Date

6/15/2021

Date

## 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.

Walpole  
Conservation Commission

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

To:

Walpole  
Conservation Commission

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

Project Location 315-1227  
MassDEP File Number

Has been recorded at the Registry of Deeds of:

Norfolk  
County Book Page

for: Property Owner

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

37303 (52-59) and 37105 (52-78) 11 and 482  
Book Page

In accordance with the Order of Conditions issued on:

Date

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

Instrument Number

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

Document Number

Signature of Applicant



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

DEP File Number:

315-1227

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.





**Massachusetts Department of Environmental Protection**  
 Bureau of Resource Protection - Wetlands  
**Request for Departmental Action Fee**  
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## 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

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## 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 <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.



DEP # 315-1237  
Property Owners:  
55 BH LLC/55 SS LLC  
6 Liberty Way, Westford, MA 01886  
Plan: Proposed Multifamily Development  
Summer Street, Walpole MA 02081  
Sheet #1-56, Dated 1/10/ 2020, Final revision 4/13/2021  
Signed and stamped Katie Enright, Registered PE No. 46111

**FINDING:** The following project consists of the development of 300- multi-residential units (Lot 1 - 52 townhouses and 192 apartments; and Lot 2 - 56 single family houses); parking lots, roadways and utilities; stormwater management system with two constructed stormwater wetlands (sheet 47), two infiltration basins (sheet 47) and two subsurface infiltration systems (sheet 48, 49); two culvert crossings in compliance with the Stream Crossing Standards (sheet 50, 51); alteration of BVW for the two wetland crossings, #1- 2,726 s.f. and #2- 1,963 s.f. (sheets 10 and 50, 51); four replication areas totaling 7,106 s.f. (sheet 52); and activity within the 100-foot buffer zone of BVW on 54.3 areas of land within three assessors parcels referenced as Lots 52-78-1, 52-59, and 52-60. The resource area boundaries on the Site were confirmed through issuance of two separate Orders of Resource Area Delineations, both of which were valid at the time of the Notice of Intent submission. The wetland resource areas on the site of the project consist of Bordering Vegetative Wetlands (BVW), Bank and Land Under Water associated with intermittent stream systems, and Cedar Swamp Brook and associated 200-foot Riverfront area (470,366 s.f.) and Bordering Land Subject to Flooding (FEMA 100-year floodplain – Zone A and Zone AE). No Riverfront Area or 100-year floodplain alteration is proposed and thus, none is permitted under this Order of Conditions. Three vernal pools exist on the Site that have been determined to be certifiable under the NHESP vernal pool certification process (sheet 10). The northern end of the Site is located within a NHESP-mapped Priority Habitat of Rare Species. The project design includes multiple signs indicating “Environmentally Sensitive Area Beyond this Point-Do Not Alter” (sheet 52) to protect sensitive wetland areas and vernal pool habitat adjacent vegetation to allow for migration of vernal pool species.

**The following conditions meet 310 CMR 10.05(6)(b):**

#### **SPECIAL CONDITIONS**

1. This document shall be included in all construction contracts, subcontracts, and specifications dealing with the work proposed and shall supersede any conflicting contract requirements. The Applicant shall assure that all contractors, subcontractor and other personnel performing the permitted work are fully aware of the permit's terms and conditions. Thereafter, the contractor will be held jointly liable for any violation of this Order resulting from failure to comply with its conditions.

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2. **A preconstruction meeting** shall be held with the applicant and contractor no later than 72 hours (three business days) prior to starting any aspect of the project. At this meeting the contractor shall:
  - a. Furnish the Conservation Agent with their names, address and 24-hour telephone contact number;
  - b. Sign sheet attached at the end of this Order of Conditions;
  - c. Submit final SWPPP that includes Special Conditions listed herein and discuss plan for erosion control and stormwater maintenance during construction including plan for additional erosion controls if required;
  - d. Provide EPA NPDES Permit Number and written Authorization.
3. To assure an immediate response to the Commission/Agent, the Applicant shall provide the Walpole Conservation Commission/Agent with the name and a 24-hour phone number of the on-site construction supervisor who will be responsible to coordinate the construction and ensure compliance with this Order.
4. If unforeseen problems occur during construction which may affect the statutory interests of the Wetlands Protection Act or upon discovery by either the Conservation Commission, its Agent, or the Applicant, such problem shall require immediate notification to the Commission and an immediate meeting shall be held between the Commission or its Agent, the Applicant, and other concerned parties to determine the correct measures to be employed. The Applicant shall then act to correct the problems using the corrective measures agreed upon by the Applicant and Agent of the Commission. Subsequent to resolution, the activity and resulting actions shall be documented in writing.
5. Upon completion of this project, the Applicant shall submit the following to the Conservation Commission/Agent to receive a Certificate of Compliance.
  - a. DEP form (8A) requesting a Certificate of Compliance.
  - b. A written statement from a registered professional engineer of the Commonwealth

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- certifying that the work has been conducted as shown on the plan(s) and documents referenced above, and as conditioned by the Commission;
- c. **Compliance with DEP conditions #18 and #19;**
  - d. An "as-built" plan prepared and signed and stamped by a registered professional land surveyor of the Commonwealth, for the public record;
  - e. A final report from a botanist or wetland professional documenting in writing and pictures how the wetland restoration areas meets the requirements of this order.
  - f. A final report from a qualified professional documenting compliance with the project's approved Invasive Species Control Plan.
  - g. The Applicant shall have submitted to NHESP the required vernal pool certification documents and received NHESP's determination relative to Potential Vernal Pool" (PVP), 1, 2 and 3 as shown on the plans.
  - h. The applicant may receive a Partial Certificate of Compliance (Partial) for either of the rental (Lot 1) or ownership lot (Lot 2), so long as the lot in question is in compliance with a-g above and any stormwater infrastructure on the adjacent lot but taking flow from the lot applying for the Partial is in place and in compliance with the plans.
6. It is the responsibility of the Applicant to procure all other applicable federal, state and local permits and approvals associated with this project and to provide copies to the Conservation Commission/Agent.
  7. Any future work not covered by this Order of Conditions within wetland resource areas or buffer zones will require that a new Notice of Intent or Request for Determination of Applicability be filed with the Commission.
  8. No 200-foot Riverfront Area impacts are permitted by this Order of Conditions. The Commission determined that the project site provided adequate alternatives and land area to meet the overall project purpose with no Riverfront impacts.

## FLAGGING

9. Prior to beginning any work, the vegetated **wetland boundaries, vernal pool boundaries, 200-foot Riverfront Area boundary and no alteration area/limit of work** boundaries shown on the above plan of record shall be staked or flagged in the field and shall remain in place until

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the earlier of the issuance of a Certificate of Compliance or directed by the Conservation Agent. All flags used for the above purposes shall be of a color **different** from other flagging used on the site.

## **EROSION CONTROL**

10. The location of the erosion control barrier shall be survey staked in the field and approved by the Conservation Commission/Agent prior to tree cutting.
11. Prior to commencement of construction activities, the erosion control barrier (compost tube minimum 10-12-inches) shall be installed as shown on the **Erosion Control and Demolition Plan Sheet 9** of the referenced plan of record and **Detail Sheet 38**.
12. The **erosion control barrier** as shown on the plan of record shall serve as the **limit of work, and limit of clearing and grading**.
13. The erosion control barrier shall be maintained until all disturbed soils have been permanently stabilized and the Conservation Commission's Agent agree in writing that they are no longer needed.
14. The Conservation Commission's Agent may require additional erosion controls and as per the General Conditions in the Order.
15. Upon completion of the project and approval of the Conservation Commission/Agent, the erosion control barrier shall be removed from the site and disposed of in accordance with all applicable federal, state and local laws, regulations and bylaws.
16. Any solid waste, oil and gas or hazardous materials encountered during construction activities shall be removed from all wetland resource areas and reused, recycled or disposed of in accordance with applicable federal, state and local laws, regulations and bylaws.
17. Any supplies, debris, fill or other materials shall be stockpiled away from the inland bank to the river and intermittent streams, BVW and riverfront area, and at a location to prevent such

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materials from entering those resource areas. Under no circumstances shall there be stockpiling of material outside the permitting limit of work.

18. A Certified Erosion Specialist (“CES”) or designated person experienced in erosion control shall oversee inspection of the erosion control barrier. The name, phone number, and credentials of the CES shall be provided to the Conservation Commission/Agent at the preconstruction meeting.
19. The CES or designated person experienced in erosion control shall inspect erosion control barrier at least weekly and prior to and after storm events of 1” or greater until a Certificate of Compliance is issued.
20. The Weekly Erosion Control Inspection Reports shall be made available to the Conservation Commission/Agent upon request until a Certificate of Compliance is issued. The name and contact number of the inspector shall be provided in each report.

#### **CLEARING/GRADING/SLOPE STABILIZATION**

21. In proximity to resource areas, site grading and construction shall be scheduled during the dry season whenever possible, to avoid periods of high surface water. Once begun, grading and construction shall move uninterrupted to completion to avoid erosion and siltation into the wetland.

A Construction Phasing Plan indicating the sequencing of vegetation clearings shall be provided to the agent prior to conducting any on-site clearing.

22. A description of logging / tree removal operations shall be provided to the Commission/Agent that includes temporary logging road locations, temporary stream crossing details, location of landings etc. for review and approval of the Agent. Temporary stream crossings shall not impede water flow or impact water quality within the surface waters.
23. All disturbed areas and slopes shall be loamed and seeded or stabilized through the use of erosion control blankets or other approved means as per the timing required by the SWPPP. All disturbed areas will be graded, loamed and seeded prior to November 1 of each year, if

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possible. No disturbed areas or stockpiled material will be left unprotected or without erosion controls during the winter.

#### **WETLAND FILL and REPLICATION AREA**

24. The wetland replication area consisting of 7,106 s.f divided into four areas, as depicted on sheet 52, shall be constructed in conjunction with the adjacent road construction. The planting shall be completed during the first growing season after start of site construction.
25. The Wetland fill and crossing shall conform to the approved plan (Sheets 10, 50 & 51) any changes or alteration to the approved plan shall be submitted in writing to the Conservation Commission/Agent.
26. A Wetland Specialist shall monitor the progress of the replication area providing the Conservation Commission/Agent with a written report documenting the following review and approval stages: 1) the elevation and soil profile of the subgrade excavated 12-inches below adjacent wetlands; 2) the organic soils to be used for final grade; 3) making note that the final grade has not been compacted and the grade is uneven; 4) the plant stock to be used and methods for planting; and 5) the plantings have been made.
27. The Wetland Specialist shall provide the Conservation Commission/Agent with inspection reports in early spring (May-June) and early fall (Sept-Oct) with photographs and written documentation of plant growth, soil development, and recommendations to achieve compliance with the replication requirements until two years after the initial planting.
28. The replication area will not be considered complete **until two years** have passed since the initial plantings occurred, and the replication area meets the requirements of 310 CMR 10.55(4)(b) as provided in writing by the wetland specialist.

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## CONSTRUCTION MANAGEMENT

29. A Pre-construction meeting shall occur with the Applicant, engineer, construction manager and the Conservation Agent prior to any work starting at which time the Conservation Agent will receive the name(s) and telephone number(s) of the person(s) responsible on site for compliance with this Order.
30. A copy of the Final Plan set submitted to the ZBA shall be provided to the Conservation Commission/Agent one week prior to the preconstruction meeting. Any design details differing from the OOC plans-of-record shall be made clear in writing in a letter accompanying the Final Plan set. The letter shall state an opinion as to why said design changes would not require an Amended Order of Conditions or new Notice of Intent.
31. A copy of this Order of Conditions, and final reference plans last revised dated 4-13-21 or later as approved by the Commission either by reference in the file or through issuance of an Amended Order of Conditions or new Order of Conditions, shall be on the site upon commencement and during any site work for contractors to view and adhere to.
32. The Conservation Commission/Agent shall be provided a copy of the draft SWPPP for review and a signed copy of the final SWPPP, prior to commencement of activities. The Commission will require a two-week review period for the draft SWPPP review.
33. No vehicle or other machinery refueling, lubrication, or maintenance shall take place within 100 feet of any wetland resource area. All equipment shall be inspected regularly for leaks. Any leaking hydraulic lines, cylinders or any other components shall be repaired immediately. A fuel or hydraulic oil spill kit shall be maintained at all times on site, per Walpole Fire Department specifications. In the event of a spill, the Applicant shall take immediate measures to contain such spill and shall notify the Walpole Fire Department.
34. Summer Street shall be maintained in a clean condition free from dirt and debris in order to keep siltation from entering municipal storm drain system or adjacent resource areas.
35. All construction debris shall be removed from the site and disposed of in accordance with all applicable laws and regulations. Construction trash (material that can be blown into wetland resource areas) shall be picked up by the end of the work day and appropriately disposed.

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36. Invasive species materials accumulated during site work shall be removed from the site in an appropriate manner. Invasive plant material shall be disposed of offsite in an appropriate manner, removed offsite to a processing facility equipped in handling invasive plant material in compliance with the Invasive Vegetation Control plan of the Supplemental Data Report, dated January 2021.
37. The “**Environmentally Sensitive Area Beyond this Point -Do Not Alter**” signs shall be installed in conjunction with road construction and backfill of foundations for each phase of the project.

## **STORMWATER MANAGEMENT**

38. The construction period stormwater shall be managed to prevent sedimentation and erosion to the wetlands.
39. For each of the stormwater basins and constructed stormwater wetlands, the Conservation Commission/Agent shall be notified two weeks prior to post-construction stormwater discharge for an on-site inspection of the basin.
40. Excavation of each infiltration basin/system shall be observed by the Conservation Commission or Commission’s Agent prior to installation of loam and seed. The elevation for each excavation prior to placement of final loam and seed shall be documented and the information provided in writing for this inspection. The contractor shall provide a detailed and expanded construction sequencing plan and narrative to include the schedule of the storm water system installation, provisions to protect stormwater BMPs during construction and restoration of damaged areas prior to BMPs coming online to ensure they operate as designed after construction is complete. The construction sequencing plan shall also provide the anticipated locations for staging and stockpile areas. No stockpiling or equipment staging shall occur within the 200-foot Riverfront Area.
41. The construction sequencing plan shall also describe the phasing for site clearing of vegetation. Prior to clearing of the next construction sequencing phase, the disturbed portion of the site shall be fully stable.



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42. Provide provisions in the Draft and Final SWPPP to protect infiltration basins during construction to ensure they operate as designed after construction is complete.
43. No final infiltration basins or constructed stormwater wetlands shall be used for temporary construction-related sediment control.
44. The contractor shall provide specifications for temporary and final seeding.
45. The Draft and Final SWPPP shall include measures to prevent illicit discharges to the stormwater management system.

**CONTINUED CONDITIONS (conditions will be continued on the Certificate of Compliance)**

46. The area between the “**Environmentally Sensitive Area Beyond this Point -Do Not Alter**” signs and the wetland resource areas shall remain as no alteration areas in perpetuity. Any variation shall be submitted to the Conservation Commission/Agent for review and approval.
47. The “**Environmentally Sensitive Area Beyond this Point -Do Not Alter**” signs located behind “proposed model” D, C, and E on sheet C-16 (3 signs) and the sign (1 sign) located at the three parking spots at roadway ‘A’ shall be installed at the tree line/Erosion control line (sheet C9).
48. The “**Environmentally Sensitive Area Beyond this Point -Do Not Alter**” signs (sheet 52) located on the Layout and Materials Plan (sheets C12-C16) and as specified in condition #49 shall remain in **perpetuity** and replaced if damaged, removed or unreadable.
49. Once the retaining wall and the chain link fence as shown on sheet C12 Layout and Materials Plan are constructed, the existing tree line between the parking lot, shall remain unaltered as a vernal pool species travel corridor.

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50. There shall be no additional alteration of the riverfront area other than that necessary to maintain the existing trail in its natural condition and proposed access trails.
51. Non-organic fertilizers, chemical pesticides, and chemical landscape care products for use in-outside areas are **prohibited** within 100-feet of wetland resource areas area.
52. The Development's O & M Plan shall be on-site with the site manager for each residential area.
53. The Development's O & M plan shall clearly state the prohibition of non-organic fertilizers and the prohibition of pesticides and landscape care chemicals within 100 feet of the wetlands; requirements to post signs as referenced in condition #49; and implement dog curbing rules (pick up and proper disposal) to further reduce nutrient loading within wetland resource areas.
54. The stormwater basins shall be managed for mosquito control.
55. The arborvitae plants (or a comparable species) shown adjacent to the replication areas shown on sheet 52 as well as those shown on sheet 31 behind ownership units 4 and 5 (on lot 2) shall remain in perpetuity and be replaced if damaged or removed.
56. The dog park shall be managed in a manner to prevent any discharge of nutrients to the wetland resource areas.
57. Stormwater Management Certificate: The Conservation Commission/Agent shall be provided an Annual Stormwater Management Report of maintenance with inspection dates and maintenance activities listed for each stormwater component. The name and contact information of the person responsible for such maintenance and report shall be included. The report shall be submitted no later than 12/31 of each year for stormwater Certificate.
58. Maintenance of the stormwater basins as stated in this Order of Conditions and the O & M plan shall not require an additional filing with the Conservation Commission/Agent.

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59. Signed by contractor prior to beginning any aspect of project:

I \_\_\_\_\_, representing \_\_\_\_\_

have read and will conform to these conditions.

\_\_\_\_\_  
Contractor's Signature

\_\_\_\_\_  
24 hour phone number