



**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:  
 338-0670  
 MassDEP File # \_\_\_\_\_  
 eDEP Transaction # \_\_\_\_\_  
 Westwood  
 City/Town

**A. General Information**

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



1. From: Westwood  
 Conservation Commission

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

3. To: Applicant:

Martin Sanborg  
 a. First Name b. Last Name

c. Organization  
210 Westfield Street

d. Mailing Address

Westwood MA 02090  
 e. City/Town f. State g. Zip Code

4. Property Owner (if different from applicant):

a. First Name b. Last Name

c. Organization

d. Mailing Address

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

5. Project Location:

118 Wilsondale Street Westwood  
 a. Street Address b. City/Town

01 17 and 12  
 c. Assessors Map/Plat Number d. Parcel/Lot Number

Latitude and Longitude, if known: d m s d m s  
 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

20714

c. Book

b. Certificate Number (if registered land)

215

d. Page

7. Dates: 6/20/18 7/25/18 8/9/18  
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):

BUILDING PERMIT & NOTICE OF INTENT PLAN 118 WILSONDALE STREET  
WESTWOOD, MASSACHUSETTS

Norwood Engineering Co. Inc.

b. Prepared By

June 11, 2018

d. Final Revision Date

Matthew Smith

c. Signed and Stamped by

1" = 30'

e. Scale

f. Additional Plan or Document Title

g. Date

**B. Findings**

1. Findings pursuant to the Massachusetts Wetlands Protection Act:

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

- a.  Public Water Supply
- b.  Land Containing Shellfish
- c.  Prevention of Pollution
- d.  Private Water Supply
- e.  Fisheries
- f.  Protection of Wildlife
- 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).**

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

- 3.  Buffer Zone Impacts: Shortest distance between limit of project disturbance and Bank or Bordering Vegetated Wetland boundary (if available) a. linear feet

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input type="checkbox"/> Bank	a. linear feet	b. linear feet	c. linear feet	d. linear feet
5. <input checked="" type="checkbox"/> Bordering Vegetated Wetland	1,855 a. square feet	0 b. square feet	6,780 c. square feet	0 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



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**B. Findings (cont.)**

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
9. <input type="checkbox"/> Riverfront Area	a. total sq. feet	b. total sq. feet		
Sq ft within 100 ft	c. square feet	d. square feet	e. square feet	f. square feet
Sq ft between 100-200 ft	g. square feet	h. square feet	i. square feet	j. square feet

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

10.  Designated Port Areas  
Indicate size under Land Under the Ocean, below
11.  Land Under the Ocean  
a. square feet      b. square feet  
c. c/y dredged      d. c/y dredged
12.  Barrier Beaches  
Indicate size under Coastal Beaches and/or Coastal Dunes below
13.  Coastal Beaches  
a. square feet      b. square feet      c. nourishment <sup>cu yd</sup>      d. nourishment <sup>cu yd</sup>
14.  Coastal Dunes  
a. square feet      b. square feet      c. nourishment <sup>cu yd</sup>      d. nourishment <sup>cu yd</sup>
15.  Coastal Banks  
a. linear feet      b. linear feet
16.  Rocky Intertidal Shores  
a. square feet      b. square feet
17.  Salt Marshes  
a. square feet      b. square feet      c. square feet      d. square feet
18.  Land Under Salt Ponds  
a. square feet      b. square feet  
c. c/y dredged      d. c/y dredged
19.  Land Containing Shellfish  
a. square feet      b. square feet      c. square feet      d. square feet
20.  Fish Runs  
Indicate size under Coastal Banks, Inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above
21.  Land Subject to Coastal Storm Flowage  
a. c/y dredged      b. c/y dredged  
a. square feet      b. square feet



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## B. Findings (cont.)

22.  Restoration/Enhancement:

a. square feet of BVW

b. square feet of salt marsh

23.  Stream Crossing(s):

a. number of new stream crossings

b. number of replacement stream crossings

## C. General Conditions Under Massachusetts Wetlands Protection Act

The following conditions are only applicable to Approved projects.

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
  - a. the work is a maintenance dredging project as provided for in the Act; or
  - b. the time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order.
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not extend the issuance date of the original Final Order of Conditions and the Order will expire on 8/9/18 unless extended in writing by the Department.
7. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.
8. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.



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

9. No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to the 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 338-0670 "
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 #12 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.
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.



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

18. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the 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.

#### NOTICE OF STORMWATER CONTROL AND MAINTENANCE REQUIREMENTS

19. **The work associated with this Order (the "Project") is (1)  is not (2)  subject to the Massachusetts Stormwater Standards. If the work is subject to the Stormwater Standards, then the project is subject to the following conditions:**

- a) All work, including site preparation, land disturbance, construction and redevelopment, shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Construction General Permit as required by Stormwater Condition 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.
- b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that:
- i.* all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures;
  - ii.* as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized;
  - iii.* any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10;
  - iv.* all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition;
  - v.* any vegetation associated with post-construction BMPs is suitably established to withstand erosion.



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

- c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 18(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMP Operation and Maintenance Plan ("O&M Plan") and certifying the following: *i.*) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and *ii.*) the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.
- d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Multi-Sector General Permit.
- e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 18(f) through 18(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 18(f) through 18(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.
- f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.





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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):

**No work shall be performed on this project.**

**The applicant may propose alternative projects or improvements to the plan in a new NOI (see the 1988 MassDEP Wetlands Program Policy, 88-3: Multiple Filings)**

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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 Westwood Conservation Commission hereby finds (check one that applies):

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

Westwood Wetlands Bylaw

Chapter 392

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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Denied Plans:

BUILDING PERMIT & NOTICE OF INTENT PLANS 118 WILSONDALE STREET  
WESTWOOD, MASSACHUSETTS

Date: June 11, 2018

Hearing closed: 7/25/18

Date Issued: 8/9/18

**FINDINGS:**

The Commission has reviewed the Notice of Intent plans and has held a Public Hearing on the Project. Based on the information available, the Commission has determined that the area on which the proposed work is to be done is significant to the following values set forth in Massachusetts Wetland Protection Act and Westwood Wetlands Protection Bylaw, chapter 392 (check as appropriate).

<input checked="" type="checkbox"/> Public water supply	<input checked="" type="checkbox"/> Flood control	<input type="checkbox"/> Fisheries
<input checked="" type="checkbox"/> Private water supply	<input checked="" type="checkbox"/> Storm damage prevention	<input checked="" type="checkbox"/> Wildlife habitat
<input checked="" type="checkbox"/> Groundwater supply and quality	<input checked="" type="checkbox"/> Prevention of pollution	<input checked="" type="checkbox"/> Erosion and sediment control

Furthermore, this Commission finds that the project is denied and that:

1. The Applicant (Mr. Martin Sanborg) has proposed to construct a single family dwelling with a related accessory building on the Applicant's 40,420 square foot lot at 118 Wilsondale Road. The Applicant has characterized the lot as a "forested lot that is undeveloped" and has described the dwelling to be constructed thereon as a single family home with a barn.
2. The .93 acre lot on which the Applicant proposes construction contains two intermittent streams, bordering vegetated wetlands (BVW) and upland areas. The lot is currently completely undeveloped. The area in which the Applicant proposes to construct the principal dwelling is in the front portion of the lot and the accessory building is proposed to the rear of the parcel. A portion of the house, driveway and retaining wall are proposed to be constructed within the BVW. A driveway to the barn is proposed within the ten foot no-disturb zone (see Wetland Protection Bylaw, Chapter 392.2.C.2). In total the project would irrevocably alter, by means of occupation of portions of the house, driveway, and retaining wall, approximately 1,855 square feet of resource area of which 2,376 is within the 10 foot no-disturb zone. In addition there is approximately 6,199 square feet of buffer zone impact associated with the overall plan submitted. Applicant also proposes a wetlands replication area of approximately 6,780 square feet on the adjacent lot 1 (Assessor's map 1 lot 12), which is under the same ownership, in order to mitigate these wetland impacts, as well as offered to remove invasive plants elsewhere in Town.
3. Mr. Rogers and Mr. Pare (Conservation Commission members) visited the site on June 23, 2018 with the permission of the owner. Mr. Rogers then sent an email to the Conservation Agent explaining the difficulties involved in constructing a home on this lot (see exhibit A) and explaining the next steps which should be taken to allow the Commission to determine whether the lot is or is not developable. At the July 13, 2018 meeting during an informal hearing the

Applicant explained to the Commission that he would like to build a house on the lot, which he believes is wet due to town drainage directed to his property. After some discussion, Mr. Rogers (Conservation Commission Chairman) told the owner that changing the drainage would alter the wetland, and that he does not think there is enough upland on the site for mitigation.

4. This project was formally heard at the July 13, 2018 meeting (see exhibit B). The Applicant was present, as were his representatives, Nicole Hayes of Goddard Consulting, LLC and David Johnson of Norwood Engineering. A presentation was made by Ms. Hayes. During the course of the hearing, the primary focus of discussion was the amount of impact to the resource area. The Commission believes the extensive work within the resource area will have a direct impact on the intermittent stream and surrounding wetlands. Also discussed were the replication area, offer to remove invasive vegetation elsewhere in Town and the two infiltration systems. The proposed location of the replication area is a mature wooded upland area. The Applicant is proposing two infiltration systems on the site. The Commission believes the infiltration systems will not be effective given the high ground water throughout the site. The Applicant requested that the Commission consider hiring a peer review consultant to review the project, but the Commission felt this would not change these conclusions, and would therefore be a waste of money for the applicant, and the time of the Commission.

## **CONCLUSIONS:**

Based upon the foregoing Findings the Commission reaches the following Conclusions:

1. The Commission has determined that the proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations, specifically 310 CMR 10.55. Therefore, work on this project may not go forward unless or 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. The Commission believes the proposed plan is too aggressive and will cause direct impact to the surrounding wetland, buffer zone and wildlife habitat. The Commission does not feel the proposed infiltration system will function due to high groundwater. The Westwood Wetland Bylaw requires, at a minimum, a ten foot continuous naturally vegetated buffer strip within the Upland Buffer Zone Resource Area with the aim of minimizing adverse impact to the Resource Area.
2. The Commission concludes the proposed wetlands replication area, standing alone, is not a sufficient basis to permit the proposed alteration and occupation of 1,855 square feet of wetlands and 6,199 sq. ft. of buffer zone, including portions within 10 and also 35 feet which receive special protection and consideration under the Town's wetlands by-law. The Commission concludes that replication can appropriately serve in mitigation of wetland impacts that are otherwise being authorized for good and sufficient reasons, however there is always a risk that replication will not be successful and there will be a loss of wetland area and function. In this case the Applicant's proposed replication plans appear to be acceptable mitigation for impacts within the wetland and buffer zone, were the Commission to conclude that such wetland alteration was absolutely necessary in the first place in order to permit a fully described and evaluated activity and to avoid hardship to an applicant that would otherwise be prevented from undertaking such activity. This lot was purchased as unbuildable and the Applicant has received a tax abatement since the purchase of the lot. Accordingly, the subject application is denied

under both the authority of the Wetlands Protection Act and under the Westwood Wetlands By-law.

**NOTE: The Westwood Conservation Commission has denied this project, however the STANDARD CONDITIONS below have been included. In the event there is a Superceding Order issued by the Department of Environmental Protection we would like the following conditions to be considered.**

### **STANDARD CONDITIONS**

1. This Order of Conditions applies to the applicant, the owner of the lot described in the Notice of Intent, and the successors and assigns of each. The Conservation Commission shall be notified in writing of any transfer in title to the Land or any change in contractor or developers before the Certificate of Compliance is issued. The notice shall include the name, address, and telephone numbers of the new owner or new contractor or developer, as well as a statement made under the penalties of perjury that the new owner or new contractor or developer has been provided with a copy of this order.
2. This Order shall be included in all construction contracts with contractors and subcontractors dealing with the work proposed and shall supersede all conflicting contract requirements.
3. A copy of this Order of Conditions and applicable plans shall be provided to each company doing work on the site and shall be available on the site at all times during construction.
4. Members of the Westwood Conservation Commission, and/or their designated representatives, shall, at reasonable times, have the right to enter upon and inspect the premises to evaluate compliance with this Order of Conditions.
5. The Applicant or owner shall be liable for any non-compliance with the Conditions of this Order or with any Condition that may survive the issuance of a Certificate of Compliance. The Conservation Commission may assess appropriate penalties for non-compliance with the Order and surviving conditions. This may include a \$300.00 per violation/per day non-criminal penalty issued under the Westwood Wetlands Protection Bylaw, Article 18.
6. A foundation plan shall be submitted **prior** to the start of framing activities on any structure. The plan shall include the location of the resource areas and show the distance between the foundation and the resource areas on site.

### ***Pre-Construction Requirements***

7. All work shall conform to the plans referenced above, specifications, and special conditions defined in this Order of Conditions.
8. No work shall commence on site until the following conditions are met.
  - a) All appeal periods have elapsed.

- b) The applicant records the approved plan and the Order of Conditions at the Registry of Deeds and provides a copy of the recorded plan and Order of Conditions, stamped by the Norfolk County Registry of Deeds to the Conservation Commission.
- c) The D.E.P. sign is to be placed in a visible location on the site in accordance with State General Condition 9 and remain visible until the Commission issues a Certificate of Compliance. The sign shall be weather proof, no less than Two square feet or greater than Three square feet in size with language as described in Condition. The sign shall be mounted on a wooden or metal post acceptable to the commission.
- d) The Applicant informs the Conservation Commission, in writing, of the names, addresses, and business telephone numbers of each person responsible for supervising the project and for onsite compliance with this Order and his/her alternate.
- e) The Applicant installs erosion control measures at the locations shown on the plan referenced in the Order of Conditions or as directed by the Agent in the field. Only vegetation directly in the path of the erosion control works shall be removed at this time.
- f) Where silt fence and hay bales are used as erosion control measures, the placement of hay bales upon the silt fence flap as a method of backfill or entrenchment is not acceptable. Fifteen covered hay bales shall be kept in reserve on site at all times.
- g) A limit of work line shall be staked in the field by means of a four foot high fluorescent orange snow fencing supported eight foot on center with standard weight metal agricultural fence posts. The limit of work shall be placed immediately to the rear of the hay bale check dam as indicated on the approved plan or as may be determined by the Commission or their agent in the field. Workers shall be informed that no construction activity beyond that conditioned herein is to occur beyond this line at any time.
- h) The Applicant shall notify the Conservation Commission **in writing** of the Applicant's desire to have the erosion control works and limit of work flagging inspected by the Commission or their Agent.
- i) The applicant shall receive **written approval** of the erosion control installation from the Commission or their Agent.
- j) The applicant shall arrange a pre-construction meeting between the applicant, the General Contractor's site superintendent, and the Conservation Commission. The purpose of this meeting is to review all aspects of the Order, in detail. The Project Supervisor in charge of day-to-day operations on site shall read and sign each page of a copy of the recorded Order. The purpose of this exercise is to insure that each and every Condition has been read and is understood. Questions relative to the meaning or intent of any Condition shall be clarified during the pre-construction meeting.
- k) The applicant shall post an assurance bond by submitting a check to the Conservation Commission made out to the Town of Westwood, in the amount of \$1,000.00. The

purpose of the bond is to ensure that the Certificate of Compliance is issued prior to the expiration date of the Order of Conditions. The funds are returned to the applicant when the Certificate is issued. In the event that a Certificate of Compliance is not issued in the prescribed time, the Commission may use the funds to complete the unfinished work.

Only after the Applicant has satisfied the procedural requirements above shall the Applicant be allowed to begin construction.

### ***Erosion Control and Pollution Prevention Measures***

9. All erosion control measures shall be maintained in good condition at all times. Deteriorated erosion control measures shall be replaced as required, to maintain effectiveness for sediment interception. The Conservation Commission or their agent reserve the right to require additional erosion and/or damage prevention control at any time they are deemed appropriate. **At no time shall any sediment be deposited in the wetland.**
10. During all phases of construction, disturbed or exposed soil surfaces shall be brought to final finished grade and immediately stabilized. Bare ground that cannot be permanently stabilized within 30 days shall be loamed and seeded or stabilized with mulch.
11. Standard Condition 6 of the State General Order of Conditions relating to the use of clean fill is modified to prohibit the presence of asphalt in any fill used on site.
12. No erosion control measures shall be removed until such removal is allowed by the Commission, or their agent, in writing, or if a Certificate of Compliance issues for the work conditioned herein, whichever comes first.
13. Dewatering of excavation shall be accomplished in the manner described by the attached sedimentation basin design to preclude the discharge of turbid water or sediment into any wetland or undisturbed buffer. The Commission and /or their Agent **must** inspect the sedimentation basin prior to use on site to insure compliance with this condition.
14. There shall be no stockpiling of soil, erodible materials and other debris within 50 feet of any Resource Area without the permission of the Conservation Commission.
15. No materials excavated from any area on the site shall be dumped into any Resource Area or Buffer Zone thereto.
16. During construction of the project, there shall be no discharge of fuel, oil, or other pollutants onto any part of the site. The Applicant shall take all reasonable precautions to prevent the release of pollutants by ignorance, accident, or vandalism. In the event there is a spill on the site, the Applicant shall immediately notify the Conservation Commission and the Board of Health.
17. Equipment fuel storage and refueling operations shall be situated in an upland area at a horizontal distance greater than 100 feet from the boundaries of the wetlands.

### ***Changes in Plans***

18. Changes to the approved plans require formal action by the Conservation Commission allowing the change. The Applicant must submit a written request for the Commission to amend the Order of Conditions and a revised plan outlining the changes. If the Commission determines by a majority vote that the changes are significant, the Commission may require a new public hearing, at the expense of the Applicant, to amend the Order of Conditions, or if necessary, issue a new Order.

### **Denial**

19. No work involving the change(s) shall be done until a new or amended Order of Conditions has been issued and all appeal periods have expired. It is the responsibility of the Applicant to make sure that all changes accepted by, or required by, the Conservation Commission are reflected in the plans held by other Town departments.
20. Errors found in the plans or information submitted to other Boards or Departments in the Town of Westwood by the Applicant that differs from the plan of record for this Order shall be considered changes and the above procedures shall be followed.
21. Modifications to the plan of record for this Order required by any Town of Westwood Board or Department shall be considered changes and procedures outlined for changes shall be followed.
22. Plans submitted to any Town of Westwood Board or Town Department for work on this site that differ from the plan of record for this Order shall be considered changes and the procedures outlined for changes shall be followed.

### ***Requirements for a Certificate of Compliance***

23. Upon completion of work covered by this Order, the Applicant shall request in writing that a Certificate of Compliance be issued. The written request shall be accompanied by a statement from a Professional Engineer registered in the State of Massachusetts that all work allowed or required by this Order has been satisfactorily completed. Such request shall also be accompanied by an as-built plan prepared, stamped and signed, by a registered P.E. and Land Surveyor
24. A Certificate of Compliance will not be issued for *new* housing construction until the prospective lot buyer signs and delivers a statement to the Conservation Commission indicating that they are aware that:
  - a. They have received a copy of the approved plans.
  - b. The Commission has determined that the lot contains wetlands.
  - c. Modifications or changes to the approved plan may require a new Notice of Intent.
  - d. An Article 18 Order of Conditions exists upon the property and that certain Conditions, forever binding upon the lot, will survive the issuance of the Certificate of Compliance.
  - e. That the buyer/owner of the property is responsible for compliance with all conditions that survive the issuance of a Certificate of Compliance.
  - f. The buyer/owner is liable for non-compliance with any continuing conditions and may be assessed appropriate penalties by the Conservation Commission, as applicable.



- g. There is a no disturbance setback surrounding the wetlands on site for future planning.
- h. Dumping grass clippings, brush, leaves or other yard waste into the resource areas or the no disturb buffer will alter the resource area and shall be considered a violation of the Wetlands Protection Act and the local bylaw.

### ***Continuing Conditions***

- 25. As a continuing order of these conditions, even after a Certificate of Compliance is issued, no activity is permitted within the no-disturb buffer to the existing wetland including, but not limited to, the removal or cutting of vegetation.
- 26. As a continuing order of these conditions, if within two (2) years from the issuance of a Certificate of Compliance, erosion is evident on any slopes mitigating measures satisfactory to the Westwood Conservation Commission shall be taken.
- 27. As a continuing order of these conditions, even after a Certificate of Compliance is issued, no by-products of landscaping may be placed within the no disturbance buffer zone, in the wetland area or flood plain.

### **Site Specific Conditions for 118 Wilsondale Road:**

- 1. A compost sock and orange construction fence must be installed and inspected prior to start of project.
- 2. Impervious surfaces must be kept clean throughout the duration of the project.

Deny

118 Wilsomdale K



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:  
338-0668

MassDEP File #

eDEP Transaction #

Westwood

City/Town

**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.

8/9/18  
1. Date of Issuance

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

6  
2. Number of Signers

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

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:

*[Handwritten signatures and names in blue ink: Charles Pace, Stephen David, Todd Weston, John Lopez, Jeff Kenna, Helen Gordon]*

by hand delivery on

by certified mail, return receipt requested, on

Date

Date

8/9/18 7015 3010 0002 0399 1500

**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 of Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

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

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



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

### WPA Form 5 – Order of Conditions

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

Provided by MassDEP:

338-0670

MassDEP File #

eDEP Transaction #

Westwood

City/Town

## G. Recording Information

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

Conservation Commission

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

To:

Conservation Commission

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

118 Wilsondale Road

Project Location

338-0670

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:

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





Commonwealth of Massachusetts  
Executive Office of Energy & Environmental Affairs

## Department of Environmental Protection

Northeast Regional Office • 205B Lowell Street, Wilmington MA 01887 • 978-694-3200

Charles D. Baker  
Governor

Karyn E. Polito  
Lieutenant Governor

Matthew A. Beaton  
Secretary

Martin Suuberg  
Commissioner

October 10, 2018

Martin Sanborg  
c/o Nicole Hayes  
Goddard Consulting, LLC  
291 Main Street; Suite 8  
Northborough, MA 01532

**RE: WETLANDS/Westwood**  
MassDEP File # 338-0670  
118 Wilsondale Street  
**Request for Information**

Dear Ms. Hayes,

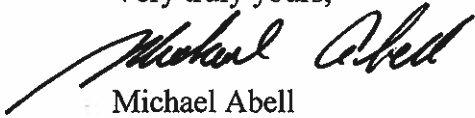
As stated during the site inspection of September 26, 2018, MassDEP is requesting additional information. In accordance with the General Performance standards for Bordering Vegetated Wetlands ("BVW") the issuing authority *may* (emphasis added) issue an Order of Conditions permitting work which results in the loss of up to 5,000 square feet. In the exercise of this discretion, the issuing authority shall consider the magnitude of the alteration and the significance of the project site to the interests identified in the Act, the extent to which adverse impacts can be avoided, the extent to which adverse impacts can be avoided, the extent to which adverse impacts are minimized, and the extent to which mitigation measures, including replication or restoration, are provided to contribute to the protection of the interests identified in the Act.

MassDEP is hereby requesting complete and detailed alternatives analysis to avoid and minimize the loss of the BVW by filling. Within the analysis alternatives should include but not necessarily be limited to reducing the size of the dwelling so that the foundation is not within the wetland, reducing the fill for both the proposed dwelling and yard, and removing proposed garage and shifting the dwelling to avoid filling.

No activity may commence on any portion of the project site subject to the jurisdiction of M.G.L. Chapter 131, Section 40, until the MassDEP issues a SOC and all appeal periods have elapsed.

Should you have any questions relative to this decision, please contact me at (978) 694-3257.

Very truly yours,

A handwritten signature in black ink, appearing to read "Michael Abell". The signature is written in a cursive style with a long, sweeping underline that extends to the left.

Michael Abell  
Environmental Analyst  
Wetlands and Waterways Program

cc: Westwood Conservation Commission, 50 Carby Street, Westwood, MA 02090