



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:
 33-1511
 MassDEP File # _____
 eDEP Transaction # _____
 Haverhill
 City/Town

A. General Information

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

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



1. From: Haverhill
 Conservation Commission

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

3. To: Applicant:
Ernest Cioto
 a. First Name b. Last Name

Cioto Realty Trust
 c. Organization
256 Washington Street
 d. Mailing Address

Boxford MA 01921-1014
 e. City/Town f. 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. g. Zip Code

5. Project Location:
38 and 58 Railroad Street Haverhill
 a. Street Address b. City/Town

Parcel IDs: 701-630-9 and 702-635-1
 c. Assessors Map/Plat Number d. Parcel/Lot Number

Latitude and Longitude, if known: 42.771773 N -71.070161 W
 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):
 Southern Essex District

 a. County
 16670 and 37112

 c. Books
 b. Certificate Number
 88 and 397, respectively

 d. Pages
7. Dates: September 2, 2021 December 9, 2021 January 10, 2022
 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):
 See Attachment "A", "Special Conditions", incorporated herein and made part of this Order of Conditions.

 b. Prepared By c. Signed and Stamped by

 d. Final Revision Date 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. <input type="checkbox"/> Public Water Supply | b. <input checked="" type="checkbox"/> Land Containing Shellfish | c. <input checked="" type="checkbox"/> Prevention of Pollution |
| d. <input checked="" type="checkbox"/> Private Water Supply | e. <input checked="" type="checkbox"/> Fisheries | f. <input checked="" type="checkbox"/> Protection of Wildlife Habitat |
| g. <input checked="" type="checkbox"/> Groundwater Supply | h. <input checked="" type="checkbox"/> Storm Damage Prevention | i. <input checked="" type="checkbox"/> 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'
(restoration work)

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

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input type="checkbox"/> Bank	a. linear feet	b. linear feet	c. linear feet	d. linear feet
5. <input type="checkbox"/> Bordering Vegetated Wetland	a. square feet	b. square feet	c. square feet	d. square feet
6. <input type="checkbox"/> Land Under Waterbodies and Waterways	a. square feet	b. square feet	c. square feet	d. square feet
	e. c/y dredged	f. c/y dredged		
7. <input checked="" type="checkbox"/> Bordering Land Subject to Flooding	65,651	65,651	65,651	65,651
	a. square feet	b. square feet	c. square feet	d. square feet
Cubic Feet Flood Storage	20,766	20,766	47,313	47,313
	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	64,428	52,471		
	a. total sq. feet	b. total sq. feet		
Sq ft within 100 ft	36,163	-	5,395	5,395
	c. square feet	d. square feet	e. square feet	f. square feet
Sq ft between 100-200 ft	28,265	-	0	0
	g. square feet	h. square feet	i. square feet	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	_____	_____	_____ cu yd	_____ cu yd
	a. square feet	b. square feet	c. nourishment	d. nourishment
14. <input type="checkbox"/> Coastal Dunes	_____	_____	_____ cu yd	_____ cu yd
	a. square feet	b. square feet	c. nourishment	d. nourishment
15. <input type="checkbox"/> Coastal Banks	_____	_____		
	a. linear feet	b. linear feet		
16. <input type="checkbox"/> Rocky Intertidal Shores	_____	_____		
	a. square feet	b. square feet		
17. <input type="checkbox"/> Salt Marshes	_____	_____	_____	_____
	a. square feet	b. square feet	c. square feet	d. square feet
18. <input type="checkbox"/> Land Under Salt Ponds	_____	_____		
	a. square feet	b. square feet		
	_____	_____		
	c. c/y dredged	d. c/y dredged		
19. <input type="checkbox"/> Land Containing Shellfish	_____	_____	_____	_____
	a. square feet	b. square feet	c. square feet	d. square feet
20. <input type="checkbox"/> Fish Runs	Indicate size under Coastal Banks, Inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above			
	_____	_____		
	a. c/y dredged	b. c/y dredged		
21. <input type="checkbox"/> Land Subject to Coastal Storm Flowage	_____	_____		
	a. square feet	b. square feet		
22. <input type="checkbox"/> Riverfront Area	_____	_____		
	a. total sq. feet	b. total sq. feet		
Sq ft within 100 ft	_____	_____	_____	_____
	c. square feet	d. square feet	e. square feet	f. square feet
Sq ft between 100-200 ft	_____	_____	_____	_____
	g. square feet	h. square feet	i. square feet	j. square feet



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B. Findings (cont.)

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

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

C. General Conditions Under Massachusetts Wetlands Protection Act

The following conditions are only applicable to Approved projects.

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
 - a. The work is a maintenance dredging project as provided for in the Act; or
 - b. The time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
 - c. If the work is for a Test Project, this Order of Conditions shall be valid for no more than one year.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order. An Order of Conditions for a Test Project may be extended for one additional year only upon written application by the applicant, subject to the provisions of 310 CMR 10.05(11)(f).
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not extend the issuance date of the original Final Order of Conditions and the Order will expire on January 10, 2025, 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 33-1511 "
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 Attachment "A", "Special Conditions", incorporated herein and made part of this Order of Conditions.

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



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D. Findings Under Municipal Wetlands Bylaw or Ordinance

1. Is a municipal wetlands bylaw or ordinance applicable? Yes No
2. The Haverhill 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:

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:
 An Ordinance to Protect the Wetlands, Related Water Resources and Chapter 253
Adjoining Land Areas 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):

See Attachment "A", "Special Conditions", incorporated herein and made part of this Order of Conditions.



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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.

January 10, 2022

1. Date of Issuance

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

five

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.

Pursuant to the vote taken by the Conservation Commission on May 7, 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 21, 2020, with the Southern Essex District Registry of Deeds in Book 38538, Page 455.

<u>/Harmony Wilson/</u> Signature	<u>Harmony Wilson</u> Printed Name
<u>/Thomas Wylie/</u> Signature	<u>Thomas Wylie</u> Printed Name
<u>/Frederick Clark/</u> Signature	<u>Frederick Clark</u> Printed Name
<u>/Jennifer Rubera/</u> Signature	<u>Jennifer Rubera</u> Printed Name
<u>/Ralph Basiliere/</u> Signature	<u>Ralph Basiliere</u> Printed Name
_____ Signature	- Printed Name
_____ Signature	- Printed Name
_____ Signature	_____ Printed Name

by hand delivery on

by certified mail, return receipt requested, on

January 10, 2022

Date

Date



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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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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.

Haverhill

 Conservation Commission

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

.....

To:
 Haverhill

 Conservation Commission

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

38 and 58 Railroad Street	33-1511
Parcel IDs: 701-630-9 and 702-635-1	MassDEP File Number
Project Location	

Has been recorded at the Registry of Deeds of:

Southern Essex District	Book	Page
County		

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



Haverhill

Conservation Department
Phone: 978-374-2334 Fax: 978-374-2366
rmoores@cityofhaverhill.com
conservation@cityofhaverhill.com

ATTACHMENT A: SPECIAL CONDITIONS

MassDEP FILE #33-1511

ISSUING AUTHORITY: Haverhill Conservation Commission (“HCC”)

APPLICANT: Cioto Realty Trust

PROJECT LOCATION: 38 and 58 Railroad Street - Parcel IDs: 701-630-9 and 702-635-1

PROJECT DESCRIPTION

The project consists of the redevelopment of the commercial property at 38 Railroad Street (1.40± acres) with the construction of three multi-story buildings that will total 45 residential units, with appurtenant activities also occurring on the previously developed commercial property at 58 Railroad Street. The project includes the construction of both under-building and surface parking areas, stormwater management Best Management Practices (“BMPs”), utilities, a public pedestrian riverwalk, and other appurtenant features. The project is proposed as a redevelopment of riverfront area associated with Merrimack River and includes the restoration of 5,395± sf of riverfront area through the phased management and removal of invasive species and the planting of native vegetation in areas throughout the 100’-Inner Riparian Zone. Two future access points are identified within the referenced plans and documents for a future marina project. This marina and its access are neither proposed nor approved under this Order; a separate Notice of Intent must be filed for this work in the future.

RESOURCE AREA FINDINGS

The Haverhill Conservation Commission finds this site to contain, at a minimum, the following resource areas: perennial bank (Merrimack River), bordering land subject to flooding, and 200’-riverfront area.

EXPIRATION DATE

Unless extended, this Order of Conditions (“OOC”) will expire January 10, 2025.

PLANS AND DOCUMENTS

Work on this project site shall be performed according to the following listed plans and documents on file with the HCC. Should any conflicts be found to exist between these plans and documents and the conditions of this OOC, the HCC shall be contacted for a clarification.

- a) “Proposed Site Plan at 38 Railroad Street” (11 Sheets), plans prepared by Millennium Engineering (62 Elm Street, Salisbury, MA 01952), dated revised 11/10/2021, with Sheet 9 revised 12/08/2021 and Sheet 4 revised 12/09/2021
- b) “Landscape Plan” (Sheet L-1), plan prepared by KDTurner Design (27 High Street, Newburyport, MA 01952), dated 11/22/2021
- c) “Existing Conditions Flood Storage Sketch” (1 Sheet), plan prepared by MEI, dated 12/09/2021
- d) “Flood Storage Sketch” (1 Sheet showing proposed conditions), plan prepared by MEI, dated 12/01/2021

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- e) "Cross-Section" (1 Sheet), plan prepared by MEI, dated 12/09/2021
- f) "Invasive Removal and Control 38 and 58 Railroad St" (8 Pages), document prepared by Hughes Environmental (44 Merrimac Street, Newburyport, MA 01950), dated 11/23/2021
- g) "Safety Data Sheet – Blue Foaming Agent" (5 Pages), document prepared by Green Shoots (262 Griggs St South, St. Paul, MN 55105), dated revised 10/07/2016
- h) "Invasive Species Planting Exhibit" (1 Sheet showing colorized, multi-year phasing), plan prepared by MEI, dated 12/09/2021
- i) Letter from MA Division of Fisheries & Wildlife to Cioto Realty Trust and the Haverhill Conservation Commission (3 Pages), dated December 14, 2021
- j) "Stormwater Management Report", document prepared by MEI, dated revised 11/10/2021
- k) "Pollution Prevention and Operation and Maintenance Plan" (7 Pages), document prepared by MEI, dated revised 11/10/21
- l) "Operation & Maintenance Plan" (1 Sheet), prepared by MEI, dated revised 12/08/2021

Pursuant to the Massachusetts Wetlands Protection Act (M.G.L. Chapter 131, Section 40), its Regulations (310 CMR 10.00), and Haverhill City Code Chapter 253 ("An Ordinance to Protect the Wetlands, Related Water Resources and Adjoining Land Areas"), the Commission orders that all work shall be performed in accordance with the following additional, special conditions:

GENERAL CONSTRUCTION

- 21. The HCC may designate one or more Conservation Department Officials as its agent ("HCC Official"), with full powers to act on its behalf in administering and enforcing this OOC.
- 22. Work on this project shall be performed in accordance with Haverhill Municipal Ordinances Chapter 253 – "An Ordinance to Protect the Wetlands, Related Water Resources, and Adjoining Land Areas".
- 23. In accordance with Haverhill Municipal Ordinance Chapter 253, there shall be no activities allowed within 25' of the delineated wetland resource areas and no building construction within 50' of these same areas, except as shown on the approved plans referenced above.
- 24. All wetland resource areas shall be visibly flagged and/or staked every 25 feet along the resource area boundaries to assure that no intrusion into these areas occur. Flagging and staking used to identify wetland resource areas shall be of a color different from any others used on the site and shall be maintained until the work is complete.
- 25. The rows of erosion control devices, as shown on the site plan, shall also act as a limit of site activity.
- 26. The MassDEP File Number sign shall not be attached to a live tree.
- 27. Any changes proposed under this OOC might require the Applicant to file a "Request for a Modification to the Order of Conditions" with the HCC.
- 28. While all activities regulated by this Order are being performed and during the construction phase of this project, an on-site foreman, directing engineer, or designated construction manager, shall have a copy of this permit and its associated plans and documents at the site, familiarize him or herself with the conditions of this permit, and adhere to such conditions. This OOC shall be made part of all construction-related

documents for this project. All contractors working at the site shall be made aware of the provisions contained within this OOC and adhere to them.

29. The Applicant shall secure an Environmental Monitor (“EM”) for this project. The EM shall be, at a minimum, a professional with experiences in Resource Area Protection; Erosion, Sedimentation, and Pollution Prevention; and Stormwater Management. The EM shall have, at a minimum, a working knowledge of botany, hydrology, and general construction practices. The Applicant may designate the EM as responsible for fulfilling the requirements of the Pollution Prevention and Erosion and Sedimentation Control (“PPESC”) Monitor under this OOC. Otherwise, the EM shall establish an appropriate working relationship with the PPESC Monitor to ensure the project’s complete compliance with this OOC. The Applicant shall give the EM authority to stop construction for PPESC purposes.
- a) On the Monday of every week throughout the life of this project, the EM shall provide the HCC with a status report of the project. This report shall indicate the functions of the PPESC devices and any need for maintenance, replacement, augmentation, emergency placement, and any other corrective action of PPESC devices; the activities completed the previous week; and the activities planned for the current week. The report shall also mention any deviations from the previous week’s report and any environmental mitigation measures that have been undertaken. The report shall include representative photographs of deviations, needed repairs, and on-going work. The frequency of this reporting may be altered as site conditions warrant, upon concurrence between the HCC and the EM.
 - b) In addition to this reporting, the EM shall be responsible for all inspections and reporting as outlined in this OOC and the referenced plans and documents pertaining to Resource Area Activities; Erosion, Sedimentation, and Pollution Prevention; and Stormwater Management. The EM shall be on site as necessary to ensure proper implementation of the conditions of this OOC and the work outlined in the referenced plans and documents.

CONSTRUCTION SEQUENCING

30. A minimum of two (2) business days in advance, the Applicant shall provide the HCC with written notification of the commencement of work on site. At this time, the Applicant shall also supply the HCC with a list of names, addresses, and emergency phone numbers (including evenings and weekends) for those parties responsible for compliance with this OOC on the site, including the Environmental Monitor and the Pollution Prevention and Erosion and Sedimentation Control Monitor.
31. Prior to the commencement of work on this site, the Applicant shall provide the HCC with proof of filing and EPA activation of a “Notice of Intent (NOI) for Storm Water Discharges Associated with CONSTRUCTION ACTIVITY Under a NPDES General Permit” with the United States Environmental Protection Agency (EPA) under the National Pollutant Discharge Elimination System (“NPDES”) Program. Provided with this proof shall be a copy of the Storm Water Pollution Prevention Plan (“SWPPP”) prepared for this project. The Applicant shall provide the HCC with evidence that all “operators” (as defined in the NPDES Construction General Permit) have filed for coverage under the permit. The Applicant shall obtain authorization from the HCC prior to filing a Notice of Termination under the EPA permit. These submittals shall be made in an electronic form found acceptable to an HCC Official.
32. Prior to the commencement of work on this site, the Applicant shall schedule a pre-construction meeting with the site contractor, the Applicant’s engineers/consultants, the EM, the PPESC Monitor, and the HCC. The purpose of the meeting is to review this OOC and resolve any outstanding issues at that time.

33. The Applicant shall ensure that no invasive plant species, as defined and listed by the Massachusetts Invasive Plant Advisory Group, are introduced to, or moved around the site by construction activities, including importation of infected materials such as borrow, compost, nursery stock, seed, or hay bales. Corrective measures, if necessary, shall be made by the Applicant as directed by the EM. Corrective measures shall be implemented for as long as necessary to eliminate the introduced invasive plant species and prevent re-establishment of same. The Applicant shall satisfactorily dispose of all cleared, invasive plant material (seeds, roots, woody vegetation, associated soils, etc.). The Applicant shall take measures to prevent viable, invasive plant materials from leading to further infestations while stockpiled, in transit, or at final disposal locations. All precautions shall be taken to avoid contamination of natural landscapes with invasive plants or invasive plant material. Invasive species management shall be conducted in accordance with the referenced plans and documents. Control of invasive plant species shall begin immediately with the initiation of construction and continue until such time that a Complete Certificate of Compliance is issued for this project, unless included as an Ongoing Condition to the Certification. The EM shall report on the success of management in the weekly, seasonal, and final EM reports required under this OOC. If necessary, the corrective measures shall be outlined in the reporting in a manner consistent with the original plan requirements.
34. Prior to the issuance of a building (“framing”) permit, the Applicant shall provide the HCC with an interim as-built plan showing the installed foundation (including flood-flow paths and pertinent elevations), limit of work, and resource area locations, all as they pertain to the subject property. This plan shall be drawn at a scale equal to that of the approved site plan and shall demonstrate compliance with the approved limits of activities. This plan shall be stamped by a MA-registered Land Surveyor or Professional Engineer. This plan shall be subject to the review and approval of the HCC.
35. The Applicant proposes to decoratively grate the flood-flow openings around the perimeters of the buildings to provide security. Prior to grate installation, the Applicant shall submit a detail of the grate proposed for this use for the approval of HCC staff. The Applicant shall demonstrate the selected grate will not restrict the hydraulic connection between the flooding river and the building interiors. The openness ratio of the selected grate shall be maximized to the greatest extent practicable.
36. Prior to the issuance of any occupancy permits, the Applicant shall provide the HCC with an as-built grading plan showing, at a minimum, the following information as it pertains to the subject property. This plan shall be stamped by a MA-registered Professional Engineer. This plan shall be subject to the review and approval of the HCC.
- a) Wetland resource areas subject to protection under this OOC and their approved delineations.
 - b) Limits of all Buffer Zones, including No-Disturbance and No-Build Zones.
 - c) Foundations and other structures, including riverwalk and park features.
 - d) Topography at 2’ intervals and on North American Vertical Datum 1988.
 - e) Existing limits of lawn/landscaped, forest, and meadow areas.
 - f) Compensatory flood storage (including appurtenant elevations and a table of as-built calculations with a comparison to design values to demonstrate compliance with the approved incremental design volumes...).
 - g) Riverfront Mitigation boundaries.
 - h) Resource Area signage and/or other demarcations required by this OOC.
 - i) Stormwater Management System Best Management Practices (including appurtenant groundwater elevations, inverts, system geometry, piping, structures, and table of as-built calculations with a comparison to design values to demonstrate compliance with the approved design...)

- j) Utilities.
 - k) Date(s) of survey fieldwork.
 - l) A statement by the Professional Engineer certifying compliance with the approved plans and conditions of this OOC and setting forth deviations from same, if any exist.
37. Prior to the issuance of any occupancy permits, the applicant shall provide final Stormwater Operations & Maintenance Plans (“OMP”) and Long-Term Pollution Prevention Plans (“LTPPP”) for both the development and the rail trail. Plans shall be subject to the review and approval of HCC staff and the peer reviewer and shall be recorded with the COC. The OMPs shall ensure that stormwater management systems function as designed. The Plans shall include post-construction inspection and maintenance requirements for all stormwater Best Management Practices (“BMPs”). The Plans shall provide guidance and outline the responsibilities of the Property Owners and/or Property Managers to record inspections and properly maintain the BMPs. At a minimum, the Plan shall include information on the following:
- a) Ownership and Property Manager contact information
 - b) Requirements for routine and non-routine maintenance intervals and maintenance procedures for each stormwater BMP
 - c) A plan drawn to scale showing locations of all stormwater BMPs
 - d) Good housekeeping practices
 - e) Lawn and landscape management practices
 - f) Dog waste management practices
 - g) Street sweeping schedule
 - h) Winter road management and snow disposal areas
 - i) Illicit discharge prevention
 - j) Inspection and maintenance logs
38. Prior to the issuance of any occupancy permits, the Applicant shall provide the HCC with an affidavit, signed by the Property Owner and Building Operator, and notarized by a MA Notary Public, whereby the Property Owner and Building Operator acknowledge:
- a) Receipt of a copy of the recorded OOC from the Applicant.
 - b) Receipt of a plot plan identifying the locations of wetland resource areas and existing structures on this land from the Applicant.
 - c) Receipt of a copy of the Stormwater Operation & Maintenance and Long-Term Pollution Prevention Plan from the Applicant.
 - d) Understanding of his/her terms of and legal responsibilities for implementing these documents and for the operation and maintenance of the project site stormwater management system Best Management Practices, as outlined in the Pollution Prevention Plan.
39. Prior to the issuance of any occupancy permits, the Applicant shall inspect and clean the drainage system to remove sediment that may have accumulated during the construction phase.
40. Prior to the issuance of any occupancy permits, the Applicant shall effectively stabilize the site to the approval of the HCC.

CONSTRUCTION PERIOD EROSION, SEDIMENTATION, AND POLLUTION PREVENTION

41. The Applicant, site contractor, and their assigns shall implement a Construction Period Pollution Prevention and Erosion and Sedimentation Control Plan from the commencement of work until the site is fully and

permanently stabilized and the temporary erosion and sedimentation controls are removed, upon HCC approval.

42. The Best Management Practices used during construction must be different from the Best Management Practices that will be used to handle stormwater after construction is completed and the site is stabilized. Many stormwater technologies (particularly infiltration technologies) are not designed to handle the high concentrations of sediments typically found in construction runoff, and thus must be protected from construction-related sediment loadings.
43. All vegetation cutting associated with the construction of this project shall be subject to the prior review and approval of the HCC. Prior to the commencement of work, the Applicant's surveyor shall stake out, flag, or mark by other appropriate means, the locations of the approved limits of cutting and the locations of the proposed PPESC devices for inspection by the site contractor, EM, PPESC Monitor, and the HCC. The commencement of vegetation cutting work shall be contingent upon the approval of the HCC at that time.
44. Prior to the commencement of work, the Applicant shall install the initial PPESC devices. The Applicant shall schedule an inspection of the installed devices by the site contractor, EM, PPESC Monitor, and the HCC. Should any of these devices be considered insufficient, the PPESC Monitor shall immediately propose augmentation or other corrective measures to address areas of concern. The continuation of on-site work shall be contingent upon HCC approval of the devices at that time.
45. The Applicant shall designate a PPESC Monitor for the site. This Monitor shall be a professional with experiences in PPESC practices. This Monitor shall inspect PPESC devices daily for proper function and maintenance, including the proper disposal of waste products. This Monitor shall immediately arrange for the maintenance, replacement, augmentation, emergency placement, and any other corrective action of PPESC devices on site. Areas of construction shall remain in a stable condition at the close of each day. The Applicant shall give this Monitor authority to stop construction for PPESC purposes.
46. An adequate stockpile of PPESC materials shall always be on site for emergency or routine replacement and shall include materials to repair silt fences, straw bales, stone-riprap, filter dikes or any other devices planned for use during construction.
47. PPESC devices may be modified based on experience at the site. Approval of the HCC must be obtained prior to any non-emergency modification of the approved PPESC measures.
48. The HCC reserves the right to impose additional conditions on portions of this project to mitigate any impacts which could result from site erosion or any noticeable degradation of surface water quality discharging from the site.
49. The locations of long term (greater than 30 days) stockpiles and the locations and construction methods of temporary construction entrances, if not addressed in the Construction Period PPESC Plan, shall receive the prior approval of the PPESC monitor and the HCC.
50. During all phases of construction, all disturbed or exposed soil surfaces shall be brought to final finished grade and either a) covered with loam and seeded in accordance with the Massachusetts Erosion and Sediment Control Guidelines for Urban and Suburban Areas (or equivalent document) for permanent stabilization or b) stabilized in another way approved by the HCC. Bare ground that cannot be permanently

stabilized within 30 days shall be stabilized with mulch or any other protective covering and/or method approved by the USDA Soil Conservation Service.

51. Graded slopes shall not exceed a slope ratio of 2:1, unless approved by the City Engineer and HCC.
52. Upon completion of the project all disturbed areas shall be permanently stabilized with rapidly growing vegetative cover with enough topsoil to assure long term stabilization of disturbed areas. After seeding, disturbed areas shall be covered with straw mulch, netting, or other protective covering to provide a suitable surface cover until seed germination.
53. All dewatering activities shall be controlled by implementing Best Management Practices. Dewatered fluids shall be prevented from flowing directly into resource areas. Discharge structures, such as temporary sediment basins or other Best Management Practices shall be configured to maximize sediment removal. If discharge towards resource areas cannot be avoided, it shall be via a maximized distance of overland upland sheet flow unless the HCC approves an alternative in advance. The PPESC Monitor shall review and approve all dewatering methods prior to implementation.
54. Topsoil, other soils, stumps, slash, timber, construction materials, debris, or other waste products shall not be deposited, stored, or otherwise accumulated within 100' of a wetland resource area or within land subject to flooding, unless approved in advance by the HCC.
55. Covered dumpsters shall be maintained on site for appropriate materials. The Applicant shall conduct routine litter pick-ups throughout construction to prevent trash and loose, man-made debris from entering the resource areas and buffer zones.
56. All pumps, drilling machines, and their surrounding areas, whether used for dewatering or other purposes, shall be properly contained to limit the potential for environmental impacts due to fuel leakage, pump leakage, or other failures.
57. Refueling of equipment shall not be done within 100' of a wetland resource area. Fuel, oil, or other potential pollutants shall not be stored within 100' of a wetland resource area.
58. Equipment shall not be staged overnight within 100' of a wetland resource area.
59. Any spills of hazardous materials, including but not limited to diesel fuel and hydraulic oil, shall be appropriately and promptly cleaned up. The Applicant shall notify Federal, Commonwealth, and/or Local agencies of such spills as may be applicable by law. The Applicant or PPESC Monitor shall notify the HCC, within one hour, of any spills within wetland resource areas or buffer zones. Onsite emergency spill kits shall always be available.
60. The Applicant shall ensure a hazardous materials spill containment kit is always maintained on site throughout construction. The kit shall be appropriately sized for the cumulative volumetric capacity of hazardous fluids contained by equipment on site at any one time.

STORMWATER

61. The Applicant shall ensure the stormwater management design engineer is on site sufficiently throughout construction to inspect and direct the construction of all BMPs. Should the engineer find insufficient

groundwater separation, poor soil infiltration conditions, ledge, or other conditions that would prohibit these BMPs from performing as designed, the Applicant shall submit a revised stormwater management design to the HCC in accordance with Special Condition #27. Immediately following clearing and grubbing, the design engineer shall oversee an evaluation of the local soil texture and depth to groundwater within the footprints of each subsurface infiltration area to confirm adequacy to support the design. Should either be found inadequate, the Applicant shall submit a revised system design to the HCC for review. The Applicant shall ensure a minimum groundwater separation of 2' between the bottoms of the infiltration systems (including stone) and the estimated seasonal high groundwater elevation. The Applicant shall schedule the attendance of an inspector from the City's Engineering Division during this evaluation.

62. The garage floor drains will be connected to the sanitary sewer system in accordance with related building and sanitary codes. Prior to the installation of these connections, the Applicant shall provide the HCC with a copy of the design approved by the City's Plumbing and Engineering departments showing how these systems will be closed in the event of a flood. Flood water shall not be allowed to drain into the sanitary sewer system.
63. Catch basins shall be fitted with deep sumps and oil/gas traps (with specifications approved by the City Engineer), which shall be maintained and cleaned as outlined in the Pollution Prevention Plans.
64. The final locations and discharge points of all proposed perimeter, under, trench, and/or curtain drains shall be subject to the approval of the HCC. Every effort shall be made by the Applicant to apply such drains in a manner that shall mimic pre-construction groundwater flow patterns.
65. Stormwater runoff drainage shall be diverted away from the infiltration systems until the contributing drainage areas are fully and permanently stabilized. Orange construction fencing shall be installed around the proposed infiltration areas to protect them from compaction during construction.
66. Numerous inspection ports/cleanouts on the infiltration systems shall be brought to finished grade to ensure use by the Applicant in determining and demonstrating to the HCC that the Operations & Maintenance Plan is being met. The locations of these cleanouts shall be subject to the approval of an HCC Official.

RESOURCE AREA ACTIVITIES

67. All work proposed within state and/or local resource areas shall be performed according to the plans and documents submitted as part of the Notice of Intent filing, unless specified otherwise in this Order. These areas shall meet or exceed the General Performance Standards outlined in 310 CMR 10.00 and Haverhill Municipal Ordinances Chapter 253. Should these areas fail to meet any of these standards, the HCC reserves the right to require those measures necessary to achieve compliance.
68. The EM shall be on site during the improvement and/or creation of riverfront mitigation areas to provide supervision. The mitigation to be completed on this project site primarily consists of the removal of invasive species and the subsequent planting of native species to improve both the short-term and long-term capacities of the site to provide natural wildlife habitat along the river corridor. Work shall be phased as detailed in the referenced Plans and Documents.
69. The site contractor shall not disturb any area of protected or regulated Federal, State, and/or Local wetland resource area or buffer zone except for that which has been permitted by this Order.

70. The Applicant is to contact the HCC immediately upon completion of each phase of mitigation work; an appointment for inspection by an HCC Official shall be arranged with the EM. Immediately following these inspections, the Applicant shall submit a status report, written by the EM describing to the HCC the status of the mitigation areas.
71. The EM, prior to and following each growing season, beginning at the completion of the first phase of mitigation work and ending a minimum of two (2) years after the completion of the final phase of mitigation, shall submit monitoring reports to the HCC. Monitoring reports shall describe, using narratives, plans, and color photographs, the physical characteristics of the plantings with respect to survivorship of vegetation and plant mortality, habitat value, stability, aerial extent and distribution, etc. These monitoring reports shall be submitted by May 31 and September 30 of each year.

WILDLIFE HABITAT

72. **Plans of Record.** All work must conform to the Plan of Record and other documents referenced above. Any changes, updates, or revisions to the proposed Project or any additional work behound that shown on the Plans of Record shall require additional review and approval by the Division of Fisheries and Wildlife prior to implementation.
73. **Annual Report – Invasive Control & Planting Plan.**
- a) The proponent must submit a report documenting the invasive control and planting work conducted during the calendar year, including photos and a brief narrative.
 - b) A report must be submitted annually during the invasive control phase, and then 1, 3, 5 and 7 years after the completion of the final seeding/planting on the site.
74. **Erosion and Sedimentation Control.** Prior to the start of Work, adequate erosion and sedimentation control measures shall be implemented, including any necessary controls not specifically referenced in the Plan, and be maintained in effect throughout Project construction and until the site has become stabilized. Structural failure of erosion and sedimentation controls may be subject to enforcement action pursuant to the MESA. If any additional measures are proposed to be installed below the high tide line, consultation with the Division of Fisheries and Wildlife is required.
75. **Plantings and Seeds.** Any plantings or seeds located outside of areas to be maintained as lawn shall be native to the County in accordance with ‘The Vascular Plants of Massachusetts: A County Checklist First Revision’ (Dow Cullina, M., B. Connolly, B. Sorrie, and P. Somers. 2011. MA NHESP DFW). The document is available free from State Library of Massachusetts at <http://archives.lib.state.ma.us> {search for the name of the publication noted herein}.

Please carefully review the species and varieties listed on the noted Ernst Seeds mixes at the time of buying them, as the specific mixes and species vary over time and in some years have contained species not in compliance with this condition.

76. **Compliance Report.** Within thirty (30) days of completion of work the Applicant shall submit a brief written report including photographs showing previous and final conditions with emphasis on demonstrating compliance with Conditions herein.
77. **Renewal, extension or Amendment of the Order of Conditions, Request for Certificate of Compliance.** Upon filing for any renewal, extension, amendment, certification of compliance to any Orders of Conditions

issued associated with this site pursuant to the MA Wetlands Protection Act, the Applicant shall similarly file with the Division of Fisheries and Wildlife.

78. **Authorization Duration.** The authorization is valid for 5 years from the date of issuance. A new filing is required to conduct construction activities at the site after the expiration of this determination.

OTHER CONDITIONS

79. If any unforeseen problem occurs during construction, which affects any of the eight statutory interests of the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, upon discovery, the Applicant shall notify the HCC and an immediate meeting shall be held between the Commission, the Applicant, the engineer, contractor, and other concerned parties to determine the corrective measures to be employed. The Applicant shall then act to correct the problems using the corrective measures agreed upon.

80. Upon completion of the project, the Applicant shall request a Certificate of Compliance from the Commission and shall submit the following information with the request in both paper form and in an electronic form found acceptable to an HCC Official:

- a) A written statement by a professional engineer registered in the Commonwealth of Massachusetts certifying compliance with the approved plans referenced above and this OOC and setting forth deviations, if any exist.
- b) A final Illicit Discharge Compliance Statement prepared by the professional engineer in accordance with the requirements of Stormwater Management Standard 10. This Statement shall particularly detail all cleanings, inspections, and any necessary measures taken regarding the existing site drainage system and any potential illicit connections.
- c) A written Operations and Maintenance Compliance Statement from the professional engineer identifying the party to be responsible for implementation of the Long-Term Pollution Prevention Plan. This Compliance Statement shall also state:
 - i. The site has been inspected (provide date) for erosion and appropriate steps have been taken to permanently stabilize any eroded areas.
 - ii. All aspects of the stormwater BMPs have been inspected for damage, wear and malfunction, and appropriate steps have been taken to repair or replace the system or portions of the system so that the stormwater at the site may be managed in accordance with the Stormwater Management Standards.
 - iii. Future responsible parties must be notified of their continuing legal responsibility to operate and maintain the stormwater BMPs.
 - iv. The Long-Term Pollution Prevention Plan, including the stormwater operation and maintenance requirements, are being implemented.
- d) A final monitoring report and current photo log prepared by the EM.
- e) Two sets of as-built site plans prepared by a registered land surveyor or registered professional engineer showing grades, utilities, drainage systems, building footprint and detailed landscaping (i.e., all wetland resource areas, limits of work, etc.). These plans shall include the date(s) of fieldwork and shall be prepared in accordance with the "Plot Plan Standards" of the HCC Policy - P2000-02 "Occupancy Permit Checklist Endorsement".

ONGOING CONDITIONS

Certain conditions are ongoing and do not expire upon the completion of the project or the issuance of a Certificate of Compliance. These conditions shall remain in effect after the issuance of a Certificate of Compliance for the project and shall be referenced in the chain of title for the property. These conditions are:

81. The Property Owner and/or Building Operator (“O/O”) shall ensure that a record of at least one copy of all the plans and documents referenced in this Order of Conditions, the subsequent Certificate of Compliance, all Modifications to the Order and their relevant revised plans and/or documents is always maintained. This information shall be made available for use by the O/O in its implementation of the activities discussed within and by the Haverhill Conservation Commission (“HCC”) during any inspections that may be necessary.
82. The O/O is required to obtain the prior approval of the HCC for any “Land Use with a Higher Potential Pollutant Load” activity that might be additionally proposed on this site in the future.
83. The O/O shall maintain all drainage systems, including the flood-flow openings, to ensure serviceability during operation as designed and as required in the Operations and Maintenance Plan (“OMP”). In addition to the monitoring requirements incorporated in the OMP, the O/O’s professional engineer shall perform monthly inspections of all the stormwater and groundwater management system Best Management Practices (“BMPs”) for their first 12 months of post-construction usage. This monitoring shall specifically include evaluations of the infiltration system to ensure storm flows are properly treated and drawn down within the required 72-hour period. Should the system not function as designed, the Applicant shall submit a revised basin design to the HCC for review. Upon HCC approval, the Applicant shall immediately implement the design. At the end of this first year, the engineer shall report to the HCC her findings regarding maintenance frequency needs so that the OMP may be properly amended, if necessary. Each component of the system shall be maintained in compliance with the intent of the maintenance criteria outlined in the Stormwater Technical Handbook, prepared by the MassDEP and Office of Coastal Zone Management, for each respective BMP.
84. The maintenance and repair of the stormwater management system BMPs shall be the responsibility of the O/O. All BMPs shall be operated and maintained in accordance with the design plans and approved OMP.
85. All catch basins on this site shall be stenciled with language, such as “No Dumping – Drains to Waterway”, to prevent illicit discharges to the stormwater management system. The O/O shall maintain these stencils to ensure their ongoing functions.
86. To demonstrate compliance with the Operations and Maintenance Plan and the Long-Term Pollution Prevention Plan, the O/O shall:
 - a) Maintain an operation and maintenance log for the last three years, including inspections, repairs, replacement, and disposal (for disposal, the log shall indicate the type of material and the disposal location). This log is a rolling log in which the responsible party records all operation and maintenance activities for the past three years.
 - b) Make this log available to MassDEP and the HCC upon request; and
 - c) Following advance notice, allow members and agents of the MassDEP and HCC to enter and inspect the premises to evaluate and ensure that the responsible party complies with the requirements of these Plans.
 - d) Provide the HCC with an annual, written Operations and Maintenance Compliance Statement from the facility’s operations manager, or other party identified by the O/O to be responsible for implementation of the Long-Term Pollution Prevention Plan. This Compliance Statement shall also state:
 - i. The site has been inspected (provide date) for erosion and appropriate steps have been taken to permanently stabilize any eroded areas.

- ii. All aspects of the stormwater BMPs have been inspected for damage, wear and malfunction, and appropriate steps have been taken to repair or replace the system or portions of the system so that the stormwater at the site may be managed in accordance with the Stormwater Management Standards.
 - iii. Future responsible parties must be notified of their continuing legal responsibility to operate and maintain the stormwater BMPs.
 - iv. The Long-Term Pollution Prevention Plan, including the stormwater operation and maintenance requirements, are being implemented.
87. The O/O shall maintain the permanent stability of this site to prevent the erosion of materials into the stormwater BMPs or the wetland resource areas.
88. The O/O shall regularly sweep/vacuum the paved portions of the facility to remove sediments that may otherwise wash into the proposed stormwater systems and wetland resource areas.
89. The City of Haverhill reserves the right to schedule an annual inspection with the O/O as part of the “Long-Term Pollution Prevention Plan” program to inspect the site for permanent stability and to inspect all components of the stormwater management system for proper function and maintenance.
90. The HCC reserves the right to enforce all restrictions and/or requirements established for this property within this OOC under the enforcement powers of the City’s wetlands protection ordinance, Municipal Ordinance Chapter 253.
91. Plowed snow on the site shall be placed in designated areas. Prior to the issuance of an occupancy permit, the Applicant shall install durable posts with signs identifying the snow storage areas or identify the areas in another manner acceptable to the HCC. Signs shall be positioned so they are visible during snow events. The signs/identification shall be maintained by the O/O to ensure their continued functions. Should the amount of snow on site exceed the snow storage areas and be proposed for removal from site, then it shall be disposed of in accordance with the Department of Environmental Protection - Bureau of Resource Protection's most current "Snow Disposal Guidelines".
92. Sand and de-icing chemical usage shall be minimized to the maximum extent practical on this site. When de-icing is proposed, alternative compounds such as calcium chloride (CaCl₂) and calcium magnesium acetate (CMA) shall be considered for use.
93. Pesticides, herbicides, and fungicides shall not be used within 100’ of any wetland resource area for the purpose of lawn maintenance.
94. Fertilizers utilized for landscaping and lawn care within this property shall be slow-release, low-nitrogen, organic-based types and shall not be used within 30’ of any wetland resource area.
95. Prior to the issuance of an occupancy permit, the Applicant shall install a post-and-rail style fence, like that used along the Bradford Rail Trail, along the northern edge of the proposed rail trail. The fence shall begin at the northern end of the “arbor vitae barrier” along #25 Railroad Street and shall extend easterly along the edge of the walkway to its eastern terminus. With this fence, the Applicant shall install a sign informing users of the river-walk of the significance of the Merrimack River and the importance of protecting our natural resources. Final sign language and location shall be agreed upon by the HCC and the Applicant.

The O/O shall maintain the fence and sign to ensure their continued functions of protecting the riverfront area and educating the public of its importance.

96. The O/O shall conduct routine litter pick-ups on the site to prevent debris from entering the Merrimack River and its riverfront area.
97. Dumpsters used for waste management on this site shall be a covered, side-opening style. Dumpsters shall be positioned on impervious surfaces to reduce the potential for liquids leaching into the ground. Waste management dumpsters shall be enclosed with fencing to reduce the potential for windblown debris. Following each dumpster emptying, the areas under and around these devices shall be cleaned to remove debris and leachate.
98. All exterior lighting associated with this project shall be directed away from the wetland resource areas.
99. The roof for the proposed buildings shall not be constructed with flat metal materials, such as galvanized metal or copper.
100. There shall be no unprotected storage of deleterious or hazardous materials (such as auto parts, debris, oil drums, batteries, car washing fluid, etc.) allowed on site.
101. There shall be no exterior storage of waste or recyclable materials nor vehicle washing allowed on this property.
102. No electric service or electrical components, devices, panels, etc. shall be allowed on site below the 100-year flood elevation.
103. There shall be no permanent accessory site features placed within the 100-year floodplain on this site without the formal approval of the Haverhill Conservation Commission.

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Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

DEP File Number:

**Request for Departmental Action Fee
Transmittal Form**

Provided by DEP

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

A. Request Information

1. Location of Project

a. Street Address

b. City/Town, Zip

c. Check number

d. Fee amount

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

Name

Mailing Address

City/Town

State

Zip Code

Phone Number

Fax Number (if applicable)

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

Name

Mailing Address

City/Town

State

Zip Code

Phone Number

Fax Number (if applicable)

4. DEP File Number:

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

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

DEP File Number:

Request for Departmental Action Fee Transmittal Form

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

B. Instructions (cont.)

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

Department of Environmental Protection
Box 4062
Boston, MA 02211

2. On a separate sheet attached to this form, state clearly and concisely the objections to the Determination or Order which is being appealed. To the extent that the Determination or Order is based on a municipal bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.
3. Send a **copy** of this form and a **copy** of the check or money order with the Request for a Superseding Determination or Order by certified mail or hand delivery to the appropriate DEP Regional Office (see <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.