

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:

002-1343

MassDEP File #

eDEP Transaction #

Amesbury

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: Amesbury
 Conservation Commission

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

3. To: Applicant:

Krystle

a. First Name

Humphreys

b. Last Name

c. Organization

26 Merrimac Street

d. Mailing Address

Amesbury

e. City/Town

MA

f. State

01913

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:

26 Merrimac Street

a. Street Address

Amesbury

b. City/Town

88

c. Assessors Map/Plat Number

6

d. Parcel/Lot Number

Latitude and Longitude, if known:

d

m

s

d. Latitude

d

m

s

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):
Essex South
- | | |
|--------------|--|
| a. County | b. Certificate Number (if registered land) |
| 41725 | 227 |
| c. Book | d. Page |
7. Dates: **1.22.2025** **2.3.2025**
- | | | |
|--------------------------------|-------------------------------|---------------------|
| 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):
Plan to Accompany Notice of Intent Proposed Site Plan
- | | |
|--|--|
| a. Plan Title | b. Certificate Number (if registered land) |
| GA Consultants INC | John W. Hargreaves |
| b. Prepared By | c. Signed and Stamped by |
| 1.27.2025 | 1"= 10' |
| d. Final Revision Date | e. Scale |
| See Attachment to Order of Conditions | |
| f. Additional Plan or Document Title | g. Date |

B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act:

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

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

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

Approved subject to:

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



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B. Findings (cont.)

Denied because:

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

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

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. ☒ Bank	<u>46</u> a. linear feet	<u>46</u> b. linear feet	<u> </u> c. linear feet	<u> </u> d. linear feet
5. ☐ Bordering Vegetated Wetland	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. square feet	<u> </u> d. square feet
6. ☐ Land Under Waterbodies and Waterways	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. square feet	<u> </u> d. square feet
7. ☒ Bordering Land Subject to Flooding	<u> </u> e. c/y dredged <u>100</u> a. square feet	<u> </u> f. c/y dredged <u>100</u> b. square feet	<u> </u> c. square feet	<u> </u> d. square feet
Cubic Feet Flood Storage	<u> </u> e. cubic feet	<u> </u> f. cubic feet	<u> </u> g. cubic feet	<u> </u> h. cubic feet
8. ☐ Isolated Land Subject to Flooding	<u> </u> a. square feet	<u> </u> b. square feet		
Cubic Feet Flood Storage	<u> </u> c. cubic feet	<u> </u> d. cubic feet	<u> </u> e. cubic feet	<u> </u> f. cubic feet
9. ☒ Riverfront Area	<u> </u> a. total sq. feet <u>7,405</u> c. square feet <u>0</u> g. square feet	<u> </u> b. total sq. feet <u>7,405</u> d. square feet <u>0</u> h. square feet	<u> </u> e. square feet <u> </u> i. square feet	<u> </u> f. square feet <u> </u> j. square feet
Sq ft within 100 ft				
Sq ft between 100-200 ft				



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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. ☐ 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	cu yd c. nourishment	cu yd d. nourishment
14. ☐ Coastal Dunes	a. square feet	b. square feet	cu yd c. nourishment	cu yd d. nourishment
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			
	a. c/y dredged	b. c/y dredged		
21. ☐ Land Subject to Coastal Storm Flowage	a. square feet	b. square feet		
22. ☐ 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 _____ 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 002-1343 "
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 19(f) through 19(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 19(f) through 19(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 to order of conitions

- 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 Amesbury hereby finds (check one that applies):
Conservation Commission

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

1. Municipal Ordinance or Bylaw

2. Citation

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

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

Amesbury Wetlands Ordinance

AWO

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):

See attachment to 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.

1. Date of Issuance

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

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

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.

By vote on 04/03/2023 the Amesbury Conservation Commission authorized the use of their electronic signatures pursuant to the certificate of vote recorded with the Essex south Registry of Deeds in Book 41530 Page 251. They intend for their typed names to serve as electronic signatures.

Fred Zackon
Fred Zackon (Feb 4, 2025 14:36 EST)

Signature

Jamie McCarthy

Signature

Bob Manseau

Bob Manseau (Feb 4, 2025 20:02 EST)

Signature

Signature

Signature

Signature

Signature

Signature

Fred Zackon

Printed Name

Jamie McCarthy

Printed Name

Bob Manseau

Printed Name

Printed Name

Printed Name

Printed Name

Printed Name

Printed Name

☒ by hand delivery on

Date

2/10/25

☒ by certified mail, return receipt requested, on

Date



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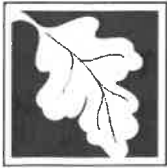
City/Town

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.

Amesbury

Conservation Commission

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

To:

Amesbury

Conservation Commission

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

26 Merrimac Street

Project Location

002-1343

MassDEP File Number

Has been recorded at the Registry of Deeds of:

Essex South

County

88

Book

6

Page

for:

Krystle Humphreys

Property Owner

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

Book

Page

In accordance with the Order of Conditions issued on:

Date

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

Instrument Number

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

Document Number

Signature of Applicant



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

DEP File Number: _____

**Request for Departmental Action Fee
Transmittal Form**

Provided by DEP

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

A. Request Information

1. Location of Project

a. Street Address _____

b. City/Town, Zip _____

c. Check number _____

d. Fee amount _____

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

Name _____

Mailing Address _____

City/Town _____

State _____

Zip Code _____

Phone Number _____

Fax Number (if applicable) _____

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

Name _____

Mailing Address _____

City/Town _____

State _____

Zip Code _____

Phone Number _____

Fax Number (if applicable) _____

4. DEP File Number: _____

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



B. Instructions

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

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



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

**Request for Departmental Action Fee
Transmittal Form**

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

DEP File Number:

Provided by DEP

B. Instructions (cont.)

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.

ATTACHMENT TO ORDER OF CONDITIONS

Applicant: Krystle Humphreys

Site Address: 26 Merrimac Street

DEP File: 002-1343

Pursuant to Massachusetts Wetlands Protection Act (M.G.L. chapter 131, §40) and its implementing regulations (310 CMR, § 10.00) and the City of Amesbury Wetlands Protection Ordinance and its implementing regulations:

This Order permits: The addition of a new Shea block wall landward of the existing remnants of the original timber wall. The home's support walls in the basement will be reinforced with helical piles and foundation underpinned. The current two-story porch on site to be removed and replaced. Three chokeberry bushes are to be planted landward of the shea wall as means of mitigation.

All work shall conform to the following: See Appendix

Approved Plan(s) and Relevant Documents:

1) Plan to Accompany Notice of Intent Proposed Site Plan
Site Plan in Amesbury, MA showing existing conditions and proposed site improvements
Drawn by GA Consultants 10 State Street, Newburyport, MA, 01950
Drawn/stamped by: John W. Hargreaves
Dated: 1.27.2025
Scale 1" = 10'
Sheet 2 of 2

2) Preliminary Design Not for Construction, Shea Concrete Products, dated 8-16-2024

3) Natural Heritage letter dated 1.27.2025

I. GENERAL CONDITIONS:

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order of Conditions ("Order").
2. Approval of this application does not constitute compliance with any law or regulation other than MGL Chapter 131, Section 40, Wetlands Regulations CMR 10.00 and Amesbury Wetlands Protection Ordinance ("Ordinance") and its implementing regulations ("Regulations") as promulgated by the Town of Amesbury Conservation Commission (ACC).
3. This Order shall apply to any successor in interest or successor in control of the property.
4. The work authorized hereunder shall be completed within **three (3) years** from the date of this Order.

5. This Order may be extended by the issuing authority for one or more periods of up to one year each upon application to the issuing authority at least **thirty (30) days** prior to the expiration date of the Order.
6. A sign shall be displayed at the site not less than two (2) feet or more than three (3) square feet in size bearing the words,

“MA DEP File Number 002-1343”

7. The Amesbury Conservation Commission (ACC) reserves the right to impose additional conditions on this project including but not limited to additional or modified erosion control / siltation controls during construction, if it deems that site conditions warrant such measures to mitigate potential impacts.
8. A copy of this Order and the plan approved in this Order shall be available on site at all times when work is in progress.
9. If the subject parcel is sold or the development rights are transferred to any other person, the applicant shall be required to submit to the ACC a signed and notarized letter of acknowledgement from the buyer or their assignees stating that they have been provided copies of all permits associated with the proposed project, including this Order, and that they understand their responsibility associated with the construction of this project under those permits, including this Order.
10. The applicant shall be required to pay in full any outstanding invoices from the Commission's peer review consultant for this project.
11. The applicant shall designate a wetlands consultant or professional engineer to serve as the **‘Environmental Monitor’**. This company shall provide environmental monitoring expertise by a Professional Wetland Scientist, who have relevant experience in wetland impact / assessment and erosion / sedimentation control measures to oversee any emergency placement of controls and regular inspection or replacement of sedimentation control device. In addition, the Environmental Monitor(s) shall conduct monthly monitoring of work as it relates to wetland resources. The Environmental Monitor(s) shall submit monthly monitoring reports to the Amesbury Conservation Commission during the pre-construction and construction phase of the approved work and quarterly monitoring reports during the post construction period. The name and phone number of the Environmental Monitor shall be provided to the applicant in the event that this person must be contacted, due to an emergency at this site, during any 24-hour period, including weekends. **The monitor(s) shall be given the authority to stop construction should there be unlawful entry into the wetland resources areas and / or for erosion controls purposes.** The Environmental Monitor(s) will be required to inspect all such devices and oversee cleaning and the proper disposal of waste products. Cleaning shall include removal of any entrapped silt. **The Environmental Monitor(s) shall conduct site inspections on site for compliance with this Order at a minimum of once per month during pre-construction and construction phases of work and/or during or immediately after rainstorms of 0.5 inches or more.** No site preparation or construction shall be allowed until the applicant has submitted a letter identifying the name and address of the Environmental Monitor and a site visit schedule.
12. **Any modification to the approved site plan shall require review and approval by the ACC.** Prior to consideration of any such request, the wetland resource area shall be re-flagged, or the originally approved flagging shall be established in the field. The applicant shall be required to submit the modification in request in writing along with all the necessary forms and supporting documents in a timely manner for the Commission's consideration. The ACC may require all

modification requests to be reviewed by its peer review consultant and the applicant shall submit the necessary funds to the ACC for the consultant services. The Commission shall review the request and decide if an Amended Order is required.

13. Any change that requires modification of approved plans within the jurisdictional area or changes to the erosion control plan or to the stormwater management system shall require an Amended Order unless the Commission decides otherwise at its regularly posted public meeting. If the ACC decides that a change is of sufficient magnitude that it shall require the imposition of additional conditions to ensure adequate protection of the resource area and / or the interests covered under the Ordinance and Regulations, an Amended Order shall be required, and a new public hearing shall be required.
14. Any requests for modification or amendment of the Order shall not be considered or reviewed if the Order has expired or there is an outstanding Enforcement Order on the subject parcel.
15. All conditions presented in the Natural Heritage letter dated January 27th, 2025, File No.: 25-19171 shall be followed as stated herein (see appendix).

II. PRE-CONSTRUCTION CONDITIONS:

17. Prior to the pre-construction meeting and commencement of any activity on this site, the boundaries of all wetland resource areas shall be identified by flagging, spaced at intervals not greater than 25-feet apart. Wetland flags shall be checked and replaced as necessary and maintained until a Certificate of Compliance is issued for the project.
18. Prior to the pre-construction meeting and commencement of any activity on this site, all erosion control devices approved under this Order shall be properly installed as shown on approved plan. If required, erosion control barriers shall consist of entrenched silt fence backed by double-staked hay bales. The ACC and/or its Agent shall inspect and approve such installation at a pre-construction meeting. The erosion control devices must remain in place until the Commission, or its Agent has authorized their removal. All workers must be instructed not to work beyond this limit.
19. Inform all contractors and subcontractors of the conditions and provisions of this Order. This Order shall be included in all construction contracts and subcontracts dealing with the work and shall supersede other contract requirements.
20. **Once the above mentioned pre-construction requirements are complete, the applicant shall contact the Conservation Department prior to site preparation or construction and shall arrange an on-site PRE-CONSTRUCTION MEETING with a representative from the ACC and/or its agent, the project supervisor, the contractor responsible for work, the engineer, wetland scientist (if applicable), and the applicant to ensure all of the Conditions of this Order are understood. Please contact the Amesbury Conservation Department office at (978) 388-8110 ext. 317 at least seventy-two (72) hours prior to any activity to arrange the pre-construction meeting.**

III. CONSTRUCTION CONDITIONS:

21. A copy of the recorded Order shall be provided to the conservation commission no later than the pre-construction meeting.

22. Accepted engineering and Best Management Practices for construction standards shall be followed in the conduct of all work. All site improvements shall be installed as per approved plans and engineering details shown on them. Any modifications or deviations from approved plans shall only be made upon approval from the Commission.
23. Erosion control devices shall be inspected regularly; and immediately after 0.5 inches of precipitation. Any entrapped silt shall be removed to an area outside of the buffer zone and wetland resource areas; silt fence and hay bales shall be replaced as necessary.
24. No alteration or activity shall occur beyond the limit of work as defined by the siltation barriers shown on the approved plan.
25. All waste generated by, or associated with, the construction activity shall be contained within the construction area, and away from the resource area. There shall be no stump dumps, burying of stumps or any material onsite. The applicant shall maintain a dumpster (or other suitable means) at the site for the storage and removal of such construction material off-site. Any construction dumpsters on site shall be sufficiently covered when not in use. However, no trash dumpsters will be allowed within 100-feet of the Bordering Vegetated (BVW).
26. All stockpiles shall be enclosed by erosion control consisting of hay bales and entrenched silt fence. There shall be no stockpiling outside the approved limit of work, and no stockpiling within 100' of wetland resource areas.
27. Equipment storage and refueling operations shall be situated in an upland area at a distance greater than 100-feet from the BVW. All machinery shall be checked daily for leaking fluids.
28. Cleaning of concrete mixing equipment and/or machinery shall be restricted to upland areas at a distance greater than 100 feet to the BVW and shall be limited to minor cleaning only.
29. Any damage caused as a direct result of the construction of this project to any wetland resource areas shall be the responsibility of the applicant to repair, restore and / or replace. Sedimentation or erosion into these areas shall be considered damage to wetland resource areas. If sediment reaches these areas, the Commission and/or its agents shall be contacted by telephone, with follow-up in writing, and a plan for abatement of the problem and proposed restoration / mitigation measures shall be submitted for approval and implementation. If the applicant fails to address the failure or damage as required by the Commission in a timely manner, it shall be deemed as a violation under the Regulations.

IV. AFTER CONSTRUCTION:

30. The applicant shall make request for Certificate of Compliance as provided for under Section 7.12 of the Amesbury Wetlands Regulations, as amended. **Upon completion of the project, the applicant shall submit the following to the Amesbury Conservation Commission to Request for a Certificate of Compliance (COC):**
 - a. WPA Form 8A- Request for a Certificate of Compliance;
 - b. A letter from the applicant requesting the Certificate of Compliance with the following information included:
 - i. Name and address of current landowner;

- ii. The name and address of the individual or other entity to whom the COC is to be issued;
 - iii. The street address and lot number for the project; and DEP file #
 - iv. "As-Built" plans prepared, sign, and stamped by a Registered Professional Civil Engineer (and / or Registered Professional Land Survey) of the Commonwealth, for public record showing the exact location of granite bounds marking the limit of work and no alteration.
 - v. Detailed letter outlining deviations from the approved site plan or any conditions along with supporting documents showing modifications are approved by ACC.
31. Erosion control devices shall remain in place and functioning properly until all exposed soils have been stabilized with final vegetative cover and the Commission and / or its Agent has authorized their removal.
32. Infiltration systems shall be inspected after every storm measuring .5 inches or greater in the first four months after construction to ensure proper function.
33. Prior to issue of Certificate of Compliance, the applicant shall be required to pay in full any outstanding invoices from the Commission's construction observation consultant.

V. PERPETUAL CONDITIONS:

The following conditions are ongoing and do not expire with the issuance of the Certificate of Compliance:

34. Water quality to the adjacent jurisdictional resource (The Merrimack River) shall not differ significantly following the completion of the project from the pre-development conditions. There shall be no sedimentation into the resource areas from discharge pipes or surface runoff leaving the site. This shall be a continuing condition in perpetuity.
35. Fertilizers utilized for landscaping and lawn care shall be slow release, low-nitrogen types (<5%), and shall not be used within 25-feet of a resource area. Pesticides and herbicides shall not be used within 100-feet of a wetland resource area. This condition shall survive the Order of Conditions and shall run with the title of the property.

Appendix
Approved Plans

Description and Work
26 Merrimac St.
DEP 002-1343



MASSWILDLIFE

DIVISION OF FISHERIES & WILDLIFE

1 Rabbit Hill Road, Westborough, MA 01581

p: (508) 389-6300 | f: (508) 389-7890

MASS.GOV/MASSWILDLIFE

January 27, 2025

Krystle Humphreys
26 Merrimac Street
Amesbury, Massachusetts 01913

Amesbury Conservation Commission
5 School Street
Amesbury, MA 01913

RE: Applicant: Krystle Humphreys
 Project Location: 26 Merrimac Street
 Project Description: Remove and replace retaining wall and two-story porch, install helical piles
 DEP Wetlands File No.: 002-1343
NHESP File No.: 25-19171

Dear Commissioners and Applicant:

The Natural Heritage & Endangered Species Program of the Massachusetts Division of Fisheries & Wildlife (the "Division") received a Notice of Intent in compliance with the rare wetland wildlife species section of the Massachusetts Wetlands Protection Act Regulations (310 CMR 10.37, 10.59). The Division also received the MESA Review Checklist and supporting documentation for review pursuant to the MA Endangered Species Act Regulations (321 CMR 10.18), including the plans entitled "Plan to Accompany Notice of Intent Proposed Site Plan" (dated December 4, 2024, last revised January 10, 2025, prepared by GA Consultants, Inc., 1 sheet). The revised plans leave the existing deteriorated timber wall in place and propose construction of the block wall landward of the timber wall.

The Division has determined that this Project, as currently proposed, will occur **within** the actual habitat of the following species:

<u>Scientific Name</u>	<u>Common Name</u>	<u>Taxonomic Group</u>	<u>State Status</u>
<i>Acipenser brevirostrum</i>	Shortnose Sturgeon	Fish	Endangered
<i>Acipenser oxyrinchus</i>	Atlantic Sturgeon	Fish	Endangered

State-listed species and their habitats are protected in accordance with the MESA and rare wetland wildlife provisions of the WPA. Fact sheets for these species can be found on our website, www.mass.gov/nhesp. The Shortnose Sturgeon and Atlantic Sturgeon (Gulf of Maine distinct populations) are also listed as Endangered and Threatened, respectively, pursuant to the federal Endangered Species Act of 1973 (16 USCA §§1531-1544) and

MASSWILDLIFE

regulations (50 CFR§17 & 402) administered by the National Marine Fisheries Service.

The purpose of the Division's review of the proposed project under the WPA regulations is to determine whether the project will have any adverse effects on the Resource Areas Habitats of state-listed species. The purpose of the Division's review under the MESA regulations is to determine whether a Take of state-listed species will result from the proposed project.

Based on the information provided and the information contained in our database, it is the opinion of the Division that this project, as currently proposed, **must be conditioned in order to avoid adverse effects to the Resource Area Habitats of state-listed wildlife species (310 CMR 10.37, 10.58(4)(b), 10.59) and must be conditioned in order to avoid a prohibited Take of state-listed species (321 CMR 10.18(2)(a)).** To avoid adverse effects to the Resource Area Habitats and to avoid a prohibited Take of state-listed species, the conditions attached to this letter must be met.

Provided these conditions are included in any approving Orders of Conditions issued by the Conservation Commission, and the applicant complies with all the above noted conditions, the project will not result in an adverse impact to the resource area habitats of state-listed wildlife species pursuant to the WPA and will not result in a prohibited Take pursuant to the MESA. A copy of the final Order of Conditions shall be sent to the NHESP simultaneously with the applicant as stated in the Procedures section of the WPA (310 CMR 10.05(6)(e)).

This determination is a final decision of the Division of Fisheries and Wildlife pursuant to 321 CMR 10.18. Any changes to the proposed project or any additional work beyond that shown on the site plans may require an additional filing with the Division pursuant to the MESA. This project may be subject to further review if no physical work is commenced within five years from the date of issuance of this determination, or if there is a change to the project.

Please note that this determination addresses only the matter of state-listed species and their habitats. Please do not hesitate to contact Misty-Anne R. Marold, Senior Endangered Species Review Biologist, at (508) 389-6356 (misty-anne.marold@mass.gov) if you have any questions about this determination.

Sincerely,



Jesse Leddick
Assistant Director

cc:

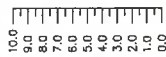
Attachment: List of Conditions

List of Conditions

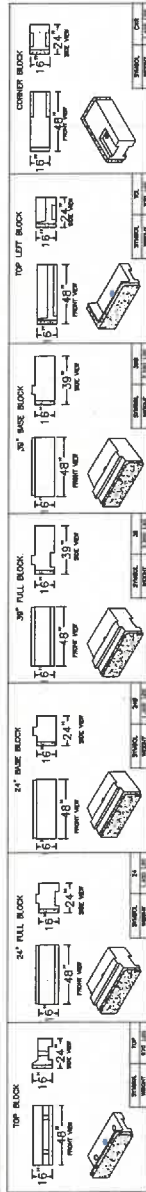
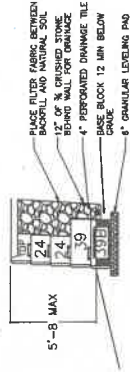
Applicant: Krystle Humphreys
Project Location: 26 Merrimac Street
Project Description: Remove and replace retaining wall and two-story porch, install helical piles
NHESP File No.: 25-19171
Heritage Hub Form ID: RC-90858
Approved Plan: Plan to Accompany Notice of Intent Proposed Site Plan
Plan date: 12/4/24 Revised Date: 1/10/25

To avoid adverse effects to the Resource Area Habitats and to avoid a prohibited Take of state-listed species, the following condition(s) must be met:

1. **Authorization Duration:** This authorization is valid for 5 years from the date of issuance. Work may be completed at any time during this 5-year period in compliance with the conditions herein. Thereafter, the Applicant must re-file pursuant to the MESA.
2. **Limits of Work:** No work or alteration to the soil, surface, or vegetation shall occur outside of the limits of work shown on the site plan unless otherwise approved in writing in advance by the Division.
3. **Sturgeon Time of Year Restriction.**
 - a) July 15 to March 15 (upriver spawn):
 1. Installation of siltation curtain shall only occur when the surface of the river is more than 3 feet from the location of installation. If any fish are observed within the siltation curtain, a gap shall be created and the fish allowed to leave.
 2. Construction of the new block wall may occur without the use of pile driving or machine-mounted vibratory hammer. If limited use of these methods are necessary, they may only occur at the greater distance of low tide, or when the water surface is more than 10 feet from the siltation curtain.
 3. Use of pile driving equipment or vibratory hammer on/under the house structure can occur without limitation.
 - b) March 14 to July 14 (active season, winter congregation):
 1. The siltation curtain may remain in place or be removed.
 2. Construction of the new block wall may include the use of pile driving or machine mounted vibratory hammer when the water surface is at least 3 feet from the siltation curtain.
 3. Use of pile driving equipment or vibratory hammer on/under the house structure can occur without limitation.
 - c) If work is required that cannot comply with these restrictions, the Applicant shall consult with the Division to determine if additional protective measures can be deployed that are sufficient to avoid impacts to Sturgeon.



QTY	DESCRIPTION
21	TOP BLOCK
25	24" FULL BLOCK
9	24" BASE BLOCK
6	39" FULL BLOCK
7	39" BASE BLOCK
2	TCR BLOCK
6	CORNER BLOCK
TOTAL 426Q-FT	



Hand-drawn floor plan of a 2-story deck. The plan shows a rectangular area with a hatched section on the left labeled "2 STORY DECK". Dimensions are given: 14'-0" on the left, 46'-0" on the right, and 14'-0" on the bottom. The plan includes a central staircase and a series of rectangular units along the right and bottom walls.

- BEFORE RETAINING WALL NOTES:
1. WALL CONSTRUCTION SHALL FULLY COMPLY WITH RECON WALL SYSTEMS SPECIFICATIONS AND INSTALLATION GUIDELINES.
 2. UNDERDRAINS SHALL BE PREFORMED GEOTEXTILE WRAPPED, 4" DIAMETER, AND SHALL MEET THE REQUIREMENTS OF AASHTO M252 AND/OR ASTM F949. UNDERDRAINS SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR. DRAINS NOT SPECIFIED TO TIE INTO THE SITE DRAINAGE SHALL DRAIN TO DAYLIGHT.
 3. RETAINED SOIL SHALL BE DETERMINED TO MEET OR EXCEED THE REQUIREMENTS BELOW IN THE ABSENCE OF A GEOTECHNICAL ENGINEERING STUDY. SOILS NOT MEETING THESE REQUIREMENTS SHALL BE EXCAVATED AND REFUSED WITH ACCEPTABLE SOILS.
 4. LEVELING PAD SHALL BE 3/4" CRUSHED STONE WITH NO MORE THAN 5% PASSING A #200 SIEVE.
 5. SELECT BACKFILL SHALL BE FREE-DRAINING, WELL GRADED SAND/GRAVEL AND SHALL MEET OR EXCEED THE REQUIREMENTS BELOW MINIMUM 1.0M OR APPROVED EQUAL FILLER FABRIC SHALL BE PLACED BETWEEN ALL INTERFACES OF DRAINAGE MATERIAL AND VIRGIN AND/OR SILTY MATERIALS. EXPOSED DRAINAGE STONE SHALL BE PROTECTED FROM FINE SOIL MIGRATION THROUGHOUT CONSTRUCTION.
 6. ALL BACKFILL AND FOUNDATION SOIL SHALL BE COMPACTED TO 95% OF STANDARD PROCTOR (ASTM D698). ONLY HAND-OPERATED COMPACTOR EQUIPMENT SHALL BE ALLOWED WITHIN 3 FEET OF THE BACK OF THE WALL. BLOCKS, BACKFILL, AND CONTACT THE FINISH MATERIAL, BEHIND THE WALL. FINISH MATERIAL SHALL BE INSTALLED. SPREAD BACKFILL IN UNIFORM LIFTS NOT EXCEEDING 8 INCHES. COMPACTATION TESTS SHALL BE TAKEN AS THE WALL IS INSTALLED. CONTRACTOR SHALL ENSURE THAT FOUNDATION IS ADEQUATELY SUPPORTING THE WALL.
 7. THE FOLLOWING SOIL PROPERTIES WERE USED IN THE DESIGN:

	SOIL WEIGHT [pcf]	FRICTION	ANGLE [DEG]
RETAINED SOIL	120		32
FOUNDATION SOIL	110		32
LEVELING PAD	125		40
 8. ENSURE THAT THE FIRST COURSE OF WALL UNITS IS IN FULL CONTACT WITH FOUNDATION. INSTALL NEXT COURSE OF UNITS SUCH THAT THE VERTICAL GAPS ARE STAGGERED BETWEEN ADJACENT COURSES. GAPS SHALL BE FILLED WITH FREE-DRAINING GRAVEL PRIOR TO STARTING THE NEXT COURSE.
 9. CONTRACTOR IS RESPONSIBLE FOR ENSURING THAT EXCAVATIONS ARE STABLE AND MEET OSHA REQUIREMENTS.
 10. PROPOSED LAYOUT MUST BE FIELD VERIFIED BY THE CONTRACTOR BEFORE CONSTRUCTION. DESIGN BASED ON APPROXIMATE FIELD MEASUREMENTS FOR ESTIMATING PURPOSES.

CONTRACTOR INITIALS:

CSHEA
CONCRETE PRODUCTS
773 Salem Street
P.O. Box 520
Wilmington, MA 01867

800-696-7432 (SHEA)
www.sheaconcrete.com

87 Haverhill Road
P.O. Box 807
Amesbury, MA 01913

26 MERRIMAC ST AMESBURY MA

PRELIMINARY DESIGN NOT FOR CONSTRUCTION

SCALE 1" = 1'

8-16-2024 L.C.

