



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:
 002-1336
 MassDEP File #
 1757527
 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

1. From: Amesbury
 Conservation Commission
2. This issuance is for
 (check one): a. ☒ Order of Conditions b. ☐ Amended Order of Conditions
3. To: Applicant:

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



a. First Name 5-5 1/2 Albion Street Condominium b. Last Name _____
 c. Organization 5-5 1/2 Albion Street
 d. Mailing Address _____
Amesbury MA 01913
 e. City/Town f. State g. Zip Code

4. Property Owner (if different from applicant):

a. First Name _____ b. Last Name _____
 c. Organization _____
 d. Mailing Address _____
 e. City/Town _____ f. State _____ g. Zip Code _____

5. Project Location:

5-5 1/2 Albion Street Amesbury
 a. Street Address b. City/Town
41 18
 c. Assessors Map/Plat Number d. Parcel/Lot Number
 Latitude and Longitude, if known: d m s d m s
 d. Latitude e. Longitude



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A. General Information (cont.)

6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):
 Southern Essex
 a. County
 25807
 c. Book
 2006062300131
 b. Certificate Number (if registered land)
 221
 d. Page
 7/15/24
 a. Date Notice of Intent Filed
 9/3/24
 b. Date Public Hearing Closed
 9/19/24
 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
 a. Plan Title
 Gateway Consultants, Inc.
 b. Prepared By
 7/29/24
 d. Final Revision Date
 John P. Judd, P.E.
 c. Signed and Stamped by
 1" = 10'
 e. Scale
 See attached for additional approved plans
 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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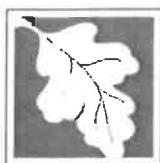
B. Findings (cont.)

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) 12
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> </u> a. linear feet	<u> </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
	<u> </u> e. c/y dredged	<u> </u> f. c/y dredged		
7. ☐ Bordering Land Subject to Flooding	<u> </u> a. square feet	<u> </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> </u> b. total sq. feet		
Sq ft within 100 ft	<u> </u> c. square feet	<u> </u> d. square feet	<u> </u> e. square feet	<u> </u> f. square feet
Sq ft between 100-200 ft	<u> </u> g. square feet	<u> </u> h. square feet	<u> </u> i. square feet	<u> </u> j. square feet



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B. Findings (cont.)

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

	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
10. ☐ Designated Port Areas	Indicate size under Land Under the Ocean, below			
11. ☐ Land Under the Ocean	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
12. ☐ Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. ☐ Coastal Beaches	a. square feet	b. square feet	c. nourishment cu yd	d. nourishment cu yd
14. ☐ Coastal Dunes	a. square feet	b. square feet	c. nourishment cu yd	d. nourishment cu yd
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 002-1336 "
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 attached

- 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 attached



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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.

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

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

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

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.

Michael Ebert
Signature

Fred Zackon
Signature

Amanda Jones
Signature

Jamie McCarthy
Signature

Bob Manseau
Signature

Signature

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Michael Ebert
Printed Name

Fred Zackon
Printed Name

Amanda Jones
Printed Name

Jamie McCarthy
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Bob Manseau
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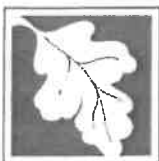
Printed Name

Printed Name

Printed Name

☒ by hand delivery on
9/19/24
Date

☐ by certified mail, return receipt requested, on
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.

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:

5-5 1/2 Albion Street

Project Location

002-1336

MassDEP File Number

Has been recorded at the Registry of Deeds of:

County

Book

Page

for:

Property Owner

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

Book

Page

In accordance with the Order of Conditions issued on:

Date

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

Instrument Number

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

Document Number



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Signature of Applicant



**Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands**

DEP File Number: _____

**Request for Departmental Action Fee
Transmittal Form**

Provided by DEP _____

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

A. Request Information

1. Location of Project

a. Street Address _____

b. City/Town, Zip _____

c. Check number _____

d. Fee amount _____

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

Name _____

Mailing Address _____

City/Town _____

State _____

Zip Code _____

Phone Number _____

Fax Number (if applicable) _____

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

Name _____

Mailing Address _____

City/Town _____

State _____

Zip Code _____

Phone Number _____

Fax Number (if applicable) _____

4. DEP File Number:

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



B. Instructions

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

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



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

DEP File Number: _____

**Request for Departmental Action Fee
Transmittal Form**

Provided by DEP

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

B. Instructions (cont.)

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

Department of Environmental Protection
Box 4062
Boston, MA 02211

2. On a separate sheet attached to this form, state clearly and concisely the objections to the Determination or Order which is being appealed. To the extent that the Determination or Order is based on a municipal bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.
3. Send a **copy** of this form and a **copy** of the check or money order with the Request for a Superseding Determination or Order by certified mail or hand delivery to the appropriate DEP Regional Office (see <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: 5-5 ½ Albion Street Condominium

Site Address: 5-5 ½ Albion Street

DEP File: 002-1336

Pursuant to the Massachusetts Wetlands Protection Act (M.G.L. Chapter 131, Section 40) and Regulations (310 CMR 10.00-10.60), and the Amesbury Wetlands Ordinance and its implementing regulations:

FINDINGS

This approval authorizes the removal of an existing failing fieldstone wall and wooden deck to be replaced with a re-con block retaining wall, a 4" PVC drain and mitigation/restoration plantings within the 25-foot and 35-foot buffer zones to a Bordering Vegetated Wetland. A waiver was submitted and approved to allow the work.

All work shall conform to the following:

Notice of Intent filed by: Karen Conti
5-5 ½ Albion Street Condominium
5-5 ½ Albion Street
Amesbury, MA 01913

Site Plans and Documents Existing Conditions Plan
5 Albion Street
Amesbury, MA
Prepared by: Gateway Consultants, Inc.
Date: 6/24/24

Plan to Accompany Notice of Intent
5 Albion Street
Amesbury, MA
Prepared by: Gateway Consultants, Inc.
Signed and stamped by: John P. Judd, P.E.
Date: 7/29/24

Retaining Wall Construction Plan
5 Albion Street
Amesbury, Massachusetts
Sheet 1 of 1
Prepared by: Civil Connection, LLC.
Signed and stamped by: Richard E. Bushnell, P.E.
Date: 7/11/24

ReCon Wall Calculations/Design Report
5 Albion Street - #24-515
Amesbury, MA
Prepared by: Civil Connection, LLC.
Signed and stamped by: Richard E. Bushnell, P.E.
Date: 7/11/24

Retaining Wall Structural Review Report
Submitted by: LJO, Engineering, LLC
Date: April 17, 2024

Notice of Intent Project Narrative
5-5 ½ Albion Street Condominium Association Amesbury,
MA 01913

Albion Street Mitigation Plantings Plan
Prepared and submitted by: Nick Nawa
Date: August 23, 2024

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 City 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 002-1336"

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. 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(s) shall be re-flagged or the originally approved flagging shall be reestablished in the field. The applicant shall be required to submit the modification 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.

11. Any change that requires modification to the approved plans within jurisdictional resource areas, changes to the erosion control plan or to the stormwater management system shall require an Amended Order of Conditions 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 and a new public hearing shall be required.
12. 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.

II. PRE-CONSTRUCTION CONDITIONS:

13. Prior to the pre-construction meeting and commencement of any activity on the 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.
14. Prior to the pre-construction meeting and commencement of any activity on the site, all erosion control devices approved under this Order shall be properly installed as shown on the approved plan **and as amended/approved by the ACC to install an additional staked straw wattle along the existing proposed erosion controls given the steep nature of the grade/slope.** 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 said erosion control installation at the pre-construction meeting. The erosion control devices must remain in place until the Commission, or its Agent, has authorized its removal. All workers must be instructed not to work beyond this limit of work.
15. **Once the above-mentioned pre-construction requirements are complete, the applicant shall contact the Conservation Department prior to site preparation or construction to 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 the Conditions of this Order are understood. Please contact the Amesbury Conservation Department office at (978) 388-8110 x504 at least seventy-two (72) hours prior to any activity to arrange the pre-construction meeting.**
16. The applicant shall 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.

III. DURING CONSTRUCTION CONDITIONS:

17. If warranted, a copy of the recorded Order shall be provided to the Building Inspector at the time of making the application for a Building Permit along with a set of approved plans.
18. Accepted engineering and Best Management Practices (BMPs) for construction standards shall be followed in the conduct of all work. All work shall be installed per the approved plans and engineering details submitted. Any modifications or deviations from the approved plans shall only be made upon approval from the Commission.

19. 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. Erosion control devices shall be replaced as needed and necessary to ensure protection of the wetland resource area(s).
20. No alteration or activity shall occur beyond the limit of work as defined by the erosion controls as shown on the approved plan.
21. All waste generated by or associated with construction shall be contained 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 to be disposed of off-site. No trash dumpsters shall be allowed within 100-feet of the BVW.
22. Any stockpiling of soils shall be enclosed by erosion controls consisting of hay bales and entrenched silt fence and shall be located greater than 35-feet from the BVW.
23. The area of construction shall remain in a stable condition at the close of each construction day. Erosion controls shall be inspected at this time and repaired, reinforced or replaced as necessary.
24. **Construction shall be scheduled to avoid periods of high surface water. Once begun, construction shall continue in an expeditious manner to minimize the opportunity for erosion.**
25. Upon completion of the project, **all disturbed areas shall be permanently stabilized with native, non-invasive vegetation or a native grass seed mix appropriate for buffer zone areas** with sufficient compatible topsoil to ensure long-term stabilization of disturbed areas.
26. **The approved mitigation/restoration plantings shall be installed in accordance with the approved plan. The Commission reserves the right to require additional plantings to ensure achievement of sufficient cover within two full growing seasons (April 15 – October 15).**
27. **A two growing season monitoring period (April 15 - October 15) following the installation of required plantings shall commence. The approved mitigation/restoration plantings required under this approved plan shall be documented to be in good conditions. Plantings required under this approved plan that fail to thrive must be replaced prior to the submission of a Request for a Certificate of Compliance.**
28. Equipment storage and refueling operations shall be situated in an upland area at a distance greater than 100-feet from the BVW or jurisdictional water body. All machinery shall be checked daily for leaking fluids.
29. Cleaning of concrete mixing equipment and/or machinery shall be restricted to upland areas at a distance greater than 100 feet from the BVW and shall be limited to minor cleaning only.
30. Chemicals, pesticides, herbicides, etc. shall not be used or stored within 100 feet of the BVW.
31. Any damage caused as a direct result of construction to the wetland resource area shall be the responsibility of the applicant to repair, restore and/or replace. Sedimentation or erosion into these areas shall be considered damage to the wetland resource area. If sediment reaches the wetland resource area, the Commission and/or its agent shall be contacted by telephone, with follow-up in writing and a plan for abatement and proposed restoration/mitigation measures shall be submitted for approval and implementation. If the applicant fails to address the failure/damage as required by the Commission in a timely manner, it shall be deemed a violation to this Order of Conditions.

32. 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.

IV. POST CONSTRUCTION CONDITIONS:

33. Upon completion of the project, the applicant shall submit the following to the Amesbury Conservation Commission to Request a Certificate of Compliance (COC):

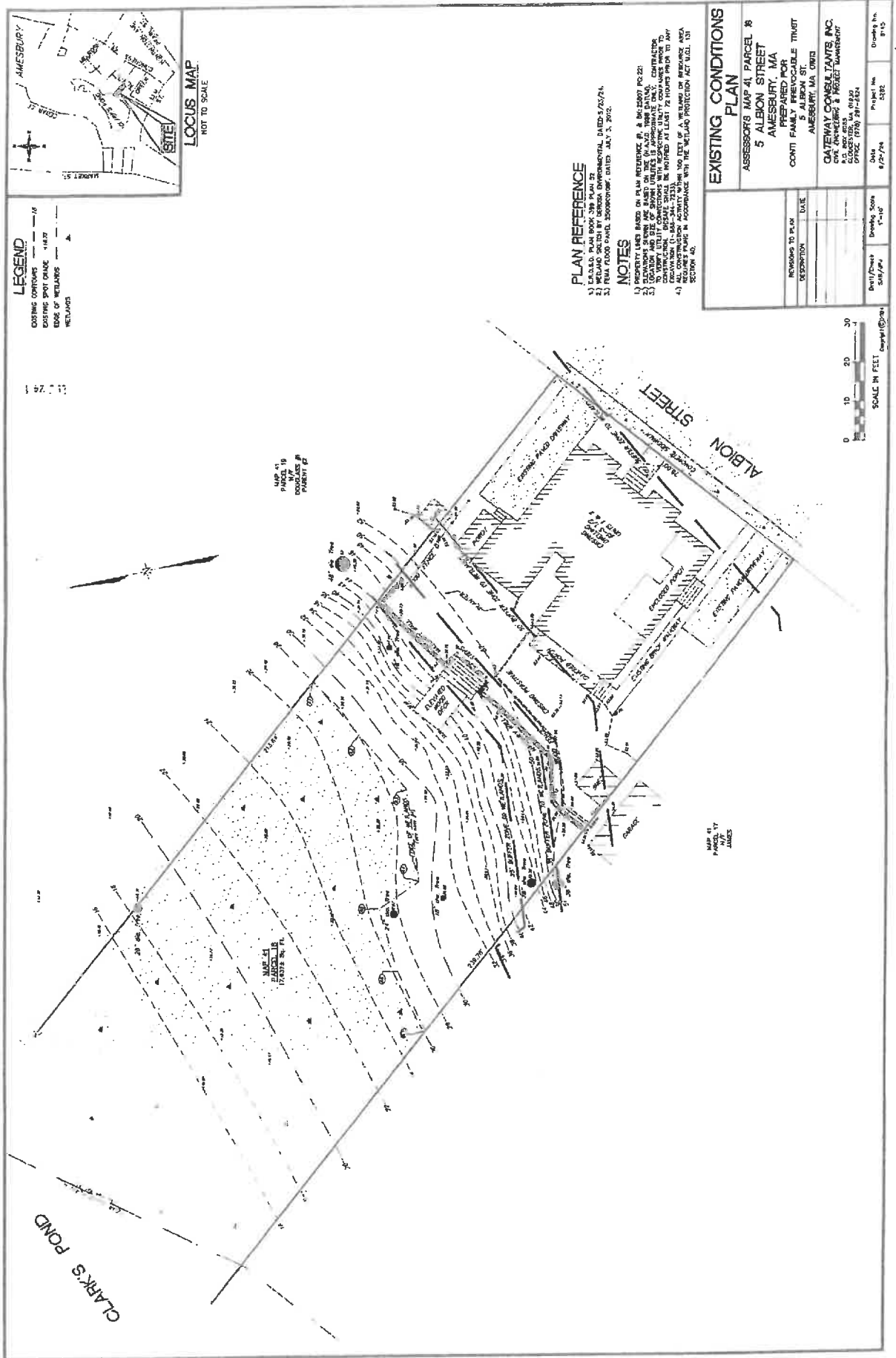
- a. WPA Form 8A- Request for a Certificate of Compliance;
- b. A letter from the applicant requesting the Certificate of Compliance with the following information included:
 - i. The name and address of the current landowner;
 - ii. The name and address of the individual or other entity to whom the COC is to be issued;
 - iii. The street address, lot number for the project and DEP file #;
 - iv. "As-Built" plans stamped and signed by a professional engineer for review and approval.
 - v. A detailed letter outlining any deviations from the approved site plans, work or any conditions along with supporting documents that any deviations/modifications were approved by the ACC.

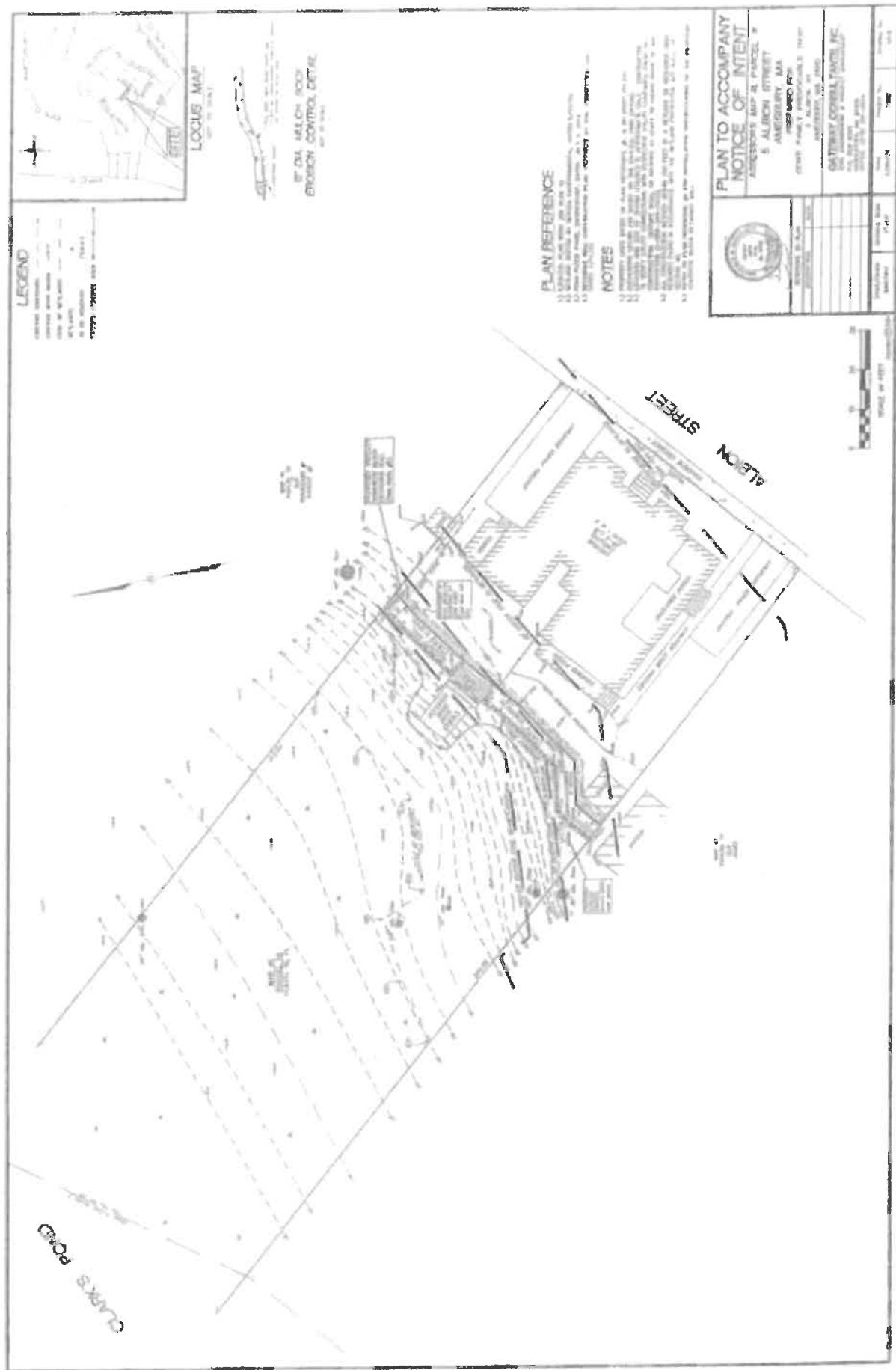
V. PERPETUAL CONDITIONS:

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

34. Water quality to the adjacent jurisdictional resources 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. Fertilizer use shall be limited to those of <5% nitrogen, slow release.
36. No use of herbicides or pesticides is allowed within 100 ft. from jurisdictional resources.

Appendix
Approved Plans
and Project Narrative
MA DEP 002-1336





LJO ENGINEERING, LLC
PO BOX 888, ESSEX, MA 01929
978-239-4411 – LisatheEngineer@comcast.net

MEMORANDUM

Date: April 17, 2024

To: Karen Conti, Unit 5
Ellen Jordan, Unit 5-1/2

From: Lisa J. O'Donnell, PE
LJO Engineering, LLC

Subject: 5 & 5-1/2 Albion Street, Amesbury, MA

Re: Site & Building Evaluation



Lisa O'Donnell

This memorandum is intended to address the existing conditions at the building that houses both 5 and 5-1/2 Albion Street, including the backyard of the property, which slopes down to meet Clark's Pond at the rear property line. The discussion here is based on two site visits, September 26, 2022 and April 1, 2024. At the first site visit only a preliminary exterior inspection was performed. At the second site visit the interiors of both units were also visited and the property exterior reviewed again.

Both inspections were visual inspections and were not intended to measure and/or monitor building or site settlement quantitatively, but were intended to consider observable conditions of the site and evaluate any potential effects on the building.

Background

I was originally contacted by Ms. Conti regarding concerns about a stone retaining wall behind both units, since it has appeared to settle and move both downward and outward, causing the retained soil behind it to settle and shift. The wall clearly shows signs of both settling and leaning outward, and the effects on the soil behind the wall are also clear.

Since the backyard of the property slopes steeply beyond the stone wall, we agreed that this slope is likely undermining the wall. At that time, I advised you that the next step would be having a site survey done, which would need to detail the topography (contours) of the site, to be able to consider the effects of the slope on the stone wall and also to evaluate if this slope could have an effect on the building.

I recommended Gateway Engineering to you to do this survey work and in early 2024 you contracted with them. Their work was completed early this past March, and Gateway shared the site plan and CAD file with me. Since then, I have used their information to develop the attached site profiles, through the corner of each unit that is closest to the slope.

Finally, I made a second visit to your property earlier this month, to both observe the stone wall and retained soil behind it and to observe a list of concerns within the unit at #5 about various

cracks and movement between components of the building. My observations are provided further below.

Soil and slope stability

The attached site profiles (one developed for each unit) mentioned above are important tools to understanding the effects of the steeply sloped back yard. To develop each of these, I drew a line in plan ("line of site profile section below" near the top of each drawing) from the corner of each unit out and perpendicular to the closest site contour, to capture the closest and steepest part of the slope, as a worst-case condition to evaluate. From this line in plan, I transferred the contour locations to a site profile at the bottom of each sheet, using the dotted, vertical lines from the line in plan to the profile.

The profiles are a cross section through the site, at the lines from the plan, that illustrate the angle or steepness of the slope, from the top, by the house, across the back patio areas, to the stone wall, which is noted, and then beyond and down to the pond. To the right on each profile, I have shown the position of the house and also the depth of the basement slab below grade, which is where the building foundation bears.

Since it is the bottom of the foundation walls where the load of the house structure bears on the subsurface soils, I have added dashed lines at angles of 25 and 30 degrees, on each profile of the slopes, extending from the outside corner of the house, at the foundation level. The soil under the house and the soil under the dashed line represents the limit of the subsurface soils that either bear the load of the house and/or help restrain the bearing soils by supporting these from the sides. Considered another way, you could theoretically remove all the soil above the dashed lines and the house would still be supported and stable.

The angles of 25 and 30 degrees show conservative bounds for the internal friction angle of the soil, which is the more technical term for the angle of repose for a soil. This is the angle at which a soil is essentially self-supporting, that is, the angle at which soil could be built-up without requiring separate support, typically in the form of retaining structures. The difference in the two angles that I have shown as examples depends on the type of soils that are underground, which is not something we know. However, this is also not something we are in a position to reasonably explore, since this requires a geotechnical engineer, a soil testing company and a soil sampling drill rig to bore into the ground and take soil samples for laboratory evaluation.

However, the 30-degree angle is very typical for a wide range of common soils and the 25-degree angle is a little more conservative and would represent a poorer soil, which is not as internally strong as a soil with 30-degree (or better) angle of repose. Note also, soils that are stronger are also fairly common, with angles of up to 40-degrees (or more), although using a steeper angle would be unconservative for the exercise here.

Summary of soil profiles

What the profiles attached here show us is that, at both locations considered (which are both "worst-case" conditions for each unit) the building is not at all endangered, or even influenced,

by the steep slopes behind the house. That is, there is sufficient soil under and adjacent to the house, under the dashed angled lines, to safely and soundly support the building structure. This evaluation shows that the building is very unlikely to be compromised, or even affected, by the steep slope and/or the existing retaining wall structure.

However, these profiles also demonstrate that the slope of the land below and behind the stone wall is steeper than either angle of repose and, therefore, likely not a long-term stable condition, as we have already seen from the movement and damage that the stone retaining wall and the stairs have suffered. That is, we could not draw this same angled line from the bottom of the retaining wall and reliably demonstrate that the soil could support it, unless it was deep enough, below grade, to bear on stable soil within that angle of repose. It is unlikely this is the case – it is probably supported at a shallow depth and is also working to retain the soil behind it, which just adds further lateral loads, essentially pushing it down the slope.

Interior evaluations

At my second site visit this past April 1st, we were joined by Amesbury building officials including the Building Inspector, the Plumbing Inspector and the Electrical Inspector, to observe conditions in Unit #5 which have concerned Ms. Conti. We reviewed numerous locations where hairline cracks in the paint have appeared. According to the owner, these are all fairly recent. In addition, we looked at conditions around utilities and equipment where either plumbing, gas or electrical lines could be impacted by movements of the house. I am in agreement with all the inspectors there that day, that the conditions we observed did not indicate movements that were concerning. Buildings, particularly older homes, do “move” slightly and respond to both temperature and humidity changes over the courses of the seasons. We do not want to dismiss concerns and suggest that the homeowner continue to monitor these.

However, given the slight nature of any cracking that we observed, along with no discernable impact to utilities, combined with the results of the site survey and the site profiles that I've developed to understand the relationship of the building and the rear yard, I do not see any threat to the house from the backyard and/or the retaining wall at this time. It is always wise to continue to observe existing conditions and even develop some baseline measurements that can be checked on a regular interval, however, that is beyond the current scope of the evaluation I am presenting here.

I also did a walk through the unit at 5-1/2 with Ms. Jordan, who has not noticed any cracking or any concerning conditions. A limited visual survey of this unit, mainly towards the rear of the building and in the basement, also did not present any conditions that appeared either concerning or of a nature to require continued monitoring. Again, it is always wise to continue be observant and to pay close attention to any portions of the building that seem to change or shift, for example, new cracks, sticking doors or windows or changes around the foundation area.

Exterior conditions

As already noted above, the retaining wall behind the patio areas behind each unit is in poor condition and obviously failing in spots, as well as likely shifting downhill slowly over time. As I

have described above, the soils below and in front of (downhill) the wall do not appear to provide sufficient support for the wall, based on both observable conditions on site and on the profiles attached that show this area as well. In addition, the wall is further loaded with the retained soil behind the wall, which only exacerbates the situation and stress on the wall. Clearly, this wall needs attention and some kind of remedial and/or replacement work. However, the important note here is that this problem is isolated to this wall and, unfortunately, the soils that it retains in the rear patio areas. However, this localized issue is not a threat to the integrity of the house.

Conclusions

To conclude, please consider the following summary points.

- The retaining wall in the back yard is in poor condition and slowly failing. This condition should be addressed to both stabilize the wall and retain, to the extent feasible, the patio areas behind the wall. This condition is local to the wall and retained soils.
- The house is founded both deep enough and far enough away from the problematic wall that there does not appear to be any threat to the structure of the building from the situation at the wall. This is born out by little, if any, evidence of settlement at the house and by the soil profile exercise in the sheets attached here.
- Continued monitoring of the house and, mainly, the stone wall and patio areas is recommended until repairs can be undertaken.

Please let me know if you have any questions or further concerns.

Disclaimer and Limitations

Please be advised that while the above information and any and all statements that I have made regarding your property are based on my engineering knowledge and experience, these are also based on visual observations without ongoing monitoring of any portion of the site or structure. For conditions like this where the sub-surface soils need to be fully understood to be able to quantify and/or predict both current and future strength and stability, extensive (and expensive) soil testing would need to be done, to assess the types of soils below grade and quantify their strength and other properties.

Therefore, I make no warranties and/or guarantees about either my statements, except that they are based on sound engineering judgment and principles, or any future conditions of the site or building and cannot, therefore, assume liability for any conditions in the future.

Attached: SP-1 & SP-2 dated 04-16-24

LJO ENGINEERING, LLC

PO BOX 888, ESSEX, MA 01929 - 978-239-4411 - LisatheEngineer@comcast.net

