

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:
 MassDEP File #:023-1347
 eDEP Transaction #:1294387
 City/Town:FAIRHAVEN

A. General Information

1. Conservation Commission FAIRHAVEN

2. Issuance a. OOC b. Amended OOC

3. Applicant Details

a. First Name	ARTHUR/HELENA	b. Last Name	OLIVEIRA
c. Organization	OLIVEIRA LIVING TRUST		
d. Mailing Address	2 HARBORVIEW AVENUE		
e. City/Town	FAIRHAVEN	f. State	MA
		g. Zip Code	02719

4. Property Owner

a. First Name	ARTHUR/HELENA	b. Last Name	OLIVEIRA
c. Organization	OLIVEIRA LIVING TRUST		
d. Mailing Address	2 HARBORVIEW AVENUE		
e. City/Town	FAIRHAVEN	f. State	MA
		g. Zip Code	02719

5. Project Location

a. Street Address	1 BOULDER COURT		
b. City/Town	FAIRHAVEN	c. Zip Code	02719
d. Assessors Map/Plat#	02	e. Parcel/Lot#	6C
f. Latitude	41.62737N	g. Longitude	70.89315W

6. Property recorded at the Registry of Deed for:

a. County	b. Certificate	c. Book	d. Page
SOUTHERN BRISTOL		10545	297

7. Dates

a. Date NOI Filed : 3/22/2021 b. Date Public Hearing Closed: 7/12/2021 c. Date Of Issuance: 7/15/2021

8. Final Approved Plans and Other Documents

a. Plan Title:	b. Plan Prepared by:	c. Plan Signed/Stamped by:	d. Revised Final Date:	e. Scale:
PROPOSED DWELLING PLAN	MICHAEL J. KOSKA & ASSOCIATES, INC.	MICHAEL J. KOSKA, PLS	June 30, 2021	1" = 20'
WETLAND IMPACT & MITIGATION AREAS	5 WETLANDS	KEN THOMSON	May 17, 2021	1" = 20'
WETLAND MITIGATION	5 WETLANDS	KEN THOMSON	June 3, 2021	1" = 20'

B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act

Following the review of the 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.

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Check all that apply:

a. <input type="checkbox"/> Public Water Supply	b. <input type="checkbox"/> Land Containing Shellfish	c. <input checked="" type="checkbox"/> Prevention of Pollution
d. <input type="checkbox"/> Private Water Supply	e. <input type="checkbox"/> Fisheries	f. <input checked="" type="checkbox"/> Protection of Wildlife Habitat
g. <input checked="" type="checkbox"/> Ground Water Supply	h. <input checked="" type="checkbox"/> Storm Damage Prevention	i. <input checked="" type="checkbox"/> Flood Control

2. Commission hereby finds the project, as proposed, is:

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.

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 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 interests of the Act, 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 310CMR10.02(1)(a). _____
 a. linear feet

Inland Resource Area Impacts:(For Approvals Only):

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input type="checkbox"/> Bank	_____	_____	_____	_____
	a. linear feet	b. linear feet	c. linear feet	d. linear feet
5. <input checked="" type="checkbox"/> Bordering Vegetated Wetland	398	398	428	428
	a. square feet	b. square feet	c. square feet	d. square feet
6. <input type="checkbox"/> Land under Waterbodies and Waterways	_____	_____	_____	_____
	a. square feet	b. square feet	c. square feet	d. square feet
	_____	_____	_____	_____
	e. c/y dredged	f. c/y dredged		
7. <input type="checkbox"/> Bordering Land Subject to Flooding	_____	_____	_____	_____
	a. square feet	b. square feet	c. square feet	d. square feet
Cubic Feet Flood Storage	_____	_____	_____	_____

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	e. cubic feet	f. cubic feet	g. cubic feet	h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding	<u> </u>	<u> </u>		
	a. square feet	b. square feet		
Cubic Feet Flood Storage	<u> </u>	<u> </u>	<u> </u>	<u> </u>
	c. cubic feet	d. cubic feet	e. cubic feet	f. cubic feet
9. <input type="checkbox"/> Riverfront Area	<u> </u>	<u> </u>		
	a. total sq. feet	b. total sq. feet		
Sq ft within 100 ft	<u> </u>	<u> </u>	<u> </u>	<u> </u>
	c. square feet	d. square feet	e. square feet	f. square feet
Sq ft between 100-200 ft	<u> </u>	<u> </u>	<u> </u>	<u> </u>
	g. square feet	h. square feet	i. square feet	j. square feet

Coastal Resource Area Impacts:

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
10. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below			
11. <input type="checkbox"/> Land Under the Ocean	<u> </u>	<u> </u>		
	a. square feet	b. square feet		
	<u> </u>	<u> </u>		
	c. c/y dredged	d. c/y dredged		
12. <input type="checkbox"/> Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. <input type="checkbox"/> Coastal Beaches	<u> </u>	<u> </u>	<u> </u>	<u> </u>
	a. square feet	b. square feet	c. c/y nourishment	d. c/y nourishment
14. <input type="checkbox"/> Coastal Dunes	<u> </u>	<u> </u>	<u> </u>	<u> </u>
	a. square feet	b. square feet	c. c/y nourishment	d. c/y nourishment
15. <input type="checkbox"/> Coastal Banks	<u> </u>	<u> </u>		
	a. linear feet	b. linear feet		
16. <input type="checkbox"/> Rocky Intertidal Shores	<u> </u>	<u> </u>		
	a. square feet	b. square feet		
17. <input type="checkbox"/> Salt Marshes	<u> </u>	<u> </u>	<u> </u>	<u> </u>
	a. square feet	b. square feet	c. square feet	d. square feet
18. <input type="checkbox"/> Land Under Salt Ponds	<u> </u>	<u> </u>		
	a. square feet	b. square feet		
	<u> </u>	<u> </u>		
	c. c/y dredged	d. c/y dredged		
19. <input type="checkbox"/> Land Containing Shellfish	<u> </u>	<u> </u>	<u> </u>	<u> </u>
	a. square feet	b. square feet	c. square feet	d. square feet
20. <input type="checkbox"/> Fish Runs	Indicate size under Coastal Banks, inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above			
	<u> </u>	<u> </u>	<u> </u>	<u> </u>

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Table with 2 columns: Description, c. c/y dredged, d. c/y dredged. Row 1: Land Subject to Coastal Storm Flowage, 6392, 6392.

22. Restoration/Enhancement (For Approvals Only)

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 & d or B.17.c & d above, please entered the additional amount here.

a. square feet of BVW b. square feet of Salt Marsh

23. Streams Crossing(s)

If the project involves Stream Crossings, please enter the number of new stream crossings/number of replacement stream crossings.

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.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order.
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not exceed the issuance date of the original Final Order of Conditions.
7. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.
8. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.
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.

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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 : "023-1347"

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 Mass DEP.
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.
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.

NOTICE OF STORMWATER CONTROL AND MAINTENANCE REQUIREMENTS

19. The work associated with this Order(the "Project") is (1) is not (2) subject to the Massachusetts Stormwater Standards. If the work is subject to 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 Pollutant Discharge Elimination System Construction General Permit as required by Stormwater Standard 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

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removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures; *ii.* as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized; *iii.* any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10; *iv.* all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition; *v.* any vegetation associated with post-construction BMPs is suitably established to withstand erosion.

- 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 19(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 Pollutant 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.
- 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.

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- 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:

SEE ATTACHMENT A

D. Findings Under Municipal Wetlands Bylaw or Ordinance

1. Is a municipal wetlands bylaw or ordinance applicable? Yes No

2. The Conservation Commission hereby (check one that applies):

a. DENIES the proposed work which 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 or Conditions is issued. Which are necessary to comply with a municipal ordinance or bylaw:

b. APPROVES the proposed work, subject to the following additional conditions.

1. Municipal Ordinance or Bylaw CODE OF THE TOWN OF FAIRHAVEN, WETLANDS

2. Citation CHAPTER 192

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:
SEE ATTACHMENT A



TOWN OF FAIRHAVEN, MASSACHUSETTS
CONSERVATION COMMISSION

Town Hall · 40 Center Street · Fairhaven, MA 02719

Attachment A

DEP File #: SE 023-1347
Fairhaven File #: CON 023-210
Applicant: Arthur and Helena Oliveira
Property: 1 Boulder Court

Findings, Plans, and Documents

1. Land Subject to Coastal Storm Flowage and Bordering Vegetated Wetland and its 100-foot buffer zone have been identified as Resource Areas subject to protection under the Wetlands Protection Act (M.G.L. ch. 131 § 40) and Regulations (310 CMR 10.00) and the Fairhaven Wetlands Bylaw (Chapter 192).
2. Land subject to coastal storm flowage is significant to flood control and storm damage prevention.
3. Bordering vegetated wetlands (BVW) and their 100-foot buffer zone are significant to the interests of protection of public and private water supply, protection of groundwater supply, flood control, storm damage prevention, prevention of pollution, and protection of wildlife habitat.
4. Floodplains and lands within 100 feet of other resource areas are presumed significant to the protection of functions and characteristics of the resource areas subject to the town bylaw because activities undertaken in close proximity have a high likelihood of adverse impact upon them, either immediately, as a consequence of construction, or over time, as a consequence of daily operation or existence of the activities. These adverse impacts from construction and use can include, without limitation, erosion, siltation, loss of groundwater recharge, damage to or reduced water quality, and damage or loss of wildlife habitat. A growing body of research evidence suggests that even “no disturbance” areas reaching beyond 25 feet from resource areas may be insufficient to protect many important characteristics and values. Problems of nutrient runoff, water pollution, siltation, erosion, vegetation change, and habitat destruction are greatly exacerbated by activities within 100 feet of resource areas.
5. This permit authorizes the construction of a velocity flood-zone compliant dwelling, bluestone pervious driveway with a rip rap apron and rain garden, utilities, associated site grading, 398 square feet of wetland fill, 428 square feet of wetland replication, split rail fence and vegetated buffer protecting the wetland resource area as shown on the Final Approved Plans referenced in Condition A.6.
6. This project is subject to the Town of Fairhaven Wetlands Bylaw (Chapter 192). Receipt of an Order of Conditions satisfies the requirements under the Wetlands Bylaw.
7. This project is subject to the Town of Fairhaven Stormwater Management Bylaw (Chapter 194). Receipt of an Order of Conditions satisfies the requirements under the Stormwater Management Bylaw.
8. No other work is approved by this Order.

9. The Plan-of-Record is titled "Proposed Dwelling Plan", prepared by Michael J. Koska & Associates, Inc., dated June 30, 2021.
10. The wetland impact and mitigation documents and plans are as follows:
 - a. Wetland mitigation report for Boulder Court, Fairhaven, prepared by Ken Thomson of 5 Wetlands, dated June 3, 2021
 - b. Plan titled, "Wetland Impact & Mitigation Areas", prepared by 5 Wetlands, dated May 17, 2021
 - c. Plan titled, "Wetland Mitigation", prepared by 5 Wetlands, dated June 3, 2021

Special Conditions

A. General Conditions

1. ACC-1: The Conservation Commission, its employees, and its agents shall have a right of entry to inspect or compliance with the provisions of this Order of Conditions.
2. With respect to all conditions, the Conservation Commission designates the Conservation Agent as its agent with full powers to act on its behalf in administering and enforcing this Order.
3. REC-1: A complete set of site plans approved of in the Order of Conditions and the Order of Conditions itself shall be included in all construction contracts and sub-contracts dealing with the work proposed and shall supersede all other contract requirements.
4. ADD-1: The Commission reserves the right to impose additional conditions on any or all portions of this project that could impact an area of statutory interest under the Act and/or the Fairhaven Wetlands Bylaw.
5. ADD-2: This Order applies only to: the construction of a velocity flood-zone compliant dwelling, bluestone pervious driveway with a rip rap apron and rain garden, utilities, associated site grading, 398 square feet of wetland fill, 428 square feet of wetland replication, split rail fence and vegetated buffer protecting the wetland resource area. Any future work not approved within the Order subject to jurisdiction under the Wetlands Protection Act will require the filing, at a minimum, of a Request for Determination or Applicability or a new Notice of Intent with the Commission. Prior to the commencement of any such future work, a receipt of a Negative Determination or valid Order of Conditions will be required.
6. ADD-4b: All work shall be done in accordance with final plans dated June 30, 2021, wetland plans dated May 17, 2021 and June 3, 2021 as approved by this Commission. Any deviation must be approved by this Commission in writing prior to commencing work involved in this deviation.
7. ADD-4c: Any changes to the plans identified 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.
8. ADD-5: 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.
9. LOW-2: The erosion and sedimentation barrier shall serve as the alteration limit line. Said barrier shall fully protect the adjacent wetland/resource area, and no work shall be permitted beyond this limit line with the exception of the wetland mitigation areas.
10. WET-1: The wetland boundary delineated in the field and/or shown on the plans has not been accepted or approved by the Conservation Commission through the issuance of this permit.

11. FZ-1: All work shall comply with all local, state, and federal flood zone regulations, including, but not limited to, regulations regarding fill in the flood zone.
12. FZ-2: The design flood elevation of the structure shall be 2 feet above base flood elevation.
13. The split rail fence and Virginia rose or native shrub equivalent shall be extended to the east from flags KT-4 to KT-1 parallel with the wetland line and maintaining 10 feet off the wetland line on the upland side. The split rail fence shall be extended to the west 45 feet to test pit location B1, following the wetland line between KT-14 and test pit B1.
14. Either compost filter sock or a combination of straw wattle and silt fence shall be used as erosion and sedimentation control for this project.
15. SIL-5: Adequate erosion and sedimentation control measures, as specified in the Notice of Intent and in this Order, shall be installed and maintained throughout the entire construction phase, until the site has been stabilized and their removal has been authorized (in writing or by issuance of the Certificate of Compliance) by the Commission or its agent. The erosion control specifications in the Notice of Intent and the erosion control provisions in the Order will be the minimum standards for this project; the Commission may require additional measures. The Commission reserves the right to require additional or modified erosion and siltation controls during construction if it deems that site conditions warrant such measures.
16. SIL-9: Haybales shall not be used as sediment control. Biodegradable controls shall be required. Biodegradable controls include silt fence, straw bales, rolled sediment control products (i.e. mulch socks, fiber rolls, wattles, etc.), mulch control netting, erosion control blankets, and turf mats. Photodegradable, UV degradable, or Oxo-(bio)degradable plastics are not considered biodegradable.
17. SIL-10: Erosion/sedimentation control measures (silt fence, blankets, etc.) shall not contain any nylon netting or nylon mesh backing, which is found to be hazardous to local wildlife.

B. Prior to Construction

18. CAP-3: All required permits, as needed, must be obtained from the Army Corps of Engineers, Massachusetts Department of Environmental Protection, Planning Board, Zoning Board of Appeals, Board of Public Works, Board of Health, Building Department, and/or any other appropriate local, state, or federal agencies and proof of appropriate permits submitted to the Conservation Commission prior to the start of the project.
19. REC-3: Job site posting of a sign clearly visible from the road not less than two square feet or more than three square feet with the words,
 Massachusetts Department of Environmental Protection [or MassDEP]
 File Number SE 023-1347
 Fairhaven Conservation Commission [or FCC]
 File Number CON 023-210
 Included shall also be the Commission's office phone number (508) 979-4023 for further information. Special orders of the conditions shall be weatherproofed and posted on all activity sites, including a posting on the job site sign. The necessary replacement and maintenance of these postings shall be the sole responsibility of the applicant.
20. DER-1: Proof of recording of these approved special conditions, plan of record, and materials at the Bristol County Registry of Deeds shall be provided by the applicant's liaison to the commission enforcement agent prior to the commencement of any work (including site preparation) on the site.

21. PCC-3: The applicant or the applicant's representative shall notify the Commission, in writing, as to the date that the work will commence on the project. Said notification must be received by the Commission no sooner than ten (10) days and no later than five (5) days prior to the commencement of the approved activity.
22. EMC-1: The Applicant shall provide the Commission with the name(s) and telephone numbers of the site contractor and the project manager(s) responsible on site for compliance with this Order. The project manager shall oversee any emergency placement of erosion and sedimentation controls and be responsible for the regular inspection or replacement of control devices and for the proper disposal of waste products. The commission shall be notified in the event that the project manager or site contractor is changed.
23. TRP-3: All mature vegetation proposed to remain shall be marked in the field and have their protection zones established prior to erosion control inspection.
24. PCC-1: The contractor shall notify the Commission immediately following erosion control installation and before groundbreaking to allow the Commission or its Agent opportunity to inspect the erosion controls. No work may proceed on the property until the Commission or its Agent approves the installation and location of erosion controls.

C. During Construction

25. The wetland mitigation areas shall be constructed first, in accordance with the approved plans and documents and all other applicable permits. Once the mitigation areas have been established and protected with erosion and sedimentation control, the applicant shall contact the Agent to perform a site inspection. Once the wetland mitigation areas and erosion and sedimentation controls have been inspected and approved by the Agent, the construction of the remainder of the project can commence.
26. REC-2: During the construction phase, the applicant shall be responsible for maintaining a copy of these Orders at the site. The applicant shall be responsible for compliance with the conditions of these Orders.
27. TRP-1: All mature trees on site not permitted to be removed shall have a no disturb zone established, demarcated, and maintained around them throughout construction as follows:
 - Every 1-inch caliper equals 1 foot of protection around the tree as a lateral measurement from the base of the tree; i.e. a 6-inch caliper tree has a 6-foot no disturb zone all the way around with the tree at the center.
28. STO-1: At no time shall any construction materials, soils, fills, sediments, dredging or any other substances be stockpiled or stored outside the alteration limit line, or within the area of statutory interest.
29. All equipment used on site must be stored or parked in an area outside the 50-foot buffer zone.
30. STO-4: There shall be no discharge or spillage of petroleum product, hazardous material, or any other pollutant into any area of statutory interest.
31. STO-5: There shall be no fueling or maintenance of any vehicles or equipment in any area of statutory interest.
32. MAC-3: All mechanized vehicles under contract, subcontract or lease, participating in any manner, in any phase of activity within resource areas, shall carry on board absorbent materials to immediately respond to inadvertent discharge of petrochemicals.
33. MAC-7: No motorized/construction equipment is to enter or cross a wetland resource area at any time, unless the location of entry or disturbance is clearly indicated on plans

and within information contained within the Notice of Intent and approved with the issuance of this Order of Conditions.

34. All equipment shall be inspected regularly for leaks. Any leaking hydraulic lines, cylinders, or any other components shall be fixed immediately.
35. Spill kits shall be maintained on site at all times for the immediate response to any potential spill of anything that could cause harm to resource areas and water bodies.
36. DEB-1: The construction site shall be left in a stable condition at the close of each day. Construction refuse and debris shall be removed daily. The Commission may require specific approval for the disposition of such materials prior to the start of construction.
37. DEB-5: Food trash and related waste shall at all times be confined to appropriate containers, which shall enjoy a routine removal schedule. Air and water-borne disposal of non-indigenous materials from this project into resource areas is hereby prohibited.
38. BLD-3: Any fill used for 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.
39. BLD-4: The source of the fill used for this project will be submitted to the Conservation Commission or its Agent for approval prior to its use.
40. SIL-3: An adequate stockpile of erosion control materials shall be on site at all times for emergency or routine replacement and shall include materials to repair silt fences, hay bales, stone-rip rap filter dikes or any other devices planned for use during construction.
41. SIL-4: All erosion control devices shall be inspected, cleaned, or replaced during construction and shall remain in place until such time as stabilization of all areas that may impact resource areas is permanent. These devices shall be inspected to assure that maximum control has been provided after any rainfall.
42. SIL-8: If soils are to be disturbed for longer than two (2) months, a temporary cover shall be established, following Natural Resources Conservation Service (NRCS) procedures, to prevent erosion and sedimentation.
 - i. If the season is not appropriate for plant growth, exposed surfaces shall be stabilized by straw, jute netting, or other NRCS-approved methods.
 - ii. Any stabilization materials such as jute netting shall be firmly anchored to prevent them from being washed from slopes by rain or flooding.
43. WAS-2: Concrete truck washout shall occur within a designated area appropriately lined and isolated in an appropriate location outside of the resource area.
44. WAT-3: There shall be no direct discharge of dewatering operations into any wetland, watercourse, or drainage system without the approval of the Commission. Any dewatering discharge shall be passed through a sedimentation control device to remove any solids. The contractor is to maintain said sedimentation control devices throughout the entire dewatering operation and repair deficiencies immediately.
45. EC-1: All work shall be conducted in such a manner that minimizes the area of exposed, destabilized soil to the maximum extent possible to prevent runoff and erosion on site.
46. EC-2: All disturbed areas shall be graded, loamed, and seeded prior to November 1 of each year, if possible. No disturbed areas or stockpiled material shall be left unprotected or without erosion controls during the winter.

D. Wetland Mitigation

47. REP-2: Any non-native invasive plant species (e.g. Phragmites, purple loosestrife, buckthorns, etc...) shall be removed from the replication area under the supervision of the wetland scientist.

48. REP-3: Should at least 75% of the surface area of the wetland replication area fail to become established with greater than 50% wetland species within two years of the replication attempt [in accordance with 310 CMR 10.55(4)(b)1-7], the Commission reserves the right to require additional measures necessary to achieve compliance.
49. REP-5: The application of bark mulch, wood chips or mulch (which may introduce invasive species or upland species seed stock) is not permitted in replication area(s) or area of statutory interest.
50. REP-8: The wetland replication area shall be planted with native species of wetland plants and seed stock, in accordance with the planting schedule provided in the plans and/or modified by this Order of Conditions. Receipts verifying the purchase of plants must be submitted to the Commission.
51. REP-9: A wetland specialist, approved by the Conservation Commission, shall be on-site during all phases of the transference/replanting and construction of the replication area.
52. REP-10: No disturbance of wetlands shall occur until the wetland replication area is completed in accordance with the plans submitted with the Notice of Intent and/or plans approved by the Conservation Commission.
53. REP-11: The applicant will monitor the soil horizons and depths, groundwater levels, plant community composition, and plant community structure along transects to be established through consultation with the Conservation Commission using USACE or MassDEP field data sheets. Monitoring shall occur in June and November for three complete growing seasons following completion of wetland replication activities and it shall continue beyond that date if the wetland mitigation area is not established in accordance with the performance standards as specified in the approved planting plan.

E. After Construction/In Perpetuity

54. REV-1: All areas disturbed during construction shall be revegetated immediately following completion of work at the site. No areas shall be left unvegetated for more than 30 days. Mulching shall not serve as a substitute for the requirement to revegetate disturbed areas at the conclusion of work.
55. Upon the completion of the project, a Certificate of Compliance shall be requested and an as-built plan certifying compliance with the conditions of this Order shall be submitted with the following documentation:
 - i. Final contour elevations, longitudinal cross-sectional profile(s) and square footage of the wetland alteration and wetland mitigation areas
 - ii. Certification by a licensed wetland scientist that the wetland mitigation areas have successfully established. Success shall be defined as the mitigation areas having at least 75% coverage by native species at the end of three (3) full growing seasons).
 - iii. Confirmation of the design flood elevation of the structure
56. FZ-3: A certificate shall be issued by the foundation design engineer that the breakaway walls are installed correctly and will function properly.

Perpetual Conditions

The below conditions do not expire upon completion of the project.

57. CHM-3: Pesticides, herbicides, fungicides, and fertilizers shall not be used within 100 feet of the wetlands, within the riverfront area, and within bordering land subject to flooding. Organic pesticides, herbicides, fungicides and fertilizers may be used subject to the review and approval of the Conservation Commission. This shall be noted in the

Certificate of Compliance and shall be an ongoing condition.

58. DER-4: The owner of the property described in this Order must advise any potential buyer of the property that any construction or alteration to said property, including brush cutting or clearance, may require approval by the Fairhaven Conservation Commission. Any instrument conveying any or all of the owners' interest in said property or any portion thereof shall contain language similar to the following:

"This property is subject to the Fairhaven Wetlands Bylaw and/or the Massachusetts Wetlands Protection Act. Any construction or maintenance work performed on this property requires an Order of Conditions and/or a Determination of Applicability from the Fairhaven Conservation Commission."

This condition is ongoing and shall not expire with the issuance of a Certificate of Compliance and shall be recorded in the deed.

59. FZ-4: Breakaway walls shall not be modified at any point so they no longer function as breakaway walls.
60. The rain garden, riprap apron, and stone check dam shall be maintained in good working order in perpetuity.
61. No additional wetland areas shall be allowed to be filled or altered on this property without the approval of the Conservation Commission, now or in the future.
62. The driveway shall not be permitted to be paved now or at any point in the future.

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:
MassDEP File #:023-1347
eDEP Transaction #:1294387
City/Town:FAIRHAVEN

E. Signatures

This Order is valid for three years from the date of issuance, unless otherwise specified pursuant to General Condition #4. If this is an Amended Order of Conditions, the Amended Order expires on the same date as the original Order of Conditions.

7/15/2021

1. Date of Original Order

Please indicate the number of members who will sign this form. This Order must be signed by a majority of the Conservation Commission.

5

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.

Signatures:

DocuSigned by:
[Signature]
71949D2A5F424EC...
DocuSigned by:
Amy DeSalvatore
38543D91B65F4B1...

DocuSigned by:
Karen Isherwood
B7B5DD2B3A84492...
DocuSigned by:
Gary Lavolette
B4B856F80134FD...
Cory Pietraszek
CAS440D685ED4D3...

by hand delivery on
7/15/2021

by certified mail, return receipt requested, on

Date

Date

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.

□ **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:
 MassDEP File #:023-1347
 eDEP Transaction #:1294387
 City/Town:FAIRHAVEN

G. Recording Information

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

FAIRHAVEN

 Conservation Commission

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

To:

FAIRHAVEN

 Conservation Commission

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

1 BOULDER COURT

 Project Location

023-1347

 MassDEP File Number

Has been recorded at the Registry of Deeds of:

County	Book	Page

for:

Property Owner ARTHUR/HELENA OLIVEIRA

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

Book	Page
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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

Rev. 4/1/2010