

DOCUMENT A00861

MASSACHUSETTS

DEPARTMENT OF ENVIRONMENTAL PROTECTION

ORDER OF CONDITIONS

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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 #:177-0751
 eDEP Transaction
 #:1867015
 City/Town:HARVARD

A. General Information

1. Conservation Commission HARVARD
 2. Issuance a. OOC b. Amended OOC

3. Applicant Details

a. First Name _____ b. Last Name _____
 c. Organization TOWN OF HARVARD - DEPARTMENT OF PUBLIC WORKS
 d. Mailing Address 47 DEPOT ROAD
 e. City/Town HARVARD f. State MA g. Zip Code 01451

4. Property Owner

a. First Name _____ b. Last Name _____
 c. Organization TOWN OF HARVARD - DEPARTMENT OF PUBLIC WORKS
 d. Mailing Address 47 DEPOT ROAD
 e. City/Town HARVARD f. State MA g. Zip Code 01451

5. Project Location

a. Street Address AYER ROAD
 b. City/Town HARVARD c. Zip Code 01451
 d. Assessors Map/Plat# N/A e. Parcel/Lot# N/A
 f. Latitude 42.53275N g. Longitude 71.57666W

6. Property recorded at the Registry of Deed for:

a. County WORCESTER b. Certificate _____ c. Book N/A d. Page N/A

7. Dates

a. Date NOI Filed : 5/1/2024 b. Date Public Hearing Closed: 12/19/2024 c. Date Of Issuance: 1/30/2025

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:
EXISTING CONDITIONS PLAN OF LAND IN HARVARD, MASSACHUSETTS PROJECT NO.: 22634 (11 SHEETS)	HANCOCK ASSOCIATES	JASON A. ELLIS	11/5/24	1" = 20'



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MASSACHUSETTS DEPARTMENT OF TRANSPORTATION HIGHWAY DIVISION PLAN AND PROFILE OF AYER ROAD (ROUTE 110/111) IN THE TOWN OF HARVARD WORCESTER COUNTY WPA NOI SUBMITTAL (80 SHEETS) PROJECT NO. T0904 AYER ROAD (ROUTE 110/111) TRANSPORTATION IMPROVEMENTS	THE ENGINEERING CORP	JARED DUVAL	December 12, 2024	1" = 1000
DRAINAGE STUDY AND HYDROCAD MODEL SUBMITTED AS PART OF THE NOTICE OF INTENT DATED 4/8/2024 CONSTRUCTION PERIOD POLLUTION PREVENTION AND EROSION CONTROL AND SEDIMENTATION CONTROL PLAN AYER ROAD (ROUTE 110/111) IMPROVEMENTS HARVARD, MA SUBMITTED AS PART OF THE NOTICE OF INTENT DATED 4/8/2024 TYPICAL WETLAND REPLICATION AREA PROTOCOLS AND SPECIFICATIONS/SPECIAL PROVISIONS; TYPICAL SECTION AT WETLAND REPLICATION AREA; AND TYPICAL SECTION AT INT. STREAM RESTORATION AREA SUBMITTED AS PART OF THE NOTICE OF INTENT DATED 4/8/2024	THE ENGINEERING CORP	N/A	10.3.23	N/A
	THE ENGINEERING CORP	N/A	April 1, 2024	N/A
	THE ENGINEERING CORP	N/A	N/A	NOT TO SCALE



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INLAND WETLAND

REPLICATION AREA,

ITEM 755.35, 755.45,
755.75 & 76, 756, 756.411,
765.413, 765.553, 765.635,
767.121, 983.521 -522,
PROJECT NO. 609213 AS
SUBMITTED AS PART OF
THE NOTICE OF INTENT

MASSACHUSETTS
DEPARTMENT OF
TRANSPORTATION N/A
HIGHWAY DIVISION

N/A

N/A

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.

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 checked="" type="checkbox"/> Private Water Supply	e. <input type="checkbox"/> Fisheries	f. <input type="checkbox"/> Protection of Wildlife Habitat
g. <input checked="" type="checkbox"/> Ground Water Supply	h. <input checked="" type="checkbox"/> Storm Damage Prevention	i. <input 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):



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Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input checked="" type="checkbox"/> Bank	<u>92</u> a. linear feet	<u>92</u> b. linear feet	<u>288</u> c. linear feet	<u>288</u> d. linear feet
5. <input checked="" type="checkbox"/> Bordering Vegetated Wetland	<u>487</u> a. square feet	<u>487</u> b. square feet	<u>4724</u> c. square feet	<u>4724</u> d. square feet
6. <input checked="" type="checkbox"/> Land under Waterbodies and Waterways	<u>310</u> a. square feet	<u>310</u> b. square feet	<u>820</u> c. square feet	<u>820</u> d. square feet
	<u>0</u> e. c/y dredged	<u> </u> f. c/y dredged		
7. <input checked="" type="checkbox"/> Bordering Land Subject to Flooding	<u>175</u> a. square feet	<u>175</u> b. square feet	<u>175</u> c. square feet	<u>175</u> d. square feet
Cubic Feet Flood Storage	<u>0</u> e. cubic feet	<u> </u> f. cubic feet	<u>50</u> g. cubic feet	<u>50</u> h. cubic feet
8. <input type="checkbox"/> 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. <input checked="" type="checkbox"/> Riverfront Area	<u>58125</u> a. total sq. feet	<u>58125</u> b. total sq. feet		
Sq ft within 100 ft	<u>27050</u> c. square feet	<u>27050</u> d. square feet	<u>920</u> e. square feet	<u>920</u> f. square feet
Sq ft between 100-200 ft	<u>31075</u> g. square feet	<u>31075</u> h. square feet	<u>1000</u> i. square feet	<u>1000</u> 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> a. square feet	<u> </u> b. square feet		
	<u> </u> c. c/y dredged	<u> </u> 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> a. square feet	<u> </u> b. square feet	<u> </u> c. c/y nourishment	<u> </u> d. c/y nourishment
14. <input type="checkbox"/> Coastal Dunes	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. c/y nourishment	<u> </u> d. c/y nourishment
15. <input type="checkbox"/> Coastal Banks	<u> </u> a. linear feet	<u> </u> b. linear feet		



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16. <input type="checkbox"/> Rocky Intertidal Shores	<u> </u>	<u> </u>	<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>		
	c. c/y dredged	d. c/y dredged		
21. <input type="checkbox"/> Land Subject to Coastal Storm Flowage	<u> </u>	<u> </u>		
	a. square feet	b. square feet		

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.

<u> </u>	<u> </u>
a. square feet of BVW	b. square feet of Salt Marsh
23. <input checked="" type="checkbox"/> Streams Crossing(s)	
If the project involves Stream Crossings, please enter the number of new stream crossings/number of replacement stream crossings.	
<u> </u>	<u> </u>
0	2
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



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years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.

5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order.
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not 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. 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 : "177-0751"

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



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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 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

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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.
- 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 ATTACHED SPECIAL CONDITIONS PAGE 9A - 9I



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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 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 _____
WETLAND PROTECTION BYLAW

2. Citation CHAPTER 119

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:

THE COMMISSION APPROVED THE FOLLOWING WAIVERS UNDER CHAPTER 147 WETLAND PROTECTION BYLAW REGULATIONS: 1) ?147-7C HARVARD FILING FEES; 2) ?147-13 50' NO DISTURBANCE ZONE SETBACK ; 100' VERNAL POOL NO DISTURBANCE ZONE SETBACK; AND 75' ROADWAY SETBACK; 3) ?147-15C(1) STORMWATER MANAGEMENT - PEAK FLOW AND VOLUME 5% REDUCTION; 4) ?147-29M WETLAND REPLICATION BONDING; AND 5) ?147-37A PERFORMANCE GUARANTY/ BONDING SEE ATTACHED "SPECIAL CONDITIONS PAGE 9A - 9I

Ayer Road (Route 110/111) Improvements - SPECIAL CONDITIONS

DEP File: #177-751

Harvard: #0524-01

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Ayer Road (Route 110/111) Improvements - SPECIAL CONDITIONS**DEP File: #177-751****Harvard: #0524-01****Page 9b**

These special conditions are written to cause the Town of Harvard Department of Public Works or designee to take steps that will result in having only clean water leave the work site and in maintaining the integrity of the wetlands. With advance notice and coordination with the MassDOT Resident Engineer, the Conservation Commission and its agents shall have the right to inspect the site before, during and after all site work/construction to ensure compliance with this Order. This Order is also issued as a **Permit**.

PRE-ACTIVITY CONDITIONS

1. Prior to any activity on site, the limits of wetland resource areas shall be flagged with surveyor's tape and the flags shall remain in place during construction. The Agent for the Harvard Conservation Commission shall review the line prior to the start of construction.
2. The contractor(s) employed to execute filling and/or grading activities within the Resource Areas or the Buffer Zone must be provided with a copy of this Order of Conditions (OOC) and thereafter said contractor(s) will be held jointly responsible for any violation and the penalties under the law for such violation.
3. This OOC shall be incorporated into all construction contracts for this project. All contractors working at the site shall be made aware of the provisions contained within this OOC and shall adhere to the special provisions contained herein.
4. This OOC shall apply to any persons or entity in partial or full control, whether by ownership or otherwise, and to any successor in control or successor in interest, of the property described in the Notice of Intent (NOI) and accompanying plans and any revisions thereof.
5. At least 21-days prior to the commencement of any activity on this site the Applicant shall arrange a Pre-Activity meeting coordinated by the Applicant between a member of the Conservation Commission and/or the Conservation Agent, the Design Engineer, Erosion Control Monitor, Representative, Contractor, Town Representative, to review the Conditions of this OOC and to ensure understanding and compliance therewith.
6. Prior to any activity on site, the limit of work shall be clearly marked with erosion control and stakes or flags, and shall be confirmed and evaluated as sufficiently visible by the Conservation Commission or the Conservation Agent. Such controls shall be checked, replaced, and augmented as necessary and shall be maintained until all construction is complete. Workers shall be shown the limit of work and informed that no tree cutting, use of machinery, storage of machinery or materials, stockpiling of soil, or construction activity is to occur beyond this line at any time.
7. Prior to the Pre-Activity Meeting and commencement of any activity on this site the approved erosion control shall be installed as indicated on the Approved Plan, dated December 12, 2024.
8. Prior to the Pre-Activity Meeting and any work commencing on the site, the Applicant shall display the Department of Environmental Protection (DEP) file number for this OOC on a sign with minimum dimensions of two feet by two feet at a location clearly visible from the street. The sign shall remain in place and visible until a Certificate of Compliance (COC) is issued for the activity.
9. Prior to the start of any work the Applicant or its Contractor shall submit for the Conservation Commission's approval a detailed, Baseline Schedule.
10. At any time before, during, or after construction, and until the issuance of a COC, the Conservation Commission or the Conservation Agent in consultation with the *with* advance notice

Ayer Road (Route 110/111) Improvements - SPECIAL CONDITIONS**DEP File: #177-751****Harvard: #0524-01****Page 9c**

- to the MassDOT Resident Engineer may require the Applicant to modify, augment, restore, or maintain erosion control measures associated with the activity that is the subject of this OOC.
11. The Applicant shall provide the Conservation Commission a copy of National Pollutant Discharge Elimination System (NPDES) permit and proof that the Environmental Protection Agency (EPA) NOI has been filed with the EPA.
 12. Applicant shall submit the Stormwater Pollution Prevention Plan (SWPPP) to Conservation Commission prior to the start of any work and any updates to the Conservation Commission for review within 24 hours of the change.
 13. No clearing of vegetation, including trees, or disturbance of soil shall occur prior to the Pre-Activity Meeting. Minimal disturbance of shrubs and herbaceous plants may be allowed prior to the Pre-Activity Meeting if absolutely necessary in order to place erosion control marker stakes where required.
 14. Erosion controls shall be installed with minimal disturbance to vegetation. Where possible, erosion controls should go around trees, shrubs, and other vegetation, on the uphill side.
 15. Immediately after installation of erosion controls, the Contractor shall call the Conservation Agent at (978) 456-4100 Extension 421, for inspection and approval to proceed. Please allow 5 working days for scheduling an inspection. No other work may be undertaken until this approval is complete. The inspection will also include other preconstruction conditions such as the posting of the DEP file number.
 16. The Conservation Agent will be notified one week prior to any clearing to confirm whether the site conditions are suitable for this activity.
 17. The Conservation Commission requires a wetland scientist be retained through MassDOT's usual contracting procedures.

EROSION AND SEDIMENTATION CONTROL

1. Appropriate erosion control devices, indicated on the Approved Plans, dated December 12, 2024, shall be in place prior to the beginning of any phases of construction, and shall be maintained during construction in the wetland areas and buffer zone. The erosion control specifications provided in the NOI and the erosion control provision in the OOC will be the minimum standards for this project. Additional or modified erosion control measures may be required by the Conservation Commission or its Agents at any time before, during, and after construction. These will be maintained until a member of the Commission or Conservation Agent agree that they are no longer needed, at which time they will be removed, using mutually satisfactory removal procedures.
2. If required, dewatering activities shall be monitored daily to ensure that sediment-laden water is appropriately settled prior to discharge toward the wetland resource areas. No discharge of water is allowed directly into an area subject to jurisdiction of the Wetlands Protection Act.
3. The Applicant shall submit a contingency plan to the Conservation Commission for approval, which provides in an emergency for pumped water to be contained in a settling basin prior to discharge into a resource area.

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4. A more than adequate stockpile of erosion control materials shall be on site at all times for emergency or routine replacement and shall include materials to repair or replace silt fences, Silt Socks, erosion control blankets, stone rip-rap, filter berms, or any other devices planned for use during construction.
5. The Conservation Commission or Conservation Agent, in consultation with the MassDOT Resident Engineer and/or the District Environmental Engineer, reserves the right to impose additional conditions on portions of this project to mitigate any impacts which could result from site erosion, or any noticeable degradation of surface water quality discharging from the site.
6. The area of construction shall remain in a stable condition during construction and at the close of each construction day. Erosion controls should be inspected at this time, and repaired, cleaned, reinforced, or replaced as necessary. Erosion control devices shall remain in place until such time as stabilization of all areas that may impact resource areas is permanent. No erosion control devices shall be removed until all exposed soils have been stabilized with final vegetative cover and the Conservation Commission and/or the Conservation Agent has authorized their removal.
7. All existing and proposed catch basins and oil traps along Ayer Road or on the streets adjacent to the project shall be protected by Silt Socks or other device deemed appropriate by the Conservation Commission to prevent sediment from entering the drainage system. Silt Socks or other devices shall be maintained and regularly cleaned of sediments until all areas associated with the work permitted by this OOC have been permanently stabilized and the Conservation Commission or the Conservation Agent has formally approved their removal.
8. All exposed soil finish grade surfaces, disturbed areas, slopes and proposed landscape areas shall be immediately landscaped and stabilized, or loamed, seeded and mulched with a one-inch (1") layer of straw or equivalent material or through the use of erosion control blankets or other approved means. All disturbed areas will be graded, loamed and seeded prior to October 1 of each year, if necessary, at the discretion of the Conservation Agent and/or Conservation Commission. Where necessary, the loam and seeding shall be held in place with jute matting. Outside of the growing season, exposed soil finish grade surfaces shall be stabilized with a three-inch (3") layer of straw or equivalent material

until climate conditions allow for seeding. During construction, any area of exposed soils that will be left idle for more than fourteen (14) days shall be stabilized with a layer of straw or equivalent material or other means approved by the Conservation Commission.

In general, material will be applied so that 80 to 90% of the ground is covered and will be reapplied as needed to maintain this coverage. Temporary stabilization methods may include, but not be limited to, hydro-seeding, straw mats, jute netting, sod, or other Conservation Commission approved methods. No disturbed areas or stockpiled material will be left unprotected or without erosion controls during the winter.
9. Prior to any work on the site, the site engineer or a construction foreman shall be designated as the erosion control monitor to oversee the placement of erosion controls and/or the regular inspection or replacement of erosion and sedimentation control devices. The name and phone number of this person must be provided to the Conservation Commission so that person can be contacted in the event of an emergency at the site, during any 24-hour period, including weekends. This person shall be given the authority to stop construction for erosion control

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- purposes. The erosion control monitor will be required to inspect all such controls and devices and to oversee cleaning and the proper disposal of sediment and waste products.
10. The erosion control monitor shall provide brief written reports to the Conservation Commission monthly.
 11. Prior to any forecasted rain event and/or immediately after each rain storm, within one (1) day, the erosion barrier shall be inspected and replaced or repaired as needed. Any material accumulated behind the barrier shall be removed promptly and placed appropriately in the work area, not in the wetland or buffer zone, or trucked off site and deposited in an approved upland fill site. Any accidental damage to the erosion barrier must be repaired immediately, within one (1) day, and no work may proceed on the site until damage to the barrier is corrected.
 12. Silt socks other equivalent means and erosion control barriers shall be securely double-staked (using 1" X 1" wooden stakes) with their ends butted one against another without leaving appreciable space for sediment to travel through the barrier as indicated on the Approved Plans, dated December 12, 2024.
 13. Following erosion barrier approval, no storage of materials, tree or brush cuttings, or any construction activity may take place on the wetlands side of the limit of work area. Downgrade of the erosion control barrier is considered the "limit of disturbance and activity".

WETLAND REPLICATION PROTOCOLS & SPECIFICATIONS

1. With native topsoil found below the fill material within Wetland Replication Area B hand dug test pit shall be performed prior to undertaking the earthwork therein to understand underlying soil conditions and depths.
2. The "Inland Wetland Replication Area", Item 755.35, 755.45, 755.75 & 76, 756, 756.411, 765.413, 765.553, 765.635, 767.121, 983.521 -522, as prepared by Massachusetts Department of Transportation Highway Division and submitted as part of the NOI shall supersede the provisions under Article VIII Wetland Replication of Chapter 147 within the Code of the Town of Harvard.

STORM WATER MANAGEMENT

1. The Commission acknowledges the proposed activity is a redevelopment project and is only subject to the requirements of MA Stormwater Standards 2,3, 4, 5 and 6 to the maximum extent practicable. The project fully meets MA Stormwater Standards 1, 7, 8, 9 and 10.
2. All construction and post-construction storm water management shall be conducted in accordance with supporting documents submitted with the Notice of Intent, the Department of Environmental Protection's *Storm Water Management Policy*, and as approved by the Conservation Commission in this OOC.
3. All storm water best management practices shall be maintained as specified in the Operation and Maintenance Plan submitted with the NOI and incorporated in the OOC. Evidence of maintenance of the storm water management system shall be provided to the Conservation Commission on an annual basis, no later than December 31st of each year. **This condition shall be noted on the Certificate of Compliance and shall continue in perpetuity.**

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4. Catch basins shall be inspected and cleaned on a semi-annual basis, typically one inspection and cleaning in the spring and one inspection and cleaning in the fall. If inspections are not conducted in the Spring and Fall, written justification for the timing of those inspections shall be included in the report. The Conservation Commission and/or the Conservation Agent may require additional inspections if deemed necessary on their sole discretion, which will be conducted within one (1) month of the request. After each inspection and cleaning, the inspector shall provide to the Conservation Commission written confirmation that the inspection and cleaning were conducted. **This condition shall be noted on the Certificate of Compliance and shall continue in perpetuity.**
5. During construction, all drainage structures shall be inspected regularly and cleaned as necessary as outlined in the SWPPP.
6. There shall be no sedimentation from the site into wetlands or water bodies from discharge pipes or surface runoff created from the project leaving the site.
7. Immediately upon the construction of all catch basins and oil traps, Silt Socks or other equivalent means shall be set around the inlet to prevent sediment from entering the drainage system. Immediately upon the installation of the headwalls and rip-rap, Silt Socks shall be staked around the inlet to prevent sediments from entering the drainage system.
8. The Town of Harvard Department of Public Works and/or assignees shall maintain all culverts, collection basins, traps, retention and detention ponds, outlet structures, and other elements of drainage systems in order to avoid blockages and siltation which might cause failure of the system and/or detrimental impacts to on-site and/or off-site resource areas, and shall maintain the integrity of vegetative cover on the site as designed and indicated on the Approved Plans dated December 12, 2024.
9. The project shall conform to the storm water checklist submitted to the Conservation Commission under the NOI and approved under the OOC.

DURING CONSTRUCTION

1. The Applicant and any person involved in the activity that is the subject of this OOC shall notify the Conservation Commission or the Conservation Agent immediately upon discovery of any matter related to this OOC that may affect any area within the jurisdiction of the Conservation Commission.
2. During construction for this project, the on-site foreman, directing engineer, designated construction manager and environmental professional shall have been provided with a copy of the OOC and the plans referenced to herein, shall familiarize themselves with the conditions of this permit, and shall adhere to said conditions.
3. All equipment shall be inspected regularly for leaks. Any leaking hydraulic lines, cylinders, or any other components shall be fixed immediately. Equipment must be maintained to prevent leakage or discharge of such pollutants. Every effort shall be made with equipment for fuel storage and refueling operations to be located outside all areas within the jurisdiction of the Conservation Commission. Equipment that needs to be refueled that cannot easily be moved outside of areas within the jurisdiction of the Commission may be refueled in place with extra care and attention to the adjacent resources to avoid spills. Any spills that occur during refueling shall be remediated

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immediately. The SWPPP shall indicate the location of the mechanical equipment and fuel storage.

4. All equipment shall be operated, parked, and maintained to limit alterations of wetlands and buffer zones to those areas clearly identified on the plans and demarcated in the field by the flagging and construction barriers installed pursuant to Condition 15 under Pre-Activity Conditions. No equipment is to enter or cross wetland resource areas at any time. Construction material and equipment shall be stored in a manner and location that will minimize the compaction of soils, and the concentration of runoff and/or siltation. The SWPPP shall indicate the location of the mechanical equipment storage.
5. In case of emergencies, problems, or the need to discuss site conditions with the Conservation Commission, please contact the Conservation Commission through the Conservation Agent during business hours at 978- 456-4100 Extension 421.
6. There shall be no disturbance (such as removal of trees) within the 100-foot buffer zone beyond the limits of construction shown on the plans, unless approved by the Conservation Commission and/or the Conservation Agent and indicated on the Approved Plans dated December 12, 2024.
7. Due to the site constraints, every effort possible shall be made to mitigate an adverse impact from overnight storage of excavated material, fill, debris, stumps, building materials, etc. within 100-feet of the wetland boundary by providing a suitable to prevent sediment from surface runoff from entering the wetlands.
8. At no time shall any debris, waste products, construction materials, or other material be burned, buried, or disposed of on the site other than fill permitted explicitly in this OOC. The burial of stumps is prohibited.
9. Used petroleum products resulting from the maintenance of construction equipment, and construction debris, shall be collected and properly disposed of off-site. No on-site disposal of these items is allowed.
10. The fording of streams with equipment is prohibited. All haul roads and temporary access roads shall not be within any wetland or on the wetland side of any erosion barrier.

PLACEMENT OF RIP-RAP EMBANKMENTS

1. Rip-rap material shall be clean and free of trash, tree stumps, roots, and other deleterious material.
2. No vehicular traffic shall enter the wetland resource areas.

GRADING, STABILIZATION AND SLOPE

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1. Site grading and construction shall be scheduled to avoid periods of high surface water. Once begun, grading and construction shall continue in an expeditious manner to minimize the opportunity for erosion.
2. Grading shall be accomplished so that runoff shall not be directed to the property of others, except as indicated on the Approved Plan dated November 16, 2023.
3. During construction, any areas containing soil stockpiles shall be contained if the stockpiles remain in place for more than 2 weeks.
4. The seed stock to be used to restore disturbed areas shall complement or contain native flora and be of proven value to local wildlife and shall be approved by the Conservation Commission prior to its use on the project.
5. Fill within 100 feet of the wetland shall be stabilized by one of the following methods:
 - Topsoil and seeding.
 - If not in growing season, by jute mesh.
6. All exposed areas shall be stabilized at the discretion of the Conservation Agent to stabilize soil.
7. Upon completion of each phase of the project all disturbed areas shall be permanently stabilized with rapidly growing cover with sufficient topsoil to assure long term stabilization of disturbed areas.

AFTER CONSTRUCTION/IN PERPETUITY

1. Upon completion of construction and final soil stabilization, the Applicant shall submit the following to the Conservation Commission to request a COC:
 - a. A completed Request for a COC form (WPA Form 8A or other form if required by the Conservation Commission at the time of request).
 - b. A COC shall not be issued until all non-biodegradable erosion control has been removed from the site.
 - c. A letter from a registered professional engineer certifying compliance with this OOC, and detailing any deviations that exist, and their potential effect on the project. A statement that the work is in "substantial compliance" without detailing of the deviations shall not be accepted.
 - d. An "As-Built" plan signed and stamped by a registered professional engineer or land surveyor showing post-construction conditions within all areas under the jurisdiction of the Wetlands Protection Act. This plan shall include at a minimum:
 - i. All wetland resource area boundaries with associated buffer zones and regulatory setback areas taken from the plan(s) approved in this OOC.
 - ii. Location and elevations of all storm water management conveyances, structures and best management designs constructed under this OOC within any wetland resource area or buffer zone.
 - iii. A line delineating the limit of work – "work" includes any filling, excavating and/or disturbance of soils or vegetation approved under this OOC.

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2. The Town of Harvard Department of Public Works or designee shall maintain culverts and on-site drainage systems to ensure serviceability during operation as designed. The maintenance or repair of detention basins, supporting drainage systems, or storm water management best management practices shall be the responsibility of the Town of Harvard Department of Public Works or designee. The design capacity, storm water management treatment capacity, and structural integrity of these facilities must be maintained along with the maintenance of obstruction-free flowage easements.
3. Stabilized slopes shall be maintained as designed and constructed by the Town of Harvard Department of Public Works or designee, whether "bioengineered" or mechanically-stabilized slopes.
4. Subject to the submission by the Town of Harvard Department of Public Works or designee, and approval by the Conservation Commission, of a maintenance plan for storm water management systems, including Best Management Practices, no additional filing will be required to conduct maintenance of the above referenced structures.
5. All storm water best management practices shall be maintained as specified in the Operation and Maintenance Plan submitted with the NOI and incorporated in the OOC. Evidence of maintenance of the storm water management system shall be provided to the Conservation Commission on an annual basis, no later than December 31st of each year. **This condition shall be noted on the Certificate of Compliance and shall continue in perpetuity.**
6. The use of fertilizers/herbicides within the 100- foot wetland buffer zone shall be used in a manner that is not inconsistent with its labeling or other restrictions imposed by M.G.L. Chapter 132B and its regulations promulgated at 333 CMR. **This condition shall be noted on the Certificate of Compliance and shall continue in perpetuity.**



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 #:177-0751
eDEP Transaction #:1867015
City/Town:HARVARD

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.

1/30/2025
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.

7
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.

Signed by: [Signature]
Signed by: [Signature]
Signed by: [Signature]
Signed by: Janet S. Waldron

Signed by: [Signature]
Signed by: Jim Burns
Signed by: Jessie Parise
Signed by: John Lee

by hand delivery on

by certified mail, return receipt requested, on

Date January 30, 2025

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.

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.

HARVARD



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 #:177-0751
eDEP Transaction #:1867015
City/Town:HARVARD

Conservation Commission

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

To:

HARVARD
Conservation Commission

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

AYER ROAD
Project Location

177-0751
MassDEP File Number

Has been recorded at the Registry of Deeds of:

County	Book	Page
for:		
<u>Property Owner</u>		

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

Book Page

In accordance with the Order of Conditions issued on:

Date

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

Instrument Number

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

Document Number

Signature of Applicant

Rev. 4/1/2010