

# HUGHES ENVIRONMENTAL CONSULTING

44 MERRIMAC STREET, NEWBURYPORT, MA 01950  
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PO BOX 392 STREET, CONCORD, MA 01742  
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## BRP WPA Form 3 – Notice of Intent

(M.G.L. c. 131, §40 and Newbury Wetlands Bylaw)

### 18 Fordham Way, Newbury



*Submitted to:*

**Newbury Conservation Commission**  
Town Hall  
12 Kent Way  
Byfield, MA 01922

*Prepared by:*

**Hughes Environmental Consulting**  
44 Merrimac Street  
Newburyport, MA 01950

*In Association with:*

**Winter GEC, LLC**  
44 Merrimac Street  
Newburyport, MA 01950

*On Behalf of:*

**Plum Island Blue LLC**  
206 Andover Street, Suite 1  
Andover, MA 01810

*Copies to:*

**MassDEP NERO**  
150 Presidential Way  
Woburn, MA 01801

**Natural Heritage and Endangered Species Program**

Division of Fisheries and Wildlife  
1 Rabbit Hill Road  
Westborough, MA 01581

**June 30, 2023**



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## **Application Contents:**

- 1. Project Narrative**
- 2. WPA Form 3**
- 3. Shorebird Monitor Contract**
- 4. USGS Location Map**
- 5. FEMA Firmette**
- 6. 2021 Orthophoto with NHESP**
- 7. 2017 View from the South**
- 8. Current site photo**
- 9. Abutters List and copy of abutters notice**
- 10. WPA Fee Transmittal Form**
- 11. Site Plan**



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**PROJECT NARRATIVE**  
**to accompany**  
**NOTICE OF INTENT**  
**For**  
**Plum Island Blue LLC**  
**18 Fordham Way**  
**Newbury**  
**June 30, 2023**

## **Overview**

Ryan Guthrie of Plum Island Blue, LLC, is seeking after the fact approval for the replacement of two beach access stairs, a walkway, and associated disturbances. The work had been authorized previously by the Newbury Conservation Commission under an Emergency Certification. The work was completed prior to MA DEP revoking that certification, rendering the authorization void. During the work, disturbance occurred within the dune and was restored. There was no vegetation impacted by the project. Work did occur within estimated and priority habitat. However, the applicant did engage the services of a shorebird monitor during the work which was one of the requirements of the now void emergency certification.

## **Current Site Conditions**

The project site is located at Plum Island, a barrier beach, near the end of the densely developed section of the island on the Ocean side. There is no vegetation to speak of on site within the dune. There are two new access stairs and a walkway for Inn guests to get safely to the beach. There have been stairs on site accessing the beach since the current owner purchased the property. The replacement stairs and walkway are in the same footprint as the prior stairways. The property is located within Barrier Beach, Coastal Dune, and Land Subject to Coastal Storm Flowage. The entire lot is located within the floodplain, which is at elevation 16 (VE16). The project is located within the Limit of Moderate Wave Action (LiMWA). In the area between the Inn and the beach there is a currently buried stone and block structure that originally dates back to the late 1970's.

## **Project Proposal**

The proposal is to seek authorization for work done to replace the stairs and walkways in the same footprint. There was no expansion of structure as a result of the work. The northern walkway and stairs covers about demolish the existing home and remove the foundation, concrete, and debris from the sit square feet and the southern stairs covers about 120 square feet.

## **Wetland Protection Act**

Since the property is on a barrier beach, and in a coastal dune it must meet the performance standards of the Wetland Protection Act as defined by the Wetland Protection Act Regulations, 310 CMR 10.28 and 10.29. There are no performance standards for Land Subject to Coastal Storm Flowage.

The project maintains two access points that existed and have been maintained by the Inn under current and prior ownership. The work did not expand these structures and therefore does not result in any adverse effect. Additionally, the work was monitored for shorebirds and while advance approval for NHESP was not obtained, the monitoring did help prevent any adverse effect to shorebirds. While there are some protected plant species in this section of Plum Island the project site was not vegetated and remains that way. A copy of this NOI has been sent to NHESP for their after the fact review. It is our belief that this project did not impair the ability

of this portion of the barrier beach to provide the functions of flood damage prevention, flood control, and protection of wildlife habitat.

The regulations are intended to preserve the following characteristics of barrier beaches and dune systems:

- (a) the ability of the dune to erode in response to coastal beach conditions;
- (b) dune volume;
- (c) dune form, which must be allowed to be changed by wind and natural water flow;
- (d) vegetative cover;
- (e) the ability of the dune to move landward or laterally; or
- (f) the ability of the dune to continue serving as bird nesting habitat

### **310 CMR 10.28 - Coastal Dunes**

The performance standards for Coastal Dunes are provided in 310 CMR 10.28, sections (3) through (6). These standards are addressed below:

***(3) Any alteration of, or structure on, a coastal dune or within 100 feet of a coastal dune shall not have an adverse effect on the coastal dune by:***

***(a) affecting the ability of waves to remove sand from the dune;***

The stairs are open and do not adversely impact the ability of waves to remove sand any more than the prior stairs, meeting the no adverse effect standard of the Wetlands Protection Act.

***(b) disturbing the vegetative cover so as to destabilize the dune;***

The project area was not vegetated and remains that way.

***(c) causing any modification of the dune form that would increase the potential for storm or flood damage;***

The project did not change dune form in a way that would increase the potential for storm or flood damage.

***(d) interfering with the landward or lateral movement of the dune;***

The project will not interfere with the landward or lateral movement of the dune any more than the prior stairs and walkway..

***(e) causing removal of sand from the dune artificially; or***

There will be no removal of sand from the dune.

***(f) interfering with mapped or otherwise identified bird nesting habitat.***

The project is near within the Estimated Habitat Map of State-Listed Rare Wildlife published by the Natural Heritage and Endangered Species Program. The work was monitored by a shorebird monitor. A copy of this application has been sent to NHESP.

*(4) Notwithstanding the provisions of 310 CMR 10.28(3), when a building already exists upon a coastal dune, a project accessory to the existing building may be permitted, provided that such work, using the best commercially available measures, minimizes the adverse effect on the coastal dune caused by the impacts listed in 310 CMR 10.28 (3)(b) through 10.28(3)(e). Such an accessory project may include, but is not limited to, a small shed or a small parking area for residences. It shall not include coastal engineering structures.*

The walkways are accessory to the Inn and provide access for the guests to the beach.

*(5): The following projects may be permitted, provided that they adhere to the provisions of 310 CMR 10.28(3):*

*(a) pedestrian walkways, designed to minimize the disturbance to the vegetative cover and traditional bird nesting habitat;*

*(b) fencing and other devices designed to increase dune development; and*

*(c) plantings compatible with the natural vegetative cover.*

The structures do focus human activity to two discrete points in accessing the beach.

*(6) Notwithstanding the provisions of 310 CMR 10.28(3) through (5), no project may be permitted which will have any adverse effect on specified habitat sites of rare vertebrate or invertebrate species, as identified by procedures established under 310 CMR 10.37.*

The project occurred within the Estimated Habitat Map of State-Listed Rare Wildlife published by the Natural Heritage and Endangered Species Program. These maps were last revised in August 1, 2021.

### **Barrier Beach**

310 CMR 10.29 (3) states that when a Barrier Beach is Determined to be Significant to Storm Damage Prevention, Flood Control, Marine Fisheries or Protection of Wildlife Habitat. 310 CMR 10.28(3) through 10.28(5) apply. These sections are addressed above.

### **Newbury Wetlands Bylaw, Chapter 95**

The specific performance standards of the Newbury Wetlands Bylaw, prescribed in Chapter § 95-4 are addressed below.

**A. No new Development shall be permitted within a FEMA V-Zone or AO-Zone.**

The project is located within an VE zone and represents replacement structures.

**B. No redevelopment shall be permitted within a FEMA V-Zone or AO-Zone except that Structures or Buildings may be redeveloped/repared only in accordance with current local, state and federal regulatory standards. In all instances, reconstruction, renovation or repairs to Structures or Buildings shall be authorized as stated herein, provided that the sum of the footprint of all structures or buildings would not exceed 20% of the area of the lot;**

The structures did not change the lot coverage and are replacements to the previously existing structures.



***C. In all other areas of the Plum Island Barrier Beach outside of the V-Zone and AO-Zone, all new Buildings and shall comply with State Building Code Regulations for elevation and flood proofing. All existing Buildings with Substantial Improvements, and all horizontal expansions of the existing footprint, shall comply with State Building Code Regulations for elevation and flood proofing.***

The project occurred within the VE zone.

***D. In all areas of the Plum Island Barrier Beach, electrical, heating, ventilation, plumbing and air conditioning and other service facilities shall be designed to avoid or minimize impacts to coastal beaches and coastal dunes.***

No utilities were involved

***E. In all areas of the Plum Island Barrier Beach, Development or Redevelopment on or within 200 feet landward of the top of a coastal bank or dune shall have no adverse impact on the height, stability or function of the bank or dune to fulfill the purposes set forth in Section IB.***

The project is located in an area already impacted by human presence. There will be no impact on the height of the dune or its functions.

***F. In all areas of the Plum Island Barrier Beach, in areas where there are coastal banks or primary or frontal dunes, all new Buildings and Structures, excluding replacement of existing Building and Structures, shall be set back from the beach dune interface at a distance equal to thirty times the average yearly historical erosion as shown by the most current CZM shoreline change map.***

The project is a replacement of existing structures.

***G. In all areas of the Plum Island Barrier Beach, no activity shall increase the elevation or velocity of flows in a floodplain.***

The project will remove a physical obstruction (the existing foundation) from the floodplain and will improve the situation.

***H. Within the FEMA V Zone, A Zone, or AO Zone, as defined in Section III above, new or reconstructed Structures or Development that alters vegetation, interrupts sediment supply and/or changes the form or volume of a dune or beach, shall comply with the specific performance standards in this Bylaw and in the regulations promulgated pursuant hereto.***

The project is located in the VE zone.

## **Conclusion**

In conclusion, the project as constructed did not adversely affect the dune resource areas and should be approved as it meets the performance standards of the Wetland Protection Act Regulations, 310 CMR 10.00 et seq. and the Newbury Wetlands Bylaw, Chapter 95.





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

**WPA Form 3 – Notice of Intent**

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

Provided by MassDEP:

MassDEP File Number
Document Transaction Number
<b>Newbury</b>
City/Town

**Important:**

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



Note: Before completing this form consult your local Conservation Commission regarding any municipal bylaw or ordinance.

**A. General Information**

1. Project Location (**Note:** electronic filers will click on button to locate project site):

<u>18 Fordham Way</u>	<u>Newbury</u>	<u>01951</u>
a. Street Address	b. City/Town	c. Zip Code
Latitude and Longitude:		
<u>U01</u>	<u>42.792979</u>	<u>-70.807461</u>
f. Assessors Map/Plat Number	d. Latitude	e. Longitude
	<u>16</u>	
	g. Parcel /Lot Number	

2. Applicant:

<u>Ryan</u>	<u>Guthrie</u>	
a. First Name	b. Last Name	
<u>Plum Island Blue, LLC</u>		
c. Organization		
<u>206 Andover Street, Suite 1</u>		
d. Street Address		
<u>Andover</u>	<u>MA</u>	<u>01810</u>
e. City/Town	f. State	g. Zip Code
<u></u>	<u></u>	<u></u>
h. Phone Number	i. Fax Number	j. Email Address

3. Property owner (required if different from applicant):  Check if more than one owner

<u></u>	<u></u>	
a. First Name	b. Last Name	
<u></u>		
c. Organization		
<u></u>		
d. Street Address		
<u></u>	<u></u>	<u></u>
e. City/Town	f. State	g. Zip Code
<u></u>	<u></u>	<u></u>
h. Phone Number	i. Fax Number	j. Email address

4. Representative (if any):

<u>Thomas</u>	<u>Hughes</u>	
a. First Name	b. Last Name	
<u>Hughes Environmental Consulting</u>		
c. Company		
<u>44 Merrimac Street, Suite 311</u>		
d. Street Address		
<u>Newburyport</u>	<u>MA</u>	<u>01950</u>
e. City/Town	f. State	g. Zip Code
<u>978-465-5400</u>	<u>978-465-8100</u>	<u>thughes@hughesenvr.com</u>
h. Phone Number	i. Fax Number	j. Email address

5. Total WPA Fee Paid (from NOI Wetland Fee Transmittal Form):

<u>110.00</u>	<u>42.50</u>	<u>67.50</u>
a. Total Fee Paid	b. State Fee Paid	c. City/Town Fee Paid



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# WPA Form 3 – Notice of Intent

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

Provided by MassDEP:
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Document Transaction Number
Newbury
City/Town

## A. General Information (continued)

6. General Project Description:

After the fact replacement of stairs and walkway after repeal of Emergency Certificate

7a. Project Type Checklist: (Limited Project Types see Section A. 7b.)

- 1.  Single Family Home
- 2.  Residential Subdivision
- 3.  Commercial/Industrial
- 4.  Dock/Pier
- 5.  Utilities
- 6.  Coastal engineering Structure
- 7.  Agriculture (e.g., cranberries, forestry)
- 8.  Transportation
- 9.  Other

7b. Is any portion of the proposed activity eligible to be treated as a limited project (including Ecological Restoration Limited Project) subject to 310 CMR 10.24 (coastal) or 310 CMR 10.53 (inland)?

- 1.  Yes  No      If yes, describe which limited project applies to this project. (See 310 CMR 10.24 and 10.53 for a complete list and description of limited project types)

2. Limited Project Type

If the proposed activity is eligible to be treated as an Ecological Restoration Limited Project (310 CMR10.24(8), 310 CMR 10.53(4)), complete and attach Appendix A: Ecological Restoration Limited Project Checklist and Signed Certification.

8. Property recorded at the Registry of Deeds for:

Essex South	
a. County	b. Certificate # (if registered land)
34727	200
c. Book	d. Page Number

## B. Buffer Zone & Resource Area Impacts (temporary & permanent)

- 1.  Buffer Zone Only – Check if the project is located only in the Buffer Zone of a Bordering Vegetated Wetland, Inland Bank, or Coastal Resource Area.
- 2.  Inland Resource Areas (see 310 CMR 10.54-10.58; if not applicable, go to Section B.3, Coastal Resource Areas).

Check all that apply below. Attach narrative and any supporting documentation describing how the project will meet all performance standards for each of the resource areas altered, including standards requiring consideration of alternative project design or location.



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

**WPA Form 3 – Notice of Intent**

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

Provided by MassDEP:

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MassDEP File Number

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Document Transaction Number

---

Newbury

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City/Town

**B. Buffer Zone & Resource Area Impacts (temporary & permanent) (cont'd)**

For all projects affecting other Resource Areas, please attach a narrative explaining how the resource area was delineated.

<u>Resource Area</u>	<u>Size of Proposed Alteration</u>	<u>Proposed Replacement (if any)</u>
a. <input type="checkbox"/> Bank	1. linear feet _____	2. linear feet _____
b. <input type="checkbox"/> Bordering Vegetated Wetland	1. square feet _____	2. square feet _____
c. <input type="checkbox"/> Land Under Waterbodies and Waterways	1. square feet _____	2. square feet _____
	3. cubic yards dredged _____	

<u>Resource Area</u>	<u>Size of Proposed Alteration</u>	<u>Proposed Replacement (if any)</u>
d. <input type="checkbox"/> Bordering Land Subject to Flooding	1. square feet _____	2. square feet _____
	3. cubic feet of flood storage lost _____	4. cubic feet replaced _____
e. <input type="checkbox"/> Isolated Land Subject to Flooding	1. square feet _____	
	2. cubic feet of flood storage lost _____	3. cubic feet replaced _____
f. <input type="checkbox"/> Riverfront Area	1. Name of Waterway (if available) - <b>specify coastal or inland</b> _____	

2. Width of Riverfront Area (check one):

- 25 ft. - Designated Densely Developed Areas only
- 100 ft. - New agricultural projects only
- 200 ft. - All other projects

3. Total area of Riverfront Area on the site of the proposed project: \_\_\_\_\_ square feet

4. Proposed alteration of the Riverfront Area:

a. total square feet \_\_\_\_\_ b. square feet within 100 ft. \_\_\_\_\_ c. square feet between 100 ft. and 200 ft. \_\_\_\_\_

5. Has an alternatives analysis been done and is it attached to this NOI?  Yes  No

6. Was the lot where the activity is proposed created prior to August 1, 1996?  Yes  No

3.  Coastal Resource Areas: (See 310 CMR 10.25-10.35)

**Note:** for coastal riverfront areas, please complete **Section B.2.f.** above.



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

**WPA Form 3 – Notice of Intent**

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

Provided by MassDEP:
MassDEP File Number
Document Transaction Number
Newbury
City/Town

**B. Buffer Zone & Resource Area Impacts (temporary & permanent) (cont'd)**

Check all that apply below. Attach narrative and supporting documentation describing how the project will meet all performance standards for each of the resource areas altered, including standards requiring consideration of alternative project design or location.

Online Users:  
Include your document transaction number (provided on your receipt page) with all supplementary information you submit to the Department.

Resource Area	Size of Proposed Alteration	Proposed Replacement (if any)
a. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below	
b. <input type="checkbox"/> Land Under the Ocean	1. square feet 2. cubic yards dredged	
c. <input checked="" type="checkbox"/> Barrier Beach	Indicate size under Coastal Beaches and/or Coastal Dunes below	
d. <input type="checkbox"/> Coastal Beaches	1. square feet	2. cubic yards beach nourishment
e. <input checked="" type="checkbox"/> Coastal Dunes	360 1. square feet	0 2. cubic yards dune nourishment

	Size of Proposed Alteration	Proposed Replacement (if any)
f. <input type="checkbox"/> Coastal Banks	1. linear feet	
g. <input type="checkbox"/> Rocky Intertidal Shores	1. square feet	
h. <input type="checkbox"/> Salt Marshes	1. square feet	2. sq ft restoration, rehab., creation
i. <input type="checkbox"/> Land Under Salt Ponds	1. square feet 2. cubic yards dredged	
j. <input type="checkbox"/> Land Containing Shellfish	1. square feet	
k. <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 1. cubic yards dredged	
l. <input type="checkbox"/> Land Subject to Coastal Storm Flowage	1. square feet	

4.  Restoration/Enhancement  
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.2.b or B.3.h above, please enter the additional amount here.

a. square feet of BVW	b. square feet of Salt Marsh
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5.  Project Involves Stream Crossings

a. number of new stream crossings	b. number of replacement stream crossings
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Bureau of Resource Protection - Wetlands

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

Provided by MassDEP:
MassDEP File Number
Document Transaction Number
Newbury
City/Town

## C. Other Applicable Standards and Requirements

- This is a proposal for an Ecological Restoration Limited Project. Skip Section C and complete Appendix A: Ecological Restoration Limited Project Checklists – Required Actions (310 CMR 10.11).

### Streamlined Massachusetts Endangered Species Act/Wetlands Protection Act Review

- Is any portion of the proposed project located in **Estimated Habitat of Rare Wildlife** as indicated on the most recent Estimated Habitat Map of State-Listed Rare Wetland Wildlife published by the Natural Heritage and Endangered Species Program (NHESP)? To view habitat maps, see the *Massachusetts Natural Heritage Atlas* or go to [http://maps.massgis.state.ma.us/PRI\\_EST\\_HAB/viewer.htm](http://maps.massgis.state.ma.us/PRI_EST_HAB/viewer.htm).

- a.  Yes    No      **If yes, include proof of mailing or hand delivery of NOI to:**

**Natural Heritage and Endangered Species Program  
Division of Fisheries and Wildlife  
1 Rabbit Hill Road  
Westborough, MA 01581**

- August 1, 2021  
b. Date of map

If yes, the project is also subject to Massachusetts Endangered Species Act (MESA) review (321 CMR 10.18). To qualify for a streamlined, 30-day, MESA/Wetlands Protection Act review, please complete Section C.1.c, and include requested materials with this Notice of Intent (NOI); *OR* complete Section C.2.f, if applicable. *If MESA supplemental information is not included with the NOI, by completing Section 1 of this form, the NHESP will require a separate MESA filing which may take up to 90 days to review (unless noted exceptions in Section 2 apply, see below).*

- c. Submit Supplemental Information for Endangered Species Review\*

- Percentage/acreage of property to be altered:
  - (a) within wetland Resource Area \_\_\_\_\_ percentage/acreage
  - (b) outside Resource Area \_\_\_\_\_ percentage/acreage
- Assessor's Map or right-of-way plan of site

- Project plans for entire project site, including wetland resource areas and areas outside of wetlands jurisdiction, showing existing and proposed conditions, existing and proposed tree/vegetation clearing line, and clearly demarcated limits of work \*\*
  - (a)  Project description (including description of impacts outside of wetland resource area & buffer zone)
  - (b)  Photographs representative of the site

\* Some projects **not** in Estimated Habitat may be located in Priority Habitat, and require NHESP review (see <https://www.mass.gov/endangered-species-act-mesa-regulatory-review>).

Priority Habitat includes habitat for state-listed plants and strictly upland species not protected by the Wetlands Protection Act.

\*\* MESA projects may not be segmented (321 CMR 10.16). The applicant must disclose full development plans even if such plans are not required as part of the Notice of Intent process.



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

## WPA Form 3 – Notice of Intent

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

Provided by MassDEP:

MassDEP File Number

Document Transaction Number

Newbury

City/Town

### C. Other Applicable Standards and Requirements (cont'd)

- (c)  MESA filing fee (fee information available at <https://www.mass.gov/how-to/how-to-file-for-a-mesa-project-review>).

Make check payable to "Commonwealth of Massachusetts - NHESP" and **mail to NHESP** at above address

*Projects altering 10 or more acres of land, also submit:*

- (d)  Vegetation cover type map of site

- (e)  Project plans showing Priority & Estimated Habitat boundaries

- (f) OR Check One of the Following

1.  Project is exempt from MESA review.  
Attach applicant letter indicating which MESA exemption applies. (See 321 CMR 10.14, <https://www.mass.gov/service-details/exemptions-from-review-for-projectsactivities-in-priority-habitat>; the NOI must still be sent to NHESP if the project is within estimated habitat pursuant to 310 CMR 10.37 and 10.59.)

2.  Separate MESA review ongoing. a. NHESP Tracking # \_\_\_\_\_ b. Date submitted to NHESP \_\_\_\_\_

3.  Separate MESA review completed.  
Include copy of NHESP "no Take" determination or valid Conservation & Management Permit with approved plan.

3. For coastal projects only, is any portion of the proposed project located below the mean high water line or in a fish run?

- a.  Not applicable – project is in inland resource area only      b.  Yes     No

If yes, include proof of mailing, hand delivery, or electronic delivery of NOI to either:

South Shore - Cohasset to Rhode Island border, and  
the Cape & Islands:

North Shore - Hull to New Hampshire border:

Division of Marine Fisheries -  
Southeast Marine Fisheries Station  
Attn: Environmental Reviewer  
836 South Rodney French Blvd.  
New Bedford, MA 02744  
Email: [dmf.envreview-south@mass.gov](mailto:dmf.envreview-south@mass.gov)

Division of Marine Fisheries -  
North Shore Office  
Attn: Environmental Reviewer  
30 Emerson Avenue  
Gloucester, MA 01930  
Email: [dmf.envreview-north@mass.gov](mailto:dmf.envreview-north@mass.gov)

Also if yes, the project may require a Chapter 91 license. For coastal towns in the Northeast Region, please contact MassDEP's Boston Office. For coastal towns in the Southeast Region, please contact MassDEP's Southeast Regional Office.

- c.  Is this an aquaculture project?      d.  Yes     No

If yes, include a copy of the Division of Marine Fisheries Certification Letter (M.G.L. c. 130, § 57).





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Bureau of Resource Protection - Wetlands

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

Provided by MassDEP:
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**Online Users:**  
Include your document transaction number (provided on your receipt page) with all supplementary information you submit to the Department.

**C. Other Applicable Standards and Requirements (cont'd)**

- 4. Is any portion of the proposed project within an Area of Critical Environmental Concern (ACEC)?  
 a.  Yes  No      If yes, provide name of ACEC (see instructions to WPA Form 3 or MassDEP Website for ACEC locations). **Note:** electronic filers click on Website.  
 b. ACEC

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- 5. Is any portion of the proposed project within an area designated as an Outstanding Resource Water (ORW) as designated in the Massachusetts Surface Water Quality Standards, 314 CMR 4.00?  
 a.  Yes  No
- 6. Is any portion of the site subject to a Wetlands Restriction Order under the Inland Wetlands Restriction Act (M.G.L. c. 131, § 40A) or the Coastal Wetlands Restriction Act (M.G.L. c. 130, § 105)?  
 a.  Yes  No
- 7. Is this project subject to provisions of the MassDEP Stormwater Management Standards?  
 a.  Yes. Attach a copy of the Stormwater Report as required by the Stormwater Management Standards per 310 CMR 10.05(6)(k)-(q) and check if:
  - 1.  Applying for Low Impact Development (LID) site design credits (as described in Stormwater Management Handbook Vol. 2, Chapter 3)
  - 2.  A portion of the site constitutes redevelopment
  - 3.  Proprietary BMPs are included in the Stormwater Management System.
 b.  No. Check why the project is exempt:
  - 1.  Single-family house
  - 2.  Emergency road repair
  - 3.  Small Residential Subdivision (less than or equal to 4 single-family houses or less than or equal to 4 units in multi-family housing project) with no discharge to Critical Areas.

**D. Additional Information**

- This is a proposal for an Ecological Restoration Limited Project. Skip Section D and complete Appendix A: Ecological Restoration Notice of Intent – Minimum Required Documents (310 CMR 10.12).

Applicants must include the following with this Notice of Intent (NOI). See instructions for details.

**Online Users:** Attach the document transaction number (provided on your receipt page) for any of the following information you submit to the Department.

- 1.  USGS or other map of the area (along with a narrative description, if necessary) containing sufficient information for the Conservation Commission and the Department to locate the site. (Electronic filers may omit this item.)
- 2.  Plans identifying the location of proposed activities (including activities proposed to serve as a Bordering Vegetated Wetland [BVW] replication area or other mitigating measure) relative to the boundaries of each affected resource area.



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

# WPA Form 3 – Notice of Intent

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

Provided by MassDEP:
MassDEP File Number
Document Transaction Number
Newbury
City/Town

## D. Additional Information (cont'd)

3.  Identify the method for BVW and other resource area boundary delineations (MassDEP BVW Field Data Form(s), Determination of Applicability, Order of Resource Area Delineation, etc.), and attach documentation of the methodology.

4.  List the titles and dates for all plans and other materials submitted with this NOI.

Limited Existing Conditions Plan

a. Plan Title

Wlnter GEC, LLC

Everett Chandler, PLS

b. Prepared By

c. Signed and Stamped by

June 28, 2023

d. Final Revision Date

e. Scale

f. Additional Plan or Document Title

g. Date

5.  If there is more than one property owner, please attach a list of these property owners not listed on this form.

6.  Attach proof of mailing for Natural Heritage and Endangered Species Program, if needed.

7.  Attach proof of mailing for Massachusetts Division of Marine Fisheries, if needed.

8.  Attach NOI Wetland Fee Transmittal Form

9.  Attach Stormwater Report, if needed.

## E. Fees

1.  Fee Exempt: No filing fee shall be assessed for projects of any city, town, county, or district of the Commonwealth, federally recognized Indian tribe housing authority, municipal housing authority, or the Massachusetts Bay Transportation Authority.

Applicants must submit the following information (in addition to pages 1 and 2 of the NOI Wetland Fee Transmittal Form) to confirm fee payment:

4157

2. Municipal Check Number

6/28/2023

3. Check date

4160

4. State Check Number

6/28/2023

5. Check date

Hughes Environmental Consulting

6. Payor name on check: First Name

7. Payor name on check: Last Name



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

Provided by MassDEP:

# WPA Form 3 – Notice of Intent

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

MassDEP File Number \_\_\_\_\_

Document Transaction Number \_\_\_\_\_

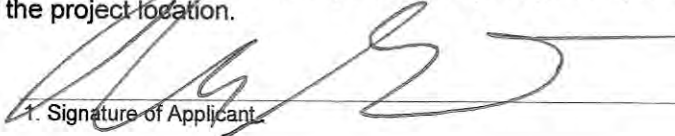
Newbury

City/Town

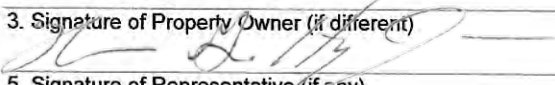
## F. Signatures and Submittal Requirements

I hereby certify under the penalties of perjury that the foregoing Notice of Intent and accompanying plans, documents, and supporting data are true and complete to the best of my knowledge. I understand that the Conservation Commission will place notification of this Notice in a local newspaper at the expense of the applicant in accordance with the wetlands regulations, 310 CMR 10.05(5)(a).

I further certify under penalties of perjury that all abutters were notified of this application, pursuant to the requirements of M.G.L. c. 131, § 40. Notice must be made by Certificate of Mailing or in writing by hand delivery or certified mail (return receipt requested) to all abutters within 100 feet of the property line of the project location.

  
1. Signature of Applicant

6/29/23  
2. Date

3. Signature of Property Owner (if different)  


4. Date  
6/30/2023

5. Signature of Representative (if any)

6. Date

### For Conservation Commission:

Two copies of the completed Notice of Intent (Form 3), including supporting plans and documents, two copies of the NOI Wetland Fee Transmittal Form, and the city/town fee payment, to the Conservation Commission by certified mail or hand delivery.

### For MassDEP:

One copy of the completed Notice of Intent (Form 3), including supporting plans and documents, one copy of the NOI Wetland Fee Transmittal Form, and a **copy** of the state fee payment to the MassDEP Regional Office (see Instructions) by certified mail or hand delivery.

### Other:

If the applicant has checked the "yes" box in any part of Section C, Item 3, above, refer to that section and the Instructions for additional submittal requirements.

The original and copies must be sent simultaneously. Failure by the applicant to send copies in a timely manner may result in dismissal of the Notice of Intent.



COASTAL WATERBIRD MANAGEMENT AGREEMENT  
CLIENT: Ryan Guthrie, Plum Island Blue LLC(Blue Inn) ,

COASTAL WATERBIRD MANAGEMENT AGREEMENT dated as of April 26, 2023 (the "Agreement"), by and between Massachusetts Audubon Society, Inc., a Massachusetts nonprofit corporation ("Mass Audubon") exempt from Federal taxes under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and the CLIENT: Ryan Guthrie, Plum Island Blue LLC. (Blue Inn)

WHEREAS, Mass Audubon, through its Coastal Waterbird Program, has expertise in coastal nesting bird monitoring and management; and

WHEREAS, the Ryan Guthrie, Plum Island Blue LLC,(Blue Inn) desires the services of Mass Audubon to assist the CLIENT in monitoring and management of coastal nesting birds in conjunction with stair construction within the borders of the CLIENT; and

WHEREAS, Mass Audubon, through its Coastal Waterbird Program, desires to perform such services for the CLIENT:

NOW, THEREFORE, in consideration of the premises and the mutual promises contained herein and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged by Mass Audubon and the CLIENT, Mass Audubon and the CLIENT hereby agree as follows:

(1) Term: The term of this Agreement, unless earlier terminated as provided in Section (2)(c) below, shall commence on April 27, 2023 and shall end on April 29, 2023

(2) Services:

(a) During the term of this Agreement, the CLIENT hereby engages Mass Audubon, through its Coastal Waterbird Program, to perform the services described in Exhibit A attached hereto (the "Services").

*RG*  
*BRD*



(b) Mass Audubon hereby agrees to devote its best efforts to the performance of the Services. All Services shall be performed by Mass Audubon at times that are mutually agreeable to Mass Audubon and the CLIENT.

(c) During the term of this Agreement, either Mass Audubon or the CLIENT may terminate the engagement of Mass Audubon under this Agreement at any time for any reason without recourse to any party hereto by giving written notice at any time to the other party stating its election to terminate this Agreement thirty (30) days after the date of receipt by the other party of such written notice. In the event of such termination, Mass Audubon shall be entitled to be paid through such thirty (30) day period and any compensation paid to Mass Audubon for services to be performed by Mass Audubon beyond such thirty (30) day period shall be promptly returned by Mass Audubon to the CLIENT. The terminating party shall promptly provide written notice of such termination to Massachusetts Division of Fisheries & Wildlife Natural Heritage & Endangered Species Program, the Newbury Conservation Commission, and US Fish and Wildlife Service.

(3) Compensation: For the performance of the Services by Mass Audubon, the CLIENT hereby agrees to pay to Mass Audubon the compensation set forth in Exhibit B attached hereto in accordance with the payment schedule and procedures set forth therein.

(4) Indemnification: Each party hereto will indemnify, defend, and hold harmless the other party, and its officers, directors, employees, volunteers, and agents, from and against any and all claims, actions, losses, damages, liabilities, obligations, costs, expenses, and reasonable attorneys' fees in connection with the loss of life, personal injury, and/or damage to property arising from or out of (a) the negligence or intentional acts or

PG  
BAP

omissions of the indemnifying party or (b) the failure of the indemnifying party to comply with or perform any of its obligations under this Agreement.

(5) Insurance: During the term of this Agreement, Mass Audubon shall have issued in its name, at its sole cost and expense, commercial general liability insurance in the amount of not less than \$1,000,000 each occurrence and \$2,000,000 in the aggregate, and shall provide to the CLIENT upon request, an up-to-date certificate of insurance listing such insurance policy, and which shall name the CLIENT as an additional named insured on such insurance policy.

(6) Notice: Any and all notices under this Agreement shall be in writing and shall be duly given if sent by registered or certified mail, postage prepaid, return receipt requested, or by a recognized overnight delivery service, such as Federal Express, providing evidence of delivery, if to Mass Audubon addressed to Massachusetts Audubon Society, Inc., P.O. Box 275, Cummaquid, MA 02637, Attention: Lyra Brennan, Coastal Waterbird Program Director, with a copy to , and if to the CLIENT addressed to: Plum Island Blue LLC at [ 206 Andover St. Andover, MA 01810 ], Attention: [ Ryan Guthrie ], [with a copy to the Conservation Agent of the Town].

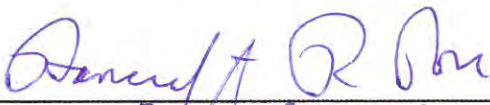
(7) Miscellaneous: This Agreement and any of the rights and obligations under this Agreement may not be assigned or transferred in whole or in part by any party hereto. The provisions of Exhibit A and Exhibit B shall be incorporated in this Agreement by reference as if set forth in their entirety in this Agreement. This Agreement constitutes the entire agreement of the parties hereto as to the subject matter hereof and supersedes all previous oral or written agreements between the parties hereto as to the subject matter hereof. This Agreement may be changed or amended only in writing signed by both

PLB  
BSP

parties hereto. This Agreement shall be governed by, and construed in accordance with, the internal laws of The Commonwealth of Massachusetts without regard to its conflict of laws principles.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as an instrument under seal, all as of the day, month, and year first written above.

MASSACHUSETTS AUDUBON SOCIETY, INC

By:   
By: Bakercroft R. Poor  
Title: Assistant Treasurer/CFO

[NAME OF CLIENT] Ryan Guthrie, Plum Island Blue LLC,(Blue Inn)

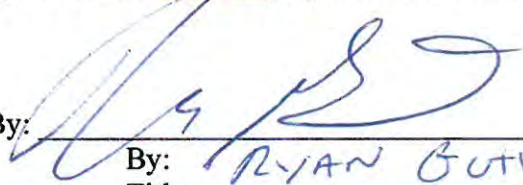
By:   
By: RYAN GUTHRIE  
Title: Managing Partner



EXHIBIT A

Description of Services

(1) The Services to be performed by Mass Audubon for the CLIENT shall be as follows:

Mass Audubon staff (one to two people depending upon the extent of the project) will be available to monitor the presence of and minimize disturbance to state and federal listed coastal nesting birds (defined here as Piping Plovers, Least and Common Terns). The tasks involved in this work include the following according to state and federal guidelines:

- (a) Pre-and/or during construction monitoring for the presence of nesting birds if operations are taking place on or after April 1.
- (b) Post-construction monitoring and management, including symbolic fencing and signage to protect nests and scrapes, as needed, on site based on presence of potential nesting habitat and/or presence of birds, as determined by Massachusetts Division of Fisheries & Wildlife Natural Heritage & Endangered Species Program.
- (c) Reporting to permitting agencies after construction work is complete and/or if plover activity is detected on site.

(2) CLIENT shall be responsible for all permitting and on-site maintenance work.

(3) CLIENT agrees to grant or secure for the personnel of Mass Audubon sufficient permission to enter private properties to permit Mass Audubon to perform properly the Services described herein for the CLIENT. The CLIENT shall immediately inform Mass

AC  
CZP

Audubon if proper permission to enter the property or perform the proposed work cannot be obtained.

- (4) Mass Audubon is not obligated to perform any work beyond that described in this Agreement. If unforeseen circumstances result in the need to complete additional work, the parties will execute an amendment to this Agreement.

AO  
BHL

EXHIBIT B

Compensation

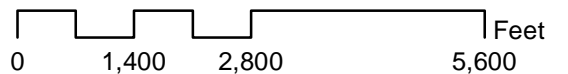
The fee for a qualified shorebird monitor under this Agreement \$50.00/hour. All payments will be due within thirty (30) days of receipt of invoice. Invoice will include an accounting of all hours spent on site and reporting.

Handwritten initials in blue ink, possibly "R/S" or "R/S/O".





# 18 Fordham Way Newbury MA USGS Location Map



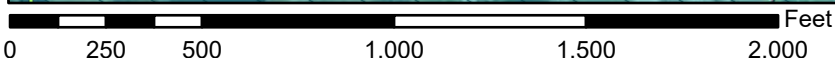




# National Flood Hazard Layer FIRMMette



70°48'46"W 42°47'48"N



1:6,000

70°48'8"W 42°47'22"N

Basemap Imagery Source: USGS National Map 2023

## Legend

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

- |                                    |  |  |
|------------------------------------|--|--|
| <b>SPECIAL FLOOD HAZARD AREAS</b>  |  | Without Base Flood Elevation (BFE)<br><i>Zone A, V, A99</i>  |
|                                    |  | With BFE or Depth <i>Zone AE, AO, AH, VE, AR</i>   |
|                                    |  | Regulatory Floodway  |
| <b>OTHER AREAS OF FLOOD HAZARD</b> |  | 0.2% Annual Chance Flood Hazard, Areas of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile <i>Zone X</i> |
|                                    |  | Future Conditions 1% Annual Chance Flood Hazard <i>Zone X</i>  |
|                                    |  | Area with Reduced Flood Risk due to Levee. See Notes. <i>Zone X</i>  |
|                                    |  | Area with Flood Risk due to Levee <i>Zone D</i>  |
| <b>OTHER AREAS</b>                 |  | NO SCREEN Area of Minimal Flood Hazard <i>Zone X</i>   |
|                                    |  | Effective LOMRs  |
| <b>GENERAL STRUCTURES</b>          |  | Area of Undetermined Flood Hazard <i>Zone D</i>  |
|                                    |  | Channel, Culvert, or Storm Sewer   |
| <b>OTHER FEATURES</b>              |  | Levee, Dike, or Floodwall  |
|                                    |  | Cross Sections with 1% Annual Chance Water Surface Elevation   |
| <b>MAP PANELS</b>                  |  | Coastal Transect   |
|                                    |  | Base Flood Elevation Line (BFE)  |
|                                    |  | Limit of Study   |
|                                    |  | Jurisdiction Boundary  |
|                                    |  | Coastal Transect Baseline  |
|                                    |  | Profile Baseline   |
| <b>MAP PANELS</b>                  |  | Digital Data Available   |
|                                    |  | No Digital Data Available  |
|                                    |  | Unmapped   |
|                                    |  | The pin displayed on the map is an approximate point selected by the user and does not represent an authoritative property location.                                     |



This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on **6/30/2023 at 10:00 AM** and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.





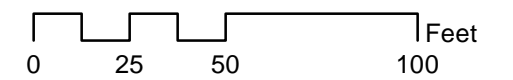
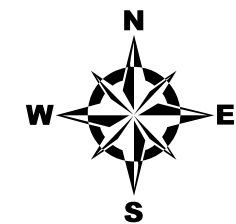


2021 Orthophoto  
with NHESP  
18 Fordham Way  
Newbury, MA



**Legend**

-  NHESP Estimated Habitat
-  NHESP Priority Habitat







# 18 Fordham Way - View from the South



© All EagleView Technology Corporation











# HUGHES ENVIRONMENTAL CONSULTING

44 MERRIMAC STREET, NEWBURYPORT, MA 01950  
PHONE 978.465.5400 • FAX 978.465.8100  
EMAIL THUGHES@HUGHESENVR.COM

PO Box 392, MA 01742  
PHONE/FAX 978.369.2100

## Notification to Abutters Under the Massachusetts Wetlands Protection Act

In accordance with the second paragraph of Massachusetts General Laws Chapter 131, Section 40, and the Town of Newbury Bylaw, you are hereby notified of the following:

- A. The name of the applicant is: **Plum Island Blue, LLC**
- B. The applicant has filed a **Notice of Intent** on (date): June 30, 2023 with the **Newbury Conservation Commission** requesting an **Order of Conditions** authorizing the following description of work: **After the fact replacement of beach access stairs, walkway and associated work.**
- C. The address of the property and the Map/Lot(s) where the activity is proposed is: **18 Fordham Way**
- D. Copies of the Notice of Intent may be examined at the Newbury Conservation Commission, 12 Kent Way, Byfield, MA 01922 between the hours of 8:00 a.m. and 12:00 p.m. Monday through Thursday. Telephone (978) 465-0862 X304. There is a printing charge of twenty-five dollars (\$25.00). Architectural size plans shall incur an additional fee. Note access to municipal offices may be limited due to the COVID 19 state of emergency.
- E. Information regarding the date, time and place of the public hearing may be obtained from the Newbury Conservation Commission by calling (978) 465-0862 X304. A public hearing is currently scheduled for **July 18** at 12 Kent Way at 6:00 p.m – note that the meeting is expected to be held remotely online. You may contact the Newbury Conservation Commission to verify that the hearing is taking place and how to access it. Notice of the public hearing, including date/time/place will be posted at the Newbury Town Hall and the Town of Newbury's website [www.townofnewbury.org](http://www.townofnewbury.org) at least 48 hours in advance.

NOTE: For more information about this application and the Wetlands Protection Act you may contact the Massachusetts Department of Environmental Protection, Northeast Regional Office at (978) 694-3200 or email them at [NERO.Service@state.ma.us](mailto:NERO.Service@state.ma.us).







**Massachusetts Department of Environmental Protection**  
 Bureau of Resource Protection - Wetlands  
**NOI Wetland Fee Transmittal Form**  
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

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



**A. Applicant Information**

1. Location of Project:

18 Fordham Way Newbury  
 a. Street Address b. City/Town  
 4160 42.50  
 c. Check number d. Fee amount

2. Applicant Mailing Address:

Ryan Guthrie  
 a. First Name b. Last Name  
 Plum Island Blue, LLC  
 c. Organization  
 206 Andover Street, Suite 1  
 d. Mailing Address  
 Andover MA 01810  
 e. City/Town f. State g. Zip Code  
 h. Phone Number i. Fax Number j. Email Address

3. Property Owner (if different):

a. First Name b. Last Name  
 c. Organization  
 d. Mailing Address  
 e. City/Town f. State g. Zip Code  
 h. Phone Number i. Fax Number j. Email Address

**B. Fees**

Fee should be calculated using the following process & worksheet. **Please see Instructions before filling out worksheet.**

**Step 1/Type of Activity:** Describe each type of activity that will occur in wetland resource area and buffer zone.

**Step 2/Number of Activities:** Identify the number of each type of activity.

**Step 3/Individual Activity Fee:** Identify each activity fee from the six project categories listed in the instructions.

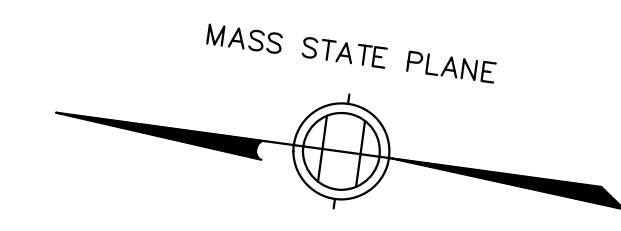
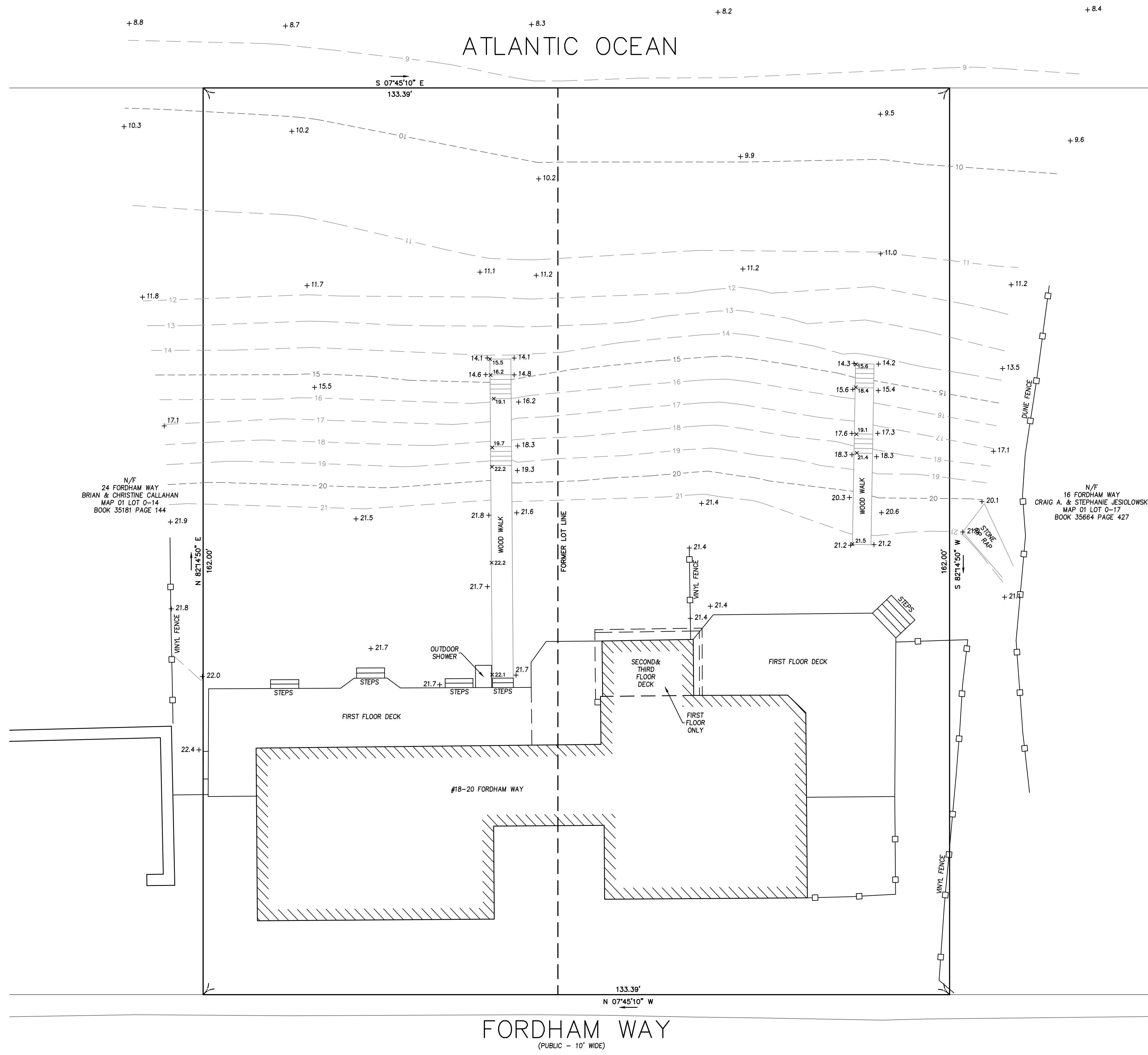
**Step 4/Subtotal Activity Fee:** Multiply the number of activities (identified in Step 2) times the fee per category (identified in Step 3) to reach a subtotal fee amount. Note: If any of these activities are in a Riverfront Area in addition to another Resource Area or the Buffer Zone, the fee per activity should be multiplied by 1.5 and then added to the subtotal amount.

**Step 5/Total Project Fee:** Determine the total project fee by adding the subtotal amounts from Step 4.

**Step 6/Fee Payments:** To calculate the state share of the fee, divide the total fee in half and subtract \$12.50. To calculate the city/town share of the fee, divide the total fee in half and add \$12.50.

To calculate filing fees, refer to the category fee list and examples in the instructions for filling out WPA Form 3 (Notice of Intent).

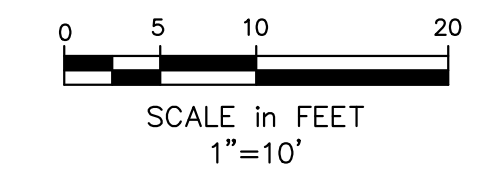




**NOTES**  
 THE PURPOSE OF THIS PLAN IS TO SHOW THE EXISTING CONDITIONS ON THE LOT AND IS THE RESULT OF AN ON-THE-GROUND INSTRUMENT SURVEY PERFORMED ON JUNE 23RD & 26TH, 2023.  
 OWNERSHIP INFORMATION USED IN THE PREPARATION OF THIS PLAN WAS OBTAINED FROM THE TOWN OF NEWBURY ASSESSOR'S OFFICE. PROPERTY LINES ARE BASED ON PLAN BOOK 177 PLAN 70.  
 TO THE BEST OF MY PROFESSIONAL KNOWLEDGE, INFORMATION, AND BELIEF, THIS PLAN CONFORMS TO THE TECHNICAL AND PROCEDURAL STANDARDS FOR THE PRACTICE OF LAND SURVEYING IN THE COMMONWEALTH OF MASSACHUSETTS.

P.L.S. \_\_\_\_\_  
 EVERETT J. CHANDLER, P.L.S. MASS. REGISTRATION NO. 41783  
 DATE \_\_\_\_\_

**LOCUS TITLE INFORMATION**  
 18-20 FORDHAM WAY  
 OWNER: PLUM ISLAND BLUE LLC  
 DEED REFERENCE: BOOK 34727 PAGE 200  
 ASSESSORS: MAP U01 PARCEL 0-16



Copyright 2023 Winter GEC, LLC

**Winter GEC, LLC**  
 44 MERRIMAC STREET  
 NEWBURYPORT, MA 01950  
 978-270-8626

SCALE:  
 HORIZ: 1" = 10'  
 VERT: N.A.

NO.	DATE	BY	REVISIONS

FIELD: JK  
 CALCS: CO/EC  
 CHECKED: EJC  
 APPROVED: EJC

**LIMITED EXISTING  
 CONDITIONS PLAN**  
 18-20 FORDHAM WAY

PLAN OF LAND IN  
 NEWBURY, MASSACHUSETTS  
 SURVEYED FOR  
 PLUM ISLAND BLUE LLC

PROJECT NO.  
 2023-18FORDHAM  
 DATE: JUNE 28, 2023  
 SHEET NO.  
 1 OF 1

