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

A. General Information

1. From: Town of Newbury
   Conservation Commission

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

3. To: Applicant:
   Thomas
   a. First Name
   The Governor's Academy
   b. Last Name
   c. Organization
   1 Elm Street
   d. Mailing Address
   Byfield
   e. City/Town
   Woodruff
   f. State
   01922
   g. Zip Code

4. Property Owner (if different from applicant):
   a. First Name
   The Governor's Academy
   b. Last Name
   c. Organization
   1 Elm Street
   d. Mailing Address
   Byfield
   e. City/Town

5. Project Location:
   313 Newburyport Turnpike
   a. Street Address
   Newbury
   b. City/Town
   R15
   c. Assessors Map/Plat Number
   11
   d. Parcel/Lot Number

Latitude and Longitude, if known:
42.75521N
s
m
70.89888
Wd
m
s
A. General Information (cont.)

6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):
   Southern Essex
   a. County
   b. Certificate Number (if registered land)

   c. Book
   d. Page

7. Dates:
   a. Date Notice of Intent Filed
   b. Date Public Hearing Closed
   c. Date of Issuance
   May 1, 2018
   May 15, 2018
   June 27, 2018

8. Final Approved Plans and Other Documents (attach additional plan or document references as needed):
   Parker River Environmental Studies Building
   a. Plan Title
   Meridan Associates / Flansburg
   b. Prepared By
   Mark E. Beaudry
   c. Signed and Stamped by
   June 6, 2018
   d. Final Revision Date
   noted but varies by sheet
   e. Scale
   WPA Form 3 Notice of Intent w/all attachments
   f. Additional Plan or Document Title
   April 27, 2018
   g. Date

B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act:

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

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

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

   Approved subject to:

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

Denied because:

b. ☐ the proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect the interests of the Act, and a final Order of Conditions is issued. **A description of the performance standards which the proposed work cannot meet is attached to this Order.**

c. ☐ the information submitted by the applicant is not sufficient to describe the site, the work, or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the Act’s interests, and a final Order of Conditions is issued. **A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(6)(c).**

3. ☐ Buffer Zone Impacts: Shortest distance between limit of project disturbance and the wetland resource area specified in 310 CMR 10.02(1)(a) a. linear feet

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

<table>
<thead>
<tr>
<th>Resource Area</th>
<th>Proposed Alteration</th>
<th>Permitted Alteration</th>
<th>Proposed Replacement</th>
<th>Permitted Replacement</th>
</tr>
</thead>
<tbody>
<tr>
<td>4. ☐ Bank</td>
<td>a. linear feet</td>
<td>b. linear feet</td>
<td>c. linear feet</td>
<td>d. linear feet</td>
</tr>
<tr>
<td>5. ☐ Bordering Vegetated Wetland</td>
<td>a. square feet</td>
<td>b. square feet</td>
<td>c. square feet</td>
<td>d. square feet</td>
</tr>
<tr>
<td>6. ☐ Land Under Waterbodies and Waterways</td>
<td>a. square feet</td>
<td>b. square feet</td>
<td>c. square feet</td>
<td>d. square feet</td>
</tr>
<tr>
<td></td>
<td>e. c/y dredged</td>
<td>f. c/y dredged</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7. ☐ Bordering Land Subject to Flooding</td>
<td>a. square feet</td>
<td>b. square feet</td>
<td>c. square feet</td>
<td>d. square feet</td>
</tr>
<tr>
<td>Cubic Feet Flood Storage</td>
<td>e. cubic feet</td>
<td>f. cubic feet</td>
<td>g. cubic feet</td>
<td>h. cubic feet</td>
</tr>
<tr>
<td>8. ☐ Isolated Land Subject to Flooding</td>
<td>a. square feet</td>
<td>b. square feet</td>
<td>c. cubic feet</td>
<td>d. cubic feet</td>
</tr>
<tr>
<td>Cubic Feet Flood Storage</td>
<td>e. cubic feet</td>
<td>f. cubic feet</td>
<td></td>
<td></td>
</tr>
<tr>
<td>9. ☐ Riverfront Area</td>
<td>a. total sq. feet</td>
<td>b. total sq. feet</td>
<td>c. square feet</td>
<td>d. square feet</td>
</tr>
<tr>
<td>Sq ft within 100 ft</td>
<td>c. square feet</td>
<td>d. square feet</td>
<td>e. square feet</td>
<td>f. square feet</td>
</tr>
<tr>
<td>Sq ft between 100-200 ft</td>
<td>g. square feet</td>
<td>h. square feet</td>
<td>i. square feet</td>
<td>j. square feet</td>
</tr>
</tbody>
</table>
B. Findings (cont.)

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

<table>
<thead>
<tr>
<th></th>
<th>Proposed Alteration</th>
<th>Permitted Alteration</th>
<th>Proposed Replacement</th>
<th>Permitted Replacement</th>
</tr>
</thead>
<tbody>
<tr>
<td>10</td>
<td>□ Designated Port Areas</td>
<td>Indicate size under Land Under the Ocean, below</td>
<td>a. square feet</td>
<td>b. square feet</td>
</tr>
<tr>
<td></td>
<td>□ Land Under the Ocean</td>
<td></td>
<td>c. c/y dredged</td>
<td>d. c/y dredged</td>
</tr>
<tr>
<td>12</td>
<td>□ Barrier Beaches</td>
<td>Indicate size under Coastal Beaches and/or Coastal Dunes below</td>
<td>a. square feet</td>
<td>b. square feet</td>
</tr>
<tr>
<td>13</td>
<td>□ Coastal Beaches</td>
<td></td>
<td>c. nourishment</td>
<td>d. nourishment</td>
</tr>
<tr>
<td>14</td>
<td>□ Coastal Dunes</td>
<td></td>
<td>a. square feet</td>
<td>b. square feet</td>
</tr>
<tr>
<td>15</td>
<td>□ Coastal Banks</td>
<td></td>
<td>c. nourishment</td>
<td>d. nourishment</td>
</tr>
<tr>
<td>16</td>
<td>□ Rocky Intertidal Shores</td>
<td>a. linear feet</td>
<td>b. linear feet</td>
<td></td>
</tr>
<tr>
<td>17</td>
<td>□ Salt Marshes</td>
<td>a. square feet</td>
<td>b. square feet</td>
<td>c. square feet</td>
</tr>
<tr>
<td>18</td>
<td>□ Land Under Salt Ponds</td>
<td>a. square feet</td>
<td>b. square feet</td>
<td>c. c/y dredged</td>
</tr>
<tr>
<td>19</td>
<td>□ Land Containing Shellfish</td>
<td>a. square feet</td>
<td>b. square feet</td>
<td>c. square feet</td>
</tr>
<tr>
<td>20</td>
<td>□ Fish Runs</td>
<td>Indicate size under Coastal Banks, Inland Bank, Land Under the Ocean, and/or Inland Land Under Waterbodies and Waterways, above</td>
<td>a. c/y dredged</td>
<td>b. c/y dredged</td>
</tr>
<tr>
<td></td>
<td>□ Land Subject to Coastal Storm Flowage</td>
<td>171.0</td>
<td>171.0</td>
<td></td>
</tr>
<tr>
<td></td>
<td>□ Riverfront Area</td>
<td>18,311.0</td>
<td>18,311.0</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Sq ft within 100 ft</td>
<td>3936.0</td>
<td>3936.0</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Sq ft between 100-200 ft</td>
<td>14,375.0</td>
<td>14,375.0</td>
<td></td>
</tr>
</tbody>
</table>
B. Findings (cont.)

23. □ Restoration/Enhancement *:
   a. square feet of BVW
   b. square feet of salt marsh

24. □ Stream Crossing(s):
   a. number of new stream crossings
   b. number of replacement stream crossings

C. General Conditions Under Massachusetts Wetlands Protection Act

The following conditions are only applicable to Approved projects.

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.

2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.

3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.

4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
   a. The work is a maintenance dredging project as provided for in the Act; or
   b. The time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
   c. If the work is for a Test Project, this Order of Conditions shall be valid for no more than one year.

5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order. An Order of Conditions for a Test Project may be extended for one additional year only upon written application by the applicant, subject to the provisions of 310 CMR 10.05(11)(f).

6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not extend the issuance date of the original Final Order of Conditions and the Order will expire on June 27, 2021 unless extended in writing by the Department.

7. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.
C. General Conditions Under Massachusetts Wetlands Protection Act

8. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.

9. No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to the Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of work.

10. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words,

   "Massachusetts Department of Environmental Protection" [or, "MassDEP"]

   "File Number   050-1264  "

11. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before MassDEP.

12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.

13. The work shall conform to the plans and special conditions referenced in this order.

14. Any change to the plans identified in Condition #13 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.

15. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.

16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.
C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

17. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.

18. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls if it deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.

19. The work associated with this Order (the “Project”)
   (1) ☒ is subject to the Massachusetts Stormwater Standards
   (2) ☐ is NOT subject to the Massachusetts Stormwater Standards

If the work is subject to the Stormwater Standards, then the project is subject to the following conditions:

a) All work, including site preparation, land disturbance, construction and redevelopment, shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Construction General Permit as required by Stormwater Condition 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.

b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that:
   i. all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures;
   ii. as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized;
   iii. any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10;
iv. all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition;

v. any vegetation associated with post-construction BMPs is suitably established to withstand erosion.

c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 18(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMP Operation and Maintenance Plan ("O&M Plan") and certifying the following:

i.) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and

ii.) the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.

d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Multi-Sector General Permit.

e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 18(f) through 18(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 18(f) through 18(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.

f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.
g) The responsible party shall:
   1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location);
   2. Make the maintenance log available to MassDEP and the Conservation Commission ("Commission") upon request; and
   3. Allow members and agents of the MassDEP and the Commission to enter and inspect the site to evaluate and ensure that the responsible party is in compliance with the requirements for each BMP established in the O&M Plan approved by the issuing authority.

h) All sediment or other contaminants removed from stormwater BMPs shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.

i) Illicit discharges to the stormwater management system as defined in 310 CMR 10.04 are prohibited.

j) The stormwater management system approved in the Order of Conditions shall not be changed without the prior written approval of the issuing authority.

k) Areas designated as qualifying pervious areas for the purpose of the Low Impact Site Design Credit (as defined in the MassDEP Stormwater Handbook, Volume 3, Chapter 1, Low Impact Development Site Design Credits) shall not be altered without the prior written approval of the issuing authority.

l) Access for maintenance, repair, and/or replacement of BMPs shall not be withheld. Any fencing constructed around stormwater BMPs shall include access gates and shall be at least six inches above grade to allow for wildlife passage.

Special Conditions (if you need more space for additional conditions, please attach a text document):

20. For Test Projects subject to 310 CMR 10.05(11), the applicant shall also implement the monitoring plan and the restoration plan submitted with the Notice of Intent. If the conservation commission or Department determines that the Test Project threatens the public health, safety or the environment, the applicant shall implement the removal plan submitted with the Notice of Intent or modify the project as directed by the conservation commission or the Department.
D. Findings Under Municipal Wetlands Bylaw or Ordinance

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

2. The _______________________________ hereby finds (check one that applies):
   
a.  □ that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw, specifically:

   1. Municipal Ordinance or Bylaw
   2. Citation

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

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

   1. Municipal Ordinance or Bylaw
   2. Citation

3. The Commission orders that all work shall be performed in accordance with the following conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, the conditions shall control.

   The special conditions relating to municipal ordinance or bylaw are as follows (if you need more space for additional conditions, attach a text document):
   Please see the attached Town of Newbury Special Order of Conditions for DEP File # 050-1264, 1 Elm Street, dated June 18, 2018.
E. Signatures

This Order is valid for three years, unless otherwise specified as a special condition pursuant to General Conditions #4, from the date of issuance. Please indicate the number of members who will sign this form. This Order must be signed by a majority of the Conservation Commission.

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

Signatures:

☐ by hand delivery on
On file at Town of Newbury

☐ by certified mail, return receipt requested, on

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 MassDP 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

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

Town of Newbury
Conservation Commission

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

To:

Town of Newbury
Conservation Commission

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

313 Newburyport Turnpike 050-1264
Project Location MassDEP File Number

Has been recorded at the Registry of Deeds of:

Southern Essex
County

for: Property Owner

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

Book Page

In accordance with the Order of Conditions issued on:

June 27, 2018 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
1. A Conservation Commissions agent of the commission or the Department of Environmental Protection reserves the right to enter and inspect the property at all reasonable times, until a Certificate of Compliance is issued, to evaluate compliance with the Order of Conditions, the Act, Newbury bylaw or, 310 CMR10.00 and City/Town regulations, and may acquire any information, measurements, photographs, observations, and/or materials, or may require the submittal of any data or information deemed necessary by the Commission for that evaluation. Further, work shall be halted on the site if the Commissioner, agent, or DEP determines that any of the work is not in Compliance with this Order of Conditions. Work shall not resume until the Commission is satisfied that the work will comply, and has so notified the applicant in writing, of the Order of Compliance.

2. This document shall be included in all construction contracts, subcontracts and specifications dealing with the work proposed and shall supersede any conflicting contract requirements. The applicant shall assure that all contractors, subcontractor and other personnel performing the permitted work are fully aware of the permit's terms and conditions. Thereafter the contractor may be held jointly liable for any violation of this Order resulting from failure to comply with its conditions. Fines of up to $100.00 per violation, per day could be assessed.

3. If unforeseen problems occur during construction which may affect the statutory interests of Wetlands Protection Act or the Town of Newbury’s Bylaw, upon discovery by either the Conservation Commission, its agent, or the applicant, the Commission shall immediately be notified, and an immediate meeting shall be held between the Commission or its agent, and other concerned parties to determine the correct measures to be employed. The applicant shall then act to correct the problem using the corrective measures agreed upon. Subsequent to resolution, the activity and resulting actions shall be documented in writing.

4. The owners of the project and their successors in title, in the event they proceed to alter areas subject to the Commissions jurisdiction under the Order, agree that the Order of Conditions does not in itself impose upon the Town any responsibility and that said Town of Newbury shall not be liable for any damage in the event of failure. By acceptance of this Order, the owners agree to indemnify and hold harmless the Town and its residents for any damage attributable to alterations undertaken on this property pursuant to the Order. Issuance of the Order does not imply or certify that the site or

Town of Newbury Special Order of Conditions; v. 9/2007
downstream areas will not be subject to flooding, storm damage, or any other form of water damage. Maintenance of the drainage system, if accepted by the Town as part of a public way, becomes the responsibility of the Town.

☐ 5. The conditions numbered______ shall continue in force beyond the Certificate of Compliance, in perpetuity, and shall be referred to in all future deeds to this property.

☐ 6. Prior to commencement of construction on the site, adequate erosion and sedimentation control measure shall be implemented and maintained in effect throughout the entire construction phase, and until the site has been stabilized.

☐ 7. An adequate stockpile of erosion control materials shall be on site at all times for emergency or routine replacement and shall include materials to repair or replace silt fences, hay bales, erosion control blankets, stone riprap, filter berm(s) or any other devices planned for use during construction.

☐ 8. The applicant shall notify the Conservation Commission in writing at least 48 hours prior to commencement of activity on the site and shall advise the Commission of the name(s) and telephone number(s) of the person(s) responsible on site for compliance with this Order.

☐ 9. All equipment shall be operated, parked, and maintained so as to limit alterations of resource areas and buffer zone.

☐ 10. The wetland resources areas to be altered shall not be altered until development of the replication area is in progress and the proposed replication area is excavated to the proposed base grade. The area of wetland replication shall be brought to the approximate surface elevation of the existing adjacent wetland area with organic soil removed from the area of filling or a clean “A” layer/Horizon loam.

☐ 11. Replication of vegetation shall be “in kind”, i.e. generally similar to the area lost in terms of species composition, and cover and structure of dominant species, unless modified by the Commission. Only native plant species found on site may be placed in the replacement area.

☐ 12. Riprap material shall be clean and free of trash, tree stumps, roots, and other deleterious material.