



**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:  
 105 -961 BWP-341

MassDEP File #

eDEP Transaction #

Bellingham

City/Town

## A. General Information

**Please note:**  
 this form has  
 been modified  
 with added  
 space to  
 accommodate  
 the Registry  
 of Deeds  
 Requirements

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



1. From: Town of Bellingham Conservation Commission  
Conservation Commission

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

3. To: Applicant:  
Julie and Paul Rogers

a. First Name b. Last Name

MZHM, LLC

c. Organization

85 Mendon St

d. Mailing Address

Bellingham MA 02019

e. City/Town f. State g. Zip Code

4. Property Owner (if different from applicant):

a. First Name b. Last Name

c. Organization

d. Mailing Address

e. City/Town f. State g. Zip Code

5. Project Location:

85 Mendon St Bellingham

a. Street Address b. City/Town

49 1 and 1a

c. Assessors Map/Plat Number d. Parcel/Lot Number

Latitude and Longitude, if known: d m s d m s

d. Latitude

e. Longitude



**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:  
 105 -961 BWP-341

MassDEP File #

eDEP Transaction #

Bellingham

City/Town

**A. General Information (cont.)**

6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):

a. County

b. Certificate Number (if registered land)

c. Book

d. Page

7. Dates: 12/14/23 4/24/24 5/14/24  
 a. Date Notice of Intent Filed b. Date Public Hearing Closed c. Date of Issuance

8. Final Approved Plans and Other Documents (attach additional plan or document references as needed):

Site Plans for Lucille's Steakhouse

a. Plan Title

Allen Engineering

Mark Allen

b. Prepared By

12/7/23

c. Signed and Stamped by

1"=80'

d. Final Revision Date

Long Term Operation & Maintenance Plan

e. Scale

3/8/24

f. Additional Plan or Document Title

g. Date

**B. Findings**

1. Findings pursuant to the Massachusetts Wetlands Protection Act:

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

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

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

**Approved** subject to:

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



**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:  
 105 -961 BWP-341

MassDEP File #

eDEP Transaction #

Bellingham

City/Town

**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) 6,680  
 a. linear feet

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

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input type="checkbox"/> Bank	<u>                    </u> a. linear feet	<u>                    </u> b. linear feet	<u>                    </u> c. linear feet	<u>                    </u> d. linear feet
5. <input type="checkbox"/> Bordering Vegetated Wetland	<u>                    </u> a. square feet	<u>                    </u> b. square feet	<u>                    </u> c. square feet	<u>                    </u> d. square feet
6. <input type="checkbox"/> Land Under Waterbodies and Waterways	<u>                    </u> a. square feet <u>                    </u> e. c/y dredged	<u>                    </u> b. square feet <u>                    </u> f. c/y dredged	<u>                    </u> c. square feet	<u>                    </u> d. square feet
7. <input type="checkbox"/> Bordering Land Subject to Flooding	<u>                    </u> a. square feet	<u>                    </u> b. square feet	<u>                    </u> c. square feet	<u>                    </u> d. square feet
Cubic Feet Flood Storage	<u>                    </u> e. cubic feet	<u>                    </u> f. cubic feet	<u>                    </u> g. cubic feet	<u>                    </u> h. cubic feet
8. <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 type="checkbox"/> Riverfront Area	<u>                    </u> a. total sq. feet	<u>                    </u> b. total sq. feet		
Sq ft within 100 ft	<u>                    </u> c. square feet	<u>                    </u> d. square feet	<u>                    </u> e. square feet	<u>                    </u> f. square feet
Sq ft between 100-200 ft	<u>                    </u> g. square feet	<u>                    </u> h. square feet	<u>                    </u> i. square feet	<u>                    </u> j. square feet



**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:

105 -961 BWP-341

MassDEP File #

eDEP Transaction #

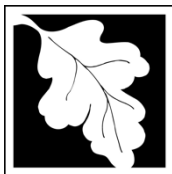
Bellingham

City/Town

**B. Findings (cont.)**

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

	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	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
12. <input type="checkbox"/> Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. <input type="checkbox"/> Coastal Beaches	a. square feet	b. square feet	c. nourishment cu yd	d. nourishment cu yd
14. <input type="checkbox"/> Coastal Dunes	a. square feet	b. square feet	c. nourishment cu yd	d. nourishment cu yd
15. <input type="checkbox"/> Coastal Banks	a. linear feet	b. linear feet		
16. <input type="checkbox"/> Rocky Intertidal Shores	a. square feet	b. square feet		
17. <input type="checkbox"/> Salt Marshes	a. square feet	b. square feet	c. square feet	d. square feet
18. <input type="checkbox"/> Land Under Salt Ponds	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
19. <input type="checkbox"/> Land Containing Shellfish	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			
	a. c/y dredged	b. c/y dredged		
21. <input type="checkbox"/> Land Subject to Coastal Storm Flowage	a. square feet	b. square feet		
22. <input type="checkbox"/> Riverfront Area	a. total sq. feet	b. total sq. feet		
Sq ft within 100 ft	c. square feet	d. square feet	e. square feet	f. square feet
Sq ft between 100-200 ft	g. square feet	h. square feet	i. square feet	j. square feet


**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:

105 -961 BWP-341

MassDEP File #

eDEP Transaction #

Bellingham

City/Town

**B. Findings (cont.)**

\* #23. If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.5.c (BVW) or B.17.c (Salt Marsh) above, please enter the additional amount here.

23. ☐ Restoration/Enhancement \*:

a. square feet of BVW

b. square feet of salt marsh

24. ☐ Stream Crossing(s):

a. number of new stream crossings

b. number of replacement stream crossings

**C. General Conditions Under Massachusetts Wetlands Protection Act**
**The following conditions are only applicable to Approved projects.**

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
  - a. The work is a maintenance dredging project as provided for in the Act; or
  - b. The time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
  - c. If the work is for a Test Project, this Order of Conditions shall be valid for no more than one year.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order. An Order of Conditions for a Test Project may be extended for one additional year only upon written application by the applicant, subject to the provisions of 310 CMR 10.05(11)(f).
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not extend the issuance date of the original Final Order of Conditions and the Order will expire on 5/14/27 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.



**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:  
105 -961 BWP-341

MassDEP File #

eDEP Transaction #

Bellingham

City/Town

**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                      105- 961 "
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.



**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:  
105 -961 BWP-341

MassDEP File #

eDEP Transaction #

Bellingham

City/Town

**C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)**

17. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.
18. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.
19. The work associated with this Order (the "Project")
  - (1) ☒ is subject to the Massachusetts Stormwater Standards
  - (2) ☐ is NOT subject to the Massachusetts Stormwater Standards

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

- a) All work, including site preparation, land disturbance, construction and redevelopment, shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Construction General Permit as required by Stormwater Condition 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.
- b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that:
  - i. all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures;
  - ii. as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized;
  - iii. any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10;





**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:

105 -961 BWP-341

MassDEP File #

eDEP Transaction #

Bellingham

City/Town

**C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)**

iv. all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition;

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

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

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

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

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

e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 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.





**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:  
105 -961 BWP-341

MassDEP File #

eDEP Transaction #

Bellingham

City/Town

**C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)**

- g) The responsible party shall:
  - 1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location);
  - 2. Make the maintenance log available to MassDEP and the Conservation Commission ("Commission") upon request; and
  - 3. Allow members and agents of the MassDEP and the Commission to enter and inspect the site to evaluate and ensure that the responsible party is in compliance with the requirements for each BMP established in the O&M Plan approved by the issuing authority.
- h) All sediment or other contaminants removed from stormwater BMPs shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.
- i) Illicit discharges to the stormwater management system as defined in 310 CMR 10.04 are prohibited.
- j) The stormwater management system approved in the Order of Conditions shall not be changed without the prior written approval of the issuing authority.
- k) Areas designated as qualifying pervious areas for the purpose of the Low Impact Site Design Credit (as defined in the MassDEP Stormwater Handbook, Volume 3, Chapter 1, Low Impact Development Site Design Credits) shall not be altered without the prior written approval of the issuing authority.
- l) Access for maintenance, repair, and/or replacement of BMPs shall not be withheld. Any fencing constructed around stormwater BMPs shall include access gates and shall be at least six inches above grade to allow for wildlife passage.

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

**Please see Special Conditions attached.**

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



**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:  
105 -961 BWP-341

MassDEP File #

eDEP Transaction #

Bellingham

City/Town

**D. Findings Under Municipal Wetlands Bylaw or Ordinance**

1. Is a municipal wetlands bylaw or ordinance applicable? ☒ Yes ☐ No
2. The Bellingham hereby finds (check one that applies):  
Conservation Commission

- a. ☐ that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw, specifically:

1. Municipal Ordinance or Bylaw

2. Citation

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

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

Bellingham Wetland Regulations

Ch 271

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):

Information presented in the filing, the hearing process and the site inspections are deemed adequate to comply with the duties and responsibilities incumbent upon the applicant under the Town of Bellingham's Wetlands Protection Bylaw and Regulations. The Order of Conditions pursuant to the Wetlands Protection Act adequately addresses both state and local statute.

Please see Special Conditions attached.



**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:

105 -961 BWP-341

MassDEP File #

eDEP Transaction #

Bellingham

City/Town

**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.

5/14/24

1. Date of Issuance

7

2. Number of Signers

*Michael O'Herron* dotloop verified  
05/07/24 7:11 AM EDT  
5BL5-S2WN-V470-UCCX

Signature

Signature

*Arianne Barton* dotloop verified  
05/08/24 6:58 PM EDT  
XZBZ-ZK23-1AAH-ZBIB

Signature

*Steven Kohler* dotloop verified  
05/07/24 1:41 PM EDT  
7HCZ-K75C-SDJG-UDPP

Signature

*Noel Lioce* dotloop verified  
05/08/24 3:29 PM EDT  
0RAD-K6LC-QBRC-Q2K7

Signature

*Donald Coelho* dotloop verified  
05/07/24 2:14 PM EDT  
QVFR-08VF-LABG-TDCB

Signature

*James Clancy* dotloop verified  
05/06/24 3:47 PM EDT  
ZCQT-KEFT-GCBV-2BVZ

Signature

Signature

Michael J. O'Herron

Printed Name

Neal D. Standley

Printed Name

Arianne Barton

Printed Name

Steven Kohler

Printed Name

Noel Lioce

Printed Name

Donald Coelho

Printed Name

James Clancy

Printed Name

Printed Name

☐ by hand delivery on

☐ by certified mail, return receipt requested, on

Date

Date

see vote recorded in Norfolk Deeds Book  
41645 Page 572



**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:

105

MassDEP File #

eDEP Transaction #

Bellingham

City/Town

## F. Appeals

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land subject to this Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate MassDEP Regional Office to issue a Superseding Order of Conditions. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and a completed Request for Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

Any appellants seeking to appeal the Department's Superseding Order associated with this appeal will be required to demonstrate prior participation in the review of this project. Previous participation in the permit proceeding means the submission of written information to the Conservation Commission prior to the close of the public hearing, requesting a Superseding Order, or providing written information to the Department prior to issuance of a Superseding Order.

The request shall state clearly and concisely the objections to the Order which is being appealed and how the Order does not contribute to the protection of the interests identified in the Massachusetts Wetlands Protection Act (M.G.L. c. 131, § 40), and is inconsistent with the wetlands regulations (310 CMR 10.00). To the extent that the Order is based on a municipal ordinance or bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.



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

**WPA Form 5 – Order of Conditions**

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

Provided by MassDEP:

105

MassDEP File #

eDEP Transaction #

Bellingham

City/Town

## 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.

Bellingham

Conservation Commission

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

To:

Bellingham

Conservation Commission

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

Project Location

MassDEP File Number

Has been recorded at the Registry of Deeds of:

County

Book

Page

for:

Property Owner

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

Book

Page

In accordance with the Order of Conditions issued on:

Date

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

Instrument Number

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

Document Number

Signature of Applicant



**Massachusetts Department of Environmental Protection**  
 Bureau of Resource Protection - Wetlands  
**Request for Departmental Action Fee**  
**Transmittal Form**

DEP File Number: \_\_\_\_\_

Provided by DEP \_\_\_\_\_

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

**A. Request Information**

1. Location of Project

a. Street Address \_\_\_\_\_

b. City/Town, Zip \_\_\_\_\_

c. Check number \_\_\_\_\_

d. Fee amount \_\_\_\_\_

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

Name \_\_\_\_\_

Mailing Address \_\_\_\_\_

City/Town \_\_\_\_\_

State \_\_\_\_\_

Zip Code \_\_\_\_\_

Phone Number \_\_\_\_\_

Fax Number (if applicable) \_\_\_\_\_

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

Name \_\_\_\_\_

Mailing Address \_\_\_\_\_

City/Town \_\_\_\_\_

State \_\_\_\_\_

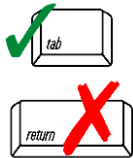
Zip Code \_\_\_\_\_

Phone Number \_\_\_\_\_

Fax Number (if applicable) \_\_\_\_\_

4. DEP File Number: \_\_\_\_\_

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



**B. Instructions**

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

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



**Massachusetts Department of Environmental Protection**  
 Bureau of Resource Protection - Wetlands  
**Request for Departmental Action Fee**  
**Transmittal Form**

DEP File Number:

Provided by DEP

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

**B. Instructions (cont.)**

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

Department of Environmental Protection  
 Box 4062  
 Boston, MA 02211

2. On a separate sheet attached to this form, state clearly and concisely the objections to the Determination or Order which is being appealed. To the extent that the Determination or Order is based on a municipal bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.
3. Send a **copy** of this form and a **copy** of the check or money order with the Request for a Superseding Determination or Order by certified mail or hand delivery to the appropriate DEP Regional Office (see <https://www.mass.gov/service-details/massdep-regional-offices-by-community>).
4. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.



**SPECIAL CONDITIONS**  
**Order of Conditions DEP #105-961 & BWP-341**

**85 Mendon Street**  
**Proposed Lucille's Steakhouse**  
**Paul & Julie Rogers**

**GENERAL CONDITIONS**

21. Prior to the commencement of any construction activity on site, the Applicant shall record this Order at the Registry of Deeds with proof of recording provided to the Conservation Commission at or before the commencement of construction.
22. The term "Applicant" as used in the Order shall refer to the current applicant or any assignee, successor in interest or successor in control of the property referenced in the Notice of Intent (NOI), supporting documents, approved plans, and the Order. The Bellingham Conservation Commission (BCC) shall be notified in writing within 30 days of all transfers of title of any portion of the property subject to the Order.
23. The general contractor shall hire independent subcontractors; an Engineer licensed to oversee reconstruction of the restaurant and stormwater management system and a Professional Wetlands Scientist and/or individual who is a certified sediment and erosion control specialist. These persons shall be employed for the duration of the project and will be responsible for preventing additional resource area impacts or buffer zone impacts other than those allowed by permit shall occur. Any individuals hired as replacements to fill vacancies and any of those independent subcontractors' positions must be presented to the BCC or its representative for approval. These persons shall work with the general contractor's staff to review and provide written/photo reports for all siltation controls, dewatering structures (if required), temporary stormwater management systems, and construction impacts in or near the Buffer Zone. These individuals and the general contractor shall bear complete responsibility for adherence to the Order of Conditions issued for this project. While site work is on-going, one of these persons shall submit biweekly monitoring reports to the Commission until the regular generation of the SWPPP reports. Any observation from the monitor that requires corrective action is not a suggestion, but a requirement that shall be addressed within 24 hours.
24. Changes proposed in the project plans and supplemental information as submitted to and reviewed by the Commission including, but not limited to, changes that affect topography, runoff patterns, or changes to the Buffer Zone are not allowed without written application to the Commission. Changes that have any potentially adverse impact on the Interests protected by the WPA or BWPB may require the filing of a new Notice of Intent or an Amendment to this Order of Conditions. Changes within land subject to jurisdiction involving the sedimentation and erosion controls, construction staging, temporary construction access roadways, soils stockpiling areas, etc. shall be presented to the BCC or its representative for assessment of whether there shall be immediate implementation or for the initiation of the Amendment process.

25. This Order and a copy of the approved drawings and plans shall be always available at the project site for easy reference for the benefit of the contractors, subcontractors and Conservation Commission or its representative who will periodically inspect the site. These are the Plans of Record. Any changes in the project due to subsequent input from other state or municipal boards or the Department of Public Works shall have no validity unless they are not subject to Special Condition #24 above.
26. The Order shall be incorporated into all sitework construction contracts for the Project. All contractors and subcontractors working at the site shall be made aware of the provisions contained within this Order of Conditions and shall adhere to the Special Conditions contained herein. Thereafter, the site work contractors as well as property owners shall be held jointly responsible for any violations and penalties under this Order.
27. The BCC and its Agent or designee shall have the right to enter and inspect the land to evaluate and ensure compliance with the Order. Additional information may be required to accomplish an evaluation. For safety reasons, the BCC and Agent shall contact the Site Supervisor, and if required, shall be escorted by the Owner's representative and/or Site Work Contractor while on-site.
28. A minimum of four weeks prior to construction, the applicant or contractor shall provide the BCC with detailed sediment and erosion control plans sufficient to secure the site during construction and to prevent migration of sediments from areas of construction while complying with all SWPPP protocols.
29. The Bellingham Conservation Commission reserves the right to impose reasonable additional conditions on this Project such as additional or modified erosion and sedimentation controls during construction, if it deems that site conditions warrant such measures to mitigate potential impacts.
30. In addition to Form 5 General Condition 16, if the subject parcel is sold or the development rights are transferred to any other person prior to the issuance of a Certificate of Compliance, the Applicant shall be required to submit to the Bellingham Conservation Commission a signed and notarized letter of acknowledgement from the buyer or their assignees stating that they have been provided copies of all permits associated with the proposed Project, including this Order, and that they understand their responsibility associated with the construction of this Project under those permits, including this Order.
31. Any proposed activity above and beyond that described in the Notice of Intent within jurisdictional resource areas and their Buffer Zones (as defined at 310 CMR 10.04 and Bellingham Chapter 247) must be preceded by a negative Determination of Applicability or an Order of Conditions from the Conservation Commission unless said activity is a 'minor exempt activity' as defined at 310 CMR 10.58(6)(b) and 310 CMR 10.02(2)(b). Failure to abide by this Special Condition will result in potential enforcement action on the part of the Commission.

## **PRE-CONSTRUCTION CONDITIONS**

32. The BCC and Agent shall receive a copy of the final EPA National Pollution Discharge Elimination System (NPDES) Construction General Permit and Stormwater Pollution Prevention Plan (SWPPP) upon selection of the Site Work Contractor. The SWPPP shall be fully executed and in place before any land disturbance. The Order shall be incorporated into the SWPPP. If site conditions warrant a modification to the Approved Plans, the SWPPP shall be modified. Adjustments to the SWPPP, if necessitated by construction activities and/or coordination with the BCC and Agent, shall be documented and copied to the BCC and Agent.
33. The location of sediment and erosion controls shall be identified in the field by the Surveyor and inspected by BCC or their representative prior to the installation and in accordance with the detailed sediment and erosion control plans. Once approved by BCC, tree clearing may commence, followed immediately by installation of erosion controls.
34. Prior to any land disturbance activities, erosion controls shall be installed and maintained as specified on the sediment and erosion control plans. The Professional Engineer or Sediment and Erosion Control Specialist shall observe the erosion controls subsequent to the installation, and issue a stamped, written certification to the BCC and Agent confirming that the erosion controls were installed in the locations shown on the Approved Plans.
35. After the installation of the erosion controls, the BCC and Agent shall be notified so that a pre-construction site walk can be planned. The purpose of the site walk is to determine that the sediment and erosion controls have been properly installed.
36. An adequate reserve of erosion control materials shall be stored on-site at all times for emergency or routine replacement and shall include at a minimum: 50 linear feet of silt fence materials, 50 linear feet of straw bales and stakes, 3 cubic yards of rip-rap, filter disks, mulch, and other materials/devices which may be necessary to stabilize the site. During the initial inspection of the sediment and erosion controls, the storage area and inventory of materials will be inspected.
37. The name and telephone number of the Project person(s) responsible for ensuring that adequate and functioning erosion controls are present shall be provided to the BCC and Agent. This person or an alternate shall be available on a 24-hour, 7 day basis.

## **DURING CONSTRUCTION CONDITIONS**

38. No work activities are permitted beyond the limit of sediment and erosion controls in accordance with the Approved Plans. Regulated resource areas shall not be entered by crossing over the erosion controls or the limit of work line with equipment or vehicles, and storage of construction materials is prohibited in the Buffer Zone. Trash shall not be permitted in regulated resource areas or Buffer Zones. The erosion control inspector shall note any debris or trash generated by the construction in the NPDES Monitoring Reports and identify corrective actions to remove and properly dispose of the trash. Additionally, any trash or

debris discovered during construction that was previously deposited on site prior to construction shall be removed for proper disposal.

39. According to the Order and Approved Plans, stockpiling of soil or construction materials shall be outside of the 100 foot Buffer Zone and shall have adequate erosion controls installed at the time the stockpile is created.
40. All equipment storage, construction management trailers, vehicle refueling, trash disposal locations, concrete truck washing, and other related activities shall be in an area outside of the 100 foot Buffer Zone. If a spill occurs, the Spill Prevention and Response Procedures located in the O & M Plan(approved in the Order) shall be implemented during and post construction.
41. If dewatering operations are required, the Commission or its representative shall be notified and dewatering activities shall not commence until such time that the BCC or its Agent approve both the methodology and location of said operations. Under no circumstances will any dewatering operation be permitted unless the BCC signs off on the plan ensuring that there will be no sediment laden runoff directed toward regulated resource areas. Dewatering activities shall be monitored on a daily basis. Filter bags shall be replaced daily regardless of apparent condition. The water quality water containment structure shall be inspected every two hours during dewatering activities and damage should be immediately repaired. The containment structure shall be cleaned daily. During the inspection process debris is to be immediately removed. Sediment and fines are to be removed from the water containment structure upon reaching an accumulated depth of six inches. The contractor's sediment and erosion control specialist shall inspect the hay bales and silt fence around the water containment structure at least twice daily. Inspection results shall be included in the required weekly status reports.
42. Dust control shall be limited to water. No salts or other wetting agents shall be used.
43. Where temporary stormwater management is used during construction, all drainage utilities must be inspected regularly and maintained to assure functioning in their temporary capacity. As a condition of final site stabilization, all structures must be cleaned and where appropriate, excavated to the original approved elevations.
44. During construction, snow removal, if required, will be conducted in such a way that the removal or stockpile operations do not interfere with the drainage capabilities of any permanent or temporary construction swale. Snow is not to be stockpiled in any regulated resource area or placed close enough that melt would create a sedimentation or erosion problem.
45. Prior to the construction of the stormwater detention/infiltration systems, the Professional Engineer and Surveyor shall provide a stamped certification to the BCC and Agent that the basins were constructed to the appropriate depth, located per the Approved Plans.
46. A split rail fence will need to be added at the 50-foot Buffer Zone to prevent snow from being stockpiled near the wetland resource area during and post construction. Fencing shall be posted with "No Disturb Zone" badges which may be obtained by contacting the Conservation Commission Office.

## **POST CONSTRUCTION CONDITIONS**

47. O&M Plan for the stormwater management system shall be employed post-construction.

- a. The applicant shall be responsible for the sweeping, removal of snow, and sanding of the internal roadways and driveways providing access to the Site and for emergency vehicles as consistent with the Stormwater Operation and Maintenance Plan. The applicant shall comply with MassDEP snow disposal guidance, as may be revised from time to time.
- b. All de-icing chemicals shall be stored in a covered location, outside of the 100-foot Buffer Zone, the adjacent wetland resource areas, and all areas where stormwater BMPs are located. No sodium chloride shall be used for de-icing on the site.
- c. Post construction snow removal will be effected in such a way that the removal or stockpile operations do not interfere with the capabilities of any permanent drainage structure. Snow is not to be stockpiled in any permanent drainage structure or regulated resource area. Snow is not to be plowed or lifted over fencing or guardrails at any point. Signage directing snow removal contractors of this condition shall be placed periodically to assure compliance. Additionally, signage shall be placed at the location of the PIV to assure that it is not buried and remains operational during and after snow plowing operations. When the capacity of the allocated snow storage areas have been exceeded, snow is to be transported off-site to an approved snow storage area.

48. A Final Certificate of Compliance shall be requested in a timely manner when construction is completed and final site stabilization is achieved. The request shall include a completed Form 8 Request for Certificate of Compliance, an as-built survey, a stamped statement of project completion and compliance to the Approved Plans and this Order of Conditions by the Professional Engineer and Certified Wetland Scientist. A Certificate of Compliance will not be released until there is demonstrable proof of sediment and erosion control removal.