

# **HEARINGS, MEETINGS, LICENSES**

**8/08/16**

**Costello Dismantling Co. Earth Removal**

**HEARINGS, MEETINGS, LICENSES**

**8/08/16**

-----Original Message-----

From: Rich Tabaczynski

Sent: Friday, July 29, 2016 9:14 AM

To: Colleen Lieb

Subject: Re: Costello Earth Removal Permit application

Colleen,

This is the first time seeing this new information. I am on vacation today and all of next week, so I won't be able to review until the week after.

Can you also have the engineer send a response letter to our last comment letter explaining how he addressed our comments? That will help expedite our review.

Thank You,

Rich Tabaczynski

Sent from my iPhone

>

\* week of 8/8 Atlantic Review

\* Continue to August 22nd.

**WRPD - 55 Plain Street**

**HEARINGS, MEETINGS, LICENSES**

**8/08/16**

**From:** Phil Cordeiro  
**Sent:** Tuesday, August 02, 2016 5:07 PM  
**To:** Colleen Lieb  
**Subject:** RE: 55 Plain Street Update?

Colleen,

As discussed on the phone, I am attaching the following documents for distribution to the Board members in advance of Monday night:

1. The signed Order of Conditions issued by the Conservation Commission on July 21.
2. A letter by Patricia Cassidy as Conservation Agent which provided a narrative on progress and issues discussed with the Commission. It also summarizes some questions that were raised to Town Counsel and subsequently resolved by issuance of an Order. I believe this letter may be helpful for the Board to recount the history of the outfall application t 55 Plain Street.
3. A plan with the recorded easement and the deeds associated with it granting rights to the DPW for installation and maintenance of the outfall drainage structure.

The only other open issue that the Board may contemplate is the involvement of Mr. Cornell's bogs on Summer Street. In the discussions and decisions of the Conservation Commission, Mr. Cornell's bogs were not relevant to the application submitted. The applications are solely for reconstruction of the outfall. They do not contemplate any additional drainage associated with it. Dan Murray noted that the drainage connections are all existing with calculations as approved by other Boards. So long as the various connections remain in compliance with those permits, there is no opportunity for Mr. Cornell to be affected. Further, this project application, as applied for by DPW, cannot present a mechanism to hold additional water that would otherwise as was floated by other Board members.

Please let me know if you need anything additional.

-Phil Cordeiro





## Town of Middleborough

### CONSERVATION COMMISSION

20 CENTRE STREET  
MIDDLEBOROUGH, MASSACHUSETTS 02346

PHONE: 1-508-946-2406  
FAX: 1-508-946-2309

To: Christopher Peck, DPW Director  
Date: July 25, 2016  
SE# 220-1275

**Attached is the Original One Sided Permit which is required by the Plymouth County Registry of Deeds.**

Please note:

#### MASSACHUSETTS WETLANDS PROTECTION ACT REGULATIONS 310 CMR 10.05 (6) (g)

Prior to the commencement of any work permitted or required by the Final Order, including a Final Order of Resource Area Delineation, or Notification of Non-significance, the Order or Notification shall 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. Recording of an Order of Resource Area Delineation is not required where no work is performed under 310 CMR 10.02(2)(b)2. 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 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 to be done. Certification of recording shall be sent to the issuing authority on the form at the end of Form 5. **If work is undertaken without the applicant first recording the Order, the issuing authority may issue an Enforcement Order (form 9) or may itself record the Order of Conditions.**

If you have any questions don't hesitate to contact the Conservation Department at 508-946-2406.

Best regards,

A handwritten signature in black ink, appearing to read "Patricia J. Cassidy".

Patricia J. Cassidy, Agent  
For the Middleborough Conservation Commission



**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

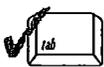
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 Middleborough  
 City/Town

**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: Middleborough  
 Conservation Commission

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

3. To: Applicant:  
 Christopher Peck  
 a. First Name b. Last Name  
 Town of Middleborough Department of Public Works  
 c. Organization  
 48 Wareham Street  
 d. Mailing Address  
 Middleborough MA 02346  
 e. City/Town f. State g. Zip Code

4. Property Owner (if different from applicant):  
 Daniel Harrington  
 a. First Name b. Last Name  
 c. Organization  
 55 Plain Street  
 d. Mailing Address  
 Middleborough MA 02346  
 e. City/Town f. State g. Zip Code

5. Project Location:  
 55 Plain Street (Drainage Easement) Middleborough  
 a. Street Address b. City/Town  
 Map 13 Lot 6384  
 c. Assessors Map/Plat Number d. Parcel/Lot Number  
 Latitude and Longitude, if known: 41d56m11.29s 70d54m15.30s  
 d. Latitude e. Longitude



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

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

6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):  
Plymouth  
 a. County 17600 b. Certificate Number (if registered land) 282  
 c. Book March 22, 2016 d. Page July 21, 2016  
 7. Dates: 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):  
See Attached List  
 a. Plan Title  
 b. Prepared By c. Signed and Stamped by  
 d. Final Revision Date e. Scale  
 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.

**Plans & Documents of Record**

**DEP File #: SE220-1275**

**Applicant: Town of Middleborough**

**Plans of Record:**

- 1) Existing Conditions Plan – Stormwater Mitigation Plan off Plain Street, Middleborough, MA; Sheet E-1; Scale: 1"=40' by Allen & Major Associates, Inc. and stamped by Philip L. Cordeiro, P.E. and Kevin J. Kiernan, P.L.S. with a revision date of May 13, 2016 per peer review letter.
- 2) Drainage Modification Plan – Stormwater Mitigation Plan off Plain Street, Middleborough, MA; Sheet C-1; Scale: As Noted by Allen & Major Associates, Inc. and stamped by Philip L. Cordeiro, P.E. with a revision date of May 13, 2016 per peer review letter.
- 3) Notes – Stormwater Mitigation Plan off Plain Street, Middleborough, MA; Sheet D-1; Scale: None by Allen & Major Associates, Inc. and stamped by Philip L. Cordeiro, P.E. with a revision date of May 13, 2016 per peer review letter.
- 4) Details – Stormwater Mitigation Plan off Plain Street, Middleborough, MA; Sheet DET-2; Scale: Details not to scale by Allen & Major Associates, Inc. and stamped by Philip L. Cordeiro, P.E. with a revision date of May 13, 2016 per peer review letter.

**From a Binder submitted to the Commission on May 18, 2016:**

- 1) Response to Comments Letter (18 pages) dated May 13, 2016 from Philip Cordeiro, P.E. Project Manager of Allen & Major to Patricia Cassady, Agent for the Middleborough Conservation Commission; RE: A&M Project # 1830-01B, Hometown Oak Point Drainage Outfall Improvements off Plain Street Response to Peer Review Comments.
- 2) Plain Street Outfall Closed Drainage Analysis under file name c1830-03 Plain Street Rational SPF dated May 16-17, 2016.
- 3) Plain Street Outfall Illicit Discharge Statement dated May 17, 2016 with Philip Cordeiro of Allen & Major and Christopher Peck of Town of Middleborough Department of Public Works.
- 4) HY-8 Energy Dissipation Design Report : Internal Energy Dissipater (10-yr. Event Q=70.62 cfs); Internal Energy Dissipater; Internal Energy Dissipater (100-yr. Event Q=92.88 cfs)
- 5) Plain Street Phase I Drainage Routing dated May 13, 2016
- 6) Plain Street Phase I Drainage Maps: Existing Watershed – Plain Street, Middleboro, MA; Sheet EW-1 dated November 26, 2001 and Proposed Watershed – Plain Street, Middleboro, MA; Sheet PW-1 dated November 26, 2001; scale on both: 1" = 800' by Allen & Major Associates not stamped.
- 7) Plain Street Phase I Improvements – Town of Middleborough; Issued for Bid date April 25, 2003; (14 Sheets) by Allen & Major Associates, Inc.
- 8) Plain Street Outfall RDA Plan – Request for Determination of Applicability Plan – Plain Street Improvements, Middleboro, MA; Sheet RDA-1; Scale: As Shown; dated June 4, 2003 by Allen & Major Associates, Inc.
- 9) Plain Street Outfall Revision I – Plan & Profile STA 60+30 to FES#2 – Plain Street Improvements ; Sheet PR-7; Drawing No. 11 of 14; Scale: As Noted; dated September 25, 2003 per revised outlet by Allen & Major Associates, Inc.

**Plans & Documents of Record**

**DEP File #: SE220-1275**

**Applicant: Town of Middleborough**

- 10) Selectmen's Meeting Minutes July 14, 2003 under Other: Update on Plain Street Paving page 13 of 17.
- 11) Plain Street Improvements Phase II – Town of Middleborough; Issued for 100% Review – June 20, 2006; (20 Sheets) by Allen & Major Associates, Inc.
- 12) Plain Street Phase II Drainage Map – Existing Watershed Plan – Plain Street Improvements Phase II; Scale: As Noted; dated February 24, 2006 by Allen & Major Associates, Inc.
- 13) Plain Street Phase II Drainage Study – Plain Street, Middleborough, Massachusetts dated March 31, 2006 by Allen & Major Associates, Inc.
- 14) Plain Street Operation & Maintenance Plan - Best Management Practices Operation & Maintenance Plan for Plain Street, Middleboro, MA dated April 10, 2006 by Allen & Major Associates, Inc.
- 15) Oak Point Watershed #10 Stormwater Management Summary – dated March 4, 2015 & March 30, 2015 by Allen & Major Associates, Inc.
- 16) Oak Point Phase VII – Section 1 TSS Removal Calculations; 6 areas; 2 Sheets; no date by Allen & Major Associates, Inc.
- 17) Oak Point Phase VII – Sections 1 & 2 Operation & Maintenance Plan – Operation & Maintenance Plan for Oak Point Section 1 & 2 dated November 2006.
- 18) Oak Point Phase VII – Section 2 As-Built Drainage Information with a letter to Michael LaBonte, Chairman of Town of Middleborough Planning Board from Philip Cordeiro, P.E. of Allen & Major Associates, Inc. dated December 28, 2015.

**Communications & Emails:**

- 1) Letter dated April 4, 2016 from Nicole Holmes, P.E. of Nitsch Engineering on behalf of the Town of Middleborough to Patricia Cassady, Agent for the Middleborough Conservation Commission. RE: Nitsch Project #7190.12, Review of NOI submittal for Drainage Outfall Improvements off Plain Street Hometown Oak Point, Middleborough, MA.
- 2) Letter dated April 6, 2016 from Karen Augeri Benson, Attorney at the Law Office of Alan A. Amaral for Mr. & Mrs. Robert Costa of 17 Willowtree Lane to Patricia J. Cassady, Conservation Agent. RE: Entry of Appearance NOI for 55 Plain Street, DEP # SE220-1275.
- 3) Letter dated April 14, 2016 from Karen Augeri Benson, Attorney to Patricia J. Cassady, Conservation Agent. RE: Entry of Appearance NOI for 55 Plain Street, DEP #SE220-1275.
- 4) Letter dated April 28, 2016 from Richard Tabaczynski, P.E. of Atlantic Design Engineers, Inc. to Board of Selectmen. RE: Initial Engineering Review, WRPD Application – Plain Street Drainage Outfall, ADE Project #2518.43.
- 5) Letter dated May 5, 2016 from Brian Wick, Executive Director of the Cape Cod Cranberry Growers' Association to Steven Ventresca, Chairman of the Middleborough Conservation Commission. RE: Town of Middleborough Special Permit Application.
- 6) Letter dated May 9, 2016 from Karen Augeri Benson, Attorney to Patricia J. Cassady, Conservation Agent. RE: NOI for 55 Plain Street, DEP # SE220-1275.

**Plans & Documents of Record**

**DEP File #: SE220-1275**

**Applicant: Town of Middleborough**

- 7) Letter dated May 27, 2016 from Richard Tabaczynski, P.E. of Atlantic Design Engineers, Inc. to Board of Selectmen. RE: Final Engineering Review, WRPD Application – Plain Street Drainage Outfall, ADE Project #2518.43.
- 8) Letter received on June 2, 2016 from Jeffrey Cornell of 35 Summer Street, Middleborough, MA to Selectmen, Jim McLaughlin of Mass DEP, Conservation Commission, Gary Mukuch of Mass DEP, C. Peck of DPW and USDA – Wareham, MA. RE: Drainage water Plain Street – Beaver Dam Brook.
- 9) Email dated June 3, 2016 at 6:06PM from Phil Cordeiro of Allen & Major to Nicole Holmes of Nitsch Engineering. RE: Oak Point/Plain Street drainage with attachments: Supplemental Information to NOI – Letter dated June 3, 2016 from Phillip Cordeiro, P.E. Project Manager of Allen & Major Associates, Inc. RE: A&M Project # 1830.01B Hometown Oak Point Drainage Outfall Improvements off Plain Street Response to Peer Review Comments. Also, drainage calculations dated June 3, 2016 for Watershed 10 with Depression at Plain Street.
- 10) Email dated June 14, 2016 at 10:49AM from Phil Cordeiro to Nicole Holmes. At 3:05PM from Nicole Holmes to Phil Cordeiro. At 3:10PM from Phil Cordeiro to Nicole Holmes. At 5:21PM from Nicole Holmes to Phil Cordeiro and at 5:31 PM from Phil Cordeiro to Nicole Holmes. On June 15, 2016 at 1:30PM from Nicole Holmes to Phil Cordeiro and at 2:29PM from Phil Cordeiro to Nicole Holmes. RE: NOI – Plain Street follow up.
- 11) Email dated June 15, 2016 at 2:29PM from Phil Cordeiro to Nicole Holmes. RE: Energy Dissipater Design. On June 16, 2016 at 12:44PM from Nicole Holmes to Phil Cordeiro, at 12:47PM from Phil Cordeiro to Nicole Holmes, at 12:48PM from Nicole Holmes to Phil Cordeiro and 12:58PM from Phil Cordeiro to Nicole Holmes with an attachment with calculations on the Increased Resistance in Box Culvert
- 12) Email dated June 16, 2016 at 3:15PM from Nicole Holmes to Phil Cordeiro, at 3:49PM from Phil Cordeiro to Nicole Holmes. RE: Oak Point/Plain Street Drainage with attachment of Profile Plot for Plain Street Storm Sewer (100-yr. Event)
- 13) Letter dated June 16, 2016 from Nicole Holmes, P.E. of Nitsch Engineering to Patricia Cassady, Conservation Agent, Middleborough Conservation Commission. RE: Update on Peer Review for NOI for Drainage Outfall Improvements off Plain Street.
- 14) Letter dated July 1, 2016 from Patricia J. Cassady, Conservation Agent to Planning Board. RE: 55 Plain Street Drainage Easement – 42" Pipe Notice of Intent (DEP File # SE220-1275)

**Other Documents:**

- 1) Letter and Drainage Calculations dated February 8, 2016 from Phillip Cordeiro, P.E. of Allen & Major Associates, Inc. to Michael LaBonte, Chairman, Town of Middleborough Planning Board. RE: A&M Project #1830-01B, Plain Street 42" RCP drainage outfall.
- 2) Water Resource Protection District Special Permit Application dated March 22, 2016 to the Town of Middleborough Board of Selectmen from Allen & Major Associates, Inc.

**Plans & Documents of Record**

**DEP File #: SE220-1275**

**Applicant: Town of Middleborough**

- 3) Order of Taking recorded at the Plymouth County Registry of Deeds February 12, 2003 under Book 24197, Pages 175-184.
- 4) Easement recorded at the Plymouth County Registry of Deeds December 16, 2003 under Book 27226, Pages 129-130.



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

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**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) 0-feet  
 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	a. linear feet	b. linear feet	c. linear feet	d. linear feet
5. <input type="checkbox"/> Bordering Vegetated Wetland	a. square feet	b. square feet	c. square feet	d. square feet
6. <input type="checkbox"/> Land Under Waterbodies and Waterways	a. square feet e. c/y dredged	b. square feet f. c/y dredged	c. square feet	d. square feet
7. <input type="checkbox"/> Bordering Land Subject to Flooding	a. square feet	b. square feet	c. square feet	d. square feet
Cubic Feet Flood Storage	e. cubic feet	f. cubic feet	g. cubic feet	h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding	a. square feet	b. square feet		
Cubic Feet Flood Storage	c. cubic feet	d. cubic feet	e. cubic feet	f. cubic feet
9. <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



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**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	_____	_____	_____ <sup>cu yd</sup>	_____ <sup>cu yd</sup>
	a. square feet	b. square feet	c. nourishment	d. nourishment
14. <input type="checkbox"/> Coastal Dunes	_____	_____	_____ <sup>cu yd</sup>	_____ <sup>cu yd</sup>
	a. square feet	b. square feet	c. nourishment	d. nourishment
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		



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**B. Findings (cont.)**

\* #22. 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.

22.  Restoration/Enhancement \*:

a. square feet of BVW

b. square feet of salt marsh

23.  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 \_\_\_\_\_ 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.



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**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            SE220-1275 "
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.



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**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:  
SE220-1275  
MassDEP File #

eDEP Transaction #  
Middleborough  
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.



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Provided by MassDEP:  
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**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):

**See Attached List of Standard Conditions and Special Conditions**

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- 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.

**Standard Conditions**

**DEP File #: SE220-1275**

**Applicant: Town of Middleborough**

1. A member of the Conservation Commission or its agent may enter and inspect the property and the activity that are the subjects of this Order of Conditions (OOC) at all reasonable times, with or without probable cause or prior notice, and until a Certificate of Compliance (COC) is issued, for the limited purpose of evaluating compliance with this OOC.
2. The term "applicant" as used in this OOC shall refer to the owner, any successor in interest or successor in control of the property referenced in the Notice of Intent, supporting documents and this OOC. The Commission shall be notified in writing within 30 days of all transfers of title of any portion of property that take place prior to the issuance of the COC.
3. This document shall be included by reference in all contracts, plans and specifications dealing with the activity that is the subject of this OOC, and that are created or modified after the issuance date of this OOC, along with a statement that this OOC shall supersede any conflicting contractual arrangements, plans or specifications.
4. The applicant shall provide a copy of this OOC to the person or persons supervising the activity that is the subject of this OOC, and will be responsible for ensuring that all persons performing the permitted activity are fully aware of the terms and conditions of this OOC.
5. If any change is made in the above-described plan(s) which may or will alter an area subject to protection under the Wetlands Protection Act, 310 CMR 10.00, the applicant shall inquire from this Commission or its agent, prior to implementing the change in the field, whether the change is significant enough to require the filing of a new Notice of Intent. Any errors in the plans or information submitted by the applicant shall be considered changes and the above procedures shall be followed.
6. It is the responsibility of the applicant to complete any review required by all agencies with jurisdiction over the activity that is the subject of this OOC, and to procure all required permits or approvals before any work commences. These reviews, permits and approvals may include but are not limited to the following:
  - a. Review by the U.S. Army Corps of Engineers for any Category 2 or Individual Permit activity, and procurement of any permits or approvals identified by the Corps;
  - b. Review by the Department of Environmental Protection (DEP) and procurement of any permits or approvals identified by DEP;

**Standard Conditions**

**DEP File #: SE220-1275**

**Applicant: Town of Middleborough**

- c. Review by the Massachusetts Natural Heritage and Endangered Species Program for any projects within estimated and/or priority habitat and any permits or approvals identified by the Program;
  - d. Review by local planning boards, boards of health, zoning boards, and building inspectors, and procurement of any permits or approvals required by these boards or agencies.
7. All construction materials, earth stockpiles, landscaping materials, slurry pits, waste products, refuse, debris, stumps, slash, or excavate may only be stockpiled or collected in areas as shown and labeled on the approved plan(s), or if no such areas are shown must be placed or stored outside all resource areas and associated buffer zones (unless authorized to do so) under cover and surrounded by a double-staked row of hay bales to prevent contact with rain water.
  8. No material of any kind may be buried, placed or dispersed in areas within the jurisdiction of the Commission by activities that are the subject of this OOC, except as are expressly permitted by this OOC or the plans approved herein.
  9. There shall be no pumping of water from wetland resource areas.
  10. All waste products, grubbed stumps, slash, construction materials, etc. shall be deposited at least 100 feet from wetland resource areas unless specified in this OOC.
  11. No fuel, oil, or other pollutants shall be stored in any resource area or the buffer zone thereto, unless specified in this OOC or expressly authorized by the Commission or their agent.
  12. Any material placed in wetland resource areas by the applicant without express authorization under this OOC shall be removed by the applicant upon demand by the Conservation Commission or its agent.
  13. There shall be no underground storage of fuel or other hazardous substance in areas within the jurisdiction of the Conservation Commission.
  14. Removal and storage of hazardous waste, if in an area subject to protection under the Wetlands Protection Act shall be as follows:
    - a. Removal and storage shall be conducted only when approved and directed by DEP, the U.S. Environmental Protection Agency (EPA) or other applicable state or federal agency under which remedial activities are

**Standard Conditions**

**DEP File #: SE220-1275**

**Applicant: Town of Middleborough**

- b. directed and shall be conducted in the manner specified in the Notice of Intent and appropriate agency directives.
  - c. All hazardous materials, products and waste produced , stored or removed must be handled, treated and disposed of in accordance with local, state and federal law regulating such materials and must be located outside of the buffer zone to wetland resource areas, unless specifically authorized by the OOC and appropriate state and federal licensing and permitting agencies.
  - d. No hazardous waste shall be introduced or discharged into or toward wetland resource areas.
  - e. No hazardous waste shall be introduced or discharged into the sanitary or sewage systems in such a manner which will result in an impact to wetland resource areas unless approved by the Conservation Commission, board of health, DEP and/or EPA.
  - f. Identification of all types of hazardous materials used, produced or stored shall be submitted to the Conservation Commission in writing.
15. No trash dumpsters will be allowed within 100 feet of areas subject to protection under the Wetlands Protection Act unless authorized by the OOC.
16. This OOC shall pertain to the roadways, utilities within the roadway layout, and associated drainage facilities. Individual lot construction, including driveways, lot utilities, sewage and water, if under the Commission's jurisdiction, shall require individual Notices of Intent and/or Requests for Determination.
17. This OOC authorizes only the activity described on the approved plans(s) and approved documents referenced in this OOC. Any other or additional activity in areas within the jurisdiction of the Commission will require separate review and approval by the Commission or its agent.

Strict compliance with these Standard Conditions may be waived when in the judgment of the Conservation Commission such action is in the public interest and not inconsistent with the Wetlands Protection Act.

**Special Conditions**

**DEP File #: SE220-1275**

**Applicant: Town of Middleborough**

- 1) Prior to any work commencing on site, the applicant shall submit for the Commission's approval a detailed, written sequence of construction.
- 2) Prior to any activity on site, the limit of work shall be clearly marked with erosion control, construction fencing, stakes or flags, and shall be confirmed by the Commission or its agent. Such markers shall be checked and replaced as necessary and shall be maintained until all construction is complete. Workers shall be informed that no use of machinery, storage of machinery or materials, stockpiling of soil, or construction activity is to occur beyond this line at any time.
- 3) The applicant shall notify the Conservation Commission at least 48 hours prior to any activity on the site and shall provide the name(s) and telephone numbers of all people performing work under this OOC.
- 4) The Applicant shall inform the Commission or the Agent that the sediment and erosion devices are in place and shall be reviewed by the agent prior to the start of construction.
- 5) Upon beginning of work, the project supervisor or environmental professional shall submit to the Conservation Commission written progress reports 2 times a month (with a weekly inspection if warranted by onsite conditions such as heavy rainfall expected, etc.). Progress reports shall indicate what work has been done in wetland resource areas and associated buffer zones, and what work is anticipated to be done over the next reporting period. The reports shall also address the current condition of erosion and sedimentation controls; describe any erosion and sedimentation control repair and /or replacement; and describe any erosion or sedimentation problems and mitigation measures implemented.
- 6) A copy of this OOC, construction plans, and copies of the documents and reports shall be on the site upon commencement and during any site work for contractors to view and adhere to.
- 7) After construction have a wetland scientist inspect the wetland resource area and report on its condition.
- 8) The area of construction shall remain in a stable condition at the close of each construction day. Erosion controls should be inspected at this time, and repaired, reinforced or replaced as necessary.
- 9) After construction there shall be quarterly inspections and after rainfall events to check for erosion by the Department of Public Works (DPW) Director for 2 years to insure that the modification of the pipe per approved plans referenced in the Notice of Intent has been successful.
- 10) If there are issues with the wetland resource area a new Notice of Intent will be required to address the failure of design of the system and erosion.
- 11) The Conservation Commission has no jurisdiction over the connection of the pipe from Oak Point into the Town's drainage system.
- 12) There shall be no increase in the post-development discharges from the storm drainage system or any other changes in post-development conditions that alter the post-development watershed boundaries as currently depicted in the Notice of Intent and approved by this OOC, unless specifically approved in writing by the Commission.

17 of 21

**Special Conditions**

**DEP File #: SE220-1275**

**Applicant: Town of Middleborough**

- 13) There shall be no sedimentation into wetlands or water bodies from discharge pipes or surface runoff leaving the site.
- 14) Upon completion of construction and final soil stabilization, the applicant shall submit the following to the Conservation Commission to request a Certificate of Compliance (COC):
  - a. A completed Request for a COC form (WPA Form 8A or other form if required by the Conservation Commission at the time of request)
  - b. A letter from a registered professional engineer certifying compliance of the property with this OOC, and detailing any deviations that exist, and their potential effect on the project. A statement that the work is in "substantial compliance" with no detailing of the deviations shall not be accepted
  - c. An "As-Built" plan signed and stamped by a registered professional engineer or land surveyor showing post-construction conditions within all areas under the jurisdiction of the Wetlands Protection Act. This plan shall include at a minimum:
    - i. All wetland resource area boundaries with associated buffer zones and regulatory setback areas taken from the plan(s) approved in this OOC.
    - ii. Location and elevations of all storm water management conveyances, structures and best management designs, including foundation drains, constructed under this OOC within any wetland resource area or buffer zone.
    - iii. Distances from any structures constructed under this OOC to wetland resource areas. "Structures" include, but are not limited to, all buildings, septic system components, wells, utility lines, fences, retaining walls, and roads/driveways.
    - iv. A line delineating the limit of work – "work" includes any filling, excavating and/or disturbance of soils or vegetation approved under this OOC.
- 15) The DPW Director will develop and submit an Operation & Maintenance Plan to be approved by the Conservation Commission within 2 months after construction is completed.
- 16) The DPW Director and the abutters at 17 Willowtree Lane will work on the appearance of the box culvert so long as any modification does not affect the drainage.



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:  
SE220-1275  
MassDEP File #

eDEP Transaction #  
Middleborough  
City/Town

**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):

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:

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):

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Massachusetts Department of Environmental Protection  
 Bureau of Resource Protection - Wetlands  
**WPA Form 5 – Order of Conditions**  
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:  
SE200-1275  
 MassDEP File #

eDEP Transaction #  
Middleborough  
 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.

1. Date of Issuance  
Five  
 2. Number of Signers

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

Signatures:

Adam Guaraldi <u>[Signature]</u>	John Neely <u>[Signature]</u>
John Medeiros <u>[Signature]</u>	Jacqueline Schmidt <u>[Signature]</u>
Janet Miller _____	Diane C. Stewart <u>[Signature]</u>
	Steven Ventresca _____

by hand delivery on \_\_\_\_\_

by certified mail, return receipt requested, on \_\_\_\_\_

Date \_\_\_\_\_

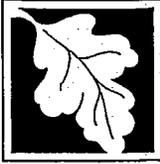
Date \_\_\_\_\_

**F. Appeals**

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land subject to this Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate MassDEP Regional Office to issue a Superseding Order of Conditions. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and a completed Request of 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:  
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 MassDEP File #

eDEP Transaction #  
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 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.

Middleborough  
 Conservation Commission

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

To:

Middleborough  
 Conservation Commission

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

55 Plain Street (Drainage Easement)      SE220-1275  
 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:

17600      282  
 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 \_\_\_\_\_

PL# 03-992

EASEMENT

The CMG Group LLC, a Massachusetts limited liability company, with a regular place of business in Sharon, Massachusetts in consideration of One Dollar (\$1.00) paid grant to the Town of Middleborough, a municipal corporation with a regular place of business at Town Hall, Nickerson Avenue, Middleboro, Massachusetts, with QUITCLAIM COVENANTS, the following easements:

1. Drainage Easement:

The right and easement to use an area of land on and off the easterly side of Plain Street in Middleborough, Massachusetts shown as "Proposed Drainage Easement" on a plan entitled "Proposed Drainage Easement Plan" dated October 1, 2003, revised October 2, 2003, prepared by Allen & Major Associates, Inc. and recorded herewith. The Proposed Drainage Easement area (the "drainage easement area") is part of Lot 1 on said plan and contains 2635 square feet of land more or less. The use of the drainage easement area shall be for the purpose of installation of a subsurface drainage pipe in the drainage easement area, to flow road drainage in and through the subsurface drainage pipe and for maintenance, repair and replacement of the subsurface drainage pipe.

2. Construction Easement

The right and easement to use two (2) areas of land on and off the easterly side of Plain Street in Middleborough, Massachusetts shown as "Temporary Construction Easement" on said plan recorded herewith. The Temporary Construction Easement areas (the "construction easement areas") are part of

Please return to:  
Daniel F. Murray  
Decas, Murray & Decas (box)

Lot 1 on said plan and contain a total of 1967 square feet of land more or less.  
The use of the construction easement areas shall be for the purpose of  
installation, maintenance, repair, and replacement of the subsurface drainage  
pipe in the drainage easement area described above.

The above described easements shall be appurtenant to Plain Street as layed  
out by the grantees' Board of Selectmen and taken as a public way by an order  
of taking recorded in the Plymouth County Registry of Deeds in Book 24197,  
Page 175.

See the deed recorded in the Plymouth County Registry of Deeds in  
Book 19123, Page 331 for title.

WITNESS the hand and seal of the undersigned this 24<sup>th</sup> day of  
November, 2003.

The CMG Group LLC, a Massachusetts limited  
liability company

By: Candace M. Gordon, Manager

COMMONWEALTH OF MASSACHUSETTS

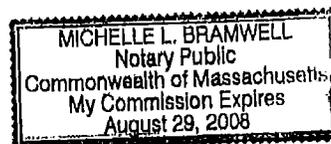
Plymouth, ss.

November 24, 2003

Then personally appeared the above named Candace M. Gordon and  
acknowledged the foregoing instrument to be the free act and deed of The  
CMG Group LLC, before me,

Michelle L. Bramwell  
Notary Public:

My commission expires:



EASEMENT

I, Daniel P. Harrington, of Middleborough, Plymouth County, Massachusetts in consideration of One Dollar (\$1.00) paid grant to the Town of Middleborough, a municipal corporation with a regular place of business at Town Hall, Nickerson Avenue, Middleboro, Massachusetts, with QUITCLAIM COVENANTS, the following easements:

1. Drainage Easement:

The right and easement to use an area of land on and off the easterly side of Plain Street in Middleborough, Massachusetts shown as "Proposed Drainage Easement" on a plan entitled "Proposed Drainage Easement Plan" dated October 1, 2003, revised October 2, 2003, prepared by Allen & Major Associates, Inc. and recorded herewith. The Proposed Drainage Easement area (the "drainage easement area") is part of Lot 2 on said plan and contains 5719 square feet of land more or less. The use of the drainage easement area shall be for the purpose of installation of a subsurface drainage pipe and stone rip-rap at the outlet of the drainage pipe in the drainage easement area, to flow road drainage in and through the subsurface drainage pipe and stone rip-rap and for maintenance, repair and replacement of said subsurface drainage pipe and stone rip-rap.

2. Construction Easement

The right and easement to use an area of land off the easterly side of Plain Street in Middleborough, Massachusetts shown as "Temporary Construction Easement" on said plan recorded herewith. The Temporary Construction Easement area ("the construction easement area") is part of Lot 2 on said plan

Please return to:  
Daniel F. Murray  
Decas, Murray & Decas (box)

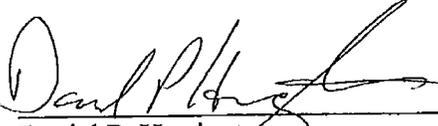
Plat 03-942

and contains 1834 square feet of land more or less. The use of the construction easement area shall be for the purpose of installation, maintenance, repair and replacement of the subsurface drainage pipe and stone rip-rap in the drainage easement area described above.

The above described easements shall be appurtenant to Plain Street as layed out by the grantees' Board of Selectmen and taken as a public way by an order of taking recorded in the Plymouth County Registry of Deeds in Book 24197, Page 175.

See the deed recorded in the Plymouth County Registry of Deeds in Book 17600, Page 282 for title.

WITNESS my hand and seal this 5<sup>th</sup> day of December, 2003.

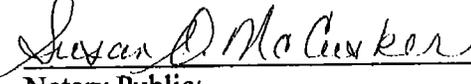
  
Daniel P. Harrington

COMMONWEALTH OF MASSACHUSETTS

Plymouth, ss

December 5, 2003

Then personally appeared the above named Daniel P. Harrington and acknowledged the foregoing instrument to be his free act and deed, before me,

  
Notary Public:

My commission expires:

SUSAN O. McCUSKER  
Notary Public  
My Commission Expires  
November 3, 2006



# Town of Middleborough

## CONSERVATION COMMISSION

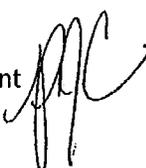
20 CENTRE STREET  
MIDDLEBOROUGH, MASSACHUSETTS 02346

PHONE: 1-508-946-2406  
FAX: 1-508-946-2309

### MEMORANDUM

TO: Planning Board

CC: Christopher Peck, DPW Superintendent (via email)  
Phil Cordeiro, P.E. Allen & Major (via email)  
Nicole Holmes, P.E. Nitsch Engineering (via email)  
Robert Nunes, Town Manager (via email)  
Board of Selectmen (via email)

FROM: Patricia J. Cassidy, Conservation Agent 

DATE: July 1, 2016

RE: 55 Plain Street Drainage Easement -- 42" Pipe Notice of Intent (DEP File # SE220-1275)

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This memorandum is to serve as an update for the Planning Board as to where the Conservation Commission is in reviewing the proposed modification to the 42" pipe at the 55 Plain Street drainage easement under DEP File # SE220-1275.

#### In summary:

- 1) The above-mentioned Notice of Intent was filed with the Conservation Commission on March 22, 2016. There is a cover letter with the Notice of Intent describing the proposal. Essentially the proposal is for the modification of an existing 42" pipe in the easement at 55 Plain Street. The applicant for this Notice is Christopher Peck, DPW Superintendent representing the Town DPW as the Town has ownership of the drainage easement.
- 2) The Commission has had several lengthy hearings regarding this proposal, which were on the following dates: April 7, May 5, June 2, and June 16. The Commission plans to have this on their July 21, 2016 meeting agenda.
- 3) Throughout this hearing process Nicole Holmes; P.E. from Nitsch Engineering has been reviewing the information submitted by Allen & Major who is representing the Town DPW in this matter.
- 4) The Notice was submitted as an emergency road repair and so originally stormwater calculations were not submitted, however upon several requests the Commission and Nitsch finally received calculations. The calculations and other relevant information that were

55 Plain Street Drainage Easement – 42" Pipe Notice of Intent (DEP File # SE220-1275)  
July 1, 2016

submitted were the following: Calculation Sheet with Notice of Intent for Dissipater dated March 21, 2016, Oak Point Phase VII – Section 2 As-Built Drainage Information dated December 28, 2015, Oak Point Phase VII – Section 2 Operation and Maintenance dated November 2006, Oak Point Phase VII – Section 2 TSS Removal Calculations, Oak Point Watershed #10 Stormwater Management Summary dated March 30, 2015, Plain Street Phase II Drainage Study dated March 31, 2006, Plain Street Phase II Drainage Map dated February 24, 2006, Plain Street Improvements Phase II Plans dated June 20, 2006 (19 Sheets), Selectmen's meeting Minutes from July 14, 2003, Plain Street Outfall Revision 1 dated September 25, 2003, Plain Street Outfall RDA Plan dated June 4, 2003, Plain Street Phase I Improvements Plan dated April 25, 2003 (13 Sheets), Plain Street Phase I Drainage Maps dated November 26, 2001 (2 Sheets), Plain Street Phase I Drainage Routing dated May 13, 2016, HY-8 Worksheets, Plain Street Outfall Illicit Discharge Statement dated May 17, 2016, Plain Street Outfall Closed Drainage Analysis, Response to Comments Letter dated May 13, 2016, Response to Comments Letter dated June 3, 2016 which include additional calculations for flow characteristics at the right of way line to Plain Street as it relates to Watershed 10 which drains off the Hometown Oak Point property, hand written calculations for the Increased Resistance in Box Culvert received on June 16, 2016, and Profile of the DMH20 – DMH18A graphic of HGL for the 100-year storm event received on June 16, 2016.

- 5) Nicole Holmes, P.E. from Nitsch Engineering submitted the following review letters to the Commission: April 4, 2016 (Review of NOI submittal for Drainage Outfall Improvements off Plain Street), May 31, 2016, June 16, 2016, and several emails have gone back and forth from Ms. Holmes to Mr. Cordeiro over the last few months as well. This last letter from June 16<sup>th</sup> and some of the emails that followed the letter that same day seemed to satisfy Ms. Holmes in her review. Ms. Holmes also attended the following meetings with the Commission: April 7, May 5, and June 16.
- 6) Other communications we have received pertaining to this Notice of Intent are the following: Letter dated April 6, 2016 from Karen Augeri Benson, Attorney for the Costa's who are abutters at 17 Willow Tree Lane, Letter dated April 14, 2016 from Karen Augeri Benson, Attorney, Letter dated May 5, 2016 from Brian Wick, Executive Director for the Cape Cod Cranberry Growers' Association, Letter dated May 9, 2016 from Karen Augeri Benson, Attorney, Letter received June 2, 2016 from Jeffrey Cornell of 35 Summer Street.
- 7) This has also been reviewed by Rich Tabaczynski, P.E. from Atlantic Design Engineers, Inc. for the Board of Selectmen under the Water Resource Protection District Bylaw (W.R.P.D.) because there is some work proposed within 25-feet of a bordering vegetated wetland. We have communication from him dated April 28, 2016.
- 8) A site visit was conducted on June 8, 2016 at 5:30 PM with the following people: Patricia Cassady, Conservation Agent; Diane Stewart, Chair of the Board of Selectmen & Vice Chair of the Conservation Commission; Allin Frawley, Board of Selectmen; John Knowlton, Board of Selectmen; John Medeiros, Conservation Commission; Adam Guaraldi, Conservation Commission; Jacqueline Schmidt, Conservation Commission; Peter Conant, Hometown Oak Point Representative; Phil Cordeiro, P.E., Allen & Major; Christopher Peck, DPW Director; Brian

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& Korrin Petersen, 59 Plain Street; Charles Davis, 37 Willow Tree Lane; Mr. & Mrs. Robert Costa, 17 Willow Tree Lane; and Jeffrey Cornell, 35 Summer Street.

Since the June 16, 2016 Conservation Commission meeting I have been in touch with Daniel Murray, Town Counsel regarding some questions the Commission had at their June 16, 2016 meeting, which were the following:

- 1) The Commission wanted to know if they vote to issue the Order of Conditions for the proposed modification in the easement off Plain Street if they now become liable since the Commission did not approve the Oak Point Connection into this drainage system in the past.
- 2) Should the Commission have Oak Point file an after-the-fact Notice of Intent for their drainage connection?
- 3) Per the drainage easement language – does the drainage need to remain subsurface and is this even in the Commissions purview?

Per a phone conversation with Town Counsel on June 27, 2016 Town Counsel gave the following verbal opinion for the above-mentioned questions:

- 1) He did not think the Commission taking action on a Notice of Intent would create personal liability. He thinks that the Commission should look at the Notice of Intent under its own merits as it has been presented.
- 2) He said that since the Commission never made a determination for the Oak Point Connection that the Commission doesn't need to require a Notice of Intent but can as a Wetland Protection Act violation however there is a 2 year statute of limitation for an enforcement action and the connection has been there well past that point. (The Connection has been there at least 13 years)
- 3) He said regarding the easement that there is no legal requirement by the Conservation Commission and doesn't think the Commission can require the system to be subsurface.

In closing, prior to the July 21, 2016 Conservation Commission meeting I will be working on a list of special conditions if the Commission decides to approve the Notice of Intent and issue an Order of Conditions. I have also been told that the next meeting for the W.R.P.D. application with the Board of Selectmen will be on August 8<sup>th</sup>. Nicole Holmes, P.E. with Nitsch Engineering has not renewed her contract with the town and therefore will not be involved in reviewing this project going forward.

Please let the Conservation Commission know prior to their July 21<sup>st</sup> meeting of any concerns or questions the Planning Board may still have regarding this proposal.

pjc

# **Roadway Acceptance – Brookside Estates**

**HEARINGS, MEETINGS, LICENSES**

**8/08/16**

**BROOKSIDE ESTATES**  
 TIME LINE FOR ROAD ACCEPTANCE  
 Fall Town Meeting 2016

Planning Board

\_\_\_ / \_\_\_ ( ) ≥ \_\_\_ / \_\_\_ ( ) \*\* ≤ \_\_\_ / \_\_\_ ( ) U/D \_\_\_ / \_\_\_ ( ) & \_\_\_ / \_\_\_ ( )

Today's Date	As-Built/Layout Plans	Request from Dev. by Reg. Mail Stating Complete & Request Surety Release. All Required Documents Submitted To PD, Including L/O Plan. (Must Cert. Complete or Incomplete w/in 45 days)	Ad Runs in Paper on Thurs > 14 days prior to PB Mtg. (Call Newspaper on Mon. on 7/7 before ad runs)	Notification by Cert. Mail to Abutters, Appt. w/ Lorraine (Must be after add runs & > 7 days Prior to PB Hearing) (Call Newspaper on Mon. 8/4 after ad runs)	Warrant Closing	On-Site by Planning Board	Public Hearing at PB Meeting (Must Be Tues. Allow 2 wks. if issues from Onsite)	COMPLETION CERTIFICATE to BD of SEL
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Planning Board Meetings:  
 Memorial Day:  
 July 4<sup>th</sup>

Board of Selectmen (Planning Board's Estimate of the Board of Selectmen's (BOS) Schedule Based on an Assumed Town Meeting Date)

Date Due: \_\_\_ / \_\_\_ ( ) \* 08/08 (Mon) \*\* 08/16 (Tues) 08/24 (Thurs) \*\*\* 09/12 (Mon) ≤ 09/23 (Friday) † 10/03 (Mon)

BOS receive L/O Hearing request from Developer with lot owner releases and recordable L/O plan* (PB Cert. received)	BOS schedules layout hearing, refer layout to P. Board for approval (This Must Happen w/in 45 Days of BOS Approving L/O Request) (Monday Meeting)	Planning Board sends recommendation on L/O to BOS. (This must happen prior to the BOS L/O Hearing, usually the Tues. after Scheduled by BOS)	Notice of Intent L/O action in paper & to all parties. (Advertises BOS L/O Hearing time, date. Etc., ≥ 7 days before the Layout Hearing)	L/O Hearing Action by BOS	L/O to Town Clerk (≥ 7 Days Before Town Mtg.)	Town Meeting
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\* ≥ 6 Weeks to Town Meeting  
 \*\* W/in 45 Days of PB Certifying Complete/Incomplete or BOS Approving L/O Request  
 \*\*\* Advertising ≥ 7 Days before the L/O Hearing  
 † ≥ 7 Days before Town Meeting

Labor Day:  
 Columbus Day:  
 E:\TIME LINE FOR ROAD ACCEPTANCE Brookside.doc