

# MINOR MODIFICATIONS

Oakhill Investments,  
LLC

341A Madaket Road  
(60.2.4-64.5)

SE48-2828



## **SITE DESIGN ENGINEERING, LLC.**

11 Cushman Street, Middleboro, MA 02346  
P: 508-967-0673 F: 508-967-0674

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October 23, 2015

SDE No. 14066

Nantucket Conservation Commission  
Town Annex Building  
37 Washington Street  
Nantucket, MA 02554

**Subject: Request for Minor Modification  
DEP File No.: SE48-2828  
341A Madaket Road, Nantucket, MA**

Dear Members of the Commission:

The purpose of this letter is to request a minor modification for the previously approved project on the above referenced property (Subject Property).

### ***Approval History***

The Subject Property is currently developed and is the site of an existing SFR and secondary dwelling. An approval to redevelop the Subject Property was granted under Order of Conditions (OOC) SE48-2828 issued on October 14, 2015. The permit is currently valid and site work has not yet commenced.

The Subject Property is located partially within the buffer Zone to a Coastal Bank and the buffer zone to a Saltmarsh. The location and extent of all resource areas and associated buffer zones were previously delineated under SE48-2828 in October of 2015.

### ***Proposed Minor Modifications***

The Applicant is proposing to construct a split-rail fence along the eastern, northern, and western property boundaries. The proposed split-rail fence will demarcate the limits of the Subject Property and help to contain all pedestrian traffic to the previously approved access stairway. Portions of the proposed split-rail fence will be located within the 25-foot and 50-foot Coastal Bank buffer zones. The proposed split rail fence will be installed using hand-held tools and equipment. No native vegetation will be removed as part of the proposed split-rail fence installation. The proposed split-rail fence is not considered a structure and will not result in any new or significant adverse impacts to the Coastal Bank or associated buffer zones. The Applicant feels that the proposed changes constitute a Minor Modification to the previously approved OOC. Therefore, the Applicant respectfully requests that the Commission grant approval for this minor modification as proposed.

SDE No. 14066  
341A Madaket Road  
SE48-2828 Minor Modification Request  
October 23, 2015

Page 2 of 2

If you have any questions please feel free to contact me via email at [mrirts@sitedesigneng.com](mailto:mrirts@sitedesigneng.com) or at 508-802-5832.

Respectfully,  
Site Design Engineering, LLC.

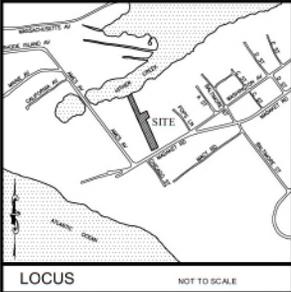
A handwritten signature in black ink, appearing to read "Mark Rits". The signature is fluid and cursive, with a long horizontal stroke at the end.

Mark Rits  
Project Manager/Permitting Specialist

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***SITE DESIGN ENGINEERING, LLC.***

11 Cushman Street, Middleboro, MA 02346  
P: 508-967-0673 F: 508-967-0674



LOCUST NOT TO SCALE

**LEGEND**

- EXISTING**
- PROPERTY LINE
  - CB/DH CONCRETE BOUND/DRILL HOLE
  - CB/DH (Fnd) CONCRETE BOUND/DRILL HOLE FOUND
  - - - 16' TOPOGRAPHIC CONTOUR
  - 17.2' ± SPOT ELEVATION
  - X FENCE
  - TREE LINE
  - SHRUB
  - S SEWER SERVICE
  - W WATER METER
  - LIMIT OF WETLAND
  - 25 FT. BUFFER ZONE
  - 50 FT. BUFFER ZONE
  - 100 FT. BUFFER ZONE

**OVERLAY DISTRICT APPLICABILITY**

MADAKET HARBOR WATERSHED PROTECTION (ZONE A) WATERCRAFT

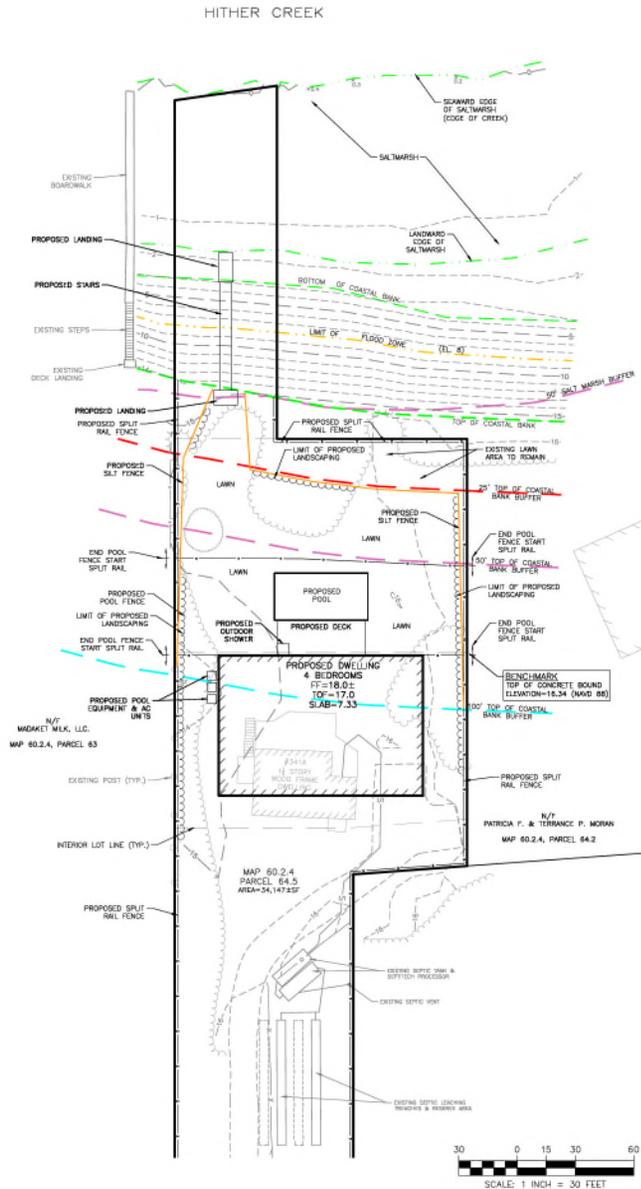
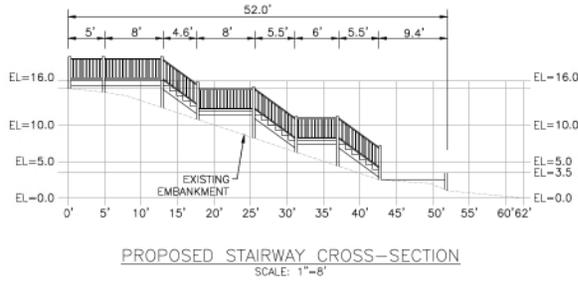
**ZONING REQUIREMENTS:**

THE SITE IS ZONED VILLAGE RESIDENTIAL (VR)

LOT AREA	REQUIRED
20,000 SF.	100 FT.
LOT FRONTAGE	20 FT.
FRONT YARD SETBACK	10 FT.
REAR YARD SETBACK	10 FT.
SEE YARD SETBACK	10 FT.
MAX. GROUND COVER RATIO	10 %

**GENERAL NOTES:**

- EXISTING CONDITIONS INFORMATION WAS COMPILED FROM A LIMITED ON THE GROUND SURVEY PERFORMED BY SITE DESIGN ENGINEERING LLC. AND SUPPLEMENTED WITH RECORD PLAN INFORMATION.
- ELEVATIONS ARE REFERENCED TO NAVD 88.
- A PORTION OF THIS SITE IS LOCATED WITHIN 100-YEAR FLOOD ZONE AE (DL, R) AS SHOWN ON THE FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP COMMUNITY-PANEL NUMBER 25023D 0064 G, DATED JUNE 9, 2014.
- THIS PLAN AND ANY ACCOMPANYING CERTIFICATIONS DO NOT CONSTITUTE A CERTIFICATION OF TITLE TO THE PROPERTY DISPLAYED HEREON. THE OWNER OF LOGS AND MOUNTING PROPERTIES ARE SHOWN ACCORDING TO CURRENT TOWN ASSESSORS RECORDS.
- EXISTING UTILITY LINES SHOWN ON THIS PLAN ARE FROM AVAILABLE INFORMATION AND ARE APPROXIMATE LOCATIONS. THERE MAY BE EXISTING LINES OTHER THAN THOSE INDICATED. SITE DESIGN ENGINEERING, LLC ASSUMES NO RESPONSIBILITY FOR DAMAGES INCURRED AS A RESULT OF UTILITIES OMITTED OR INACCURATELY SHOWN. BEFORE PLANNING FUTURE CONNECTIONS, THE PROPER PUBLIC UTILITY ENGINEERING DEPARTMENT SHOULD BE CONSULTED.



**SITE DESIGN ENGINEERING, LLC.**  
11 CUSHMAN STREET  
MIDDLEBORO, MA 03346  
T: 508-967-0875 F: 508-967-0874  
WWW.SITEDESIGNING.COM

NO.	DATE	DESCRIPTION	APPROVED
1	10/20/15	ADDITION OF SPLIT RAIL FENCE	DCM
2	10/20/15	REVISED PER CONCOM REVIEW COMMENTS	DCM

DATE:	JULY 2, 2015
DRAWN BY:	SKD
DESIGN BY:	DCM
CHECK BY:	DCM
PROJECT NO.:	14066
ISSUED FOR:	APPROVAL

**SITE PLAN**

341A MADAKET ROAD  
PARCELS 64.5  
NANTUCKET, MASSACHUSETTS

PREPARED FOR OAK HILL INVESTMENTS, LLC.

DRAWING TITLE:	SITE PLAN
SCALE:	1"=30'
SHEET NO.:	1 OF 1

# CERTIFICATES OF COMPLIANCE

Merson

71 Baxter Road

(49-26.1)

SE48-2721



**WPA Form 8A – Request for Certificate of Compliance**

SE 48-2721  
Provided by DEP

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

**A. Project Information**

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



Upon completion of the work authorized in an Order of Conditions, the property owner must request a Certificate of Compliance from the issuing authority stating that the work or portion of the work has been satisfactorily completed.

1. This request is being made by:

Name John Merson  
PO Box 445  
Mailing Address Wiasconset MA 02564  
City/Town 508.257.9021 State Zip Code  
Phone Number

2. This request is in reference to work regulated by a final Order of Conditions issued to:

Applicant John Merson  
Dated 2-18-15 DEP File Number SE 48-2721

3. The project site is located at:

Street Address 71 Baxter Road City/Town Wiasconset MA  
Assessors Map/Plat Number 49 Parcel/Lot Number 26.1

4. The final Order of Conditions was recorded at the Registry of Deeds for:

Property Owner (if different) John C. Merson + Carol S. Bunevich  
County Nantucket Book 4 Page 46  
Certificate (if registered land) 21, 251 LCP 17825-A

5. This request is for certification that (check one):

- the work regulated by the above-referenced Order of Conditions has been satisfactorily completed.
- the following portions of the work regulated by the above-referenced Order of Conditions have been satisfactorily completed (use additional paper if necessary).

- the above-referenced Order of Conditions has lapsed and is therefore no longer valid, and the work regulated by it was never started.



Massachusetts Department of Environmental Protection

Bureau of Resource Protection - Wetlands

WPA Form 8A - Request for Certificate of Compliance

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

DEP File Number:

SE48-2721  
Provided by DEP

A. Project Information

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John Merson  
Applicant 2-18-15 SE48-2721  
Dated DEP File Number

3. The project site is located at:

71 Baxter Road Stasconset MA  
Street Address 49 City/Town 26.1  
Assessors Map/Plat Number Parcel/Lot Number

4. The final Order of Conditions was recorded at the Registry of Deeds for:

John C. Merson & Carol S. Bunevich  
Property Owner (if different) Nantucket 4 46  
County 21251 LCP 17825-A Book Page  
Certificate (if registered land)

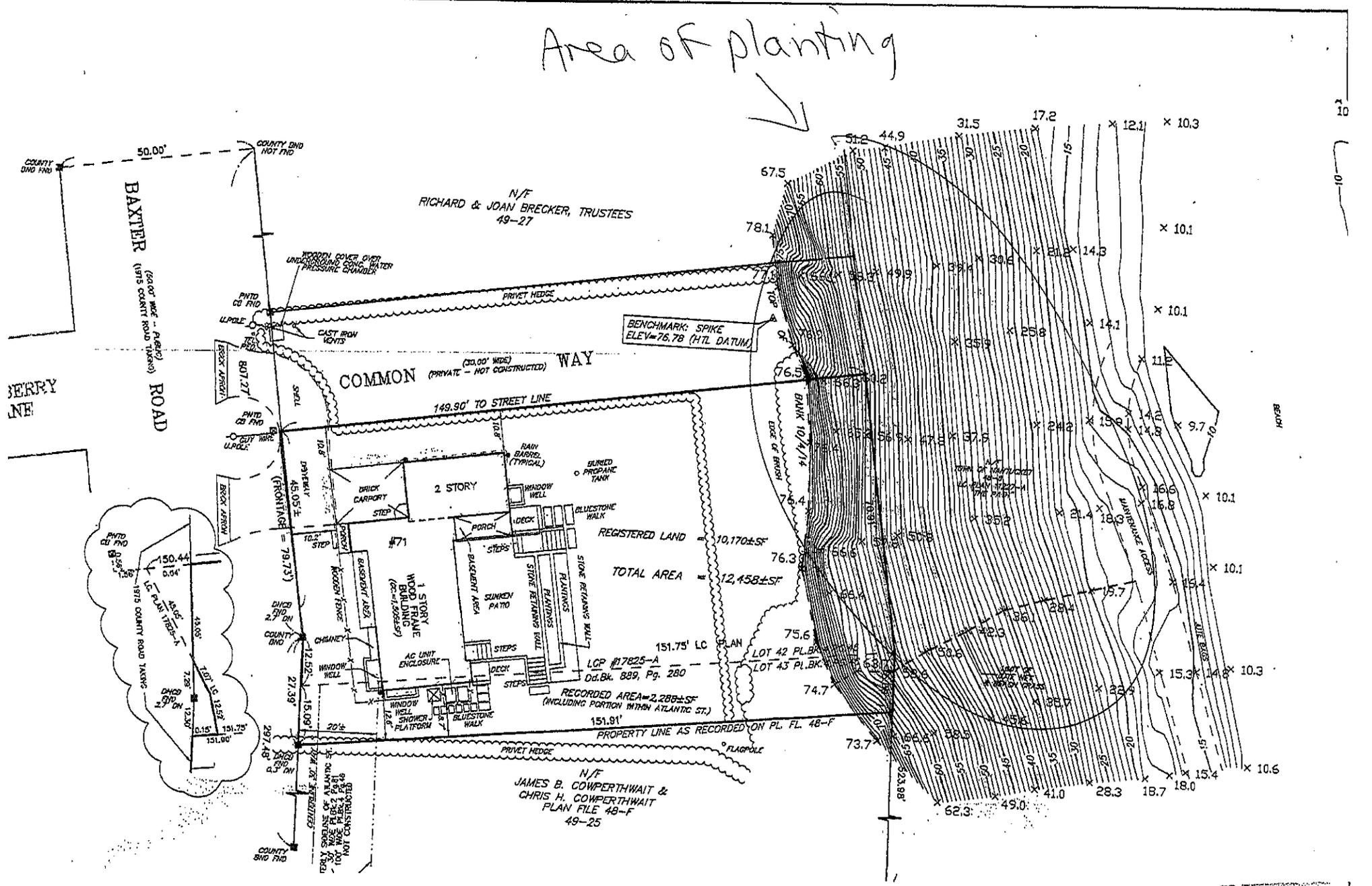
5. This request is for certification that (check one):

- [x] the work regulated by the above-referenced Order of Conditions has been satisfactorily completed.
[ ] the following portions of the work regulated by the above-referenced Order of Conditions have been satisfactorily completed (use additional paper if necessary).

- [ ] the above-referenced Order of Conditions has lapsed and is therefore no longer valid, and the work regulated by it was never started.



Area of planting



N/F  
RICHARD & JOAN BRECKER, TRUSTEES  
49-27

BAXTER ROAD  
(60.00' WIDE - ALLEY)  
(1975 COUNTY ROAD TAKING)

COMMON WAY  
(30.00' WIDE)  
(PRIVATE - NOT CONSTRUCTED)

BENCHMARK: SPIKE  
ELEV=76.78 (HTL DATUM)

REGISTERED LAND = 10,170±SF  
TOTAL AREA = 12,458±SF

N/F  
JAMES B. COWPERTHWAIT &  
CHRIS H. COWPERTHWAIT  
PLAN FILE 48-F  
49-25

JERRY NE

BEACH

10  
10







Dougherty

23/25 Pilgrim Road

(41-98)

SE48-2563

**Main Office:**  
49 Herring Pond Road  
Buzzards Bay, MA 02532  
Tel (508) 833-0070  
Fax (508) 833-2282



**Nantucket Office:**  
19 Old South Road  
Nantucket, MA 02554  
Tel (508) 325-0044

January 15, 2016

Nantucket Conservation Commission  
2 Bathing Beach Road  
Nantucket, MA 02554

RE: 25 Pilgrim Road, SE48-2563.

Dear Commission Members:

Please find accompanying this letter WPA Form 8A, As-Built Plan and check for \$25.

To the best of my knowledge, all work has been completed in substantial conformance with the approved plans.

Please contact our office if you have any questions.

Sincerely,  
Bracken Engineering, Inc.

A handwritten signature in black ink, appearing to read 'Donald F. Bracken, Jr.', written in a cursive style.

Donald F. Bracken, Jr., P.E.

cc: Steve Cheney via email



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

DEP File Number:

**WPA Form 8A – Request for Certificate of Compliance**

SE48-2563

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40  
And the Town of Nantucket Wetlands Bylaw Chapter 136

Provided by DEP

**A. Project Information**



1. This request is being made by:

Donald F. Bracken, Jr., P.E., Bracken Engineering, Inc.

Name

49 Herring Pond Rd

Mailing Address

Buzzards Bay

City/Town

MA

State

02532

Zip Code

508-833-0070

Phone Number

2. This request is in reference to work regulated by a final Order of Conditions issued to:

John & Michelle Dougherty

Applicant

5/15/2013

Dated

SE48-2563

DEP File Number

3. The project site is located at:

25 Pilgrim Road

Street Address

Map 41

Assessors Map/Plat Number

Nantucket

City/Town

Parcel 98 & 616

Parcel/Lot Number

4. The final Order of Conditions was recorded at the Registry of Deeds for:

John & Michelle Dougherty

Property Owner (if different)

Nantucket

County

Book

Page

24092

Certificate (if registered land)

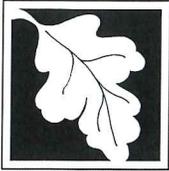
5. This request is for certification that (check one):

the work regulated by the above-referenced Order of Conditions has been satisfactorily completed.

the following portions of the work regulated by the above-referenced Order of Conditions have been satisfactorily completed (use additional paper if necessary).

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

the above-referenced Order of Conditions has lapsed and is therefore no longer valid, and the work regulated by it was never started.



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

DEP File Number:

**WPA Form 8A – Request for Certificate of Compliance**

SE48-2563

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

Provided by DEP

And the Town of Nantucket Wetlands Bylaw Chapter 136

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**A. Project Information (cont.)**



6. Did the Order of Conditions for this project, or the portion of the project subject to this request, contain an approval of any plans stamped by a registered professional engineer, architect, landscape architect, or land surveyor?

Yes

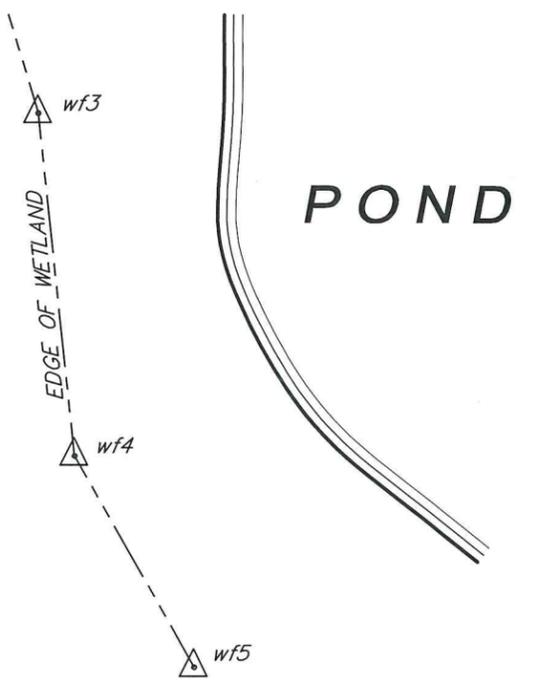
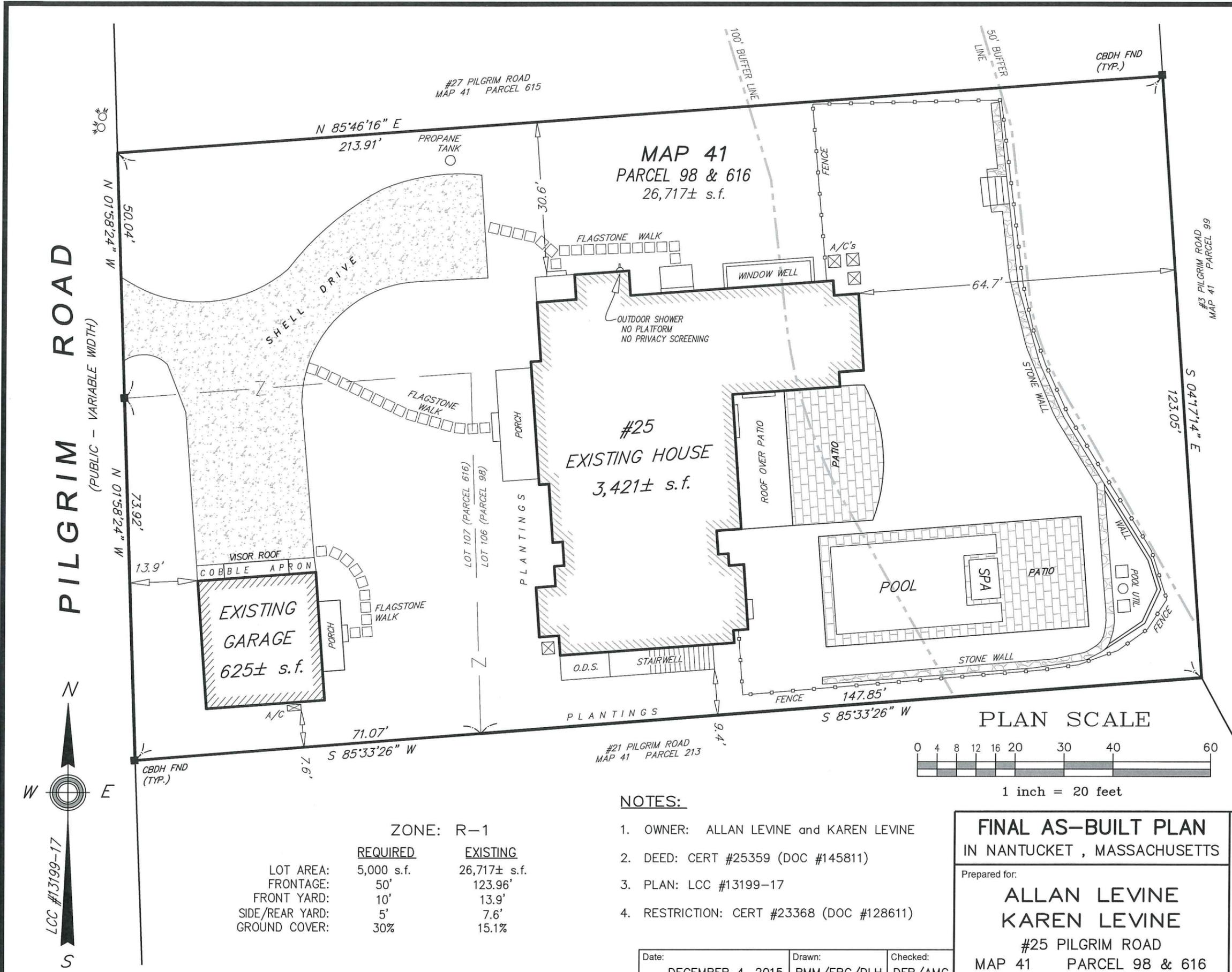
If yes, attach a written statement by such a professional certifying substantial compliance with the plans and describing what deviation, if any, exists from the plans approved in the Order and a copy of the As-built.

No

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**B. Submittal Requirements**

Requests for Certificates of Compliance should be directed to the issuing authority that issued the final Order of Conditions (OOC). If the project received an OOC from the Conservation Commission, submit this request to that Commission. If the project was issued a Superseding Order of Conditions or was the subject of an Adjudicatory Hearing Final Decision, submit this request to the appropriate DEP Regional Office (see <http://www.mass.gov/dep/about/region/findyour.htm>).



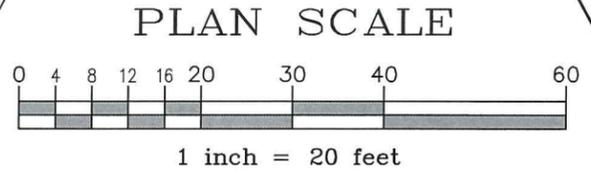
TO THE TOWN OF NANTUCKET:

"I CERTIFY THAT THE BUILDING AND IMPROVEMENTS SHOWN WERE LOCATED BY AN ACTUAL FIELD SURVEY AND THE DIMENSIONS SHOWN ARE ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF."

COMMONWEALTH OF MASSACHUSETTS  
**ALAN M. GRADY**  
 No. 37732  
 REGISTERED  
 PROFESSIONAL LAND SURVEYOR

*Alan M. Grady*

PROFESSIONAL LAND SURVEYOR



**NOTES:**

- OWNER: ALLAN LEVINE and KAREN LEVINE
- DEED: CERT #25359 (DOC #145811)
- PLAN: LCC #13199-17
- RESTRICTION: CERT #23368 (DOC #128611)

ZONE: R-1

	REQUIRED	EXISTING
LOT AREA:	5,000 s.f.	26,717± s.f.
FRONTAGE:	50'	123.96'
FRONT YARD:	10'	13.9'
SIDE/REAR YARD:	5'	7.6'
GROUND COVER:	30%	15.1%

Date:	Drawn:	Checked:
DECEMBER 4, 2015	RMM/ERC/DLH	DFB/AMG

**FINAL AS-BUILT PLAN**  
 IN NANTUCKET, MASSACHUSETTS

Prepared for:

**ALLAN LEVINE**  
**KAREN LEVINE**

#25 PILGRIM ROAD  
 MAP 41 PARCEL 98 & 616

**BRACKEN**  
 ENGINEERING, INC.

49 HERRING POND ROAD  
 BUZZARDS BAY, MA 02532

19 OLD SOUTH ROAD  
 NANTUCKET, MA 02554

(tel) 508.833.0070  
 (fax) 508.833.2282

(tel) 508.325.0044  
 www.brackeneng.com

# Other Business

# Enforcement Actions

Thompson  
14 Fargo Way  
(14-17)  
SE48-2574



MEMORANDUM

**DATE:** December 8, 2015  
**TO:** Jeff Carlson, Nantucket Conservation Commission Agent  
**CC:** Roy Thompson, Owner  
**FROM:** Stan Humphries, Senior Coastal Geologist   
**RE:** E.O. issues at 14 Fargo Way – SE48-2645  
**LEC PROJECT #:** ThomR\07-394.01

On behalf of Roy Thompson, the property owner, LEC confirms that the wooden slat fence attached to the approved post anchoring system has been removed as documented with the photos taken by the owner in November and provided below. The 2x4's that can be seen connecting the top of the anchor posts were removed after this year's annual nourishment was completed. The nourishment consisted of 176 cubic yards of a gravelly sand and silt mix (see attached documentation). Other actions are currently being undertaken to satisfy the Order of Conditions, but at this time, we request compliance with the actions required relative to the Enforcement Order. We feel that we have completed everything required and would like the Order closed out.

RECEIVED  
DEC 11 1 17 PM  
BY: \_\_\_\_\_

LEC Environmental Consultants, Inc.

[www.lecenvironmental.com](http://www.lecenvironmental.com)

12 Resnik Road  
Suite 1  
Plymouth, MA 02360  
508-746-9491  
508-746-9492 (Fax)  
PLYMOUTH, MA

384 Lowell Street  
Suite 206  
Wakefield, MA 01880  
781-245-2500  
781-245-6677 (Fax)  
WAKEFIELD, MA

100 Grove Street  
Suite 302  
Worcester, MA 01605  
508-753-3077  
508-753-3177 (Fax)  
WORCESTER, MA

P. O. Box 590  
Rindge, NH 03461  
603-899-6726  
603-899-6726 (Fax)  
RINDGE, NH



Photograph 1



Photograph 2



Photograph 3



# EXTENSION REQUESTS

JAWS Hummock Pond

N.T

289 Hummock Pond Rd

(83-4)

SE48-2517



January 22, 2016

**Email and Regular Mail**

Nantucket Conservation Commission  
2 Bathing Beach Road  
Nantucket, MA 02554

**Re: Request for Extension Permit  
289 Hummock Pond Road  
Nantucket, Massachusetts**

[LEC File #FSPI\06-136.01]

Dear Members of the Commission:

On behalf of the Applicant, Barry Sternlicht, LEC Environmental Consultants, Inc., (LEC) is submitting this request for a three-year extension of an Order of Conditions that is due to expire on February 6, 2016. The reason for the extension is to enable anticipated repair and possible relocation of the sand drift fence in compliance with conditions #24 and #25. For the last three years, the updrift (to the east) beach and bank have been eroding but this site has remained relatively unaffected. The most recent nourishment, added in November 2015, is being eroded and, while the fence remains buried, the situation will be carefully monitored and action will be taken if repairs are necessary.

Please find enclosed a copy of the original Order, a copy of the Start of Work Information Form and Recording page of the Order and a check for Twenty Five Dollars (\$25.00).

Thank you for your consideration of this request. Should you have any questions or require additional information, please do not hesitate to contact me at 508-746-9491 or at [shumphries@lecenvironmental.com](mailto:shumphries@lecenvironmental.com).

Sincerely,

**LEC Environmental Consultants, Inc.**

Stanley M. Humphries  
Senior Coastal Geologist

cc: Alexandra Cashion  
Dave Lager

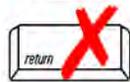


# WPA Form 7 – Request for Extension Permit for Orders of Conditions

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

## A. General Information

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



1. Applicant:

Barry Sternlicht

Name

121 Old Mill Road

Mailing Address

Greenwich

City/Town

CT

State

06830

Zip Code

2. Property Owner (if different):

Name

Mailing Address

City/Town

State

Zip Code

## B. Authorization

The Order of Conditions (or Extension Permit) issued to the applicant or property owner listed above on:

2/6/2013

Date

Issued by:

Nantucket

Conservation Commission

for work at:

289 Hummock Pond Road

Street Address

83

Assessor's Map/Plat Number

4

Parcel/Lot Number

recorded at the Registry of Deeds for:

Nantucket

County

Book

Page

23738

Certificate (if registered land)

is hereby extended until:

2/6/2019

Date

NA

Date the Order was last extended (if applicable)

This date can be no more than 3 years from the expiration date of the Order of Conditions or the latest extension. Only unexpired Orders of Conditions or Extension may be extended.



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  
And the Town of Nantucket Wetlands Bylaw Chapter 136

Provided by MassDEP:  
SE48-2517  
MassDEP File #

eDEP Transaction #  
Nantucket  
City/Town

**A. General Information**

1. From: Nantucket  
Conservation Commission

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

3. To: Applicant:

Barry Sternlicht  
a. First Name b. Last Name  
JAWS Hummock Pond Nominee Trust  
c. Organization  
121 Old Mill Road  
d. Mailing Address  
Greenwich CT 06830  
e. City/Town f. State g. Zip Code

4. Property Owner (if different from applicant):

Same as applicant  
a. First Name b. Last Name  
  
c. Organization  
  
d. Mailing Address  
  
e. City/Town f. State g. Zip Code

5. Project Location:

289 Hummock Pond Road Nantucket  
a. Street Address b. City/Town  
83 4  
c. Assessors Map/Plat Number d. Parcel/Lot Number

Latitude and Longitude, if known:                                                         
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  
And the Town of Nantucket Wetlands Bylaw Chapter 136

Provided by MassDEP:  
SE48-2517  
MassDEP File #

eDEP Transaction #  
Nantucket  
City/Town

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

6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):  
Nantucket 23738  
a. County b. Certificate Number (if registered land)
- c. Book d. Page
7. Dates: 11/30/2012 1/23/2013 2/6/2013  
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):  
Proposed Site Plan  
a. Plan Title  
Bracken Engineering, Inc. Donald F. Bracken, Jr., P.L.S.  
b. Prepared By c. Signed and Stamped by  
1/17/2013 1"=20'  
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  
j.  Wetland Scenic Views (bylaw) k.  Recreation (Bylaw)
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  
And the Town of Nantucket Wetlands Bylaw Chapter 136

Provided by MassDEP:  
SE48-2517  
MassDEP File #

eDEP Transaction #  
Nantucket  
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) \_\_\_\_\_ 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



**WPA Form 5 – Order of Conditions**

**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	<u>                    </u> a. square feet	<u>                    </u> b. square feet		
	<u>                    </u> c. c/y dredged	<u>                    </u> d. c/y dredged		
12. <input type="checkbox"/> Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. <input checked="" type="checkbox"/> Coastal Beaches	<u>34</u> a. square feet	<u>34</u> b. square feet	<u>                    </u> c. nourishment	<u>                    </u> d. nourishment
14. <input type="checkbox"/> Coastal Dunes	<u>                    </u> a. square feet	<u>                    </u> b. square feet	<u>                    </u> c. nourishment	<u>                    </u> d. nourishment
15. <input type="checkbox"/> Coastal Banks	<u>                    </u> a. linear feet	<u>                    </u> b. linear feet		
16. <input type="checkbox"/> Rocky Intertidal Shores	<u>                    </u> a. square feet	<u>                    </u> b. square feet		
17. <input type="checkbox"/> Salt Marshes	<u>                    </u> a. square feet	<u>                    </u> b. square feet	<u>                    </u> c. square feet	<u>                    </u> d. square feet
18. <input type="checkbox"/> Land Under Salt Ponds	<u>                    </u> a. square feet	<u>                    </u> b. square feet		
	<u>                    </u> c. c/y dredged	<u>                    </u> d. c/y dredged		
19. <input type="checkbox"/> Land Containing Shellfish	<u>                    </u> a. square feet	<u>                    </u> b. square feet	<u>                    </u> c. square feet	<u>                    </u> d. square feet
20. <input type="checkbox"/> Fish Runs	Indicate size under Coastal Banks, Inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above			
	<u>                    </u> a. c/y dredged	<u>                    </u> b. c/y dredged		
21. <input type="checkbox"/> Land Subject to Coastal Storm Flowage	<u>                    </u> a. square feet	<u>                    </u> b. square feet		



**WPA Form 5 – Order of Conditions**

**B. Findings (cont.)**

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.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order.
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not extend the issuance date of the original Final Order of Conditions and the Order will expire on 2/6/2016 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.
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.



**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  
And the Town of Nantucket Wetlands Bylaw Chapter 136

Provided by MassDEP:

SE48-2517

MassDEP File #

eDEP Transaction #

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

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            SE48-2517 "
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.
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.



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

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.

**NOTICE OF STORMWATER CONTROL AND MAINTENANCE REQUIREMENTS**

19. **The work associated with this Order (the “Project”) is (1)  is not (2)  subject to the Massachusetts Stormwater Standards. If the work is subject to the Stormwater Standards, then the project is subject to the following conditions:**

- a) All work, including site preparation, land disturbance, construction and redevelopment, shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Construction General Permit as required by Stormwater Condition 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.
- b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that:
- i.* all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures;
  - ii.* as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized;
  - iii.* any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10;
  - iv.* all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition;
  - v.* any vegetation associated with post-construction BMPs is suitably established to withstand erosion.



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

- 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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**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):

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**WPA Form 5 – Order of Conditions**

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

- 1. Is a municipal wetlands bylaw or ordinance applicable?  Yes  No
- 2. The Nantucket 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):

Please view additional findings and conditions page(s)

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Town of Nantucket, Massachusetts  
**WPA Form 5 – Order of Conditions**

The Town of Nantucket Bylaw Chapter 136

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Provided by DEP

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## B1. Additional Conditions

The Town of Nantucket Conservation Commission has found it necessary to include these additional conditions as a standard part of every Order. If the condition applies, then the corresponding box will be checked:

- 1. Pursuant to General Condition Number 8, this Order of Conditions must be registered with the Registry of Deeds for Nantucket, and proof of recording shall be submitted to the Commission prior to the commencement of any work approved in this Order.
- 2. No work approved under this Order shall take place until all administrative appeal periods from the Order have elapsed, or, if an appeal has been filed, until all proceedings have been completed.
- 3. The landowner, applicant, and/or the contractor will notify the Commission in writing five days prior to the start of work. The letter shall state the name, address, and telephone number of the project supervisor who will be responsible for insuring onsite compliance with this Order. (All erosion/sedimentation control devices shall be installed BEFORE the start of work.)
- 4. Prior to any activity at the site, a snow fence, siltation fence or a line of straw bales shall be staked as shown on the plan of record. After the fence or straw bales are installed, notice shall be given to the Nantucket Conservation Commission. **No work shall begin on the site for 72 hours after said notice is given; so as to allow Commission members time to inspect all siltation devices.** The snow fence, siltation fence, or straw bale line erected to prevent siltation, erosion, filling of the wetland, and trap windblown debris during construction, will also serve as a limit of the activity for work crews. It shall remain in good repair during all phases of construction, and it shall not be removed until all soils are stabilized and revegetated or until permission to remove it is given by the Commission.
- 5. An as-built plan, signed and stamped by a registered professional engineer or land surveyor in the Commonwealth of Massachusetts, and having the same scale as the final approved plans, shall be submitted to the Commission at the same time as a written request for a Certificate of Compliance, and shall specify how, if at all, the completed plan differs from the final approved plan. The as-built plan shall include, but not be limited to, the following: any/culvert inverts for inflow and outfalls; pipe slope, size, and composition; location of any other drainage structures and their composition; limits of fill or alteration; location of all structures and pavement within 100 feet of the wetland; the edge of the wetland; the grade contours within 100 feet of the wetland.
- 6. Members, employees, and agents of the Commission shall have the right to enter and inspect the premises to evaluate compliance with the conditions and performance standards stated in this Order, the Massachusetts Wetlands Protection Act, and pertinent Massachusetts regulations (310CMR10:00 through 10:99). The Commission may require the submittal of any data deemed necessary by the Commission for that evaluation.
- 7. The applicant, owners, successors, or assignees shall be responsible for maintaining any on-site drainage structures and outfalls, assuring the lasting integrity of vegetative cover on the site, and monitoring of site activities so as to prevent erosion, siltation, sedimentation, chemical contamination, or other detrimental impact to any on-site or off-site resource area. It shall be the responsibility of the property owner of record to ensure compliance with the maintenance conditions required by this Order.



Town of Nantucket, Massachusetts  
**WPA Form 5 – Order of Conditions**  
The Town of Nantucket Bylaw Chapter 136

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**B1. Additional Conditions (cont.)**

- 8. This document shall be included in all construction contracts and subcontracts dealing with the work proposed and shall supersede other contract requirements.
- 9. A complete copy of this permit, including its drawings, Special Conditions, and any Amendments shall be available at the work site whenever work is being performed. The permittee shall provide a copy of this permit to all contractors, subcontractors, and other personnel performing work relating to this project in order to assure full knowledge and compliance with the permit's terms and conditions.
- 10. Natural vegetation between the wetland edge and upland edge of the Undisturbed Buffer shall be left intact. Within 48 hours of project completion, weather permitting, all disturbed areas shall be replanted as previously approved by the Commission. There shall be at least a 25-foot undisturbed buffer on the upland side of the wetland boundary, unless otherwise specified by this Order. This shall be an ongoing Condition that shall survive the expiration of this permit and shall be so noted on the Certificate of Compliance.
- 11. To minimize adverse effects on wildlife and water resources, the use of any pesticide or fertilizer requires explicit permission to be granted by the Commission. This shall be an ongoing Condition that shall survive the expiration of this permit, and shall be so noted on the Certificate of Compliance.
- 12. In all cases, no part of any structure, including decks, stairs, cantilevers, etc., may be closer than 50 feet from the approved wetland boundary unless otherwise specified in this Order. This shall be an ongoing Condition that shall survive the expiration of this permit and shall be so noted on the Certificate of Compliance.
- 13. Any refuse material found on the site shall be disposed of at an approved landfill and in no case may these materials be buried or disposed of in or near a wetland.
- 14. This Order of Conditions shall apply to any successor in interest or successor in control of the property.
- 15. No underground petroleum product storage tanks are allowed within 100 feet of any wetland or within any velocity (V) flood zone as indicated on the most recent FEMA floodplain maps.
- 16. No work under this Order of Conditions may proceed until the applicant has filed all necessary permits and applications with:  
Board of Health, ZBA, HDC, Building Inspector, Army Corps of Engineers, DEP, Waterways, MNH, etc.
- 17. All construction and alterations must comply with the above referenced plans and the Conditions of this Order. Any changes intended to be made in the plans or in the work shall require the applicant to file a new Notice of Intent, or to inquire of the Commission in writing whether the change is substantial enough to require a new filing. No change in plan or work under this filing is permissible without a new Notice of Intent, or permission from the Commission.

**FINDINGS and ADDITIONAL CONDITIONS**  
Massachusetts Wetlands Protection Act (MGL Chapter 131, Section 40)  
Town of Nantucket Wetlands Bylaw (Chapter 136)

Address: 289 Hummock Pond Road  
Assessor's Map and Parcel: 83-4  
Property Owner: JAWS Hummock Pond Nominee Trust  
Applicant: JAWS Hummock Pond Nominee Trust  
DEP File Number: SE48-2517  
Filing Date: November 30, 2012  
Date Hearing Closed: January 23, 2013  
Date Orders Issued: February 6, 2013  
Plan of Record Information: Proposed Site Plan, Dated 1/17/2013  
stamped by Donald F. Bracken, Jr., P.E.

**Permit Overview:**

This order permits the construction of a coastal dune with beachgrass plantings and sand drift fencing on a coastal beach, adjacent to a coastal bank and adjoining existing coastal dunes and within land subject to coastal storm flowage.

**Additional Findings:**

1. The area falls inside mapped habitat areas and requires NHESP review.

**In addition to the General Conditions contained elsewhere in this document, the Commission includes the following Special Conditions pursuant to MGLCh131s40 and the Town of Nantucket Wetlands Protection Bylaw, Chapter 136:**

18. All work shall be performed in accordance with the Site and Work Description contained within the Notice of Intent and plan notes set out on the plan of record, provided project narratives and protocols.
19. No work on this project may be done between April 1<sup>st</sup> and September 15<sup>th</sup> of each year.
20. All machinery access must be done in accordance with the approval by the Nantucket Board of Selectman's approval for the use of Hummock Pond Road to access the beach.
21. A monitoring report showing quarterly erosion, quarterly beach/dune profiles, high water line and site photographs must be submitted to the Commission by May 15<sup>th</sup> for a minimum of three years or until a Certificate of Compliance is issued, whichever is the longer.
22. Should the monitoring reports show an adverse impact the applicant shall appear before the Commission to discuss how to adjust or mitigate for the project.
23. Should the monitoring reports show an adverse impact to surrounding properties the fencing shall be removed and the applicant shall file an Amendment or new Notice of Intent that addresses the removal and mitigation of this project.
24. The sand drift fencing is required to be no greater than twenty-five from the Coastal Bank. If it is located greater than twenty-five feet from the bank the applicant must appear before the Commission to discuss the relocation or removal of the sand drift fencing.

25. The sand drift fencing is required to be at least 10 feet from the seasonal high water mark. If the water line is within 10 feet from the fencing than the applicant shall appear before the Commission to discuss the relocation or removal of the fencing.
26. The fencing shall not impede pedestrian access across the Coastal Beach.

**WAIVERS UNDER THE NANTUCKET WETLANDS BYLAW/REGULATIONS**

No waivers are required for this project as it is a water dependent use.



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

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**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.

2/6/2013  
1. Date of Issuance

Please indicate the number of members who will sign this form.

5  
2. Number of Signers

This Order must be signed by a majority of the Conservation Commission.

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

Signatures:

Ernest Steinauer  
*Ernest Steinauer*  
Ernest Steinauer  
Sarah Oktay (opposed)  
*Sarah Oktay*  
Sarah Oktay

John D. Braginton-Smith  
*John D. Braginton-Smith*  
John D. Braginton-Smith

Andrew Bennett  
*Andrew Bennett*  
Andrew Bennett

Ian Golding  
*Ian Golding*  
Ian Golding  
Michael Glowacki  
*Michael Glowacki*  
Michael Glowacki

Jennifer Karberg  
*Jennifer Karberg*  
Jennifer Karberg

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  
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**WPA Form 5 – Order of Conditions**

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**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.

\_\_\_\_\_  
Conservation Commission

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

To:

\_\_\_\_\_  
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



### Start Work Information Form

#### Applicant Information

Application filed under: Sternlicht Barry SE 48-297 Date: 2/6/13  
Last First DEP #

Address Of Project Site: 289 Hummock Pond Road

Map and Parcel: Map 83, Parcel 4

Project Surveyor: Bracken Engineering, Inc.

#### Contact Information - Contractors

Name of Contact: Dave Lager (or Stan Humphries - LEC - 508-746-9491)

Title: \_\_\_\_\_ Phone: 781-789-2382

Company: NETCO

Address: 21 Worthen Road  
Street Address Suite #  
Lexington, MA 02421  
City State ZIP Code

#### Permit Requirements

<b>N/A</b> Silt Fence Installed? Yes <input type="checkbox"/> No <input type="checkbox"/>		Has the Order been recorded? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	DEP sign installed? <u>To be installed.</u>
Pre Onsite Meeting Required? <u>N/A</u> Date of meeting: _____	Ongoing Monitoring of Septic Leaching Facilities Required? <u>N/A</u> Yes <input type="checkbox"/> No <input type="checkbox"/>	Construction Photographs required? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	<b>Additional Comments</b> _____ _____ _____ _____
	Monitoring of Plantings Required? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		

START work Date: Week of 3/29/13 END DATE: 4/1/13

All construction and alterations must comply with the plans referenced in the Orders of Conditions. No change in plan or work under this filing is permissible without a new Notice of Intent, or written permission from the Commission Office.

Please file this form with the Conservation Commission Office for notification of work starting

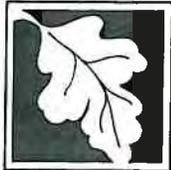
P. 508-228-7230 F. 508-228-7232

concom@nantucket-ma.gov



2013 00140543

Cert: 23738 Doc: OOC  
Registered: 03/20/2013 02:31 PM



**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  
And the Town of Nantucket Wetlands Bylaw Chapter 136

Provided by MassDEP:  
SE48-2517  
MassDEP File #  
  
eDEP Transaction #  
Nantucket  
City/Town

**A. General Information**

1. From: Nantucket  
Conservation Commission

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

3. To: Applicant:

Barry Sternlicht  
a. First Name b. Last Name  
JAWS Hummock Pond Nominee Trust Michael Racich, Trustee  
c. Organization  
121 Old Mill Road  
d. Mailing Address  
Greenwich CT 06830  
e. City/Town f. State g. Zip Code

4. Property Owner (if different from applicant):

Same as applicant  
a. First Name b. Last Name  
  
c. Organization  
  
d. Mailing Address  
  
e. City/Town f. State g. Zip Code

5. Project Location:

289 Hummock Pond Road Nantucket  
a. Street Address b. City/Town  
83 4  
c. Assessors Map/Plat Number d. Parcel/Lot Number

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

# Draft Minutes



# CONSERVATION COMMISSION

## PUBLIC MEETING

2 Bathing Beach Road  
Nantucket, Massachusetts 02554

[www.nantucket-ma.gov](http://www.nantucket-ma.gov)

Wednesday, January 13, 2016 4:00 P.M.  
4 Fairgrounds Road, Training Room

**Commissioners:** Ernie Steinauer (Chair), Andrew Bennett (Vice Chair), Ashley Erisman, David LaFleur, Ben Champoux, Ian Golding, Joe Topham

Called to order at 4:03 p.m.

Staff in attendance: Jeff Carlson, Natural Resources Coordinator  
Attending Members: Bennett (acting chair), Erisman, LaFleur, Champoux, Golding, Topham  
Absent Members: Steinauer  
Late Arrivals: None  
Earlier Departure:

Agenda adopted by unanimous consent

\*Matter has not been heard

### **I. PUBLIC MEETING**

**A. Public Comment – None**

### **II. PUBLIC HEARING**

**A. Notice of Intent**

1. Edwin Snider RT – 1 Brock’s Court (42.3.4-84) SE48-2834

Sitting: Bennett, Erisman, LaFleur, Champoux, Topham  
Recused: Golding

Documentation: Site plans, topographical maps, photos, MNH sign off letter, departmental reports, and correspondence.

Representative: **Mark Rits**, Site Design Engineering – Prior to the site visit, dug test pits and deep-holes to address ground water questions: that letter was submitted Jan.5. One concern was the type of foundation and the 2-foot to groundwater separation issue: a deep hole dug center of the foundation revealed standing water weeping at about 36” below grade and mottling at about 32”. Bottom of footings will be at the top of the high ground water and do not anticipate significant dewatering. Three small test pits and auger holes upland of the wetland boundary found the wetland that were delineated on the property to the west is accurately delineated and consistent with fill and upland area. The site has been modified over time with the area that is lawn going back to the 1990s. Not currently anticipating dewatering; any dewatering would be through the stormwater system.

Steven Cohen, Cohen & Cohen Law PC

Public: **Kendra Kinschert**, for Marsh Fader – Pond created in early 1900s and was an extension of a previously wet area and was never lined; it does have a connection to ground water and does meet the requirements of a pond. The hydric soils are a good indication of wetland hydrology. Soil samples did have features indicating there is a valid hydric system in place. Have submitted letters addressing these concerns and that the delineation indicated on the plans is not accurate. Even if the delineation is correct; this project doesn’t meet the regulations in regards to 2-foot separation from high ground water. The pervious driveway and patio are in excess of 50% of the buffers and a waiver has not been requested for that.

**Cormac Collier**, Executive Director Nantucket Land Council – He will reserve his comments to see the information to be presented. Asked if there is any dewatering plan, significant or not.

Discussion (4:04): **Bennett** – Test Pit Eight indicated no water other than in the driveway.

**Rits** – That test pit showed standing water at about 75" after being open about an hour.

**Champoux** – Asked what the protocol is for going from the fill point to the groundwater as opposed to an unfilled point to groundwater. He thinks that should be considered.

**Rits** – Don’t have a good handle on when and how much the lawn area was graded and build; it goes back 15 to 20 years. The pond on the abutting property edge is greater than 50 feet from the proposed work. Reviewed the history of disturbance of the pond and surrounding area dating back about 100 years. Hydric soil conditions extend roughly 50 feet from the pond much of which has been maintained as lawn. Our consultant doesn’t feel this qualifies as a functioning wetland resource area. The water causing the hydric soils is moving into a deeper aquifer as shown by a couple of the pits.

**Bennett** – Asked the size of the pool.

**Rits** – The pool will be 5.5 to 6-foot deep; the base will be sitting at groundwater level. Noted that the deep hole pits were done after a day of rain but not high level of rain. Working on revised waiver requests. Addressing the 50% of the 25 to 50, this lawn is a pre-existing alteration.

**Erisman** – The current disturbed area would function better than a compacted driveway.

**Rits** – Part of the NOI is to improve conditions in the buffers.

**Kinschert** – The application for the permit with the Building Department indicates the pool will be 7 feet deep; that needs to be addressed especially within the area of groundwater.

**Rits** – The pool plans have been revised. Asked for a continuance.

Staff There was a site visit at the adjacent lot with the third-party consultant and applicant; still waiting for some of that information to come in. Department of Environmental Protection (DEP) guidance on sites filled recommends going from the top of native material, down; the disturbance here is very old and the area has been heavily disturbed. It is difficult to determine when it would be considered no longer a disturbance but the condition of the site. Feels it is important to get all the information in and then discuss it; for example, the abutting property has a man-made pond that is over 100 years old. Suggested the neighbor submit a Request for Determination of Applicability on the pond boundaries.

Motion Continued to Jan. 27 without objection

Vote N/A

2. Edwin Snider RT – 1 Brock’s Court (42.3.4-84) SE48-2835

Sitting Bennett, Erisman, LaFleur, Champoux, Topham

Recused Golding

Documentation Site plans, topographical maps, photos, MNH sign off letter, departmental reports, and correspondence.

Representative **Mark Rits**, Site Design Engineering – Asked this be continued.

Public None

Discussion None

Staff None at this time.

Motion Continued to Jan. 27 without objection

Vote N/A

3. Cigarran – 25 East Tristam Avenue (31-1) SE48-2840

Sitting Bennett, Erisman, LaFleur, Champoux, Golding, Topham

Recused None

Documentation Site plans, topographical maps, photos, MNH sign off letter, departmental reports, and correspondence.

Representative **Arthur D. Gasbarro**, Blackwell and Associates Inc. – Asked this be closed

Public None

Discussion (4:41) None at this time.

Staff This was left open due to the meeting schedule and a possible quorum issue.

Motion **Motion to Close.** (made by: LaFleur) (seconded by: Topham)

Vote Carried unanimously

4. The Maggie Westchester TR – 20 West Chester Street (42.4.3-58.1) SE48-2846

Sitting Bennett, Erisman, LaFleur, Golding, Topham

Recused Champoux

Documentation Site plans, topographical maps, photos, MNH sign off letter, departmental reports, and correspondence.

Representative **Brian Madden**, LEC Environmental – Submitted supplemental information based upon request at the last hearing; reviewed that information. Reviewed the planting plan for the enhancement area. Reviewed the dewatering details. Increase within the 50 feet is 390 square feet and a 77 square feet reduction in the 25-foot.

**Don Bracken**, Bracken Engineering, Inc. – Explained the stormwater run-off mitigation to decrease the overall runoff.

Public None

Discussion (4:43) None at this time.

Staff Have everything needed to close.

Motion **Motion to Close.** (made by: Topham) (seconded by: LaFleur)

Vote Carried unanimously

5. Wingspread 86 RT – 8 Wingspread Lane (27-173) SE48-2848

Sitting Bennett, Erisman, LaFleur, Champoux, Golding, Topham

Recused None

Documentation Site plans, topographical maps, photos, MNH sign off letter, departmental reports, and correspondence.

Representative **Don Bracken**, Bracken Engineering, Inc. – Continued waiting for Massachusetts Natural Heritage letter which has been received. Recapped the resource area.

Public None

Discussion (4:49) None at this time.

Staff Have everything needed to close.

Motion **Motion to Close.** (made by: Topham) (seconded by: LaFleur)

Vote Carried unanimously

6. Halsell – 10C Crow’s Nest Way (12-44.4) SE48-2851  
 Sitting Bennett, Erisman, LaFleur, Champoux, Golding, Topham  
 Recused None  
 Documentation Site plans, topographical maps, photos, MNH sign off letter, departmental reports, and correspondence.  
 Representative **Mike Connolly** of Michael Connolly & Associates, INC. for David M. Haines, Haines Hydrogeologic Consulting – Bedroom count is not changing. Noted other tight tanks in the area.  
 Public None  
 Discussion (4:52) None at this time.  
 Staff Construction of addition and deck and outdoor shower outside the 50-foot on an existing structure. The closest work to wetland is about 80 feet from the wetland. Noted that the septic, which is outside the ConCom jurisdiction, is being replaced with a tight tank. No waivers are required. Have everything needed to close.  
 Motion **Motion to Close.** (made by: LaFleur) (seconded by: Champoux)  
 Vote Carried unanimously

**III. PUBLIC MEETING**

**A. Minor Modifications**

1. Oakhill Investments LLC, 341A Madaket Road (60.2.4-64.5) SE48-2828 (Cont . 02/10/2015)

**B. Certificates of Compliance**

1. Knise – 17 Ames Street (60.2.4-17) SE48-2794

Sitting Bennett, Erisman, LaFleur, Champoux, Golding, Topham  
 Staff For const of alternative system. Provided as-built and sign off. Recommend issue with on-going Condition 20: testing to be submitted to the Board of Health.  
 Discussion (4:56) None  
 Motion **Motion to Approve as recommended.** (made by: Champoux) (seconded by: LaFleur)  
 Vote Carried unanimously

2. Desert Island, LLC – 15 Delaney Road Lot 4 (30-635) SE48-2601

Sitting Bennett, Erisman, LaFleur, Champoux, Golding, Topham  
 Staff Have completed all jurisdictional site work with exception of carrying forward Condition 19: continued monitoring of restored area.  
 Discussion (4:58) None  
 Motion **Motion to Approve as recommended.** (made by: Champoux) (seconded by: LaFleur)  
 Vote Carried unanimously

3. Desert island, LLC – 17 Delaney Road Lot 5 (30-66) SE48-2602

Sitting Bennett, Erisman, LaFleur, Champoux, Golding, Topham  
 Staff Have completed all jurisdictional site work with exception of carrying forward Condition 19: continued monitoring of restored area.  
 Discussion (4:58) None  
 Motion **Motion to Approve as recommended.** (made by: Champoux) (seconded by: LaFleur)  
 Vote Carried unanimously

**C. Orders of Condition** (4:59)

1. Cigarran – 25 East Tristam Avenue (31-1) SE48-2840

Sitting Bennett, Erisman, LaFleur, Champoux, Golding, Topham  
 Staff Had instructions to draft a positive order for placement of 2 timbers on top of existing timber bulkhead. Included Finding 2 about permitting work on the existing bulkhead. Aske3d for photos of planted area for beach grass and Condition 20 a report demonstrating condition of structure and quantifying sand put in replaced behind timbers when washed out.  
 Discussion None  
 Motion **Motion to Issue a positive order.** (made by: Champoux) (seconded by: Topham)  
 Vote Carried 4-2//Erisman & Golding opposed

2. Forty-Seven Monomoy Rd TR – 47 Monomoy Road (54-295) SE48-2843

Sitting Bennett, Erisman, LaFleur, Champoux, Golding, Topham  
 Staff For construction of shed, hot tub and retaining wall with grading and landscaping within the buffer to a wetland. No waivers required. Only condition is that hot tub can't be drained or discharged in an area of ConCom jurisdiction.  
 Discussion None  
 Motion **Motion to Approve as drafted.** (made by: Golding) (seconded by: none)  
 Vote Carried unanimously

3. Daniel Counihan – 11 Swain Street (42.4.11-77) SE48-2849

Sitting Bennett, Erisman, LaFleur, Champoux, Golding, Topham  
 Staff For the relocation and elevation of an existing house with a small addition within land subject to coastal storm flowage. No conditions.  
 Discussion None  
 Motion **Motion to Approve.** (made by: Topham) (seconded by: Golding)  
 Vote Carried unanimously

4. 64 Walsh St, LLC – 64 Walsh Street (29-94) SE48-2847

Sitting Bennett, Erisman, LaFleur, Champoux, Golding, Topham  
 Staff There had been a concern raised about pools win the flood zone; suggested a general discussion at the end of this meeting about that to establish ways to address them. No grade changes proposed.  
 Discussion None  
 Motion **Motion to Approve.** (made by: Champoux) (seconded by: Topham)  
 Vote Carried 5-1//Erisman opposed

5. Flannery – 62 Wanoma Way (92-16) SE48-2850

Sitting Bennett, Erisman, LaFleur, Champoux, Golding, Topham  
 Staff Removal of an existing driveway and construction of a pool house, pool, pool fence, split-rail fence, and pool patio within the buffer zone to a bordering vegetated wetland. No waivers required; work is outside 50 feet. Condition added about pool drainage with an area under ConCom jurisdiction.  
 Discussion **Golding** – Work is at 50 feet.  
 Motion Motion to Approve. (made by: Champoux) (seconded by: none)  
 Vote Carried 5-1//Erisman opposed

6. Wingspread 86 RT – 8 Wingspread Lane (27-173) SE48-2848

Sitting Bennett, Erisman, LaFleur, Champoux, Golding, Topham  
 Staff For development of a landscaped area. No conditions but given the fact it will be a landscaped area, included the require that a copy of the license of the person who will apply fertilizer be provided and there be a yearly reporting of what was applied. The BMP just covers the application of fertilizer. There are no regulations as far as the application of herbicides and pesticides. He can add Condition 20: herbicides and pesticides must be applied by a licensed applicator and a yearly report supplied of the herbicides or pesticides used.  
 Discussion **Erisman** – Asked if the BMP covered the use of herbicides.  
**Golding** – Suggested this board tackle that issue.  
**Champoux** – Asked if it can be added that any herbicides and pesticides to be done by a licensed applicator. That should be a standard condition.  
 Motion **Motion to Approve as amended.** (made by: Golding) (seconded by: LaFleur)  
 Vote Carried unanimously

7. Halsell – 10C Crow’s Nest Way (12-44.4) SE48-2851

Sitting Bennett, Erisman, LaFleur, Champoux, Golding, Topham  
 Staff For three small additions. No conditions as it seemed straight forward.  
 Discussion None  
 Motion **Motion to Approve.** (made by: Topham) (seconded by: Golding)  
 Vote Carried unanimously

8. The Maggie Westchester TR – 20 West Chester Street (42.4.3-58.1) SE48-2846

Sitting Bennett, Erisman, LaFleur, Champoux, Golding, Topham  
 Staff Will add the same fertilizer/herbicide conditions as for Wingspread 86 RT.  
 Discussion **Golding** – Asked if something could be added about demonstrating that the run-off system during a significant rain event is operating properly.  
**Erisman** – Her concern is that native species be used and not cultivars.

**D. Extension of Order of Conditions**

1. Ryan – 10 Tautemo Way (83-11) SE48-2529

Sitting Bennett, Erisman, LaFleur, Champoux, Golding, Topham  
 Staff There was an enforcement action on this. They have completed the six monitoring report and mitigation for the rest of the site but are still working on some of the construction. He recommends approval of 3 one-year extensions.  
 Discussion (5:12) None  
 Motion Motion to Approve as recommended. (made by: Champoux) (seconded by: LaFleur)  
 Vote Carried unanimously

**E. Other Business** (5:14)

1. Enforcement Actions – 14 Fargo Way: Follow up to an unpermitted drain pipe draining into the wetland and unpermitted work in conjunction with the coastal engineering structure. The posts are installed correctly but the fence would not allow water to interact with the tubes. The property owner is looking for an acknowledgment that the monitoring survey requirement has been satisfactorily met. The pipe has been cut off; staff is keeping an eye on that to ensure it doesn't show up again.
2. Approval of Minutes 12/30/2015: Held
3. Monitoring Reports – 10 Tautemo Way: The final report through an enforcement action.
4. Reports:
  - a. CPC, Golding – Nothing to report
  - b. NP&EDC, Bennett – Nothing to report
  - c. Mosquito Control Committee, Erisman – Nothing to report
5. Commissioners Comment
  - a. Golding – In regards to Brocks Court, Diana Lewis' letter claims the building was moved without a ConCom permit. Staff – That is true. He has talked to the Zoning Enforcement Officer and Building Commissioner about issuing a permit without checking whether or not it needs a ConCom permit and about taking action to ensure a ConCom permit is obtained. Stephen Cohen, Cohen & Cohen LP – Steve Butler, Building Commissioner, has assured that a Certificate of Occupancy would not be issued until that is resolved.
6. Administrator/Staff Reports
  - a. In regards to jurisdiction over flood zones. He is trying to get an expert here to discuss that resource area; it doesn't seem to take into account precipitation causing a flood only water from a pond or ocean. If the standards are taken very literally, the installation of pool actually increases the flood storage capacity of an area if the pool is empty. Flood zones don't address ground water separation and infiltration. The only performance standard is not to significantly alter the flood zone's ability of water to flow during flooding. Would need to post a public hearing regulation changes in relation to flood zones and herbicides/pesticides. Erisman – If a pool is full during flooding, contaminated water is washed back into the system when water recede. Champoux – A pool doesn't affect the flow of the water. The issue seems to have more to do with groundwater flow and some infiltration. Further discussion about the possible affect of a treated, fresh-water pool on flood water.

Motion to Adjourn: 5:43 p.m.

Submitted by:  
Terry L. Norton