

Staff Report

Date: October 13, 2021

To: Conservation Commission

From: Whitney McClees, Conservation Agent

Subject: **53 Goulart Memorial Drive – Request for Certificate of Compliance – DEP# 023-812**

DOCUMENTS REVIEWED

- Request for Certificate of Compliance and associated documents
- Order of Conditions issued July 7, 2003
- Notice of Intent submitted April 8, 2003
- 310 CMR 10.00
- Fairhaven Wetlands Bylaw (Chapter 192) and associated regulations
- Fairhaven Stormwater Bylaw (Chapter 194)

RESOURCE AREAS ON/NEAR SITE

- Land Subject to Coastal Storm Flowage (LSCSF) Zone VE
- Coastal Beach
- Coastal Dune
- Buffer Zone

PROJECT SUMMARY

- The Order of Conditions approved the following activities:
 - Renovate existing 40' x 60' building for use as shellfish hatchery
 - Install new septic system
 - Construct new parking area with pervious paving
 - Replace existing seawater intake and discharge with new 2" piping between building and screened intake approximately 250 feet from mean high water

COMMENTS

- Based on the information in the file, it appears the proposal was revised due to constraints regarding the use of the building as a shellfish hatchery within a business zone.
- The letter submitted by the engineer with the request for certificate of compliance noted that the only work that was done under the Order of Conditions was the installation of the new septic system in April 2004.
- A site visit showed that the pervious parking area had not been installed, that the building had been demolished with only the foundation remaining, and a number of items around the property that need to be cleaned up.
- The Order of Conditions did not include any continuing conditions.
- This certificate of compliance will need wet ink signatures.

RECOMMENDATION

- I recommend issuing a Certificate of Compliance for 53 Goulart Memorial Drive, SE 023-812, with a Partial Certification for the completion of the new septic system, and including as an ongoing condition, “the Order of Conditions has lapsed and is therefore no longer valid. No future work subject to regulation under the Wetlands Protection Act or Fairhaven Wetlands Bylaw may commence without filing a new Notice of Intent and receiving a new Order of Conditions.”

Charon Associates, Inc.

Consulting Engineers

*323 Neck Road
Rochester, MA 02770
Phone: 508-763-8362
Fax: 508-763-9582*

October 4, 2021

Conservation Commission
Town Hall
Fairhaven, MA 02719

Dear Members of the Commission:

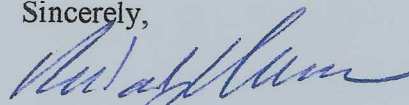
RE: DEP File #SE 23-812; Taylor Cultured Seafood Inc., Owner

A site inspection has been performed by this office to verify the status of the work that was permitted by the subject Order of Conditions that were issued on July 7, 2003. Of the work permitted by the Orders, only the installation of the new septic system was in April, 2004.

The owner of Taylor Cultured Seafood at that time was Rod Taylor, Jr. Since Mr Taylor has since died, his partner Haidong Wang is the current owner and the person making this request.

It is my professional opinion that portion of the work of this project that is described above has been satisfactorily completed and that a certificate of compliance should be issued for the project.

Sincerely,



Richard J. Charon, P.E.

Cc: N. McDonald, Esq.

Staff Report

Date: October 12, 2021

To: Conservation Commission

From: Whitney McClees, Conservation Agent

Subject: **39 Nelson Avenue – Request for Determination of Applicability – No DEP#, Fairhaven CON 023-249**

DOCUMENTS REVIEWED

- Request for Determination of Applicability and associated documents
- 310 CMR 10.00
- Fairhaven Wetlands Bylaw (Chapter 192) and associated regulations
- Fairhaven Stormwater Bylaw (Chapter 194)

RESOURCE AREAS ON/NEAR SITE

- Land Subject to Coastal Storm Flowage (LSCSF) Zone VE

RELEVANT PERFORMANCE STANDARDS

- **LSCSF General Provisions:** 10.24(1) “If the issuing authority determines that a resource area is significant to an interest identified in [the Act]...,the issuing authority shall impose such conditions as are necessary to contribute to the protection of such interests.”

PROJECT SUMMARY

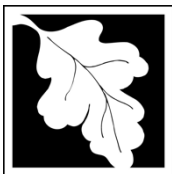
- The applicant is proposing to perform a percolation test and soil evaluations utilizing a backhoe.

COMMENTS

- The work is temporary in nature and falls within the flood zone only. The holes will be backfilled upon completion.
- The purpose of the work is for future design of an onsite sewage disposal system.
- Because the work is temporary in nature, it does not appear that it will have a negative impact on storm damage prevention or flood control.

RECOMMENDATION

- I recommend closing the public hearing for 39 Nelson Avenue, CON 023-249, and issuing a Negative 2 and Negative 6 Determination under the Wetlands Protection Act and Fairhaven Wetlands Bylaw.



WPA Form 1- Request for Determination of Applicability

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:

Steven Taylor

Name

srt997@gmail.com

E-Mail Address

99 Blueberry Drive

Mailing Address

E. Greenwich

City/Town

RI

State

02818

Zip Code

401-474-4283

Phone Number

Fax Number (if applicable)

2. Representative (if any):

Field Engineering Co., Inc.

Firm

Peter Therrien, E.I.T.

Contact Name

ptherrien@fieldengrg.com

E-Mail Address

PO Box 1178

Mailing Address

Mattapoisett

City/Town

MA

State

02739

Zip Code

508-758-2749

Phone Number

Fax Number (if applicable)

B. Determinations

1. I request the Fairhaven Conservation Commission make the following determination(s). Check any that apply:

- a. whether the **area** depicted on plan(s) and/or map(s) referenced below is an area subject to jurisdiction of the Wetlands Protection Act.
- b. whether the **boundaries** of resource area(s) depicted on plan(s) and/or map(s) referenced below are accurately delineated.
- c. whether the **work** depicted on plan(s) referenced below is subject to the Wetlands Protection Act.
- d. whether the area and/or work depicted on plan(s) referenced below is subject to the jurisdiction of any **municipal wetlands ordinance** or **bylaw** of:

Fairhaven

Name of Municipality

- e. whether the following **scope of alternatives** is adequate for work in the Riverfront Area as depicted on referenced plan(s).



WPA Form 1- Request for Determination of Applicability

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

C. Project Description

1. a. Project Location (use maps and plans to identify the location of the area subject to this request):

39 Nelson Avenue

Street Address

43

Assessors Map/Plat Number

Fairhaven

City/Town

224

Parcel/Lot Number

- b. Area Description (use additional paper, if necessary):

Approximately 0.306-acres of land containing a single family dwelling, located within a mapped FEMA Flood Zone VE.

- c. Plan and/or Map Reference(s):

Assessors Map

USGS Topo Map - MassGIS Oliver

FEMA Flood Map Firmette Panel No. 250054

Title

Plan to Accompany Request for Determination of Applicability

Title

5/1/17

9/14/21

Oct. 2020

Date

9/23/21

Date

2. a. Work Description (use additional paper and/or provide plan(s) of work, if necessary):

The applicant proposes to perform a percolation test and soil evaluations at 39 Nelson Avenue for a proposed individual sewage disposal system. A backhoe will be used to dig the perc test holes.

Staff Report

Date: October 12, 2021

To: Conservation Commission

From: Whitney McClees, Conservation Agent

Subject: **25 & 29 Mangham Way – Violation/Enforcement**

DOCUMENTS REVIEWED

- Previous permitting history for 29 Mangham Way
- 310 CMR 10.00
- Fairhaven Wetlands Bylaw (Chapter 192) and associated regulations
- Fairhaven Stormwater Bylaw (Chapter 194)

RESOURCE AREAS ON/NEAR SITE

- Bordering Vegetated Wetland
- Buffer Zone

COMMENTS

- A cease and desist was issued to the property owner of 29 Mangham Way for a pile of fill placed in the buffer zone, to be spread in a wetland resource area.
- A subsequent site visit revealed a large cleared area within a Bordering Vegetated Wetland. The cleared area appears to span both 25 and 29 Mangham Way. The property owner of 29 Mangham Way indicated he has been utilizing it for his camper.
- The property owner of 29 Mangham Way indicated there was a lot of debris in the resource area from the developer of the house.
- No additional fill can be placed in the resource area and the existing fill will need to be removed and the wetland possibly restored.
- No permits were ever filed for the clearing and fill in the wetland on either property.
- The wetland line from the Order of Conditions permitting the construction of the house appears to be fairly accurate, with the approximate edge of the wetland being at the edge of the yard.
- Two Enforcement Orders were issued after the last meeting. They will need to be ratified by the Commission. The Enforcement Orders require an updated wetland delineation and assessment of the site as well as a restoration plan to be submitted by January 3, 2022.
- Both property owners have reached out in response to the issued Enforcement Orders and have indicated they intend to move forward in responding to them.

RECOMMENDATION

- The Commission will need to ratify the issued Enforcement Orders and add any additional information that you feel is necessary.



A. Violation Information

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



This Enforcement Order is issued by:

Fairhaven Conservation Commission
 Conservation Commission (Issuing Authority)

10/5/2021
 Date

To:

Jacinto T. Mendes, Jr., Trustee of the Mangham Way Irrevocable Realty Trust

Name of Violator

74 Reed Street, New Bedford, MA 02740

Address

1. Location of Violation:

Property Owner (if different)

25 Mangham Way

Street Address

Fairhaven

City/Town

31A

Assessors Map/Plat Number

02719

Zip Code

300

Parcel/Lot Number

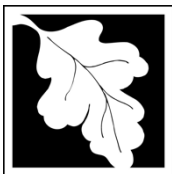
2. Extent and Type of Activity (if more space is required, please attach a separate sheet):

Unpermitted fill in and clearing of a bordering vegetated wetland resource area and unpermitted activity in the 100-foot buffer zone

B. Findings

The Issuing Authority has determined that the activity described above is in a resource area and/or buffer zone and is in violation of the Wetlands Protection Act (M.G.L. c. 131, § 40) and its Regulations (310 CMR 10.00), because:

- the activity has been/is being conducted in an area subject to protection under c. 131, § 40 or the buffer zone without approval from the issuing authority (i.e., a valid Order of Conditions or Negative Determination).



Massachusetts Department of Environmental Protection

Bureau of Resource Protection - Wetlands

WPA Form 9 – Enforcement Order

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

DEP File Number:

B. Findings (cont.)

the activity has been/is being conducted in an area subject to protection under c. 131, § 40 or the buffer zone in violation of an issuing authority approval (i.e., valid Order of Conditions or Negative Determination of Applicability) issued to:

Name

Dated

File Number

Condition number(s)

The Order of Conditions expired on (date): _____
Date

The activity violates provisions of the Certificate of Compliance.

The activity is outside the areas subject to protection under MGL c.131 s.40 and the buffer zone, but has altered an area subject to MGL c.131 s.40.

Other (specify):

The activity has been/is being conducted in an area subject to protection under the Fairhaven Wetlands Bylaw, Chapter 192 of the Code of the Town of Fairhaven, or the buffer zone without approval from the issuing authority (i.e., a valid Order of Conditions or Negative Determination).

C. Order

The issuing authority hereby orders the following (check all that apply):

The property owner, his agents, permittees, and all others shall immediately cease and desist from any activity affecting the Buffer Zone and/or resource areas.

Resource area alterations resulting from said activity shall be corrected and the resource areas returned to their original condition.

A restoration plan shall be filed with the issuing authority on or before January 3, 2022
Date

for the following:

See Attachment A

The restoration shall be completed in accordance with the conditions and timetable established by the issuing authority.



TOWN OF FAIRHAVEN, MASSACHUSETTS

CONSERVATION COMMISSION

Town Hall · 40 Center Street · Fairhaven, MA 02719

Attachment A

DEP File #: None
Fairhaven File #: EO 023-016
Property Owner: Jacinto T. Mendes, Jr., Trustee of the Mangham Way Irrevocable Trust
Property: 25 Mangham Way

A restoration plan shall be filed with the issuing authority on or before January 3, 2022 for the following:

1. An assessment of the site, delineation of the wetland by a qualified wetland scientist, and the submission of a restoration plan by a qualified, licensed professional on or before January 3, 2022
2. Wetland assessment and delineation shall encompass the entire property to ensure all violations within a resource area are properly addressed.
3. Restoring and revegetating the disturbed area to the original extent of the resource area by June 15, 2022 as laid out by the Fairhaven Conservation Commission in response to the submitted restoration plan
4. Assessments of vegetation for three growing seasons following the completion of the work shall be submitted to the Commission. If any of the planted vegetation fails to establish, the property owner shall be required to replace those that fail.
5. The Conservation Commission, its employees, and its agents shall have a right of entry to inspect or compliance with the provisions of this Enforcement Order
6. The Commission reserves the right to impose additional conditions on any or all portions of this project that could impact an area of statutory interest under the Act and/or the Fairhaven Wetlands Bylaw.
7. The restoration plan shall be in compliance with the Performance Standards for Bordering Vegetated Wetland (310 CMR 10.55(4)). Specifically, 310 CMR 10.55(4)(b)1, 2, and 6 require the area restored to be equal to that of the area disturbed, the groundwater and surface elevation of the restoration area shall be approximately equal to that of the pre-disturbed Bordering Vegetated Wetland, and at least 75% of the surface of the replacement area shall be reestablished with indigenous wetland plant species within two growing seasons, and prior to said vegetative reestablishment any exposed soil in the restoration area shall be temporarily stabilized to prevent erosion.
8. Non-compliance with this Order may result in fines of up to \$300 per day the violation is ongoing, pursuant to Chapter 192-11 of the Code of the Town of Fairhaven.



C. Order (cont.)

- Complete the attached Notice of Intent (NOI). The NOI shall be filed with the Issuing Authority on or before:

_____ Date

for the following:

No further work shall be performed until a public hearing has been held and an Order of Conditions has been issued to regulate said work.

- The property owner shall take the following action (e.g., erosion/sedimentation controls) to prevent further violations of the Act:

Failure to comply with this Order may constitute grounds for additional legal action. Massachusetts General Laws Chapter 131, Section 40 provides: "Whoever violates any provision of this section (a) shall be punished by a fine of not more than twenty-five thousand dollars or by imprisonment for not more than two years, or both, such fine and imprisonment; or (b) shall be subject to a civil penalty not to exceed twenty-five thousand dollars for each violation". Each day or portion thereof of continuing violation shall constitute a separate offense.

D. Appeals/Signatures

An Enforcement Order issued by a Conservation Commission cannot be appealed to the Department of Environmental Protection, but may be filed in Superior Court.

Questions regarding this Enforcement Order should be directed to:

Whitney McClees, Agent

Name

508-979-4023, ext. 128

Phone Number

8:30am-4:30pm, Monday-Friday

Hours/Days Available

Issued by:

Fairhaven Conservation Commission

Conservation Commission

Conservation Commission signatures required on following page.



D. Appeals/Signatures (cont.)

In a situation regarding immediate action, an Enforcement Order may be signed by a single member or agent of the Commission and ratified by majority of the members at the next scheduled meeting of the Commission.

Signatures:

_____	_____
_____	_____
_____	_____
_____	_____

Signature of delivery person or certified mail number



Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
WPA Form 9 – Enforcement Order
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

DEP File Number: _____

A. Violation Information

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



This Enforcement Order is issued by:

Fairhaven Conservation Commission
 Conservation Commission (Issuing Authority)

10/5/2021
 Date

To:

Robert F. Baccelli
 Name of Violator
29 Mangham Way, Fairhaven, MA 02719
 Address

1. Location of Violation:

Robert F. Baccelli / Jacinto T. Mendes, Jr., Trustee of the Mangham Way Irrevocable Realty Trust
 Property Owner (if different)
29 & 25 Mangham Way
 Street Address
Fairhaven 02719
 City/Town Zip Code
31A 300A & 300
 Assessors Map/Plat Number Parcel/Lot Number

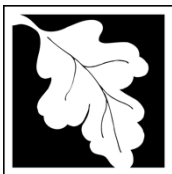
2. Extent and Type of Activity (if more space is required, please attach a separate sheet):

Unpermitted fill in and clearing of a bordering vegetated wetland resource area and unpermitted activity within the 100-foot buffer zone

B. Findings

The Issuing Authority has determined that the activity described above is in a resource area and/or buffer zone and is in violation of the Wetlands Protection Act (M.G.L. c. 131, § 40) and its Regulations (310 CMR 10.00), because:

the activity has been/is being conducted in an area subject to protection under c. 131, § 40 or the buffer zone without approval from the issuing authority (i.e., a valid Order of Conditions or Negative Determination).



Massachusetts Department of Environmental Protection

Bureau of Resource Protection - Wetlands

WPA Form 9 – Enforcement Order

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

DEP File Number:

B. Findings (cont.)

the activity has been/is being conducted in an area subject to protection under c. 131, § 40 or the buffer zone in violation of an issuing authority approval (i.e., valid Order of Conditions or Negative Determination of Applicability) issued to:

Name

Dated

File Number

Condition number(s)

The Order of Conditions expired on (date): _____
Date

The activity violates provisions of the Certificate of Compliance.

The activity is outside the areas subject to protection under MGL c.131 s.40 and the buffer zone, but has altered an area subject to MGL c.131 s.40.

Other (specify):

The activity has been/is being conducted in an area subject to protection under the Fairhaven Wetlands Bylaw, Chapter 192 of the Code of the Town of Fairhaven, or the buffer zone without approval from the issuing authority (i.e., a valid Order of Conditions or Negative Determination).

C. Order

The issuing authority hereby orders the following (check all that apply):

The property owner, his agents, permittees, and all others shall immediately cease and desist from any activity affecting the Buffer Zone and/or resource areas.

Resource area alterations resulting from said activity shall be corrected and the resource areas returned to their original condition.

A restoration plan shall be filed with the issuing authority on or before January 3, 2022
Date

for the following:

See Attachment A

The restoration shall be completed in accordance with the conditions and timetable established by the issuing authority.



TOWN OF FAIRHAVEN, MASSACHUSETTS

CONSERVATION COMMISSION

Town Hall · 40 Center Street · Fairhaven, MA 02719

Attachment A

DEP File #: None
Fairhaven File #: EO 023-017
Violator: Robert Baccelli
Property: 25 & 29 Mangham Way

A restoration plan shall be filed with the issuing authority on or before January 3, 2022 for the following:

1. An assessment of the site, delineation of the wetland by a qualified wetland scientist, and the submission of a restoration plan by a qualified, licensed professional on or before January 3, 2022
2. Wetland assessment and delineation shall encompass the entire property to ensure all violations within a resource area are properly addressed.
3. Restoring and revegetating the disturbed area to the original extent of the resource area by June 15, 2022 as laid out by the Fairhaven Conservation Commission in response to the submitted restoration plan
4. Assessments of vegetation for three growing seasons following the completion of the work shall be submitted to the Commission. If any of the planted vegetation fails to establish, the property owner shall be required to replace those that fail.
5. The Conservation Commission, its employees, and its agents shall have a right of entry to inspect or compliance with the provisions of this Enforcement Order
6. The Commission reserves the right to impose additional conditions on any or all portions of this project that could impact an area of statutory interest under the Act and/or the Fairhaven Wetlands Bylaw.
7. The restoration plan shall be in compliance with the Performance Standards for Bordering Vegetated Wetland (310 CMR 10.55(4)). Specifically, 310 CMR 10.55(4)(b)1, 2, and 6 require the area restored to be equal to that of the area disturbed, the groundwater and surface elevation of the restoration area shall be approximately equal to that of the pre-disturbed Bordering Vegetated Wetland, and at least 75% of the surface of the replacement area shall be reestablished with indigenous wetland plant species within two growing seasons, and prior to said vegetative reestablishment any exposed soil in the restoration area shall be temporarily stabilized to prevent erosion.
8. Non-compliance with this Order may result in fines of up to \$300 per day the violation is ongoing, pursuant to Chapter 192-11 of the Code of the Town of Fairhaven.



C. Order (cont.)

- Complete the attached Notice of Intent (NOI). The NOI shall be filed with the Issuing Authority on or before:

_____ Date

for the following:

No further work shall be performed until a public hearing has been held and an Order of Conditions has been issued to regulate said work.

- The property owner shall take the following action (e.g., erosion/sedimentation controls) to prevent further violations of the Act:

Failure to comply with this Order may constitute grounds for additional legal action. Massachusetts General Laws Chapter 131, Section 40 provides: "Whoever violates any provision of this section (a) shall be punished by a fine of not more than twenty-five thousand dollars or by imprisonment for not more than two years, or both, such fine and imprisonment; or (b) shall be subject to a civil penalty not to exceed twenty-five thousand dollars for each violation". Each day or portion thereof of continuing violation shall constitute a separate offense.

D. Appeals/Signatures

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Issued by:

Fairhaven Conservation Commission

Conservation Commission

Conservation Commission signatures required on following page.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 9 – Enforcement Order
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

DEP File Number:

D. Appeals/Signatures (cont.)

In a situation regarding immediate action, an Enforcement Order may be signed by a single member or agent of the Commission and ratified by majority of the members at the next scheduled meeting of the Commission.

Signatures:

_____	_____
_____	_____
_____	_____
_____	_____

Signature of delivery person or certified mail number

Staff Report

Date: October 12, 2021

To: Conservation Commission

From: Whitney McClees, Conservation Agent

Subject: **20 Yankee Lane – Violation/Enforcement – Fairhaven EO 023-014**

DOCUMENTS REVIEWED

- Submitted restoration plan
- 310 CMR 10.00
- Fairhaven Wetlands Bylaw (Chapter 192) and associated regulations
- Fairhaven Stormwater Bylaw (Chapter 194)

RESOURCE AREAS ON/NEAR SITE

- Riverfront Area
- Inland Bank
- Land Under Water Bodies and Waterways
- Bordering Vegetated Wetland
- Buffer Zone

RELEVANT PERFORMANCE STANDARDS

- **Bank:** 310 CMR 10.54(4)
 - (a) ...Work on a Bank shall not impair the following:
 1. The physical stability of the Bank;
 2. The water carrying capacity of the existing channel within the Bank;
 3. Ground water and surface water quality;
 4. The capacity of the Bank to provide breeding habitat, escape cover and food for fisheries;
 5. The capacity of the Bank to provide important wildlife habitat functions. A project or projects on a single lot, for which Notice(s) of Intent is filed on or after November 1, 1987, that (cumulatively) alter(s) up to 10% or 50 feet (whichever is less) of the length of the bank found to be significant to the protection of wildlife habitat, shall not be deemed to impair its capacity to provide important wildlife habitat functions. In the case of a bank of a river or an intermittent stream, the impact shall be measured on each side of the stream or river. Additional alterations beyond the above threshold may be permitted if they will have no adverse effects on wildlife habitat, as determined by procedures contained in 310 CMR 10.60.
 6. Work on a stream crossing shall be presumed to meet the performance standard set forth in 310 CMR 10.54(4)(a) provided the work is performed in

compliance with the Massachusetts Stream Crossing Standards by consisting of a span or embedded culvert in which, at a minimum, the bottom of a span structure or the upper surface of an embedded culvert is above the elevation of the top of the bank, and the structure spans the channel width by a minimum of 1.2 times the bankfull width. This presumption is rebuttable and may be overcome by the submittal of credible evidence from a competent source. Notwithstanding the requirement of 310 CMR 10.54(4)(a)5., the impact on bank caused by the installation of a stream crossing is exempt from the requirement to perform a habitat evaluation in accordance with the procedures contained in 310 CMR 10.60.

- (b) Structures may be permitted in or on a Bank when required to prevent flood damage, including the renovation or reconstruction (but not substantial enlargement) of such facilities, buildings and roads,...
- (c) No project may be permitted which will have any adverse effect on specified habitat sites of Rare Species.

- **Land under Water Bodies and Waterways (under any Creek, River, Stream, Pond, or Lake)**

10.56 (4)

- (a) Work shall not impair the following:
 1. The water carrying capacity within the defined channel, which is provided by said land in conjunction with the banks;
 2. Ground and surface water quality;
 3. The capacity of said land to provide breeding habitat, escape cover and food for fisheries; and
 4. The capacity of said land to provide important wildlife habitat functions. A project or projects on a single lot, for which Notice(s) of intent is filed on or after November 1, 1987, that (cumulatively) alter(s) up to 10% or 5,000 square feet (whichever is less) of land in this resource area found to be significant to the protection of wildlife habitat, shall not be deemed to impair its capacity to provide important wildlife habitat functions. Additional alterations beyond the above threshold may be permitted if they will have no adverse effects on wildlife habitat, as determined by procedures established under 310 CMR 10.60.
 5. Work on a stream crossing shall be presumed to meet the performance standard set forth in 310 CMR 10.56(4)(a) provided the work is performed in compliance with the Massachusetts Stream Crossing Standards by consisting of a span or embedded culvert in which, at a minimum, the bottom of a span structure or the upper surface of an embedded culvert is above the elevation of the top of the bank, and the structure spans the channel width by a minimum of 1.2 times the bankfull width. This presumption is rebuttable and may be overcome by the submittal of credible evidence from a competent source. Notwithstanding the requirements of 310 CMR 10.56(4)(a)4., the impact on Land under Water Bodies and Waterways caused by the installation of a stream crossing is exempt from the requirement to perform a habitat evaluation in accordance with the procedures established under 310 CMR 10.60.
- (b) ...the issuing authority may issue an Order...to maintain or improve boat channels
- (c) ...no project may be permitted which will have any adverse effect on [rare species].

- **Bordering Vegetated Wetland:** 10.55(4)

- (a) work in a Bordering Vegetated Wetland shall not destroy or otherwise impair any portion of the BVW

- (b) The ConCom may permit the loss of up to 5000 square feet of BVW when said area is replaced IF:
1. The area is equal;
 2. The ground water and surface elevation are approximately equal;
 3. The overall horizontal configuration and location are similar;
 4. There is an unrestricted hydraulic connection to the same water body or waterway;
 5. It is in the same general area of the water body;
 6. At least 75% of the surface of the replacement area shall be reestablished with indigenous wetland plant species within two growing seasons; and
 7. The replacement area is provided in a manner which is consistent with all other regs in 310 CMR 10.00.
- (c) The ConCom may permit the loss of a portion of BVW when;
1. Said portion has a surface area less than 500 square feet;
 2. Said portion extends in a distinct linear configuration ("finger-like") into adjacent uplands; and
 3. In the judgment of the issuing authority it is not reasonable to scale down, redesign or otherwise change the proposal.
- (d) No project may be permitted which will have any adverse effect on specified habitat sites of rare species
- (e) No work shall destroy or otherwise impair any Area of Critical Environmental Concern

VIOLATION SUMMARY

- Evidence of work without permits was observed during an erosion control inspection for a permitted solar array project. The observed activities are located on the resource area side of the erosion control barrier and are not affiliated with the approved solar array project. The following was observed:
 - Significant vegetation clearing and grubbing within Riverfront Area and Bordering Vegetated Wetland
 - Evidence of machinery within Riverfront Area and Bordering Vegetated Wetland
 - Removal of large amounts of debris from Riverfront Area and Bordering Vegetated Wetland
 - Impact to bank of perennial stream
- Based on the depicted edge of vegetation on the approved plans for the solar array (SE 023-1269), approximately 2.41 acres of Riverfront Area and approximately 6.88 acres of Bordering Vegetated Wetland have been impacted.

COMMENTS

- The wetland scientist submitted a restoration plan in response to the issued Enforcement Order. The restoration plan needs revision.
- I sent the following comments to the wetland scientist:
 - Overall, much more detail is needed. The submitted documents talk about restoring on-site grades to match those on the 2017 plan but do not provide any information about current grades on site and what level of work may be needed to potentially restore to 2017 conditions. A current conditions plan is needed that details much more specifically

what the status of the site is. The restoration site plan also does not address that the east-west stream channel appears to have been lengthened from the 2017 plans and there is a new stream channel that is now present on the property running north-south that the 2017 plans do not show. The lengthening of the east-west channel needs to be addressed and the addition of the north-south channel needs to be restored to bordering vegetated wetlands and included in this restoration plan. Additionally, if there are any large fill piles currently in the resource area, those need to be shown on a current conditions plan and a plan for their removal included.

- There are several questions that need to be answered. Is there fill in the resource area that needs to be removed? What are the current elevations and grades? Is it currently pit and mound topography? Have areas been so compacted that they no longer drain properly? What is the proposed method of restoration of grades and where are the access paths to restore those areas?
- The restoration plan also discusses restoring the stream but does not provide any details as to how the stream will be restored. In order to ensure the stream is being restored so it is functioning properly hydrologically and providing the appropriate hydrology to the wetland, an engineer and wetland scientist will have to work collaboratively. Hydraulic calculations will likely be needed.
- The proposed seed mix is also identified as a Pennsylvania ecotype. This is inappropriate for Massachusetts. Additionally, there should be some shrub and tree plantings proposed, especially if early succession had started in the area. Using the higher end of spacing as outlined in MassDEP's Massachusetts Inland Wetland Replication Guidelines is fine, i.e. 10 feet on center for shrubs and 15 feet on center for trees. If herbaceous cover is already 75% or more, seeding is not necessary in those areas. This will allow some of the expense of purchasing seed to be shifted to planting some trees and shrubs. Areas that don't have good herbaceous cover will need to be seeded, including areas that are disturbed for restoration purposes.
- An invasive species management plan also needs to be part of this restoration plan as there is *Phragmites* on site already.
- This should be a phased restoration plan both because it is a large area and because there are several facets to this project. Start with revegetation of areas that are not going to be disturbed by stream restoration, removal or fill, or equipment in the resource area. Include an access plan as to how you will get to the areas to be restored. A planting plan for areas that are not going to be disturbed by other restoration work can be presented to the Commission so planting may be able to occur this fall. That gives until the spring/summer for subsequent phases of the restoration work. If you are proposing to wait until a low-flow period for the stream restoration, other restoration work can and should be occurring in the meantime.
- Please submit a revised restoration plan that approaches the project in phases, depicts very clear access paths to where work will occur, addresses stream restoration properly, and shows an accurate current conditions plan, to be presented to the Commission at their November 1, 2021 meeting.
- In order to determine whether or not this restoration will be successful and complies with the regulations, much more information is needed.
- The Commission should consider taking a vote to require a revised restoration plan be submitted by November 1, 2021 that not only addresses the above concerns, but follows MassDEP's Massachusetts Inland Wetland Replication Guidelines.

October 1, 2021

Fairhaven Conservation Commission
Fairhaven Town Hall
40 Center Street
Fairhaven, MA 02719

Re: Wetland Replication, Buffer Zone, & Stream Restoration Plan
20 Yankee Lane, Fairhaven, MA 02719 (Fairhaven Enforcement Order 023-014)

Dear Conservation Commission:

Goddard Consulting is pleased to submit this Wetland Replication, Buffer Zone, & Stream Restoration Plan for 20 Yankee Lane, Fairhaven, MA. An Enforcement Order (Fairhaven File # EO 023-014) was issued on 5/6/21 to Brian Lopes for clearing within Buffer Zone to Bordering Vegetated Wetlands (BVW) and Riverfront Area. Upon receipt of the Enforcement Order, Mr. Lopes immediately ceased all ongoing unpermitted activities on-site. The purpose of this plan is to restore on-site wetlands, buffer zone areas, and improve the function of the perennial stream.



Figure 1. The on-site stream and proposed location of the restoration area. Existing solar panels under construction are shown in the background.

Since the unpermitted clearing that has occurred on-site, much of the native vegetation has naturally re-established. Aerial imagery coupled with site inspections have been used to estimate the extent of on-site impacted areas. Based on our calculations, there is approximately ±514,000sf of wetland areas and ±93,000sf of upland areas within riverfront area and the Town’s 25’ no-disturb zone to be restored. The onsite wetlands are predominantly vegetated with sedges, rushes, and goldenrods, cattails, and smartweed. Adjacent upland fields are dominated by upland grasses, goldenrod, and clover. This wetland replication plan proposes the revegetation of the impacted areas through regrading of portions of the site including the existing stream bank, and the implementation of seed mixes. On-site grades will be restored to those as shown on Atlantic Design Engineers’ *Overall Wetland Location Plan* (11/22/17). These plans show grades of the site prior to the disturbances, and represent a more natural condition for the site. Seed mix specifications were followed to calculate the exact quantity of bag mix to be implemented across the replication/restoration areas. With these calculations, the wetland replication area should be seeded with a total of 234lbs of New England FACW mix, and the upland portions of the site should be seeded with 43lbs of New England upland meadow seed mix. See Table 1 below for planting schedule, and Table 2 for the phased construction schedule.

Table 1. Seeding schedule.

Seed Mix	Quantity	Species
New England FACW Mix	234lbs.	See Attached Spec. Sheet
New England Upland Meadow Mix	43lbs.	See Attached Spec. Sheet

Table 2. Phased construction schedule.

Time	Activity
July 2022	Stream grading & seeding
August-September 2022	Grading the remainder of the site
October 2022	Seeding the wetland & upland areas

General Installation Procedures

Supervision: All work within the replication area shall be supervised by a qualified wetland scientist with a minimum of five years’ experience. The supervisor shall submit monitoring reports to the Conservation Commission as described below. Reports shall contain details of all work performed and photographs of completed conditions.

Step 1: Install Erosion Control Barriers

Prior to any work, erosion control barriers will be installed at the downgradient edge of the limit of work.

Step 2: Ensure Hydrology of Replication & Restoration Areas

The replication & restoration areas will be regraded to the elevations that were in place prior to the disturbances as shown on Atlantic Design Engineers' *Overall Wetland Location Plan* (11/22/17). Surveyors will verify these locations in the field. The supervising wetland scientist will ensure that the areas to be seeded will have at least 6in. of organic, nutrient rich topsoil is added to the areas prior to planting. Any re-exposed, buried topsoils may be reused as applicable with the approval of the supervising wetland scientist.

The bank of the stream itself will be graded down to match surrounding elevations prior to the addition of topsoil. Work within the stream shall take place during low- to no-flow conditions, which is typically between July 1 and October 30.

- a. If flow is encountered, provide a temporary sandbag dam or pump system upstream to divert stream around construction area.
- b. Provide dewatering basin if pumping is required.

Step 3: Relocate Any Potential Wildlife Habitat Features:

To improve the stream's ability to function as wildlife habitat, an effort will be made to include wildlife habitat features along the edges of the stream. This includes rocks, stones (at least 6-inches long +/-) or large woody debris. These features should be stockpiled nearby for later replacement within the stream portions of the replication area. These features shall be randomly placed throughout the replication area to provide cover for wildlife and provide wildlife habitat.

Step 4: Seeding

Wetland seed mix comparable to that specified in this document, shall be scattered evenly by hand throughout the wetland and stream portions of the replication area. Upland portions of the restoration area will be seeded with New England conservation/wildlife seed mix or a similar upland mix. Following seeding a light application of weed free hay mulch shall be applied to the areas to encourage seed germination and reduce water loss.

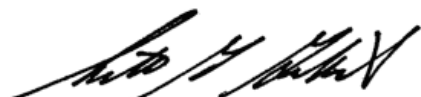
Step 5: Monitoring

- a. **Seasonal monitoring reports** shall be prepared for the replication area by a qualified wetland scientist for a period of two additional years after replication completion. This monitoring program will consist of early summer and early fall inspections and will include photographs and details about the vitality of the replication area. Monitoring reports shall be submitted to the Commission by November 15th of each year. Monitoring reports shall describe, using narratives, plans, and color photographs, the physical characteristics of the replication area with respect to stability, survival of vegetation and plant mortality, aerial extent and distribution, species diversity and vertical stratification (i.e., herb, shrub, and tree layers). Invasive species will be documented if present within areas impacted by the project, monitored and removed.
- b. **At least 75% survival of installed native plants** shall be observed by the end of the second growing season. If the replication area does not meet the 75% survival requirement by the end of the second growing season after installation, the Applicant shall submit a remediation plan to the Commission for approval that will achieve, under the supervision of a Wetland

Specialist, replication goals. This plan must include an analysis of why the areas have not been successful and how the applicant intends to resolve the problem.

If there are any questions concerning this report, please do not hesitate to contact us.








Very truly yours,

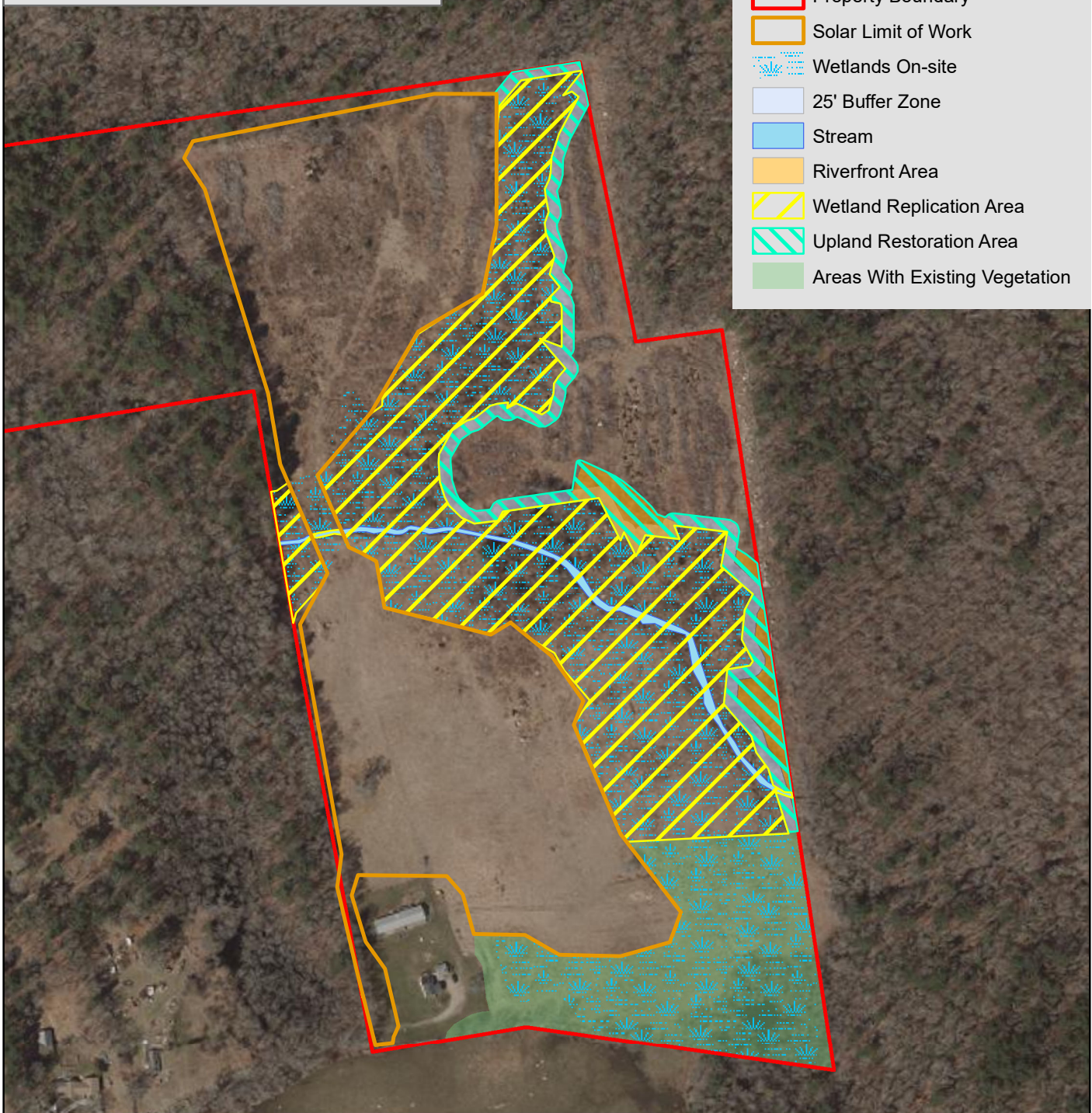
A handwritten signature in black ink, appearing to read "Scott Goddard". The signature is fluid and cursive, with a large initial "S" and "G".

Scott Goddard,
Principal & PWS

Wetland Replication Area: 514,000sf
Upland Restoration Area: 93,000sf

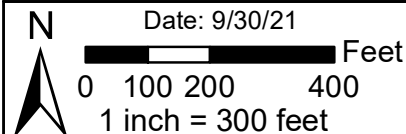
Legend

-  Property Boundary
-  Solar Limit of Work
-  Wetlands On-site
-  25' Buffer Zone
-  Stream
-  Riverfront Area
-  Wetland Replication Area
-  Upland Restoration Area
-  Areas With Existing Vegetation



Wetland Replication, Buffer Zone, & Stream Restoration Plan

20 Yankee Lane- Fairhaven, MA



GIS Data Source: "Office of Geographic Information (MassGIS), Commonwealth of Massachusetts, MassIT"





Ernst Conservation Seeds

8884 Mercer Pike
 Meadville, PA 16335
 (800) 873-3321 Fax (814) 336-5191
www.ernstseed.com

Date: September 29, 2021

PA New England Province FACW Mix - ERNMX-251

	Botanical Name	Common Name	Price/Lb
29.50 %	<i>Carex vulpinoidea, PA Ecotype</i>	Fox Sedge, PA Ecotype	28.80
20.00 %	<i>Elymus virginicus, PA Ecotype</i>	Virginia Wildrye, PA Ecotype	10.14
7.00 %	<i>Carex lupulina, PA Ecotype</i>	Hop Sedge, PA Ecotype	86.40
7.00 %	<i>Carex lurida, PA Ecotype</i>	Lurid Sedge, PA Ecotype	67.20
7.00 %	<i>Carex scoparia, PA Ecotype</i>	Blunt Broom Sedge, PA Ecotype	86.40
5.00 %	<i>Panicum rigidulum, PA Ecotype</i>	Redtop Panicgrass, PA Ecotype	57.60
4.00 %	<i>Cinna arundinacea, PA Ecotype</i>	Wood Reedgrass, PA Ecotype	144.00
3.00 %	<i>Juncus effusus</i>	Soft Rush	48.00
3.00 %	<i>Verbena hastata, PA Ecotype</i>	Blue Vervain, PA Ecotype	38.40
2.00 %	<i>Asclepias incarnata, PA Ecotype</i>	Swamp Milkweed, PA Ecotype	192.00
2.00 %	<i>Helianthus annuus, PA Ecotype</i>	Oxeye Sunflower, PA Ecotype	33.60
1.10 %	<i>Carex stipata, PA Ecotype</i>	Awl Sedge, PA Ecotype	235.20
1.00 %	<i>Bidens cernua, PA Ecotype</i>	Nodding Bur Marigold, PA Ecotype	240.00
1.00 %	<i>Carex intumescens, PA Ecotype</i>	Star Sedge, PA Ecotype	153.60
1.00 %	<i>Sisyrinchium angustifolium</i>	Narrowleaf Blue Eyed Grass	192.00
0.80 %	<i>Vernonia noveboracensis, PA Ecotype</i>	New York Ironweed, PA Ecotype	264.00
0.70 %	<i>Eupatorium perfoliatum, PA Ecotype</i>	Boneset, PA Ecotype	192.00
0.70 %	<i>Helenium autumnale, PA Ecotype</i>	Common Sneezeweed, PA Ecotype	216.00
0.70 %	<i>Zizia aurea, PA Ecotype</i>	Golden Alexanders, PA Ecotype	96.00
0.50 %	<i>Glyceria striata, PA Ecotype</i>	Fowl Mannagrass, PA Ecotype	360.00
0.50 %	<i>Polygonum pensylvanicum, PA Ecotype</i>	Pennsylvania Smartweed, PA Ecotype	14.40
0.50 %	<i>Scirpus cyperinus, PA Ecotype</i>	Woolgrass, PA Ecotype	115.20
0.40 %	<i>Lobelia siphilitica, PA Ecotype</i>	Great Blue Lobelia, PA Ecotype	480.00
0.30 %	<i>Aster novae-angliae, PA Ecotype</i>	New England Aster, PA Ecotype	336.00
0.30 %	<i>Aster prenanthoides, PA Ecotype</i>	Zigzag Aster, PA Ecotype	432.00
0.30 %	<i>Eupatorium fistulosum, PA Ecotype</i>	Joe Pye Weed, PA Ecotype	273.60
0.30 %	<i>Penthorum sedoides, PA Ecotype</i>	Ditch Stonecrop, PA Ecotype	288.00
0.20 %	<i>Aster puniceus, PA Ecotype</i>	Purplestem Aster, PA Ecotype	432.00
0.20 %	<i>Aster umbellatus, PA Ecotype</i>	Flat Topped White Aster, PA Ecotype	432.00

100.00 %

Mix Price/Lb Bulk: \$67.24

Seeding Rate: 20 lb per acre with a cover crop. For a cover crop use one of the following: grain rye (1 Sep to 30 Apr; 30 lbs/acre), Japanese millet (1 May to 31 Aug; 10 lbs/acre), or barnyard grass (1 May to 31 Aug; 10 lbs/acre).

Wet Meadows & Wetlands

Mix formulations are subject to change without notice depending on the availability of existing and new products. While the formula may change, the guiding philosophy and function of the mix will not.

Price quotes guaranteed for 30 days.
All prices are FOB Meadville, PA.
Please check our web site at www.ernstseed.com
for current pricing when placing orders.



Ernst Conservation Seeds

8884 Mercer Pike
 Meadville, PA 16335
 (800) 873-3321 Fax (814) 336-5191
www.ernstseed.com

Date: September 29, 2021

PA New England Province UPL Meadow Mix - ERNMX-250-1

	Botanical Name	Common Name	Price/Lb
61.30 %	<i>Schizachyrium scoparium, Fort Indiantown Gap-PA Ecotype</i>	Little Bluestem, Fort Indiantown Gap-PA Ecotype	16.29
20.00 %	<i>Elymus virginicus, PA Ecotype</i>	Virginia Wildrye, PA Ecotype	10.14
3.00 %	<i>Chamaecrista fasciculata, PA Ecotype</i>	Partridge Pea, PA Ecotype	7.20
3.00 %	<i>Rudbeckia hirta</i>	Blackeyed Susan	31.20
2.00 %	<i>Heliopsis helianthoides, PA Ecotype</i>	Oxeye Sunflower, PA Ecotype	33.60
1.80 %	<i>Penstemon digitalis, PA Ecotype</i>	Tall White Beardtongue, PA Ecotype	192.00
1.50 %	<i>Liatris spicata, PA Ecotype</i>	Marsh Blazing Star, PA Ecotype	252.00
1.00 %	<i>Pycnanthemum tenuifolium</i>	Narrowleaf Mountainmint	168.00
1.00 %	<i>Senna hebecarpa, VA & WV Ecotype</i>	Wild Senna, VA & WV Ecotype	28.80
0.70 %	<i>Aster laevis, NY Ecotype</i>	Smooth Blue Aster, NY Ecotype	336.00
0.70 %	<i>Aster novae-angliae, PA Ecotype</i>	New England Aster, PA Ecotype	336.00
0.70 %	<i>Monarda fistulosa, Fort Indiantown Gap-PA Ecotype</i>	Wild Bergamot, Fort Indiantown Gap-PA Ecotype	96.00
0.70 %	<i>Rudbeckia triloba, WV Ecotype</i>	Brown-eyed Susan, WV Ecotype	57.60
0.50 %	<i>Lespedeza capitata, RI Ecotype</i>	Roundhead Lespedeza, RI Ecotype	129.60
0.40 %	<i>Solidago nemoralis, PA Ecotype</i>	Gray Goldenrod, PA Ecotype	288.00
0.30 %	<i>Asclepias syriaca, PA Ecotype</i>	Common Milkweed, PA Ecotype	96.00
0.30 %	<i>Oenothera fruticosa var. fruticosa</i>	Sundrops	360.00
0.30 %	<i>Penstemon hirsutus</i>	Hairy Beardtongue	480.00
0.30 %	<i>Tradescantia virginiana, Southeastern PA/Northern VA</i>	Virginia Spiderwort, Southeastern PA/Northern VA blend	480.00
0.20 %	<i>Aster pilosus, PA Ecotype</i>	Heath Aster, PA Ecotype	264.00
0.20 %	<i>Solidago juncea, PA Ecotype</i>	Early Goldenrod, PA Ecotype	336.00
0.10 %	<i>Solidago odora, PA Ecotype</i>	Licorice Scented Goldenrod, PA Ecotype	384.00

100.00 %

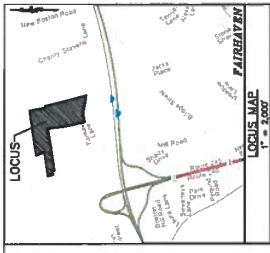
Mix Price/Lb Bulk: \$36.46

Seeding Rate: 20 lbs/acre with 30 lbs/acre of a cover crop. For a cover crop use either grain oats (1 Jan to 31 Jul) or grain rye (1 Aug to 31 Dec).

Pollinator Favorites; Uplands & Meadows

Mix formulations are subject to change without notice depending on the availability of existing and new products. While the formula may change, the guiding philosophy and function of the mix will not.

Price quotes guaranteed for 30 days.
All prices are FOB Meadville, PA.
Please check our web site at www.ernstseed.com
for current pricing when placing orders.



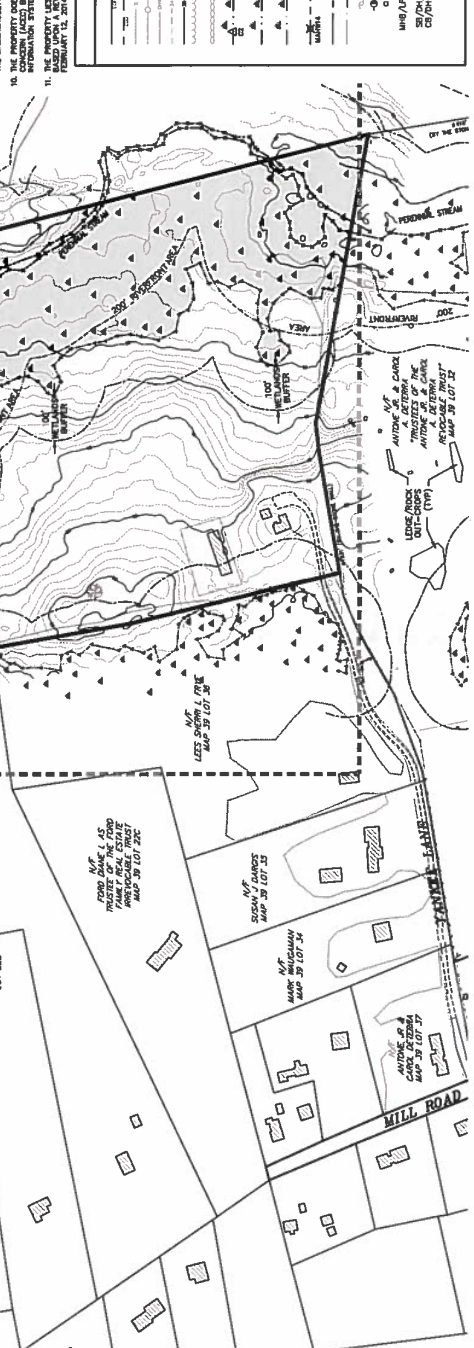
LOCUS MAP
1" = 2000'

GENERAL NOTES:

- OWNER OF RECORD(S): ANTONIO S. & MEZ L. LOPES C/O BRAN LOPES 25 YANKEE LANE FAIRHAVEN, MA 01934
- THE SUBJECT PROPERTY IS SHOWN AS LOT 18 ON MAP 39 FOR THE TOWN OF FAIRHAVEN, MASSACHUSETTS, AS APPROXIMATELY BOUND BY THE NEIGHBORING STATE. TOTAL LAND AREA IS APPROXIMATELY 18,500 SQUARE FEET.
- THE PROPERTY LIES WITHIN THE FEDERAL RECREATIONAL BUREAU DISTRICT BASED UPON A RECORD OF THE TOWN OF FAIRHAVEN, MASSACHUSETTS, DATED JANUARY 7, 2008. THE MASSACHUSETTS GEOGRAPHIC INFORMATION SYSTEM (GIS) RECORDS OF THE TOWN OF FAIRHAVEN, MASSACHUSETTS, DATED JANUARY 7, 2008, ARE BASED UPON THE MOST RECENT AVAILABLE AERIAL PHOTOGRAPHS AND ARE NOT INTENDED TO BE A BOUNDARY SURVEY BY ALTIMETER DESIGN TECHNIQUE.
- EXISTING CONTIGUOUS BOUNDARIES ARE BASED UPON THE MASSACHUSETTS GIS RECORDS OF THE TOWN OF FAIRHAVEN, MASSACHUSETTS, DATED JANUARY 7, 2008. THE PROPERTY LINES AND INFORMATION OBTAINED FROM THESE RECORDS ARE UNCORRECTED AND NOT GUARANTEED BY THE BUREAU OF LAND USE AND PLANNING OF THE TOWN OF FAIRHAVEN.
- THE PROPERTY LIES WITHIN THE MASSACHUSETTS RECORDS OF THE TOWN OF FAIRHAVEN, MASSACHUSETTS, DATED JANUARY 7, 2008. THE PROPERTY LINES AND INFORMATION OBTAINED FROM THESE RECORDS ARE UNCORRECTED AND NOT GUARANTEED BY THE BUREAU OF LAND USE AND PLANNING OF THE TOWN OF FAIRHAVEN.
- THE PROPERTY LIES WITHIN THE MASSACHUSETTS RECORDS OF THE TOWN OF FAIRHAVEN, MASSACHUSETTS, DATED JANUARY 7, 2008. THE PROPERTY LINES AND INFORMATION OBTAINED FROM THESE RECORDS ARE UNCORRECTED AND NOT GUARANTEED BY THE BUREAU OF LAND USE AND PLANNING OF THE TOWN OF FAIRHAVEN.

LEGEND

- EXISTING EDGE OF PAVEMENT
- EXISTING EDGE OF DIRT ROAD/PATH
- EXISTING WOOD POST FENCE W/WE
- EXISTING OVERHEAD WIRES
- EXISTING 1 FOOT CONTOUR LINE
- EXISTING 2 FOOT CONTOUR LINE
- EXISTING TREE LINE
- EXISTING STONE WALL
- METLANDS W/FLAG
- EDGE OF BORROWING VEGETATED
- METLANDS W/FLAG
- EDGE OF BORROWING VEGETATED
- METLANDS
- EDGE OF BORROWING VEGETATED
- PERSONAL STREAM MEAN ANNUAL FLOW
- HIGH WATER (MARK) W/FLAG
- 10' BUFFER TO METLANDS (TYP)
- 20' BUFFER TO METLANDS (TYP)
- EXISTING WELL
- EXISTING CURB
- EXISTING MONUMENTS
- W/8/14/7/10 MAKE HIGHWAY BOUND W/FLAG
- W/8/14/7/10 STONE BOUND W/FLAG HOLE FOUND
- W/8/14/7/10 CONCRETE BOUND W/FLAG/HOLE FOUND



SCALE
SCALE 1" = 120'

PREPARED FOR:
CLEAN ENERGY COLLECTIVE
146 WEST BOYLSTON DRIVE
WORCESTER, MASSACHUSETTS 01606

DESIGNED BY: [Signature]
CHECKED BY: [Signature]
DATE: [Date]

Atlantic® DESIGN ENGINEERS, INC.
P.O. Box 1051, Sandwich, MA, 02563 (508) 888 - 9282

OVERALL WETLAND LOCATION PLAN
20 YANKEE LANE, SOLAR PROJECT
FAIRHAVEN, MASSACHUSETTS
NOVEMBER 22, 2017

NO.	BY	DATE	REVISION

SEE SHEET 3

FRED MANLY, TRUSTEE
OF THE FORD FAMILY
MAP 39 LOT 22

LIZBETH A. DUFF
MAP 39 LOT 20

M. V. ROBERTS &
SUSAN R. ROBERTS
MAP 39 LOT 17

M. V. ROBERTS &
SUSAN R. ROBERTS
MAP 39 LOT 18
(ASSER FENCE)

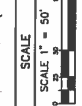
±1631' (BY THE STONE WALL)

NO.	BY	DATE	REVISION
1			
2			
3			
4			

PREPARED FOR:
CLEAN ENERGY COLLECTIVE
148 WEST BOYLSTON DRIVE
WORCESTER, MASSACHUSETTS 01606

WETLAND LOCATION PLAN
20 YANKEE LANE SOLAR PROJECT
FAIRHAVEN, MASSACHUSETTS
NOVEMBER 22, 2017

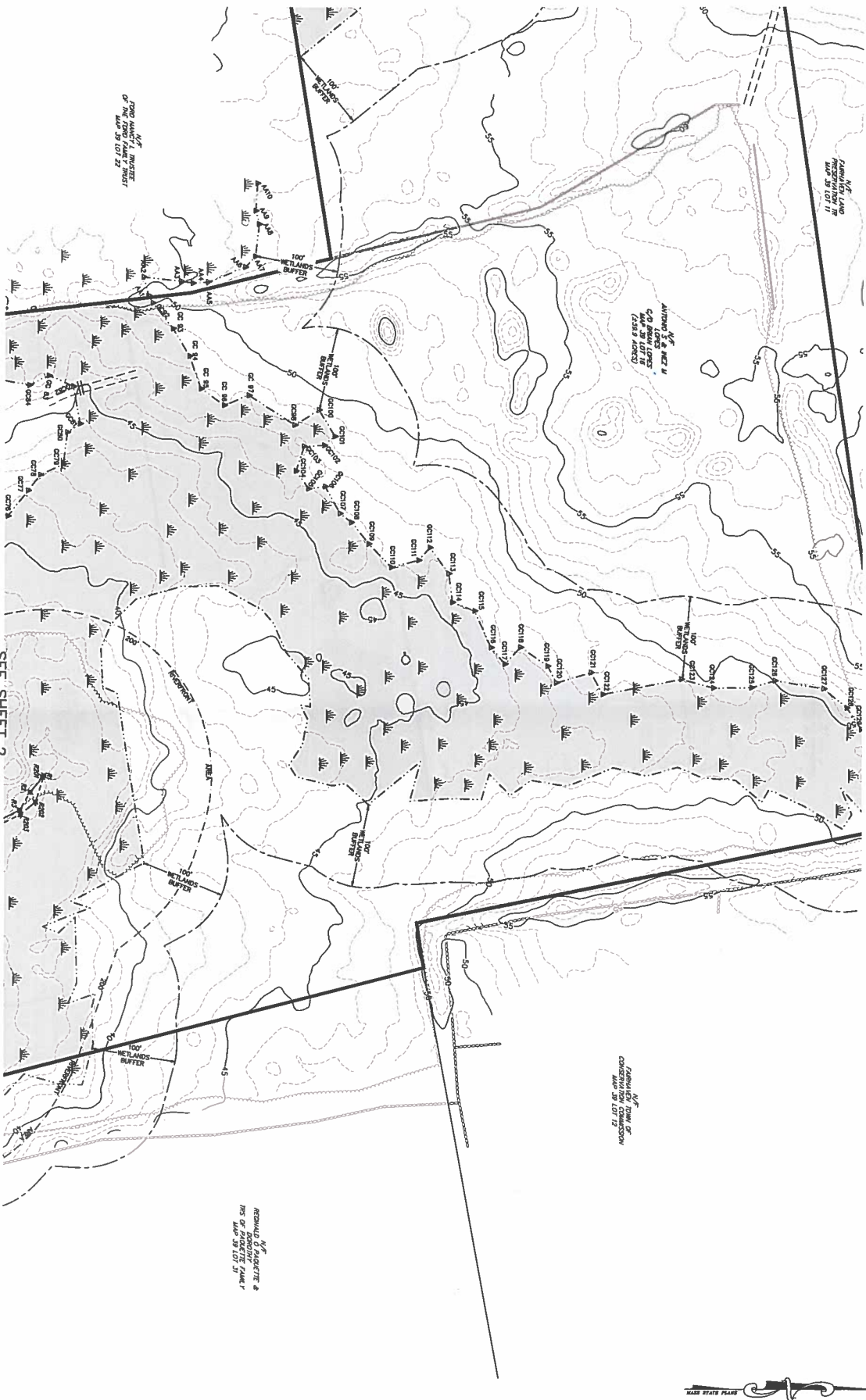
SCALE 1" = 50'



DESIGNED BY: _____
DRAWN BY: _____
CHECKED BY: _____
APPROVED BY: _____

Atlantic DESIGN ENGINEERS, INC.
P.O. Box 1051, Sandwich, MA 02563 (508) 888 - 9282

SEE SHEET 4



Atlantic DESIGN ENGINEERS, INC.
 P.O. Box 1051, Sandwich, MA 02563 (508) 888 - 9282

Designed by: _____
 Created by: _____
 Survey date: _____
 Approved by: _____

SCALE
 SCALE 1" = 50'
 0 25 50

DATE _____

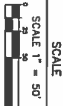
NO.	BY	DATE	REVISION

PREPARED FOR:
CLEAN ENERGY COLLECTIVE
 146 WEST BOSTON DRIVE
 WORCESTER, MASSACHUSETTS 01606

WETLAND LOCATION PLAN
 20 YANKEE LANE SOLAR PROJECT
 FAIRHAVEN, MASSACHUSETTS
 NOVEMBER 22, 2017

SHEET NO. 3
 OF 4
 JOB NUMBER 2893.03





DATE

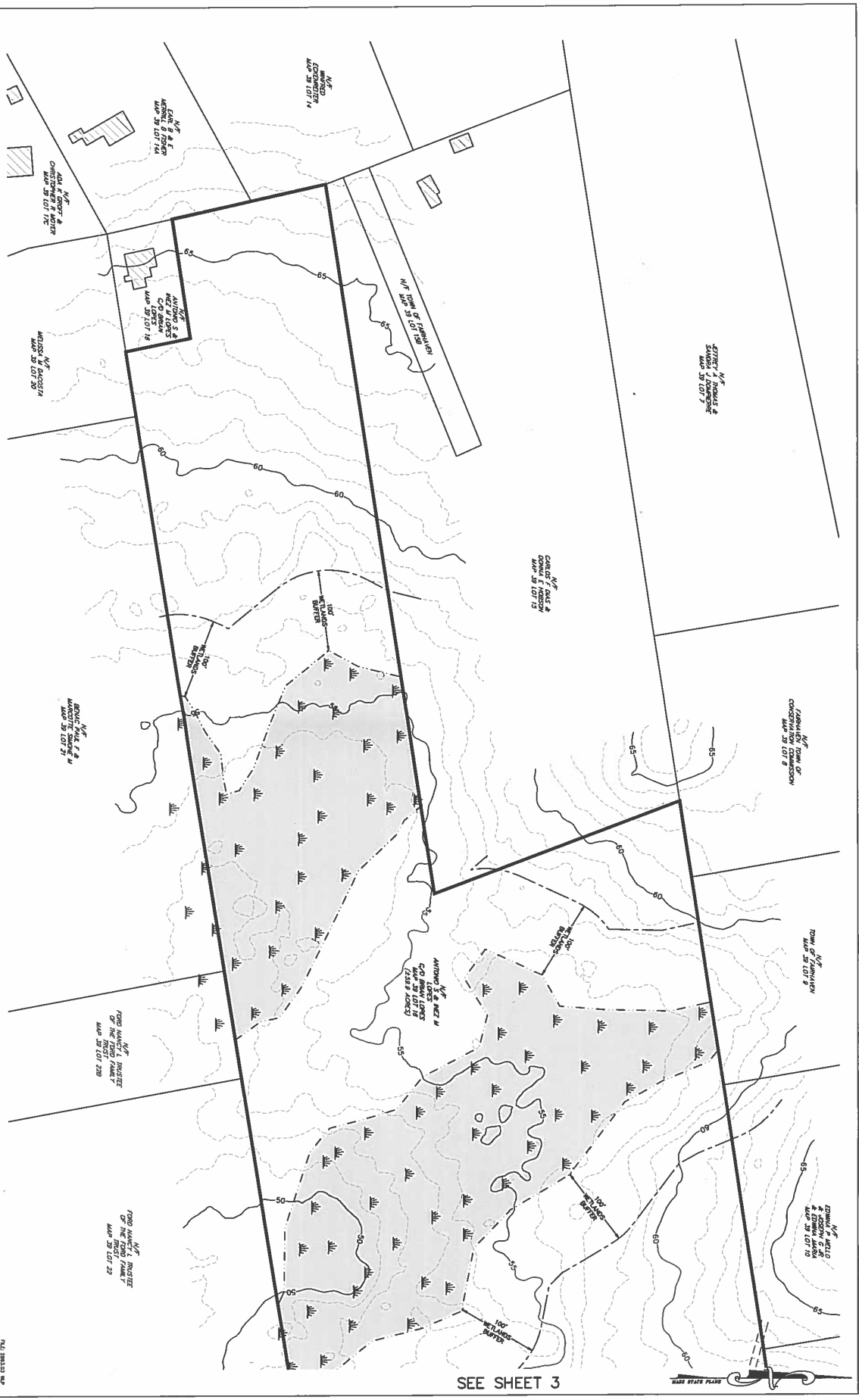
NO.	BY	DATE	REVISION

PREPARED FOR:
CLEAN ENERGY COLLECTIVE
 48 HESH BOULTON DRIVE
 WORCESTER, MASSACHUSETTS 01606

WETLAND LOCATION PLAN
 FOR
20 YANKEE LANE SOLAR PROJECT
 FAIRHAVEN, MASSACHUSETTS
 NOVEMBER 22, 2017

PLANSHEET NO.

Sheet 1 of	4
TOR NUMBER	4
2893.03	



SEE SHEET 3



Atlantic Design Engineers, Inc.
 P.O. Box 1051, Sandwich, MA 02563
 (508) 888 - 9282

Designed by:
 Checked by:
 Surveyed by:
 Approved by:

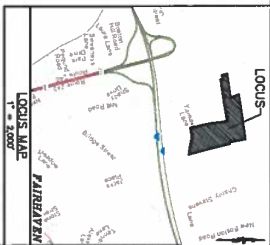
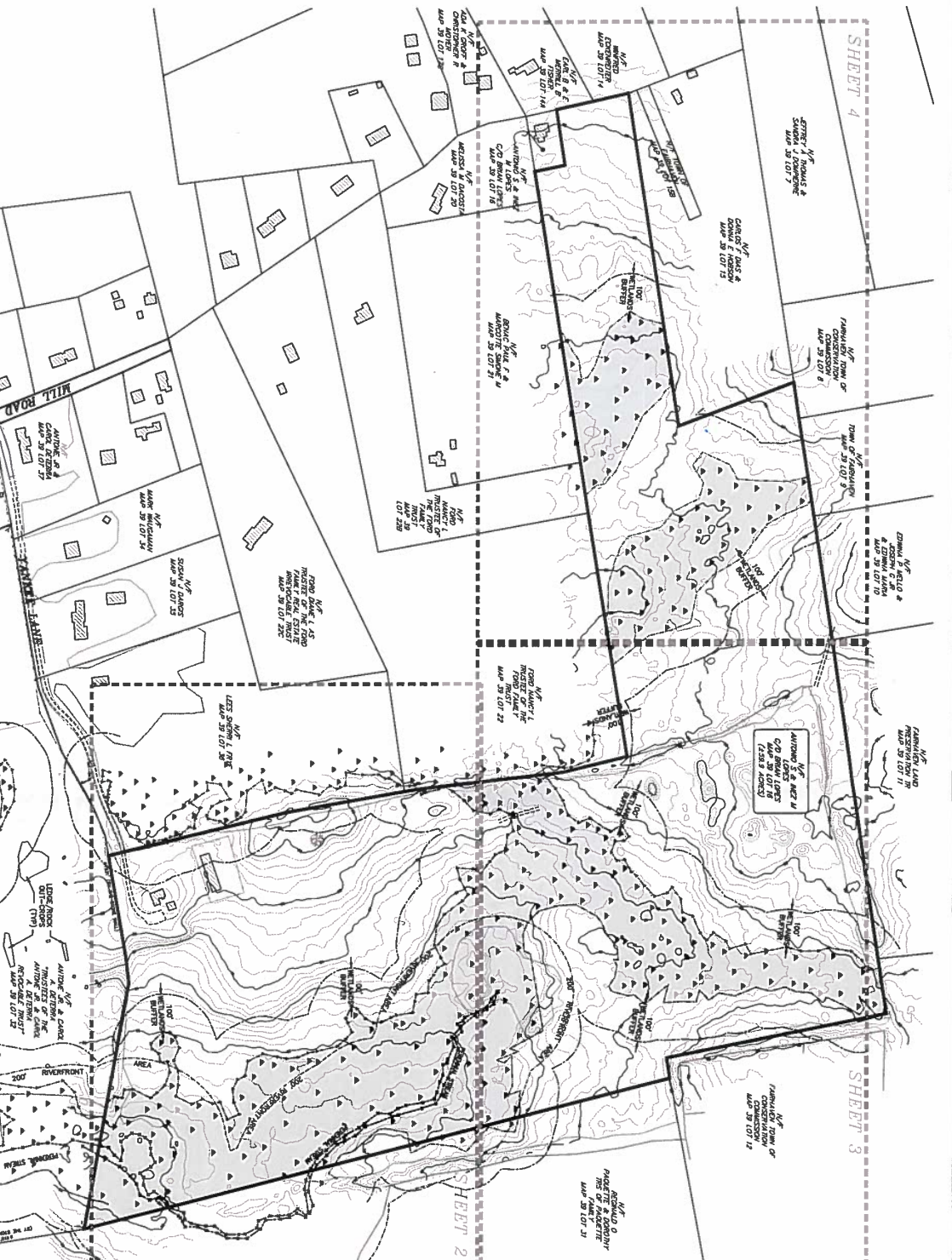
SCALE 1" = 120'
 DATE

NO.	BY	DATE	REVISION

PREPARED FOR:
CLEAN ENERGY COLLECTIVE
 146 WEST BOYLSTON DRIVE
 WORCESTER, MASSACHUSETTS 01606

OVERALL WETLAND LOCATION PLAN
20 YANKEE LANE SOLAR PROJECT
 FAIRHAVEN, MASSACHUSETTS
 NOVEMBER 22, 2017

SHEET 1 OF 4
 JOB NUMBER
2893.03



- ### GENERAL NOTES:
- OWNER OF RECORD:
 - THE SUBJECT PROPERTY IS SHOWN AS LOT 15 ON MAP 39 FOR THE TOWN OF FAIRHAVEN, MASSACHUSETTS. THE PROPERTY BOUNDARIES ARE SHOWN AS APPROXIMATELY SHOWN FROM THE PAST.
 - THE PROPERTY LIES WITHIN THE RURAL, INTERMEDIATE, (RE) DEVELOPED ZONE WITHIN A ZONE OF THE TOWN OF FAIRHAVEN, MASSACHUSETTS. THE PROPERTY LIES WITHIN THE TOWN OF FAIRHAVEN, MASSACHUSETTS. THE PROPERTY LIES WITHIN THE TOWN OF FAIRHAVEN, MASSACHUSETTS. THE PROPERTY LIES WITHIN THE TOWN OF FAIRHAVEN, MASSACHUSETTS.
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LEGEND

[Symbol]	DESIGNING DOME OF PARADISE
[Symbol]	DESIGNING DOME OF WEST ROAD/PAVING
[Symbol]	DESIGNING WOOD POST FENCE W/WEIR
[Symbol]	DESIGNING DIVERSED WIKES
[Symbol]	DESIGNING 1 FOOT CONTAIN LINE
[Symbol]	DESIGNING TREE LINE
[Symbol]	DESIGNING STONE WALL
[Symbol]	DOME OF BOUNDARY VEGETATED
[Symbol]	WETLANDS W/VAL
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[Symbol]	WETLANDS
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[Symbol]	PERSONAL STRICTLY UPHOLD ANNUAL
[Symbol]	W/VAL
[Symbol]	FOR BARRIERS TO WETLANDS (TYP)
[Symbol]	SOIL RESERVATION AREA (TYP)
[Symbol]	DESIGNING UTILITY POLE
[Symbol]	DESIGNING UTILITY POLE
[Symbol]	SINKER/FOUNDATION
[Symbol]	MANS. W/VAL
[Symbol]	STONE BOUND W/VAL
[Symbol]	STONE BOUND W/VAL
[Symbol]	CONCRETE BOUND W/VAL
[Symbol]	CONCRETE BOUND W/VAL

Staff Report

Date: October 14, 2021

To: Conservation Commission

From: Whitney McClees, Conservation Agent

Subject: **North Street, Map 15, Lot 43 – Violation/Enforcement – DEP# 023-1341, Fairhaven CON 023-194**

DOCUMENTS REVIEWED

- Orders of Conditions issued April 28, 2021
- 310 CMR 10.00
- Fairhaven Wetlands Bylaw (Chapter 192) and associated regulations
- Fairhaven Stormwater Bylaw (Chapter 194)

RESOURCE AREAS ON/NEAR SITE

- Salt Marsh
- Coastal Beach
- Buffer Zone
- Land Subject to Coastal Storm Flowage (LSCSF) Zone AE

RELEVANT PERFORMANCE STANDARDS

- **Salt Marsh:** 10.32
(3) A proposed project in a salt marsh, on lands within 100 feet of a salt marsh, or in a body of water adjacent to a salt marsh shall not destroy any portion of the salt marsh and shall not have an adverse effect on the productivity of the salt marsh. Alterations in growth, distribution and composition of salt marsh vegetation shall be considered in evaluating adverse effects of productivity.
(4) A small project within a saltmarsh, such as an elevated walkway or other structure which has no adverse effects other than blocking sunlight from the underlying vegetation for a portion of each day may be permitted if such a project complies with all other applicable requirements of [the regulations for coastal wetlands].

SUMMARY/COMMENTS

- A cease and desist was issued the morning of October 6 by the Chair of the Commission for spreading a significant amount of crushed rock directly next to the salt marsh on top of filter fabric. The Chair instructed the applicant to stop work until such time as he and the Agent returned to the property later that day.
- Upon returning to the site at 1pm the same day, the Chair and the Agent noted that further work had been done since issuing the cease and desist that morning. Crushed rock had been spread over the entire area and it appeared that the grade of the stockpile area had been altered.

- We walked the site with the applicant and the tree company he had hired per the Order of Conditions to discuss and mark which branches could be trimmed for the purposes of installing the fence.
- At the conclusion of the site visit, we discussed how the work done in the stockpile area could potentially significantly damage the marsh due to the fact that the crushed rock is unwashed and was spread to the very edge of the salt marsh with no buffer or erosion control.
- The applicant's engineer was asked to survey the stockpile area to determine how the grades had changed and how much rock had been spread and appear at the October 18 meeting to address the Commission.
- The Chair also followed up his cease and desist with the following email to both the applicant and the applicant's engineer:
 - Per our conversation the Cease and Desist will remain for this property and be discussed at the Oct 18th meeting. Please be present at this meeting.

In the meantime no further work is to be performed on the area commonly referred to as the "parking area" know in the plan as the "stock pile area" or elsewhere on this property except what is described below.

The pruning of the trees that we marked together may be done provided it is done below the marking flags we placed together and toward the west. The dead branch hanging in the tree we observed may be cut and removed. No trees are to be removed at this time nor is any other work authorized by this email in this area.

The small area at the end of North Street to the north where the tree was recently removed may be seeded with a Conservation Seed Mix only. No fill, grading, fertilizer or any other form of work in this area is authorized by this email.

If there is any question please do not hesitate to contact me so we can clarify. Please do not perform any unauthorized work. Any clarification will be done in writing to avoid any confusion or misunderstandings.

- The work done on the stockpile area will need to be addressed.
- The Order of Conditions under the Wetlands Protection Act includes a condition that states "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."
- The Fairhaven Wetlands Bylaw (192-6D) includes a section that states "any permit issued under this chapter may be revoked or modified by the Commission after public notice and notice to the holder of the permit and a public hearing thereon, upon a finding of the existence of circumstances which would justify the denial of or imposition of conditions on a permit."

RECOMMENDATION

- Because the performance standards for salt marsh apply to the buffer zone as well, the Commission should consider issuing an Enforcement Order to address the potential damage that could be done to the salt marsh. The timeline for any restoration will need to be shorter because of the significant amount of unwashed crushed rock directly next to the salt marsh. I have included a draft enforcement order for the Commission's review.



A. Violation Information

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



This Enforcement Order is issued by:

Fairhaven Conservation Commission _____ Date _____
 Conservation Commission (Issuing Authority)

To:

Lee Miguel _____
 Name of Violator
3 North Street, Fairhaven, MA 02719 _____
 Address

1. Location of Violation:

 Property Owner (if different)
North Street/Cherry Street Marsh _____
 Street Address
Fairhaven _____ 02719 _____
 City/Town Zip Code
15 _____ 43 _____
 Assessors Map/Plat Number Parcel/Lot Number

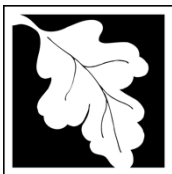
2. Extent and Type of Activity (if more space is required, please attach a separate sheet):

Regrading and spreading a large amount of unwashed crushed rock directly adjacent to the salt marsh resource area, in violation of the issued Order of Conditions.

B. Findings

The Issuing Authority has determined that the activity described above is in a resource area and/or buffer zone and is in violation of the Wetlands Protection Act (M.G.L. c. 131, § 40) and its Regulations (310 CMR 10.00), because:

- the activity has been/is being conducted in an area subject to protection under c. 131, § 40 or the buffer zone without approval from the issuing authority (i.e., a valid Order of Conditions or Negative Determination).



Massachusetts Department of Environmental Protection

Bureau of Resource Protection - Wetlands

WPA Form 9 – Enforcement Order

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

DEP File Number:

B. Findings (cont.)

the activity has been/is being conducted in an area subject to protection under c. 131, § 40 or the buffer zone in violation of an issuing authority approval (i.e., valid Order of Conditions or Negative Determination of Applicability) issued to:

Lee Miguel _____

Name

4/28/2021 _____

Dated

SE 023-1341 / CON 023-194 _____

File Number

See Attachment A _____

Condition number(s)

The Order of Conditions expired on (date): _____
Date

The activity violates provisions of the Certificate of Compliance.

The activity is outside the areas subject to protection under MGL c.131 s.40 and the buffer zone, but has altered an area subject to MGL c.131 s.40.

Other (specify):

The activity has been/is being conducted in an area subject to protection, including the buffer zone, under the Fairhaven Wetlands Bylaw, Chapter 192 of the Code of the Town of Fairhaven, without approval from the issuing authority (i.e., a valid Order of Conditions or Negative Determination).

The activity has been/is being conducted in an area subject to protection under the Fairhaven Wetlands Bylaw, Chapter 192 of the Code of the Town of Fairhaven, in violation of an issuing authority approval (i.e., valid Order of Conditions or Negative Determination of Applicability) issued to the above.

C. Order

The issuing authority hereby orders the following (check all that apply):

The property owner, his agents, permittees, and all others shall immediately cease and desist from any activity affecting the Buffer Zone and/or resource areas.

Resource area alterations resulting from said activity shall be corrected and the resource areas returned to their original condition.

A restoration plan shall be filed with the issuing authority on or before November 8, 2021
Date

for the following:

See Attachment A

The restoration shall be completed in accordance with the conditions and timetable established by the issuing authority.



C. Order (cont.)

Complete the attached Notice of Intent (NOI). The NOI shall be filed with the Issuing Authority on or before:

_____ Date

for the following:

No further work shall be performed until a public hearing has been held and an Order of Conditions has been issued to regulate said work.

The property owner shall take the following action (e.g., erosion/sedimentation controls) to prevent further violations of the Act:

Installation of erosion and sedimentation control on the immediate upland side of the boulders to prevent further damage to the salt marsh from the quantity of unwashed crushed rock.

Failure to comply with this Order may constitute grounds for additional legal action. Massachusetts General Laws Chapter 131, Section 40 provides: "Whoever violates any provision of this section (a) shall be punished by a fine of not more than twenty-five thousand dollars or by imprisonment for not more than two years, or both, such fine and imprisonment; or (b) shall be subject to a civil penalty not to exceed twenty-five thousand dollars for each violation". Each day or portion thereof of continuing violation shall constitute a separate offense.

D. Appeals/Signatures

An Enforcement Order issued by a Conservation Commission cannot be appealed to the Department of Environmental Protection, but may be filed in Superior Court.

Questions regarding this Enforcement Order should be directed to:

Whitney McClees, Agent

Name

508-979-4023, ext. 128

Phone Number

8:30am-4:30pm, Monday-Friday

Hours/Days Available

Issued by:

Fairhaven Conservation Commission

Conservation Commission

Conservation Commission signatures required on following page.



D. Appeals/Signatures (cont.)

In a situation regarding immediate action, an Enforcement Order may be signed by a single member or agent of the Commission and ratified by majority of the members at the next scheduled meeting of the Commission.

Signatures:

_____	_____
_____	_____
_____	_____
_____	_____

Signature of delivery person or certified mail number



TOWN OF FAIRHAVEN, MASSACHUSETTS

CONSERVATION COMMISSION

Town Hall · 40 Center Street · Fairhaven, MA 02719

Attachment A

DEP File #: None
Fairhaven File #: EO 023-018
Property Owner: Lee Miguel
Property: North Street Marsh, Map 15, Lot 43

Condition Numbers Violated

General Conditions:

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

Special Conditions:

- A. 7. ADD-4b: All work shall be done in accordance with the final plans dated March 15, 2021 as approved by this Commission. Any deviation must be approved by this Commission in writing prior to commencing work involved in this deviation.
- A. 10. STO-4: There shall be no discharge or spillage of petroleum product, hazardous material, or any other pollutant into any area of statutory interest.
- A. 13. No equipment whatsoever is permitted in the salt marsh or in the 100-foot buffer zone at any time during any phase of the project.
- A. 18. No grade changes are permitted anywhere on the property associated with any of the approved work.

A restoration plan shall be filed with the issuing authority on or before November 8, 2021 for the following:

1. A survey of the stockpile area to determine what grade changes occurred as well as the depth of the unwashed crushed stone.
2. A restoration plan to return the stockpile area to pre-construction conditions that includes regrading, removing the unwashed crushed rock and any other materials not permitted by the Order of Conditions, and appropriate erosion and sedimentation controls. This restoration plan is to be put together by both a qualified professional wetland scientist who has expertise with salt marsh ecology and compliance with 310 CMR 10.32 and an engineer who can address the changes in grade and elevation and submitted to the Conservation Commission for their review on or before November 8, 2021.

3. Due to the significant amount of unwashed, crushed stone that has been placed directly next to the salt marsh, it is imperative that the restoration plan be submitted no later than November 8, 2021 and restoration work start no later than December 1, 2021.
4. Erosion and sedimentation control shall be placed on the immediate upland side of the boulders to prevent further damage to the salt marsh from the quality of unwashed crushed rock. The placement of this erosion and sedimentation control is to be installed by a qualified professional only and shall not cause further damage to the salt marsh.
5. The Conservation Commission, its employees, and its agents shall have a right of entry to inspect or compliance with the provisions of this Enforcement Order
6. The Commission reserves the right to impose additional conditions on any or all portions of this project that could impact an area of statutory interest under the Act and/or the Fairhaven Wetlands Bylaw.
7. The restoration plan shall be in compliance with the Performance Standards for Salt Marsh (310 CMR 10.32(3)). Specifically, work in a salt marsh, on lands within 100 feet of a salt marsh, or in a body of water adjacent to a salt marsh shall not destroy any portion of the salt marsh and shall not have an adverse effect on the productivity of the salt marsh. Alterations in growth, distribution and composition of salt marsh vegetation shall be considered in evaluating adverse effects on productivity.
8. Non-compliance with this Order may result in fines of up to \$300 per day the violation is ongoing, pursuant to Chapter 192-11 of the Code of the Town of Fairhaven.

Staff Report

Date: October 14, 2021

To: Conservation Commission

From: Whitney McClees, Conservation Agent

Subject: **1 Bella Vista Island – Possible Violation/Enforcement – DEP# 023-1340, Fairhaven CON 023-195**

DOCUMENTS REVIEWED

- Order of Conditions issued May 28, 2021
- 310 CMR 10.00
- Fairhaven Wetlands Bylaw (Chapter 192) and associated regulations
- Fairhaven Stormwater Bylaw (Chapter 194)

RESOURCE AREAS ON/NEAR SITE

- Salt Marsh
- Coastal Beach
- Coastal Dune
- Coastal Bank
- Land Containing Shellfish
- Land Under the Ocean
- Buffer Zone
- Land Subject to Coastal Storm Flowage (LSCSF)
- Isolated Vegetated Wetlands

PROJECT SUMMARY

- The project purpose is to resolve numerous issues associated with an Order issued under DEP File No. SE 023-1127 including extensive landscaping activities which were never completed and landscaping activities which were never permitted. The Order issued under 023-1127 involved extensive native plantings throughout the existing lawn area south and west of the house and creation of two rain gardens, none of which was completed. The entire area, which formerly contained two Isolated Vegetated Wetlands (IVW), was converted to manicured lawn and planting beds were installed along the Salt Marsh boundary along with irrigation and subsurface electricity and lighting. The scope of work depicted on the Plan-of-Record referenced below is a negotiated resolution between the Property Owner and the Commission which requires removal of unpermitted landscaping features and restoration of the Buffer Zone. The previously required rain gardens and plantings in the lawn area are no longer required.

COMMENTS

- The Order of Conditions required work on the restoration to start no later August 31, 2021 and be completed by December 1, 2021. No work has started. The Order also states that “if the project is not initiated by August 31, 2021, the Commission may issue a new Enforcement Order with fines of up to \$300.00 per day.”
- The qualified wetland scientist overseeing the project has reached out to the applicant’s representative and has not yet heard back as to why the project has not yet started.

RECOMMENDATION

- I recommend the Commission consider giving the property owners or their representative one week to respond with a schedule for completing the work in accordance with the Order of Conditions and if a schedule is not provided within one week of the October 18 meeting, issue an Enforcement Order imposing a \$300.00 per day fine dating back to August 31, 2021 until such time as a schedule of work is provided and/or work begins.



TOWN OF FAIRHAVEN, MASSACHUSETTS
CONSERVATION COMMISSION

Town Hall · 40 Center Street · Fairhaven, MA 02719

Attachment A

DEP File #: SE 023-1340
Fairhaven File #: CON 023-195
Applicant/Property Owner: Heiam Alsawalhi/Anwar Faisal
Property: 1 Bella Vista Island

Findings, Plans, and Documents

1. This Order is issued under the Massachusetts Wetlands Protection Act Regulations (310 CMR 10.00) and the Town of Fairhaven Wetlands Bylaw (Chapter 192). Salt Marsh, Coastal Beach, Coastal Dune, Coastal Bank, Land Containing Shellfish, and Land Subject to Coastal Storm Flowage (LSCSF) have been identified as Resource Areas subject to protection under the Wetlands Protection Act Regulations and the Fairhaven Wetlands Bylaw. The 100-foot buffer zone to each resource area has been identified as a resource area subject to protection under the Fairhaven Wetlands Bylaw (Chapter 192). These Resource Areas are significant to protecting the various interests of the Bylaw and the Act.
2. The project purpose is to resolve numerous issues associated with an Order issued under DEP File No. SE 023-1127 including extensive landscaping activities which were never completed and landscaping activities which were never permitted. The Order issued under 023-1127 involved extensive native plantings throughout the existing lawn area south and west of the house and creation of two rain gardens, none of which was completed. The entire area, which formerly contained two Isolated Vegetated Wetlands (IVW), was converted to manicured lawn and planting beds were installed along the Salt Marsh boundary along with irrigation and subsurface electricity and lighting. The scope of work depicted on the Plan-of-Record referenced below is a negotiated resolution between the Property Owner and the Commission which requires removal of unpermitted landscaping features and restoration of the Buffer Zone. The previously required rain gardens and plantings in the lawn area are no longer required.
3. This Property Owner and Property is subject to the terms of an Administrative Consent Order with Penalty (ACOP) and Notice of Noncompliance (#00004701) issued by Massachusetts Department of Environmental Protection (MassDEP), dated June 25, 2019 for violations of the State Act and Regulations. The Applicant purchased the property in 2009 and in 2010, the Commission issued three Enforcement Orders (EO) for unpermitted activity. MassDEP also issued EOs in 2010 and 2013. An NOI has been filed with the Conservation Commission under DEP File No. (023-1309) to permit certain features as required in the ACOP; however, that process is not complete. The activities permitted in this Order are separate from the NOI responding to the ACOP.
4. Due to the Property Owner's track record of repeated violations of the State Regulations and Bylaw, and non-compliance with previously issued Orders, the Commission will closely scrutinize completion of the activities permitted in this Order, including a requirement that the Property Owner fund a consultant working for the Commission to oversee the activities, and a requirement that this project be completed in 2021.

5. The Plan-of-Record associated with this Order is titled "Proposed Planting Plan", prepared by Prime Engineering, Inc., dated April 16, 2021.

Special Conditions

1. The Conservation Commission, its employees, and its agents shall have a right of entry to inspect or compliance with the provisions of this Order of Conditions.
2. With respect to all conditions, the Conservation Commission designates the Conservation Agent as its agent with full powers to act on its behalf in administering and enforcing this Order.
3. The Plan-of-Record and this Order of Conditions shall be included in all construction contracts and sub-contracts dealing with the work proposed and shall supersede all other contract requirements.
4. During the construction phase, the applicant shall be responsible for maintaining a copy of the Plan-of-Record and this Order at the site. The applicant shall be responsible for compliance with the conditions of these Orders.
5. The Commission reserves the right to impose additional conditions on any or all portions of this project that could impact an area of statutory interest under the Act and/or the Fairhaven Wetlands Bylaw.
6. This Order applies only to the scope of work depicted on the Plan-of-Record. Any future work not approved within the Order subject to jurisdiction under the Wetlands Protection Act will require the filing, at a minimum, of a Request for Determination or Applicability, a Request to Amend the Order, or a new Notice of Intent with the Commission. Prior to the commencement of any such future work, a receipt of a Negative Determination or valid Order of Conditions will be required.
7. All work shall be done in accordance with the Plan-of-Record, dated April 16, 2021 as approved by this Order. Any deviation must be approved by this Commission in writing prior to commencing work involved in this deviation.
8. Any changes to the plans identified 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.
9. 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.
10. There shall be no discharge or spillage of petroleum product, hazardous material, or any other pollutant into any area of statutory interest.
11. Silt fence shall serve as the limit of work. The silt fence shall be placed along the wetland-side of the existing landscape beds to be removed/re-located. The silt fence location shall be staked in the field prior to installation and inspected by the Conservation Agent or the Commission's consultant. Once inspected, the silt fence shall be installed and the project activities shall commence.
12. The project shall begin no later than August 31, 2021 and must be completed by December 1, 2021. The project will be initiated with an inspection of the staked silt fence location. If the project is not initiated by August 31, 2021, the Commission may issue a new Enforcement Order with fines of up to \$300.00 per day.

13. The Salt Marsh boundary delineated in the field and/or shown on the plans is approved by the Conservation Commission through the issuance of this permit. The Salt Marsh flagging must be in place for the duration of the project.
14. No equipment whatsoever is permitted in the salt marsh at any time during any phase of the project.
15. No grade changes are permitted anywhere on the property associated with any of the approved work.
16. A qualified wetland scientist hired by the Commission at the Property Owner's expense shall oversee all phases of the project to ensure compliance with the issued Order. The Wetland Scientist will provide reports to the Commission after the work is completed in 2021 and at the end of the 2022 and 2023 growing seasons or until the project has achieved success.
17. Success shall be defined as the complete removal and relocation of all unpermitted features in the fall of 2021 and restoration of the Buffer Zone with 75% coverage by native species within 2 full growing seasons (i.e. 2022 and 2023).
18. If a cease and desist needs to be issued at any point for non-compliance with these conditions, it is an automatic fine of \$300.00 per day under Chapter 192-11 until such time as the reason the cease and desist was issued is rectified.
19. Job site posting of a sign clearly visible from the road not less than two square feet or more than three square feet with the words,

Massachusetts Department of Environmental Protection [or MassDEP]
File Number SE 023-1340
Fairhaven Conservation Commission [or FCC]
File Number CON 023-195

Included shall also be the Commission's office phone number (508) 979-4023 for further information. Special orders of the conditions shall be weatherproofed and posted on all activity sites, including a posting on the job site sign. The necessary replacement and maintenance of these postings shall be the sole responsibility of the applicant.

20. Proof of recording of Order at the Bristol County Registry of Deeds shall be provided to the commission prior to the commencement of any work (including erosion controls) on the site.
21. The Applicant shall provide the Commission with the name(s) and telephone numbers of the site contractor and the project manager(s) responsible on site for compliance with this Order. The project manager shall oversee any emergency placement of erosion and sedimentation controls and be responsible for the regular inspection or replacement of control devices and for the proper disposal of waste products. The commission shall be notified in the event that the project manager or site contractor is changed.
22. Adequate erosion and sedimentation control measures, as specified in the Notice of Intent and in this Order, shall be installed and maintained throughout the entire construction phase, until the site has been stabilized and their removal has been authorized (in writing or by issuance of the Certificate of Compliance) by the Commission or its agent. The erosion control specifications in the Notice of Intent and the erosion control provisions in the Order will be the minimum standards for this project; the Commission may require additional measures. The Commission reserves the right to require additional or modified erosion and siltation controls during construction if it deems that site conditions warrant such measures.

23. All equipment used on site must be stored or parked in an area outside the buffer zone.
24. The construction site shall be left in a stable condition at the close of each day. Construction refuse and debris shall be removed daily. The Commission may require specific approval for the disposition of such materials prior to the start of construction.
25. Upon completion of the work described herein, the applicant shall prepare an As-Built Plan based on instrument survey of the work area and request that a Certificate of Compliance be issued stating that the work has been satisfactorily completed.
26. After the COC is issued for this project the Commission may issue a COC for DEP File No. SE 23-1127.

Perpetual Conditions – The following conditions do not expire upon completion of the project.

27. No additional disturbance of this property to any jurisdictional areas is allowed without authorization from the Conservation Commission, including changes to existing developed areas and existing natural features as of the date of the issuance of this Order. This condition shall survive the expiration of this Order, and shall be included as a continuing condition in perpetuity on the Certificate of Compliance.
28. No liquid or solid chemical lawn fertilizers, pesticides, herbicides or chemical or petroleum dust control agents shall be applied within the area of statutory interest or anywhere that the surface drainage is discharged into an area of statutory interest. This condition shall survive the expiration of this Order, and shall be included as a continuing condition in perpetuity on the Certificate of Compliance.
29. The owner of the property described in this Order must advise any potential buyer of the property that any construction or alteration to said property, including brush cutting or clearance, may require approval by the Fairhaven Conservation Commission. Any instrument conveying any or all of the owners' interest in said property or any portion thereof shall contain language similar to the following: "This property is subject to the Fairhaven Wetlands Bylaw and/or the Massachusetts Wetlands Protection Act. Any construction or maintenance work performed on this property requires an Order of Conditions and/or a Determination of Applicability from the Fairhaven Conservation Commission."