

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

Provided by MassDEP:  
 MassDEP File #:023-1382  
 eDEP Transaction #:1367928  
 City/Town:FAIRHAVEN

**A. General Information**

1. Conservation Commission      FAIRHAVEN

2. Issuance                              a.  OOC                              b.  Amended OOC

3. Applicant Details

a. First Name	THOMAS	b. Last Name	MARSHALL
c. Organization			
d. Mailing Address	2 WINSLOW COURT		
e. City/Town	FAIRHAVEN	f. State	MA
		g. Zip Code	02719

4. Property Owner

a. First Name	THOMAS	b. Last Name	MARSHALL
c. Organization			
d. Mailing Address	2 WINSLOW COURT		
e. City/Town	FAIRHAVEN	f. State	MA
		g. Zip Code	02719

5. Project Location

a. Street Address	2 & 8 WINSLOW COURT		
b. City/Town	FAIRHAVEN	c. Zip Code	02719
d. Assessors	12	e. Parcel/Lot#	9, 10 & 11
Map/Plat#			
f. Latitude	41.64386N	g. Longitude	70.90867W

6. Property recorded at the Registry of Deed for:

a. County	b. Certificate	c. Book	d. Page
SOUTHERN BRISTOL		12959	74
SOUTHERN BRISTOL	21956, 1-WINSLOW CT (N) LOT G PL 9586C & LOT C-1 PL9586D, 2- REAR OF MAIN (W) PL 18520A	125	27

7. Dates

a. Date NOI Filed : 4/12/2022      b. Date Public Hearing Closed: 5/2/2022      c. Date Of Issuance: 5/5/2022

8. Final Approved Plans and Other Documents

<b>a. Plan Title:</b>	<b>b. Plan Prepared by:</b>	<b>c. Plan Signed/Stamped by:</b>	<b>d. Revised Final Date:</b>	<b>e. Scale:</b>
NOTICE OF INTENT SITE PLAN	FOTH INFRASTRUCTURE AND ENVIRONMENT, LLC	SUSAN E. NILSON, P.E.	April 11, 2022	1" = 10'/AS NOTED

**B. Findings**

1. Findings pursuant to the Massachusetts Wetlands Protection Act  
 Following the review of the the above-referenced Notice of Intent and based on the information provided in this

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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.

Check all that apply:

a. <input type="checkbox"/> Public Water Supply	b. <input checked="" type="checkbox"/> Land Containing Shellfish	c. <input checked="" type="checkbox"/> Prevention of Pollution
d. <input type="checkbox"/> Private Water Supply	e. <input checked="" type="checkbox"/> Fisheries	f. <input checked="" type="checkbox"/> Protection of Wildlife Habitat
g. <input type="checkbox"/> Ground Water Supply	h. <input checked="" type="checkbox"/> Storm Damage Prevention	i. <input checked="" type="checkbox"/> Flood Control

2. Commission hereby finds the project, as proposed, is:

**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.

**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 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 interests of the Act, 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 310CMR10.02(1)(a). \_\_\_\_\_ a. linear feet

**Inland Resource Area Impacts:(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	_____ b. square feet	_____ c. square feet	_____ d. square feet
	_____ e. c/y dredged	_____ f. c/y dredged		
7. <input type="checkbox"/> Bordering Land Subject to Flooding	_____	_____	_____	_____

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	a. square feet	b. square feet	c. square feet	d. square feet
Cubic Feet Flood Storage	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
	e. cubic feet	f. cubic feet	g. cubic feet	h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
	a. square feet	b. square feet		
Cubic Feet Flood Storage	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
	c. cubic feet	d. cubic feet	e. cubic feet	f. cubic feet
9. <input type="checkbox"/> Riverfront Area	<u>                    </u>	<u>                    </u>		
	a. total sq. feet	b. total sq. feet		
Sq ft within 100 ft	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
	c. square feet	d. square feet	e. square feet	f. square feet
Sq ft between 100-200 ft	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
	g. square feet	h. square feet	i. square feet	j. square feet

**Coastal Resource Area Impacts:**

Resource Area	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 checked="" type="checkbox"/> Land Under the Ocean	<u>7</u>	<u>7</u>		
	a. square feet	b. square feet		
	<u>0</u>	<u>0</u>		
	c. c/y dredged	d. c/y dredged		
12. <input type="checkbox"/> Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. <input checked="" type="checkbox"/> Coastal Beaches	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
	a. square feet	b. square feet	c. c/y nourishment	d. c/y nourishment
14. <input type="checkbox"/> Coastal Dunes	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
	a. square feet	b. square feet	c. c/y nourishment	d. c/y nourishment
15. <input checked="" type="checkbox"/> Coastal Banks	<u>11</u>	<u>11</u>		
	a. linear feet	b. linear feet		
16. <input type="checkbox"/> Rocky Intertidal Shores	<u>                    </u>	<u>                    </u>		
	a. square feet	b. square feet		
17. <input type="checkbox"/> Salt Marshes	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
	a. square feet	b. square feet	c. square feet	d. square feet
18. <input type="checkbox"/> Land Under Salt Ponds	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
	a. square feet	b. square feet		
	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
	c. c/y dredged	d. c/y dredged		
19. <input checked="" type="checkbox"/> Land Containing Shellfish	<u>7</u>	<u>7</u>	<u>0</u>	<u>0</u>
	a. square feet	b. square feet	c. square feet	d. square feet

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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>	<u>        </u>	
	c. c/y dredged	d. c/y dredged	
21. <input checked="" type="checkbox"/> Land Subject to Coastal Storm Flowage	<u>40</u>	<u>40</u>	
	a. square feet	b. square feet	

22.

Restoration/Enhancement (For Approvals Only)

If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.5.c & d or B.17.c & d above, please entered the additional amount here.

                                  
a. square feet of BVW

                                  
b. square feet of Salt Marsh

23.

Streams Crossing(s)

If the project involves Stream Crossings, please enter the number of new stream crossings/number of replacement stream crossings.

                                  
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 exceed the issuance date of the original Final Order of 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.
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.

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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 : "023-1382"
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 Mass DEP.
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.
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 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 Pollutant Discharge Elimination System Construction General Permit as required by Stormwater Standard 8. Construction period

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erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.

- b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that: *i.* all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures; *ii.* as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized; *iii.* any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10; *iv.* all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition; *v.* any vegetation associated with post-construction BMPs is suitably established to withstand erosion.
- c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 19(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 Pollutant 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 19(f) through 19(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 19(f) through 19(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.
- f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.
- g) The responsible party shall:
  - 1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location);
  - 2. Make the maintenance log available to MassDEP and the Conservation Commission ("Commission")

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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:**

SEE ATTACHMENT A

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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 Conservation Commission hereby (check one that applies):

a.  DENIES the proposed work which 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 or Conditions is issued. Which are necessary to comply with a municipal ordinance or bylaw:

b.  APPROVES the proposed work, subject to the following additional conditions.

1. Municipal Ordinance or Bylaw \_\_\_\_\_  
CODE OF THE  
TOWN OF  
FAIRHAVEN,  
WETLANDS

2. Citation CHAPTER 192

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:  
SEE ATTACHMENT A





TOWN OF FAIRHAVEN, MASSACHUSETTS  
**CONSERVATION COMMISSION**

Town Hall · 40 Center Street · Fairhaven, MA 02719

## Attachment A

DEP File #: SE 023-1382  
Fairhaven File #: CON 023-276  
Applicant: Thomas Marshall  
Property: 2 & 8 Winslow Court

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### Findings, Plans, and Documents

1. Land Under Ocean, Land Containing Shellfish, Coastal Beach, Coastal Bank, and Land Subject to Coastal Storm Flowage have been identified as Resource Areas subject to protection under the Wetlands Protection Act (M.G.L ch. 131 § 40) and Regulations (310 CMR 10.00) and the Fairhaven Wetlands Bylaw (Chapter 192). The 100-foot buffer zones to the Coastal Beach and Coastal Bank have been identified as resource areas subject to protection under the Fairhaven Wetlands Bylaw (Chapter 192).
2. Land under the ocean is significant to the protection of marine fisheries and, where there are shellfish, to protection of land containing shellfish. Nearshore areas of land under the ocean are significant to storm damage prevention, flood control, and protection of wildlife habitat.
3. Land containing shellfish is significant to the protection of marine fisheries as well as to the protection of the interest of land containing shellfish. Shellfish are a valuable renewable resource.
4. Coastal beaches, which are defined to include tidal flats, and their 100-foot buffer zone are significant to storm damage prevention, flood control, and the protection of wildlife habitat.
5. Coastal banks and their 100-foot buffer zone are significant to storm damage prevention and flood control. Coastal banks that supply sediment to coastal beaches, coastal dunes, and barrier beaches are significant to storm damage prevention and flood control. Coastal banks that, because of their height, provide a buffer to upland areas from storm waters are significant to storm damage prevention and flood control.
6. Land subject to coastal storm flowage is significant to flood control and storm damage prevention.
7. This permit authorizes the construction of a concrete pad with steps, two 3-foot-wide timber access stairways on existing riprap, a 75-foot fixed dock with four (4) pilings in Land Under Ocean, a 25-foot aluminum gangway, and a 10-foot-by-30-foot float with four (4) pilings in Land Under Ocean, as shown on the Final Approved Plans. No other work is approved by this Order.
8. This project is subject to the Town of Fairhaven Wetlands Bylaw (Chapter 192) and its regulations. Receipt of an Order of Conditions satisfies the requirements under the Wetlands Bylaw.
9. The Plan-of-Record is titled "Notice of Intent Site Plan", prepared by Foth Infrastructure and Environment, LLC, dated April 11, 2022.

## Special Conditions

### A. General Conditions

1. Section C, the general conditions under the Massachusetts Wetlands Protection Act, also apply to this Order under the Fairhaven Wetlands Bylaw.
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. REC-1: A complete set of site plans approved of in the Order of Conditions and the Order of Conditions itself shall be included in all construction contracts and sub-contracts dealing with the work proposed and shall supersede all other contract requirements.
4. ADD-1: 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 Fairhaven Wetlands Bylaw, subject to Chapter 192-6(D).
5. ADD-2: This Order applies only to: the construction of a concrete pad with steps, two 3-foot-wide timber access stairways on existing riprap, a 75-foot fixed dock with four (4) pilings in Land Under Ocean, a 25-foot aluminum gangway, and a 10-foot-by-30-foot float with four (4) pilings in Land Under Ocean. Any future work not approved within this Order subject to jurisdiction under the Wetlands Protection Act will require the filing, at a minimum, of a Request for Determination or Applicability 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.
6. The limit of work shall be the scope of work as shown on the approved plans.
7. WET-1: The wetland boundary delineated in the field and/or shown on the plans has not been accepted or approved by the Conservation Commission through the issuance of this permit.
8. DRG-7: Dredging is neither proposed nor permitted under this filing.

### B. Prior to Construction

9. Should other permits be required by the Army Corps of Engineers, Massachusetts Department of Environmental Protection, Planning Board, Zoning Board of Appeals, Board of Public Works, Board of Health, Building Department, and/or any other appropriate local, state, or federal agencies, proof of appropriate permits shall be submitted to the Conservation Commission prior to the start of the project. Any conditions outlined in those applicable permits shall also apply to this Order.
10. REC-3: 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 023-1382  
Fairhaven Conservation Commission [or FCC]  
File Number CON 023-276

This order shall be weatherproofed and affixed to the job site sign. The necessary replacement and maintenance of these postings shall be the sole responsibility of the applicant.

11. PCC-3: The applicant or the applicant's representative shall notify the Commission, in writing, as to the date that the work will commence on the project. Said notification must be received by the Commission no sooner than ten (10) days and no later than five (5) days prior to the commencement of the approved activity.
12. EMC-1: 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.

13. PCC-2: A site conference shall be held at least forty-eight hours prior to the commencement of permitted activity for the purpose of reviewing and discussing the special orders of conditions. The specific timing and location of this conference shall be jointly determined by both commission and applicant liaison representatives. In attendance at this meeting shall be: the property owner, the applicant's representative of record; commission liaison representatives and any other commission representatives wishing to attend; the prime contractor; other contractors or subcontractors as determined by the applicant and/or prime contractor to potentially benefit from a more complete understanding of the special conditions for this project.
14. Prior to any construction in Land Containing Shellfish, all shellfish shall be removed from the footprint of the proposed pier and relocated under the direction of the Fairhaven Shellfish Warden.

#### **C. During Construction**

15. REC-2: During the construction phase, the applicant shall be responsible for maintaining a copy of these Orders at the site. The applicant shall be responsible for compliance with the conditions of these Orders.
16. SDP-7: The use of chromated copper arsenate (CCA) treated wood and creosote treated timber is prohibited. Wood preservative must dry before the treated wood is used in construction.
17. SDP-5: Construction may be accomplished from a barge or boat operating in at least two feet of water. The barge or boat shall not be permitted to ground out at low tides.
18. SDP-8: Piles placed below the plane of Mean Low Water (MLW) shall be mechanically driven to refusal, not jettied.
19. All barge activity closest to shore shall occur within 2 hours before and after a normal high tidal cycle to avoid grounding of the barge.
20. Construction access shall be from the subject property or the water only.
21. All materials that are stockpiled or stored on-site shall be stockpiled at least 50 feet away from the top of coastal bank, and at a location to prevent surface runoff from sediment entering wetland resource areas. At no time shall any debris or other material be buried or disposed of within the buffer zone, other than such fill as is allowed by this Order and as shown on the above-referenced plans.
22. STO-3: All equipment used on site must be stored or parked in an area outside the buffer zone.
23. STO-4: There shall be no discharge or spillage of petroleum product, hazardous material, or any other pollutant into any area of statutory interest.
24. STO-5: There shall be no fueling or maintenance of any vehicles or equipment in any area of statutory interest.
25. MAC-1: All vessels under contract, subcontract or lease, participating in any manner, in any phase of activity within resource areas, shall carry on board absorbent materials to immediately respond to inadvertent discharge of petrochemicals. Vessels in excess of thirty feet in length shall have spill control booms aboard as well.
26. MAC-2: All bilged vessels under contract, subcontract or lease, participating in any manner, in any phase of activity within resource areas, shall carry in their bilges,

materials to selectively absorb petrochemicals.

27. MAC-3: All mechanized vehicles under contract, subcontract or lease, participating in any manner, in any phase of activity within resource areas, shall carry on board absorbent materials to immediately respond to inadvertent discharge of petrochemicals.
28. MAC-8: All equipment shall be inspected regularly for leaks. Any leaking hydraulic lines, cylinders, or any other components shall be fixed immediately.
29. MAC-9: Spill kits shall be maintained on site at all times for the immediate response to any potential spill of anything that could cause harm to resource areas and water bodies.
30. WAS-2: Concrete truck washout shall occur within a designated area appropriately lined and isolated in an appropriate location within existing lawn.

**D. After Construction/In Perpetuity**

31. REV-1: All areas disturbed during construction shall be revegetated immediately following completion of work at the site. No areas shall be left unvegetated for more than 30 days. Mulching shall not serve as a substitute for the requirement to revegetate disturbed areas at the conclusion of work.
32. COC-1: The Fairhaven Conservation Commission reserves the right to request an as-built plan as part of the requirements for a Certificate of Compliance.

Perpetual Conditions

*The below conditions do not expire upon completion of the project.*

33. Appropriate signage related to public access shall be placed on both sides of the structure and maintained in perpetuity.
34. If the float, ramp, and aluminum gangways are to be removed seasonally, they shall be stored in an upland area. Storage location shall be subject to any local, state, or federal flood zone regulations.
35. SDP-4: Future maintenance of the approved structure, in strict compliance with the plan of record and the conditions of this Order, is permissible.
36. SDP-2: Application of preservatives (i.e. paint or wood treatments) to floats shall be done on land and away from the water and wetlands. Application of preservatives to fixed elements, such as piles and decking, is limited to no more than once a year and only the minimum amount of preservative is permitted to be applied to limit runoff of excessive amounts into the underlying water. Application of preservatives to any elements of the pier is not permitted below mean high water.
37. DER-4: 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."  
This condition is ongoing and shall not expire with the issuance of a Certificate of Compliance and shall be recorded in the deed.

**Massachusetts Department of Environmental Protection**

Bureau of Resource Protection - Wetlands

**WPA Form 5 - Order of Conditions**

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

Provided by MassDEP:  
MassDEP File #:023-1382  
eDEP Transaction #:1367928  
City/Town:FAIRHAVEN

**E. Signatures**


This Order is valid for three years from the date of issuance, unless otherwise specified pursuant to General Condition #4. If this is an Amended Order of Conditions, the Amended Order expires on the same date as the original Order of Conditions.

5/5/2022  
1. Date of Original Order

Please indicate the number of members who will sign this form. This Order must be signed by a majority of the Conservation Commission.

4  
2. Number of Signers

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

Signatures: 

by hand delivery on

Date

by certified mail, return receipt requested, on

Date

5/5/2022  
7019 2970 0001 5652 7773

**F. Appeals**

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

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

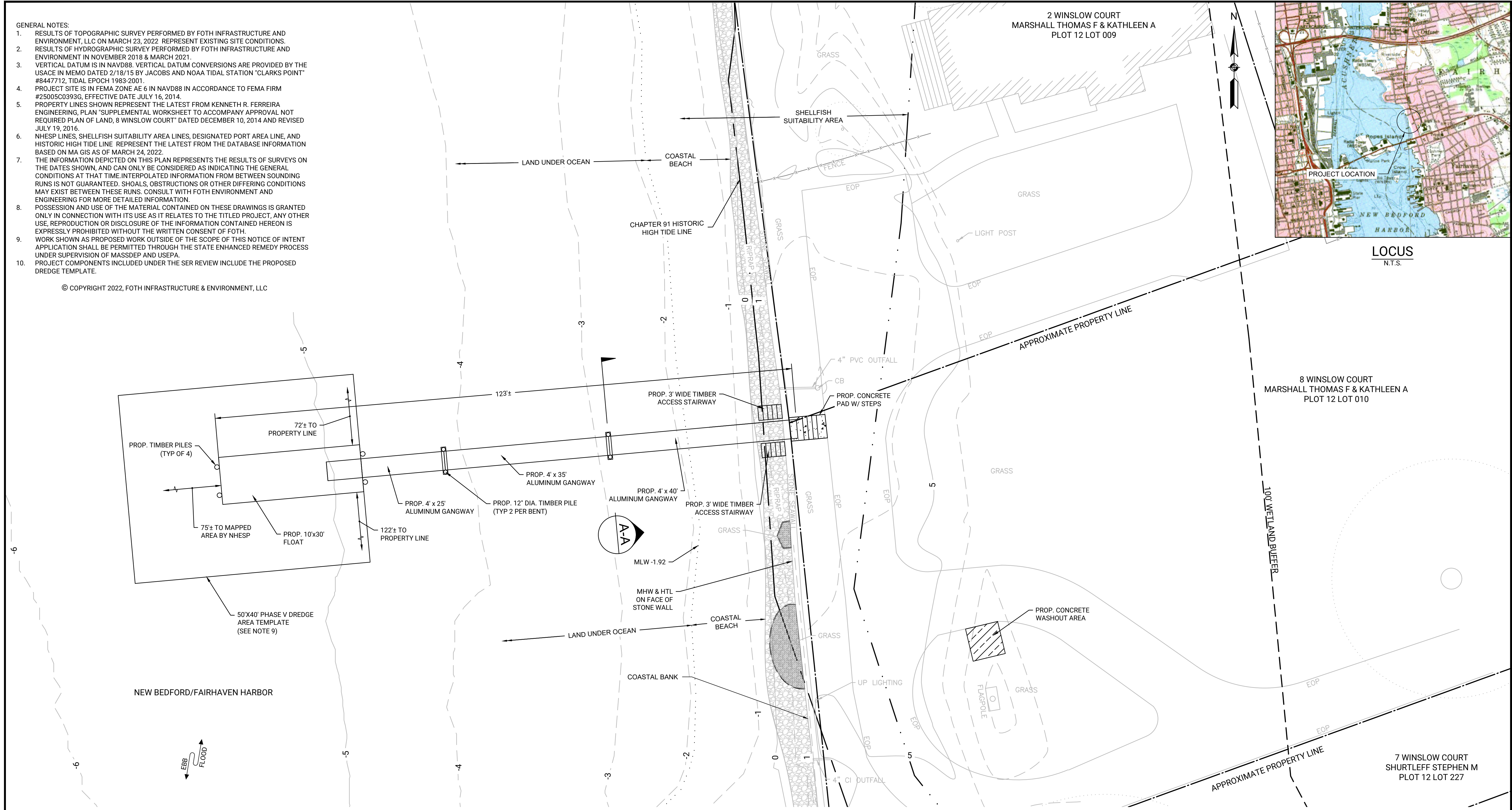
The request shall state clearly and concisely the objections to the Order which is being appealed and how the Order does not contribute to the protection of the interests identified in the Massachusetts Wetlands Protection Act (M.G.L. c. 131, § 40), and is inconsistent with the wetlands regulations (310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



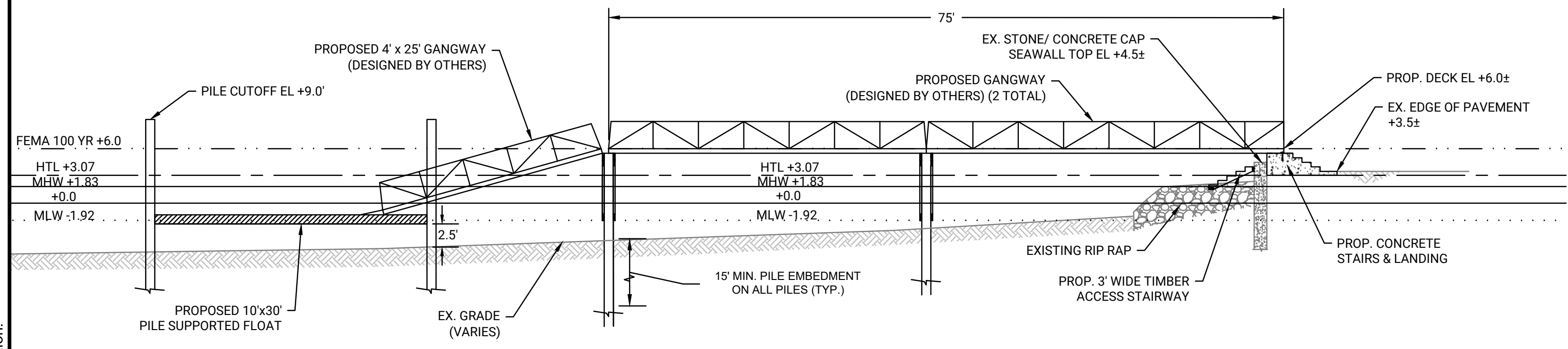


- GENERAL NOTES:
- RESULTS OF TOPOGRAPHIC SURVEY PERFORMED BY FOTH INFRASTRUCTURE AND ENVIRONMENT, LLC ON MARCH 23, 2022. REPRESENT EXISTING SITE CONDITIONS.
  - RESULTS OF HYDROGRAPHIC SURVEY PERFORMED BY FOTH INFRASTRUCTURE AND ENVIRONMENT IN NOVEMBER 2018 & MARCH 2021.
  - VERTICAL DATUM IS IN NAVD88. VERTICAL DATUM CONVERSIONS ARE PROVIDED BY THE USACE IN MEMO DATED 2/18/15 BY JACOBS AND NOAA TIDAL STATION "CLARKS POINT" #8447712, TIDAL EPOCH 1983-2001.
  - PROJECT SITE IS IN FEMA ZONE AE 6 IN NAVD88 IN ACCORDANCE TO FEMA FIRM #25005C0393G, EFFECTIVE DATE JULY 16, 2014.
  - PROPERTY LINES SHOWN REPRESENT THE LATEST FROM KENNETH R. FERREIRA ENGINEERING, PLAN "SUPPLEMENTAL WORKSHEET TO ACCOMPANY APPROVAL NOT REQUIRED PLAN OF LAND, 8 WINSLOW COURT" DATED DECEMBER 10, 2014 AND REVISED JULY 19, 2016.
  - NHESP LINES, SHELLFISH SUITABILITY AREA LINES, DESIGNATED PORT AREA LINE, AND HISTORIC HIGH TIDE LINE REPRESENT THE LATEST FROM THE DATABASE INFORMATION BASED ON MA GIS AS OF MARCH 24, 2022.
  - THE INFORMATION DEPICTED ON THIS PLAN REPRESENTS THE RESULTS OF SURVEYS ON THE DATES SHOWN, AND CAN ONLY BE CONSIDERED AS INDICATING THE GENERAL CONDITIONS AT THAT TIME. INTERPOLATED INFORMATION FROM BETWEEN SOUNDING RUNS IS NOT GUARANTEED. SHOALS, OBSTRUCTIONS OR OTHER DIFFERING CONDITIONS MAY EXIST BETWEEN THESE RUNS. CONSULT WITH FOTH ENVIRONMENT AND ENGINEERING FOR MORE DETAILED INFORMATION.
  - POSSESSION AND USE OF THE MATERIAL CONTAINED ON THESE DRAWINGS IS GRANTED ONLY IN CONNECTION WITH ITS USE AS IT RELATES TO THE TITLED PROJECT. ANY OTHER USE, REPRODUCTION OR DISCLOSURE OF THE INFORMATION CONTAINED HEREON IS EXPRESSLY PROHIBITED WITHOUT THE WRITTEN CONSENT OF FOTH.
  - WORK SHOWN AS PROPOSED WORK OUTSIDE OF THE SCOPE OF THIS NOTICE OF INTENT APPLICATION SHALL BE PERMITTED THROUGH THE STATE ENHANCED REMEDY PROCESS UNDER SUPERVISION OF MASSDEP AND USEPA.
  - PROJECT COMPONENTS INCLUDED UNDER THE SER REVIEW INCLUDE THE PROPOSED DREDGE TEMPLATE.

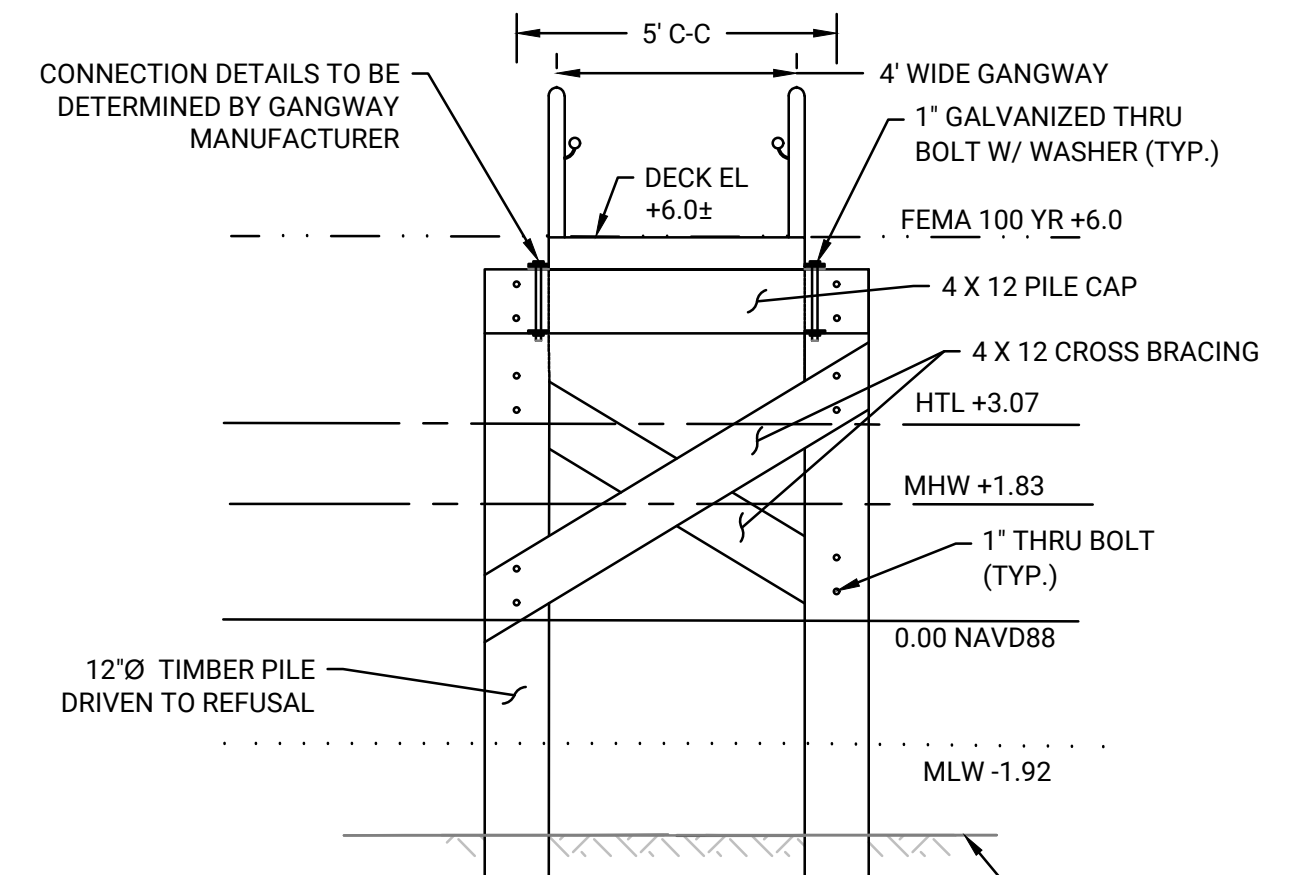
© COPYRIGHT 2022, FOTH INFRASTRUCTURE & ENVIRONMENT, LLC



**SITE PLAN VIEW**  
SCALE: 1" = 10'



**PROFILE VIEW GANGWAY AND FLOAT**  
SCALE: 1" = 10'



**TYPICAL SECTION A-A**  
SCALE: 1" = 3'

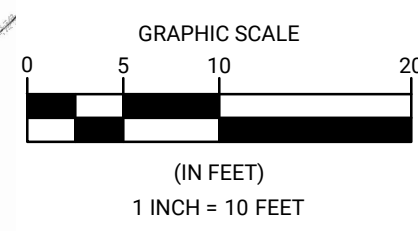
**LEGEND:**

- MLW (-1.79)
- ELEVATION CONTOURS
- 100' WETLAND BUFFER ZONE
- SHELLFISH SUITABILITY AREA
- CHAPTER 91 HISTORIC HIGH TIDE LINE

DATUM OFFSETS

MLLW	NAVD 88	HTL	MHW	MLW
4.85	3.07	HTL		
3.75	1.83	MHW		
1.92	0.00			
1.10	-0.82			NGVD29
0.00	-1.92			MLW

OFFSETS PROVIDED BY THE USACE IN MEMO DATED 2/18/15 BY JACOBS AND NOAA TIDAL STATION "CLARKS POINT" #8447712 TIDAL EPOCH 1983-2001



**LOCUS**  
N.T.S.

**THOMAS MARSHALL  
8 WINSLOW COURT, FAIRHAVEN MA  
PROPOSED FIXED PIER & FLOATING DOCK**

REVISIONS

NO.	DATE	DESCRIPTION
1	XX	XX
2	XX	XX
3	XX	XX
4	XX	XX
5	XX	XX
6	XX	XX

DATE OF PREPARATION

BY	DATE
AHM	03/23/2022
AMH	03/25/2022
PSR	03/25/2022
SEN	03/25/2022

**NOTICE OF INTENT SITE PLAN**

ISSUANCE:

PROJECT NO: 0022M039.00  
SHEET NUMBER  
**C-100**

