

**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 #:023-1341  
 eDEP Transaction #:1252970  
 City/Town:FAIRHAVEN

**A. General Information**

1. Conservation Commission      FAIRHAVEN

2. Issuance                              a.  OOC                              b.  Amended OOC

3. Applicant Details

a. First Name	LEE/ELIZETT	b. Last Name	MIGUEL
c. Organization			
d. Mailing Address	3 NORTH STREET		
e. City/Town	FAIRHAVEN	f. State	MA
		g. Zip Code	02719

4. Property Owner

a. First Name	LEE/ELIZETT	b. Last Name	MIGUEL
c. Organization			
d. Mailing Address	3 NORTH STREET		
e. City/Town	FAIRHAVEN	f. State	MA
		g. Zip Code	02719

5. Project Location

a. Street Address	NORTH STREET & CHERRY STREET		
b. City/Town	FAIRHAVEN	c. Zip Code	02719
d. Assessors		e. Parcel/Lot#	43
Map/Plat#	15		
f. Latitude	41.64886N	g. Longitude	70.91125W

6. Property recorded at the Registry of Deed for:

a. County	b. Certificate	c. Book	d. Page
SOUTHERN BRISTOL	23631		

7. Dates

a. Date NOI Filed : 12/3/2020      b. Date Public Hearing Closed: 4/12/2021      c. Date Of Issuance: 4/28/2021

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>
SITE PLAN	SITEC, INC.	STEVEN D. GIOIOSA, PE	March 15, 2021	1"=30'

**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 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 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 checked="" 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:

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**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	_____ a. square feet	_____ b. square feet	_____ c. square feet	_____ d. square feet
Cubic Feet Flood Storage	_____ e. cubic feet	_____ f. cubic feet	_____ g. cubic feet	_____ h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding	_____ a. square feet	_____ b. square feet		
Cubic Feet Flood Storage	_____ c. cubic feet	_____ d. cubic feet	_____ e. cubic feet	_____ f. cubic feet
9. <input type="checkbox"/> Riverfront Area	_____	_____		

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	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 type="checkbox"/> Land Under the Ocean	<u>                    </u> a. square feet	<u>                    </u> b. square feet		
	<u>                    </u> c. c/y dredged	<u>                    </u> d. c/y dredged		
12. <input type="checkbox"/> Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. <input type="checkbox"/> Coastal Beaches	<u>                    </u> a. square feet	<u>                    </u> b. square feet	<u>                    </u> c. c/y nourishment	<u>                    </u> d. c/y nourishment
14. <input type="checkbox"/> Coastal Dunes	<u>                    </u> a. square feet	<u>                    </u> b. square feet	<u>                    </u> c. c/y nourishment	<u>                    </u> d. c/y nourishment
15. <input type="checkbox"/> Coastal Banks	<u>                    </u> a. linear feet	<u>                    </u> b. linear feet		
16. <input type="checkbox"/> Rocky Intertidal Shores	<u>                    </u> a. square feet	<u>                    </u> b. square feet		
17. <input checked="" type="checkbox"/> Salt Marshes	<u>0</u> a. square feet	<u>0</u> b. square feet	<u>0</u> c. square feet	<u>0</u> d. square feet
18. <input type="checkbox"/> Land Under Salt Ponds	<u>                    </u> a. square feet	<u>                    </u> b. square feet		
	<u>                    </u> c. c/y dredged	<u>                    </u> d. c/y dredged		
19. <input type="checkbox"/> Land Containing Shellfish	<u>                    </u> a. square feet	<u>                    </u> b. square feet	<u>                    </u> c. square feet	<u>                    </u> d. square feet
20. <input type="checkbox"/> Fish Runs	Indicate size under Coastal Banks, inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above			
	<u>                    </u> c. c/y dredged	<u>                    </u> d. c/y dredged		
21. <input checked="" type="checkbox"/> Land Subject to Coastal Storm Flowage	<u>1850</u> a. square feet	<u>1850</u> b. square feet		

22.  Restoration/Enhancement (For Approvals Only)

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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.
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 then two square feet or more than three square feet in size bearing the words,

" Massachusetts Department of Environmental Protection"

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[or 'MassDEP']

File Number : "023-1341"

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 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

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- 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") 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

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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.

- 1) 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 023-1341  
Applicant: Lee and Elizett Miguel  
Property: North Street, Assessors Map 15, Lot 43

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### Findings, Plans, and Documents

1. Salt Marsh, Coastal Beach, 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).
2. Salt marshes and their 100-foot buffer zone are significant to prevention of pollution, to protection of marine fisheries, wildlife habitat, and, where there are shellfish, to protection of land containing shellfish. Salt marshes are also significant to storm damage prevention and groundwater supply.
3. 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. In addition, tidal flats are significant to the protection of marine fisheries and, where there are shellfish, land containing shellfish.
4. Land subject to coastal storm flowage is significant to flood control and storm damage prevention.
5. This permit authorizes the installation of a fence by hand along the property boundary along Hedge Street and Cherry Street, limited vegetated removal, and revegetation as shown on the Final Approved Plans referenced in Condition A.7.
6. No work within the salt marsh or coastal beach is approved by the issuance of this Order of Conditions.
7. This project is subject to the Town of Fairhaven Wetlands Bylaw (Chapter 192). Receipt of an Order of Conditions satisfies the requirements under the Wetlands Bylaw.
8. This project is subject to the Town of Fairhaven Stormwater Management Bylaw (Chapter 194). Receipt of an Order of Conditions satisfies the requirements under the Stormwater Management Bylaw.
9. No other work is approved by this Order.
10. Plan titled "Site Plan", dated March 15, 2021.

### Special Conditions

#### A. General Conditions

1. ACC-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. REC-1: The complete Notice of Intent, 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. 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.
5. 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 Act and/or the Fairhaven Wetlands Bylaw.
6. ADD-2: This Order applies only to: the installation of a fence by hand along the property boundary along Hedge Street and Cherry Street, limited vegetated removal, and revegetation. 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 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. ADD-4b: All work shall be done in accordance with 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.
8. ADD-4c: 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. ADD-5: 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. STO-4: There shall be no discharge or spillage of petroleum product, hazardous material, or any other pollutant into any area of statutory interest.
11. LOW-2: The erosion and sedimentation barrier shall serve as the alteration limit line. Said barrier shall fully protect the adjacent wetland/resource area, and no work shall be permitted beyond this limit line.
12. 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.
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.
14. All work shall be done by hand using hand tools only.
15. There shall be no grubbing or removal of any vegetation to the point where the vegetation is unable to regrow.
16. Leyland cypress are not a permitted replacement for any removed trees. Only native trees are permitted to be planted as replacement for those removed.
17. There shall be no addition of loam, soil, or any other materials in the area of work or anywhere else on the property.
18. No grade changes are permitted anywhere on the property associated with any of the approved work.
19. So as not to cause undue stress and damage to the resource area, the project shall be completed within one year of initiation.

20. A qualified professional shall oversee all phases of the project to ensure compliance with the issued Order. Weekly updates with associated photographic documentation shall be submitted to the Commission or its Agent.
21. The project shall be completed in phases as follows:
  - i. Installation of erosion and sedimentation control and work limit fence
  - ii. Marking of vegetation to be removed
  - iii. Inspection of erosion and sedimentation control and marked vegetation by the Commission or its Agent
  - iv. Submission of a replacement planting plan for review and approval by the Commission or its Agent once which vegetation is to be removed is determined
  - v. Trimming/removal of approved vegetation
  - vi. Installation of fence by hand
  - vii. Natural revegetation period and planting of replacement vegetation
  - viii. If necessary, supplemental planting plan is submitted for review and approval by the Commission
  - ix. If necessary, supplemental plantings are installed
22. 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.

**B. Prior to Construction**

23. Under the Fairhaven Wetlands Bylaw, Chapter 192 Section 9, a bond of \$25,000 made payable to the Town of Fairhaven shall be submitted prior to any work beginning on the project to act a security to require the performance and observance of all conditions imposed be complied with. Should any of the conditions outlined by this permit be violated, the bond will not be returned to the applicant.
24. CAP-3: All required permits must be obtained from 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 and proof of appropriate permits submitted to the Conservation Commission prior to the start of the project.
25. 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 023-1341  
Fairhaven Conservation Commission [or FCC]  
File Number CON 023-194  
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.
26. DER-1: Proof of recording of these approved special conditions, plan of record, and materials at the Bristol County Registry of Deeds shall be provided by the applicant's liaison to the commission enforcement agent prior to the commencement of any work (including site preparation) on the site.
27. 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.

28. 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.
29. Erosion and sedimentation control and limit of work fence shall be installed without the removal of vegetation and with absolute minimal impact.
30. PCC-1: The contractor shall notify the Commission immediately following erosion control installation and before groundbreaking to allow the Commission or its Agent opportunity to inspect the erosion controls. No work may proceed on the property until the Commission or its Agent approves the installation and location of erosion controls.
31. Before any work begins, all vegetation that will be absolutely necessary to remove for the purposes of installing the fence by hand shall be clearly marked in the field by flagging tape or other similar means by a qualified professional. After marking, the Conservation Commission or its Agent shall be contacted to review and approve the vegetation marked for removal. The Commission or its Agent reserves the right to prohibit any of the proposed vegetation from being removed.
32. A replacement planting plan shall be submitted for review and approval by the Commission or its Agent once which vegetation is to be removed is determined. This planting plan must be reviewed and approved prior to work beginning.
33. SIL-5: 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.
34. SIL-9: Haybales shall not be used as sediment control. Biodegradable controls shall be required. Biodegradable controls include silt fence, straw bales, rolled sediment control products (i.e. mulch socks, fiber rolls, wattles, etc.), mulch control netting, erosion control blankets, and turf mats. Photodegradable, UV degradable, or Oxo-(bio)degradable plastics are not considered biodegradable.
35. SIL-10: Erosion/sedimentation control measures (silt fence, blankets, etc.) shall not contain any nylon netting or nylon mesh backing, which is found to be hazardous to local wildlife.

**C. During Construction**

36. The wood chipper shall not be utilized within the salt marsh resource area or its 100-foot buffer zone at any point. The wood chipper may be used outside the buffer zone on the Cherry Street side of the property or strictly within the stockpile area along North Street. The stockpile area along North Street is the only location within the 100-foot buffer zone where the wood chipper is permitted to be used at any point during the project.
37. At no point shall any wood chips be placed in any resource area or its 100-foot buffer zone.

38. At no point shall any debris be removed from the property through the salt marsh. Access to the site and removal of debris shall be done from the upland Cherry Street side of the property across from Cooke Street.
39. Any and all construction materials, soils, fills, sediments, or any other substances shall be stockpiled or stored only in the stockpile area noted on the approved plans.
40. STO-3: All equipment used on site must be stored or parked in an area outside the buffer zone.
41. The trimming of all branches along the property line for the purposes of installing the fence by hand shall only be completed by a qualified arborist. Trimming shall be limited to branches encroaching on the applicant's property only to the extent needed to install the fence by hand. Proof of the qualified arborist conducting the work shall be provided to the Commission.
42. DEB-1: 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.
43. DEB-5: Food trash and related waste shall at all times be confined to appropriate containers, which shall enjoy a routine removal schedule. Air and water-borne disposal of non-indigenous materials from this project into resource areas is hereby prohibited.
44. EMC-2: In case of emergencies, problems, or the need to discuss site conditions with the Conservation Commission, please contact the Commission or its Agent during business hours at (508) 979-4023, ext. 128 or after hours/weekends at (508) 837-4427.
45. SIL-3: An adequate stockpile of erosion control materials shall be on site at all times for emergency or routine replacement and shall include materials to repair silt fences, hay bales, stone-rip rap filter dikes or any other devices planned for use during construction.
46. SIL-4: All erosion control devices shall be inspected, cleaned, or replaced during construction and shall remain in place until such time as stabilization of all areas that may impact resource areas is permanent. These devices shall be inspected to assure that maximum control has been provided after any rainfall.
47. SIL-8: If soils are to be disturbed for longer than two (2) months, a temporary cover shall be established, following Natural Resources Conservation Service (NRCS) procedures, to prevent erosion and sedimentation.
  - i. If the season is not appropriate for plant growth, exposed surfaces shall be stabilized by straw, jute netting, or other NRCS-approved methods.
  - ii. Any stabilization materials such as jute netting shall be firmly anchored to prevent them from being washed from slopes by rain or flooding.
48. LOW-3: There shall be no disturbance of the site, including cutting of vegetation, beyond the work limit.
49. Only the approved marked vegetation shall be removed.
50. If the dumpster is to move to the North Street side of the property, all debris shall be removed through the Cherry Street side of the property across from Cooke Street, placed in a truck, and driven to the dumpster location.

**D. After Construction/In Perpetuity**

51. The disturbed areas shall be allowed to revegetate naturally. At the end of the first growing season after the fence is completed, the disturbed areas shall be inspected by the Commission or its Agent. If the disturbed areas are not sufficiently revegetating on their own, a planting plan shall be submitted for review and approval by the Commission.

52. RES-4: The deed language will be prepared by the applicant's attorney or representative and it will be submitted to the Conservation Staff for review prior to the issuance of the Certificate of Compliance.
53. 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.
54. COC-2: Upon completion of the work described herein, the applicant shall forthwith request in writing that a Certificate of Compliance be issued stating that the work has been satisfactorily completed.

Perpetual Conditions

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

55. No additional vegetation beyond what is approved for the installation of the fence is permitted to be removed in perpetuity. This condition shall survive the expiration of this Order, and shall be included as a continuing condition in perpetuity on the Certificate of Compliance.
56. No disturbance to the salt marsh resource area is permitted at any point. This condition shall survive the expiration of this Order, and shall be included as a continuing condition in perpetuity on the Certificate of Compliance.
57. CHM-2: 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.
58. 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 #:023-1341  
eDEP Transaction #:1252970  
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.

4/21/2021 4/28/2021

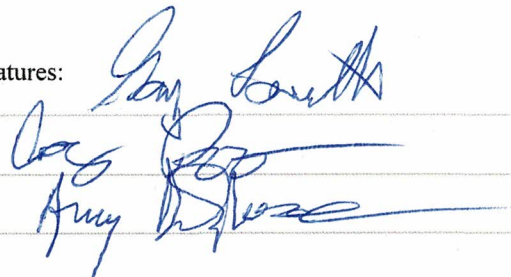
1. Date of Original Order

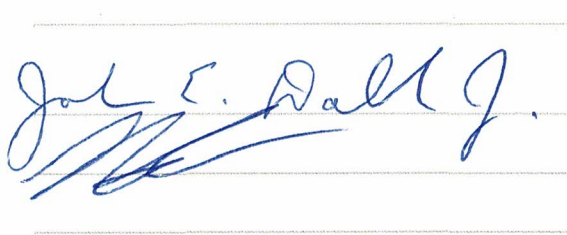
Please indicate the number of members who will sign this form. This Order must be signed by a majority of the Conservation Commission.

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

by certified mail, return receipt requested, on 4/28/2021

Date

Date

**F. Appeals**

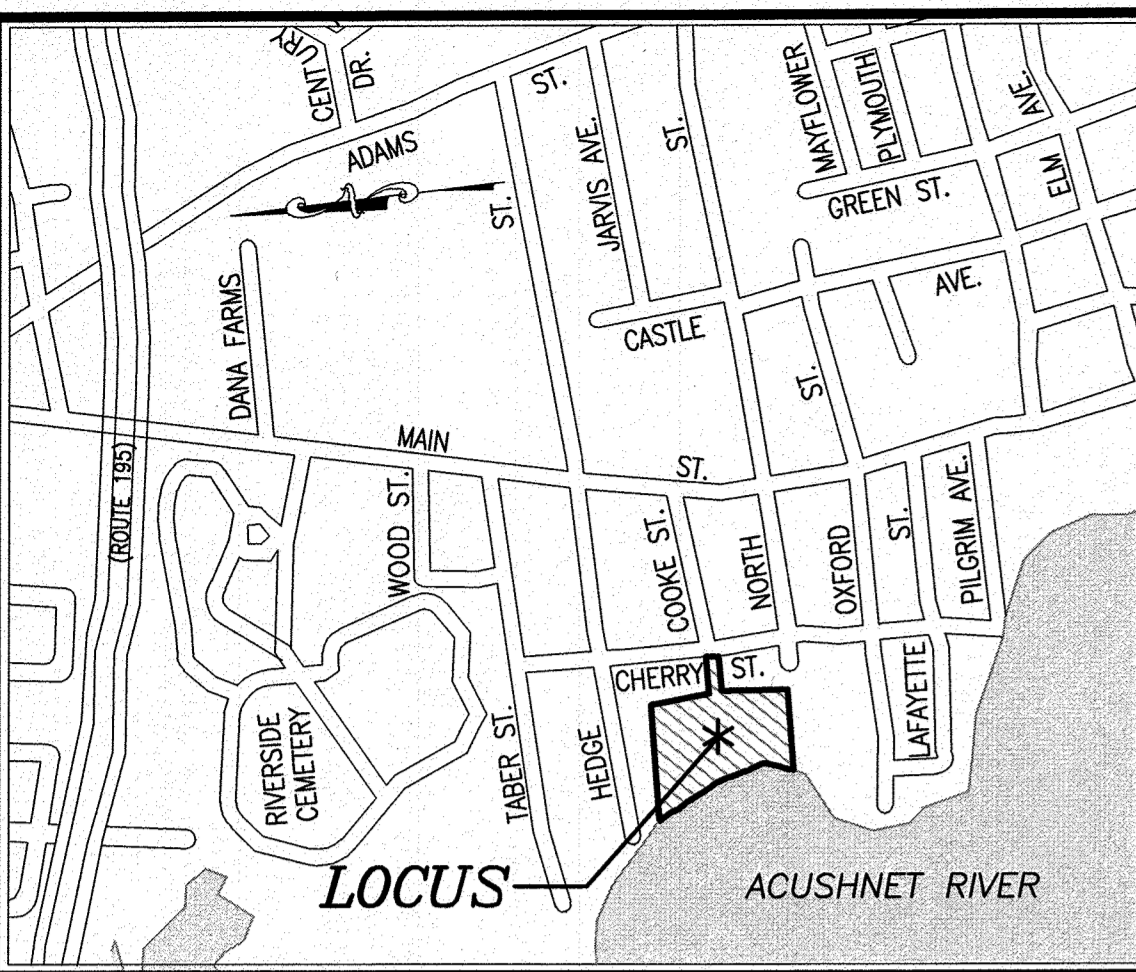
The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land subject to this Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate MassDEP Regional Office to issue a Superseding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

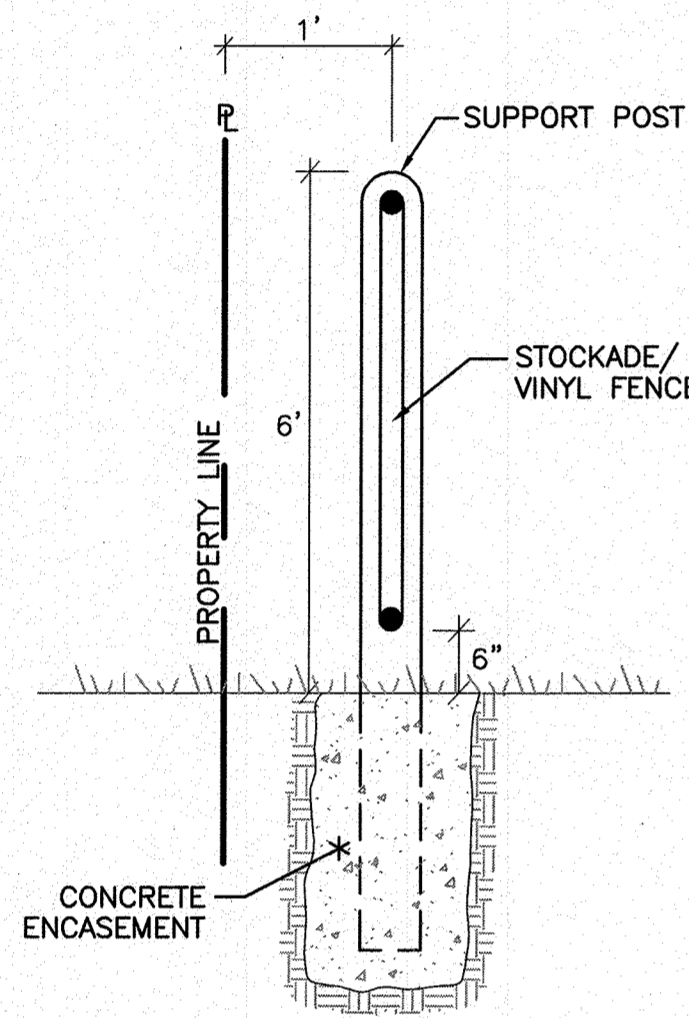






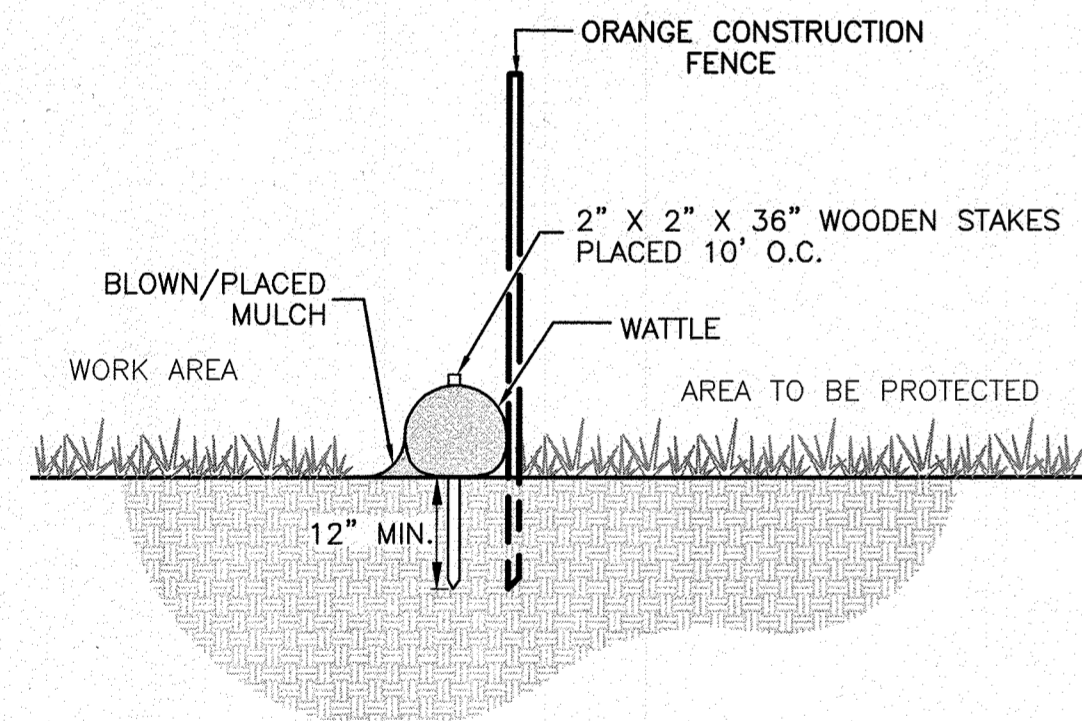
**LOCUS MAP**

SCALE: 1"=600'±



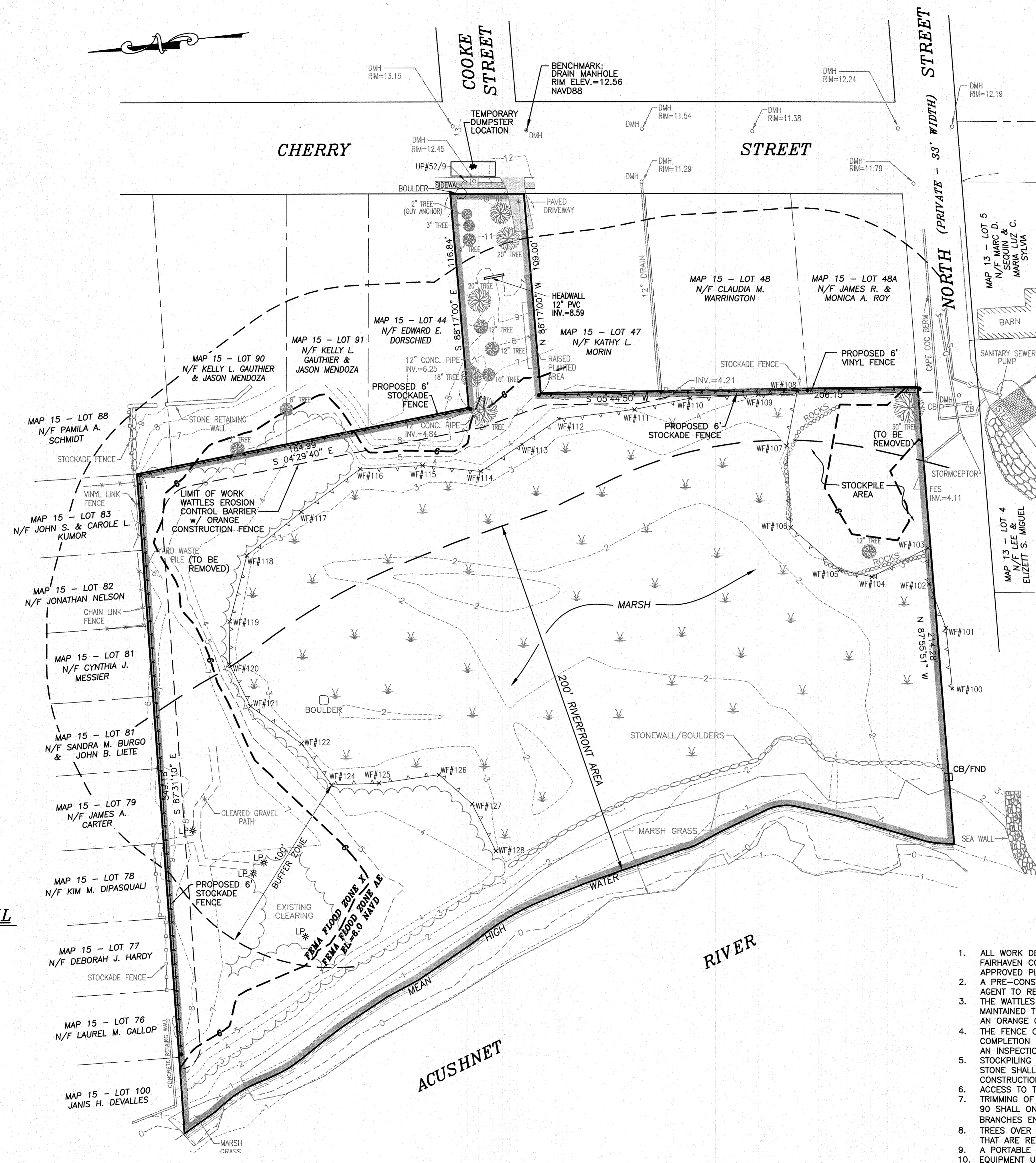
**FENCE DETAIL**

(NOT TO SCALE)



**WATTLE EROSION CONTROL DETAIL**

(NOT TO SCALE)



**LEGEND**

- PROPERTY LINE
- - - EXISTING CONTOUR
- STONEWALL
- SEWER LINE
- DRAINAGE LINE
- CB □ CATCH BASIN
- DMH ○ DRAIN MANHOLE
- SMH ○ SEWER MANHOLE
- UP ○ UTILITY POLE
- LP \* LAMP POST
- CHAIN LINK FENCE
- STOCKADE FENCE
- TREE LINE/BRUSH LINE
- TREE
- WF#111 WF#112 EDGE OF BORDERING VEGETATED WETLANDS

- CONSTRUCTION NOTES**
- ALL WORK DEPICTED ON THIS PLAN IS SUBJECT TO ALL ORDER OF CONDITIONS ISSUED BY THE FAIRHAVEN CONSERVATION COMMISSION. THE CONTRACTOR SHALL HAVE A COPY OF THE ORDER AND APPROVED PLAN ON SITE AT ALL TIME DURING THE CONSTRUCTION PROVIDED.
  - A PRE-CONSTRUCTION MEETING WILL BE SCHEDULED BY THE CONTRACTOR WITH THE CONSERVATION AGENT TO REVIEW THE REQUIREMENTS OUTLINED IN THE ORDER OF CONDITIONS.
  - THE WATTLES FOR EROSION CONTROL SHALL BE SET PRIOR TO THE START OF CONSTRUCTION AND MAINTAINED THROUGHOUT THE CONSTRUCTION PROCESS UNTIL ALL DISTURBED AREAS ARE STABILIZED. AN ORANGE CONSTRUCTION FENCE SHALL BE INSTALLED BEHIND THE WATTLES.
  - THE FENCE CONTRACTOR SHALL MARK ANY TREES OVER 4" DIAMETER PRIOR TO CLEARING. UPON COMPLETION OF MARKING THE CONTRACTOR SHALL NOTIFY THE CONSERVATION OFFICE TO SCHEDULE AN INSPECTION.
  - STOCKPILING OF MATERIALS SHALL BE LIMITED TO THE DESIGNATED UPLAND AREA. CLEAN CRUSHED STONE SHALL BE RE-SPREAD OVER THE STOCKPILE AREA AT THE CONCLUSION OF THE CONSTRUCTION.
  - ACCESS TO THE SITE SHALL BE THROUGH THE CHERRY STREET FRONTAGE.
  - TRIMMING OF BRANCHES, AS NEEDED, FROM THE TREE LOCATED ON THE BOUNDARY AT MAP 15-LOT 90 SHALL ONLY BE COMPLETED BY A QUALIFIED ARBORIST. TRIMMING SHALL BE LIMITED TO BRANCHES ENCRANCHING ON APPLICANT'S PROPERTY TO THE EXTENT NEEDED TO INSTALL THE FENCE.
  - TREES OVER 4" IN DIAMETER SHALL NOT BE REMOVED UNLESS DIRECTLY ON FENCE LINE. ANY TREES THAT ARE REMOVED SHALL BE REPLACED WITH LEYLAND CYPRESS OR APPROVED EQUAL.
  - A PORTABLE CHIPPER SHALL BE USED TO CREATE MULCH FROM MATERIAL CUT IN THE WORK ZONE.
  - EQUIPMENT USED TO COMPLETE THE FENCE INSTALLATION SHALL BE LIMITED TO HAND TOOLS AND HAND AUGER. THE FENCE ALONG THE WEST LINE OF LOTS 47, 48, 48A, AS SHOWN, SHALL BE INSTALLED USING HAND TOOLS AND HAND AUGER ONLY.
  - EXCESS SOILS SHALL BE SPREAD NEAR THE FENCE POSTS, AND THE AREA SEEDED FOR STABILIZATION. IF REQUIRED, THE SOILS WILL BE AMENDED WITH ORGANIC TOPSOIL TO FACILITATE GRASS GROWTH.
  - IF REQUIRED, A LINED CONCRETE WASHOUT PIT SHALL BE SET IN THE STOCKPILE AREA WITH SILT FENCING SET ALONG THE DOWNGRADE PERIMETER OF THE PIT.

**OWNER/APPLICANT:**  
 LEE & ELIZETT S. MIGUEL  
 3 NORTH STREET  
 FAIRHAVEN, MA 02719

Chd. by	Revision	Description	Date	No.
	1	SP-1		

Project:	ASSESSORS MAP 15, LOT 43
Client:	NORTH STREET / CHERRY STREET FAIRHAVEN, MASSACHUSETTS
Scale:	1"=30'
Date:	JULY 2, 2020
Drawn:	KJ
Checked:	SDG
Approved:	SDG
Sheet:	1 of 1
Drawing Number:	SP-1

**SITEC, Inc.**  
 448 Fauce Corner Road  
 Fairhaven, MA 02719  
 (508) 998-2123  
 FAX (508) 998-7584  
 WWW.SITEC-ENGINEERING.COM

**SITEC**  
 Civil and Environmental Engineering  
 Land Use Planning

Acad No.	FVN 18-7102 SP.DWG
File No.	18-7102