



# TOWN OF MILLIS

Dr. James A. Lederer, *Chair*  
Carol Hayes, *Vice Chair*  
Edward Chisholm  
Christine Gavin  
Daniel Lee  
John Steadman

## OFFICE OF THE CONSERVATION COMMISSION

900 Main Street • Millis, MA 02054  
Phone: 508-376-7045  
Fax: 508-376-7053

Camille Standley  
Administrative Assistant  
[cstandley@millisma.gov](mailto:cstandley@millisma.gov)

October 15, 2020

Mr. Daniel Merrikin  
Legacy Engineering  
730 Main Street, Suite 2C  
Millis, MA 02054

**RE: DEP File #CE 225-0426 Emerson Place Subdivision  
Ridge Street, Millis, MA**

**APPLICANT: TD Development LLC  
38 Benjamins Gate  
Plymouth, MA 02360**

**PROJECT: Construction of 43-Lot Single Family Open Space Development**

Dear Mr. Merrikin:

Enclosed please find an original and one copy of the Order of Conditions for the subject property. Please note you are **required** to file the original of this document at the Norfolk County Registry of Deeds in Dedham, Massachusetts, and provide proof of recording to the Commission **prior to starting construction/work**.

Please do not hesitate to contact us should you have any questions.

Sincerely,

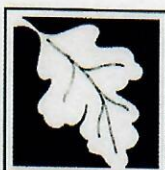
*Camille Standley*

Camille Standley  
Administrative Assistant

Encs.

cc: Building Dept.  
BOH  
DEP CERO  
Owners  
File

OOC Letter 0426 Ridge St. Emerson Place Subdivision 10-15-2020.doc



**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:

CE225-0426

MassDEP File #

eDEP Transaction #

Millis

City/Town

**A. General Information**

**Please note:**  
 this form has  
 been modified  
 with added  
 space to  
 accommodate  
 the Registry  
 of Deeds  
 Requirements

1. From: Millis Conservation Commission  
 Conservation Commission
2. This issuance is for (check one):  
 a. ☒ Order of Conditions      b. ☐ Amended Order of Conditions

3. To: Applicant:

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



a. First Name TD Development LLC      b. Last Name \_\_\_\_\_  
 c. Organization 38 Benjamin's Gate  
 d. Mailing Address Plymouth  
 e. City/Town MA      f. State 02360      g. Zip Code

4. Property Owner (if different from applicant):

See attached  
 a. First Name \_\_\_\_\_      b. Last Name \_\_\_\_\_  
 c. Organization \_\_\_\_\_  
 d. Mailing Address \_\_\_\_\_  
 e. City/Town \_\_\_\_\_      f. State \_\_\_\_\_      g. Zip Code \_\_\_\_\_

5. Project Location:

Ridge Street      Millis  
 a. Street Address      b. City/Town  
15-66,20-25,20-26,20-28,20-27, a portion  
of 20-53, a portion of 23-04      c. Parcel/Lot Number  
 Latitude and Longitude, if known: 42d10m25s      71d22m6s  
 d. Latitude      e. Longitude

# LIST OF OWNERS

Owner of Parcel 20-27 & Portion of 20-53  
TD Development LLC  
38 Benjamin's Gate  
Plymouth, MA 02360  
617-212-0725

Owner of Parcel 15-66  
GJ&K LLC  
107 Great Plain Avenue  
Wellesley, MA 02481  
617-470-0662

Owner of Parcel 20-25  
Ridge Street Trust  
21 Prentiss Place  
Medfield, MA 02052  
617-470-0662

Owner of Parcel 20-26 & 20-28  
Peter Harcovitz  
256 Orchard Street  
Millis, MA 02052  
508-560-3762

Owner of Portion of Parcel 23-04  
Joseph Fawkes & Amy Furnia  
18A Ridge Street  
Millis, MA 02054  
617-201-2386



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

6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):  
Norfolk  
a. County  
see attached  
b. Certificate Number (if registered land)  
c. Book  
d. Page
7. Dates: 02/20/2020 10/05/2020 10/14/2020  
a. Date Notice of Intent Filed b. Date Public Hearing Closed c. Date of Issuance
8. Final Approved Plans and Other Documents (attach additional plan or document references as needed):  
Emerson Place Definitive Subdivision Plan  
a. Plan Title  
Legacy Engineering  
b. Prepared By Daniel J. Merrikin, PE Civil No. 43309  
09/28/2020  
c. Signed and Stamped by  
d. Final Revision Date 1:40  
see Attachment  
e. Scale  
f. Additional Plan or Document Title  
g. Date 09/30/2020

**B. Findings**

1. Findings pursuant to the Massachusetts Wetlands Protection Act:

Following the review of the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act (the Act). Check all that apply:

- a. ☒ Public Water Supply b. ☐ Land Containing Shellfish c. ☒ Prevention of Pollution  
d. ☒ Private Water Supply e. ☒ Fisheries f. ☒ Protection of Wildlife Habitat  
g. ☒ Groundwater Supply h. ☒ Storm Damage Prevention i. ☒ Flood Control

2. This Commission hereby finds the project, as proposed, is: (check one of the following boxes)

**Approved subject to:**

- a. ☒ the following conditions which are necessary in accordance with the performance standards set forth in the wetlands regulations. This Commission orders that all work shall be performed in accordance with the Notice of Intent referenced above, the following General Conditions, and any other special conditions attached to this Order. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.

DEP File# CE225-0426

Ridge St./Emerson Place Def. Subdivision

Property recorded at the Registry of Deeds for

County: Norfolk

PLAN REFERENCES:

PLAN YEAR 1957 NO. 339  
PLAN YEAR 1989 NO. 363  
PLAN BOOK 205 NO. 457 AND 458  
PLAN BOOK 433 NO. 533  
PLAN BOOK 677 NO. 42  
LAND COURT PLAN 15728M

DEED REFERENCES:

BOOK 5974 PAGE 244 (PARCELS 20-26&28)  
BOOK 15729 PAGE 230 (PARCEL 20-25)  
BOOK 24970 PAGE 572 (PORTION OF PARCEL 23-04)  
BOOK 37590 PAGE 91 (PARCEL 20-53)  
BOOK 37244 PAGE 254 (PARCEL 20-27)  
BOOK 37590 PAGE 91 (PORTION OF PARCEL 20-53)  
LAND COURT DOC. NO. 657487 (PARCEL 20-25)  
(CERTIFICATE NO, 139613)  
LAND COURT DOC. NO. 1362565 (PARCEL 15-66)  
(CERTIFICATE NO, 194152)





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**B. Findings (cont.)**

**Coastal Resource Area Impacts:** Check all that apply below. (For Approvals Only)

	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
10. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below			
11. <input type="checkbox"/> Land Under the Ocean	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
12. <input type="checkbox"/> Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. <input type="checkbox"/> Coastal Beaches	a. square feet	b. square feet	c. nourishment cu yd	d. nourishment cu yd
14. <input type="checkbox"/> Coastal Dunes	a. square feet	b. square feet	c. nourishment cu yd	d. nourishment cu yd
15. <input type="checkbox"/> Coastal Banks	a. linear feet	b. linear feet		
16. <input type="checkbox"/> Rocky Intertidal Shores	a. square feet	b. square feet		
17. <input type="checkbox"/> Salt Marshes	a. square feet	b. square feet	c. square feet	d. square feet
18. <input type="checkbox"/> Land Under Salt Ponds	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
19. <input type="checkbox"/> Land Containing Shellfish	a. square feet	b. square feet	c. square feet	d. square feet
20. <input type="checkbox"/> Fish Runs	Indicate size under Coastal Banks, Inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above			
	a. c/y dredged	b. c/y dredged		
21. <input type="checkbox"/> Land Subject to Coastal Storm Flowage	a. square feet	b. square feet		
22. <input type="checkbox"/> Riverfront Area	a. total sq. feet	b. total sq. feet		
Sq ft within 100 ft	c. square feet	d. square feet	e. square feet	f. square feet
Sq ft between 100-200 ft	g. square feet	h. square feet	i. square feet	j. square feet



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**B. Findings (cont.)**

\* #23. If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.5.c (BVW) or B.17.c (Salt Marsh) above, please enter the additional amount here.

23. ☐ Restoration/Enhancement \*:

a. square feet of BVW

b. square feet of salt marsh

24. ☒ Stream Crossing(s):

a. number of new stream crossings

3

b. number of replacement stream crossings

**C. General Conditions Under Massachusetts Wetlands Protection Act**

The following conditions are only applicable to Approved projects.

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
  - a. The work is a maintenance dredging project as provided for in the Act; or
  - b. The time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
  - c. If the work is for a Test Project, this Order of Conditions shall be valid for no more than one year.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order. An Order of Conditions for a Test Project may be extended for one additional year only upon written application by the applicant, subject to the provisions of 310 CMR 10.05(11)(f).
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not extend the issuance date of the original Final Order of Conditions and the Order will expire on \_\_\_\_\_ unless extended in writing by the Department.
7. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.



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**C. General Conditions Under Massachusetts Wetlands Protection Act**

8. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.
9. No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to the Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of work.
10. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words,  

"Massachusetts Department of Environmental Protection" [or, "MassDEP"]  
"File Number                      CE225-0426 "
11. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before MassDEP.
12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
13. The work shall conform to the plans and special conditions referenced in this order.
14. Any change to the plans identified in Condition #13 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
15. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.



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

17. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.
18. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.
19. The work associated with this Order (the "Project")
  - (1) ☒ is subject to the Massachusetts Stormwater Standards
  - (2) ☐ is NOT subject to the Massachusetts Stormwater Standards

**If the work is subject to the Stormwater Standards, then the project is subject to the following conditions:**

- a) All work, including site preparation, land disturbance, construction and redevelopment, shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Construction General Permit as required by Stormwater Condition 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.
- b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that:
  - i. all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures;
  - ii. as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized;
  - iii. any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10;



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

iv. all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition;

v. any vegetation associated with post-construction BMPs is suitably established to withstand erosion.

c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 18(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMP Operation and Maintenance Plan ("O&M Plan") and certifying the following:

i.) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and

ii.) the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.

d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Multi-Sector General Permit.

e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 18(f) through 18(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 18(f) through 18(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.

f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.



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

- g) The responsible party shall:
  - 1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location);
  - 2. Make the maintenance log available to MassDEP and the Conservation Commission ("Commission") upon request; and
  - 3. Allow members and agents of the MassDEP and the Commission to enter and inspect the site to evaluate and ensure that the responsible party is in compliance with the requirements for each BMP established in the O&M Plan approved by the issuing authority.
- h) All sediment or other contaminants removed from stormwater BMPs shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.
- i) Illicit discharges to the stormwater management system as defined in 310 CMR 10.04 are prohibited.
- j) The stormwater management system approved in the Order of Conditions shall not be changed without the prior written approval of the issuing authority.
- k) Areas designated as qualifying pervious areas for the purpose of the Low Impact Site Design Credit (as defined in the MassDEP Stormwater Handbook, Volume 3, Chapter 1, Low Impact Development Site Design Credits) shall not be altered without the prior written approval of the issuing authority.
- l) Access for maintenance, repair, and/or replacement of BMPs shall not be withheld. Any fencing constructed around stormwater BMPs shall include access gates and shall be at least six inches above grade to allow for wildlife passage.

Special Conditions (if you need more space for additional conditions, please attach a text document):

**See attached Special Conditions**

- 20. For Test Projects subject to 310 CMR 10.05(11), the applicant shall also implement the monitoring plan and the restoration plan submitted with the Notice of Intent. If the conservation commission or Department determines that the Test Project threatens the public health, safety or the environment, the applicant shall implement the removal plan submitted with the Notice of Intent or modify the project as directed by the conservation commission or the Department.



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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 Millis Conservation Commission hereby finds (check one that applies):

- a. ☐ that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw, specifically:

1. Municipal Ordinance or Bylaw

2. Citation

Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order of Conditions is issued.

- b. ☒ that the following additional conditions are necessary to comply with a municipal ordinance or bylaw:

Millis Wetlands Protection Bylaw

Article XIX

1. Municipal Ordinance or Bylaw

2. Citation

3. The Commission orders that all work shall be performed in accordance with the following conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, the conditions shall control.

The special conditions relating to municipal ordinance or bylaw are as follows (if you need more space for additional conditions, attach a text document):

See Special Conditions attached

## SPECIAL CONDITIONS

**General**

21. The Contractor shall be responsible for ensuring the Project's compliance with the Department of the Army General Permits for Massachusetts (Effective Date April 16, 2018), General Conditions and State-Specific General Condition.
22. Owner gives permission for the Conservation Commission or their representative to enter property for purposes of inspecting work progress, and to periodically inspect the drainage systems, stormwater controls, and wetland resource areas.
23. Care shall be taken during construction and in all placing of fill material to keep materials from being carried to the wetlands.
24. Wetland flagging shall be maintained until a Certificate of Compliance is issued.
25. All work to be performed under this Order of Conditions shall conform to the Town of Millis standards, including the *Land Subdivision Rules and Regulations of the Planning Board of the Town of Millis Massachusetts* (dated July 3, 1974, Amended through April 23, 2002), with specific waivers having been previously granted by the Town of Millis Planning Board, and be in accordance with all project approvals, conditions associated with said approvals, and the documents referenced as part of same.
26. The developer or contractor responsible for the project's completion shall be notified of and understand the requirements of this Order. A copy of the Order shall be on-site while activities regulated by the Order are being performed.
27. This Order shall apply to any successor in control or successor in interest of the property described in the Notice of Intent and accompanying plans.
28. "Millis Business Days", as specified in the document, are defined as Monday through Thursday.

**Pre-Construction**

29. Any changes to the design footprint of retaining walls within jurisdictional areas shall be approved by the Commission prior to construction of said retaining wall either through an accepted field change, Amended Order of Conditions or new NOI / Order of Conditions. The Applicant shall submit the revised design with a letter describing the difference between the permitted and proposed design. A plan illustrating any difference in the permitted and proposed location of the retaining wall shall be provided appended to the letter and design plans.

SPECIAL CONDITIONS

30. Construction activities are not permitted outside of the Limit of Work.
31. Additional resource area impacts beyond the scope of the Notice of Intent DEP File No. CE 225-0426 shall require a new Notice of Intent permit.
32. A copy of the final SWPPP shall be submitted to the Town for review and comment prior to construction.
33. Prior to the commencement of construction activities onsite, there shall be a general Pre-construction Meeting between the project supervisor, the contractor responsible for the work, and the Conservation Commission (or a representative) to ensure that all parties have a copy of the Order of Conditions and that all conditions are clear. Prior to conducting this meeting, erosion controls adjacent to construction areas shall be in place. The applicant shall assume responsibility for arranging the meeting and shall contact all parties no later than five (5) Millis Business Days prior to the meeting.
34. The applicant shall present the following documents at the Pre-Construction Meeting:
  - i. This Order with book and page number of recording.
  - ii. Plans of record.
  - iii. Current Construction Plans.
  - iv. Copies of all permits, authorizations and certificates required to complete the proposed construction activities.
35. Prior to the start of work, the Applicant shall submit to the Commission either:
  - i. A copy of the Self-Verification Form application submitted to the US Army Corps of Engineers and the confirmation of receipt from the Corps.

Or

  - ii. A copy of the Pre-Construction Notification application submitted to the US Army Corps of Engineers and the approval under the General Permit.
36. The applicant shall notify the Conservation Commission at least three (3) Millis Business Days prior to commencement of the initial activity on the Site and shall provide the name(s) and telephone number(s) of all person(s) responsible for compliance with this OOC.

## SPECIAL CONDITIONS

37. In addition to the Pre-construction Site walk for construction the Conservation Commission shall be notified at least two (2) Millis Business Days in advance of work associated with May Road culvert installations to facilitate proper inspection and oversight.
38. Attention is called to General Condition #9 which requires the filing of this Order of Conditions at the Registry of Deeds. It is mandatory that the Registry of Deeds officially stamps the receipt with book and page information and the Applicant return Page 12 to the issuing authority immediately. Work **shall not** commence until the Millis Conservation Commission is in receipt of the Registration Receipt. The Millis Conservation Commission shall be notified as to the name and address of the owner and/or representative of the Home Owner's Association (HOA) such that the Conservation Commission can provide guidance for the protection of wetlands.

**Erosion Controls**

39. The Project shall not result in any increase in turbidity within Resource Areas, Buffer Zones or Mitigation Areas during either normal or significant rainfall events. Excessive turbidity in wetlands or flowing water within, or in the vicinity of the Project site shall be presumed to have unacceptable adverse impacts on Resource Areas and Buffer Zones.
40. Erosion Controls are to consist of 12-inch compost filled silt socks with silt fence in areas within 50 feet of Bordering Vegetated Wetlands, Streams, and Vernal Pools. All other erosion controls within the limit of work may consist of 12-inch compost filled silt socks, unless deemed inadequate by the Conservation Commission after commencement of construction activities, in accordance with WPA Form 5 General Condition #18. The Applicant will work with the Conservation Commission to determine the appropriate additional erosion control measures to be implemented should the Conservation Commission determine that additional erosion control measures are necessary. Neither straw wattles nor straw bales are approved for use within the limit of work.
41. Erosion controls, consisting of 12-inch compost filled silt socks, are to be placed downgradient of any construction staging areas and/or material storage locations if located within the 100-foot Buffer Zone to a resource area.
42. An adequate stockpile of erosion control materials shall be on site at all times for emergency or routine replacement and shall include silt socks, sandbags, or any other devices planned for use during construction.
43. The approved erosion control barriers shall be placed uphill of the edge of the wetlands at the limit of work permitted by this Order and continuously maintained until ground cover has been established. Grading shall be accomplished as soon as

## SPECIAL CONDITIONS

possible to minimize erosion. Seeded slopes shall be covered with straw (not hay) or other means of surface treatment to minimize erosion. Erosion controls also shall be placed at the downslope edge of all stockpiled materials. All erosion controls shall be in place prior to start of construction, inspected monthly, and maintained until a Certificate of Compliance is issued. **After issuance of a Certificate of Compliance, all erosion controls shall be removed by the applicant or the casing is to be cut and spread to facilitate biodegradation.**

44. Construction debris shall not be buried on site. All debris shall be removed from the site and disposed of in accordance with applicable State and local regulations. All unsuitable material or debris (including cut trees and other vegetation, and earth) shall be stockpiled within the permitted limit of work, or 50 feet from the resource area, whichever distance is greater.
45. In stream soil erosion, sediment and turbidity controls (cofferdams, bypass pumping around barriers immediately up and downstream of the work footprint) shall be installed and removed between the dates specified at the Department of the Army, General Permits for Massachusetts (April 2018), State-Specific General Condition 16 for non-tidal streams, unless otherwise approved by the US Army Corps of Engineers.

**During Construction**

46. Prior to conducting clearing and earthwork activities in an area identified as a subsequent phase (in support of the construction activities associated with the current phase), a plan showing the area of intended work, sediment and erosion control measures and proposed temporary re-vegetation/stabilization shall be submitted to the Conservation Commission for review and approval. The limit of work shall be established in the field, erosion control measures installed, and a pre-construction meeting held with the Conservation Commission and/or their representative prior to the commencement of construction activities for subsequent phases.
47. Prior to construction of Phase 2, the Applicant shall submit an interim as-built plan (see SC 62), depicting work that has been completed, at that time, in the current phase, stamped by a PLS (registered in Massachusetts) and request the issuance of a partial COC for said work. The Commission understands that all work associated with the current phase may not be completed prior to starting construction of infrastructure in the next phase, therefore the improvements depicted on the as-built survey may be incomplete. A letter shall accompany the as-built describing said activities that remain incomplete.

**SPECIAL CONDITIONS**

48. Management of May Road stream flow during crossing construction shall be conducted in compliance with the Department of the Army, General Permit for Massachusetts (April 2018), General Conditions and State-Specific General Condition for Aquatic Life Movements, maintaining flow and life cycle movements of species that normally migrate through the area and within the stream. Stream bypass systems shall discharge directly to the stream and shall not be filtered through a dewatering bag.
49. Two rows of 12-inch compost filled silt socks shall be placed downgradient of any dewatering bag/outlet.
50. In order to prevent establishment of non-native invasive species near wetland resource areas, the origin of onsite soils shall be inspected by a wetland scientist, botanist, or other qualified professional prior to clearing in order to determine the likelihood of the material's seed stock containing primarily invasive seed. Soils that are determined to have a primarily invasive seed stock shall not be used as fill within the 100-foot Buffer Zone and/or 200-foot Riverfront Area.
51. In order to maintain as near as possible, the natural environment and to minimize erosion, no excess vegetation or trees shall be cleared beyond the area required for grading.

**Stormwater System Construction**

52. The project engineer shall provide certification to the Commission that the integrity of the soils at the bottom of each retention/detention basin after final excavation, to confirm that the infiltration rate is in compliance with the project design.
53. Construction inspections to be performed by a designee of the Town, with associated cost being paid by the applicant, for erosion control and stormwater management construction including observations of subsoils prior to installation of all infiltration basins.
54. All drain line pipes within the roadways shall meet manufacturer recommendations for pipe cover.

**Wetland Restoration and Monitoring**

55. Erosion controls, 12-inch compost silt socks with silt fence, shall be installed by hand downgradient of the wetland replication area prior to excavation of soils.

## SPECIAL CONDITIONS

56. Soils excavated from the wetlands for construction of May Road shall be stockpiled and used for construction of the wetland replication area if the soil consist of a mixture of equal volumes of organic and mineral materials as described in Wetland Replications Notes on the Project Plans. If supplemental soils are to be brought from offsite, they shall consist of a mix of organic material as specified on the wetland replication plans.
57. Wildlife needs to be able to move in and out of waterways and wetlands into upland buffer areas once replication areas are complete. The silt fence down-gradient of the wetland replication is to be removed by hand as soon as the wetland seed mix has sprouted, the area has become stable and vegetation is becoming established.
58. A watering schedule shall be implemented based primarily on precipitation but will also take into consideration the condition of the plantings and heat waves. During the first grow season (at a minimum), watering shall occur immediately after any 7-day period when less than a total accumulative amount of 1" of rainfall occurs. More frequent watering shall be required if the condition of plantings or extreme heat requires such measures. This schedule shall be adhered to until receipt of a COC.
59. Wetland replication must comply with 310 CMR 10.55(4)(b)(6) 75 percent re-establishment with indigenous wetland plant species within two growing seasons. The applicant is the responsible party for the wetland replication, the monitoring program, and the submittal of progress reports. Wetland replication shall be conducted prior to the first full growing season following issuance of the Order.
- a. The Conservation Commission shall be notified, and a site visit scheduled, when the replication project is completed, and before the start of the first growing season. The project engineer or project biologist shall be present.
  - b. At the end of each growing season a progress report of the relative success or failure of the replication effort shall be conducted by a Professional Biologist, Botanist, or Wetlands Scientist for the applicant, at the applicant's expense, and submitted to the Conservation Commission and the DEP.
  - c. Either at the end of the first growing season or the second growing season (or both), if the success rate is not expected to be or is not 75 percent, active re-planting of the replacement area should be required.
  - d. If at the end of the second growing season, compliance with 310 CMR 10.55(4)(b)(6) is not achieved, the Conservation Commission maintains the right to require additional mitigative measures.
60. An Invasive Species Management Plan (ISMP) shall be implemented by a professional qualified and certified in invasive species management. Monitoring

**SPECIAL CONDITIONS**

Reports shall be submitted to the Conservation Commission detailing any invasive species and recommendations for control and removal. The invasive species specialist shall evaluate the restoration and replacement areas for evidence of colonization by invasive species during prescribed monitoring site visits. Monitoring Reports submitted to the Conservation Commission shall include a listing of any invasive species, and recommendations for control/removal.

61. The restoration and replication areas shall be monitored for a minimum of three years to ensure the successful growth and development of the proposed and installed plant material and vegetation. A qualified wetland professional hired by the developer shall conduct an inspection within six months of planting, again 12 months after planting and then annually each year subsequent. The wetland professional shall provide a written report to the Commission and the property owner after each inspection reporting the condition of the replication area and indicating what steps must be taken (such as replacing dead or compromised plant material, removing colonizing invasive species) to ensure the long-term success of the area. Monitoring shall include, at a minimum, the collection of all data required in Section I and II of the DEP Bordering Vegetated Wetland (310 CMR 10.55) Delineation Field Data Forms. Each report shall include an observed species list, relative abundance of each species, percent cover of upland and wetland species, and the viability of the plants. The property owner shall immediately implement any recommendations or take any action made in the report.

**Post-Construction**

62. All Partial and Final Certificate of Compliance (COC) requests shall be accompanied by an As-Built plan stamped by a PLS licensed in the state of Massachusetts, with a description of any deviations from the Plan of Record, depicting all retention/detention basins and subsurface infiltration systems constructed and all work within the 100' Buffer Zone and 200' Riverfront Area. These plans are to include (if applicable):
  - a. Plan at scale of 1"=40' or same scale as Detail in Approved design plan.
  - b. Topography with 1 or 2-foot contours.
  - c. Wetland resource area boundaries.
  - d. Location and size of wetland replication, restoration or stabilization areas; stream bank and land under water areas at stream crossings.
  - e. Retaining wall base and bridge/footing locations.
  - f. Location and elevations for:
    - i. Retention/detention basins and forebays, check dams, outlet structure orifices, FES, basin bottom, top of berm, toe of slope, emergency spillway and embankment topography; and,
    - ii. All subsurface infiltration systems; and, monitoring wells.
  - g. Location, size and invert elevations of all roof drain and foundation drain outlets, off-road catch basins, swales and all culverts; and,

## SPECIAL CONDITIONS

- h. All deviations depicted in red with approved improvements in gray scale.
63. Prior to, or concurrently with, requesting a final Certificate of Compliance (COC) for the project, the Applicant shall submit a stand-alone Wetland Replication As-Built Plan of the constructed wetland replication areas stamped by a PLS licensed in the state of Massachusetts, with a certified Wetland Scientist certifying item c. Said Wetland Replication As-Built Plan shall show the following:
- Topography with 1 or 2-foot contours;
  - Spot elevations;
  - Plant species.
64. Permanent markers, consisting of 48" x 4" x 4" granite posts with 2 ft. above ground and 2 ft. below, shall be placed along the 50-foot buffer to wetlands, at seventy-five (75) foot intervals within Lots that overlap the 50-foot buffer. Alternatively, large boulders (three-foot diameter min.) may be used in place of the granite posts if available on site. This zone protects the wetlands. A "do not disturb/do not cut/do not mow" zone shall be shown on an 8 ½ x 11-inch Exhibit Plan(s) to be incorporated as part of the HOA documents, and shall also be noted on the as-built plan(s).

Boulders should not be used in lieu of the granite bounds if the 50-foot No-Disturb boundary is beyond the Project's limit of work.

65. Upon completion of the project, the Applicant shall submit with his/her request for a Certificate of Compliance (WPA Form 8A) a filing fee and an As-Built Plan prepared and stamped by a Massachusetts Registered Professional Land Surveyor, registered in the Commonwealth of Massachusetts. Said plan shall note any deviations from the Plan of Record, and Attachment A, Plans and Documents. In addition, a stamped 8 ½ x 11 inch Exhibit As-built Plan must be submitted. Said plan will show the location of permanent markers and be accompanied by the following statement:

The placed boulders are permanent and shall not be removed. The upland area between the boulders and the wetland is a permanent "do-not-disturb" area, with the following exceptions:

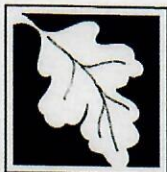
- Annual mowing - after August 1st. for areas that are meadows
  - Invasive species control
  - Removal of diseased trees
  - Removal of trees that impose a danger (no stumping allowed, in this case)
66. As stated in General Condition 14, any change to the plans referenced in this Order of Conditions 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. Failure to do so may result in complications for issuance of the Certificate of Compliance.

SPECIAL CONDITIONS

67. If the area of impervious surface or the area of disturbance (grading) within the Buffer Zone increases by more than ten (10%) percent from the approved proposed plan(s), the Applicant must come before the Commission to request a modification/amendment to this Order of Conditions. Failure to do so may result in complications for issuance of the Certificate of Compliance.

## ATTACHMENT A - PLANS AND DOCUMENTS

- *Emerson Place Definitive Subdivision, Millis, MA – Notice of Intent Application*; dated February 21, 2020; prepared by Legacy Engineering LLC, Signed and Stamped by Daniel J. Merrikin, P.E.
- *Notice of Intent–Peer Review Response Letter* addressing Base Flood Elevation, Stormwater comments, and Wetland Resource Area Performance Standards Compliance Report dated June 6, 2020; prepared by Legacy Engineering and Goddard Consulting LLC (responding to BETA Comment Letter dated April 29, 2020).
- *Wetland Resource Area Performance Standards Compliance Report for Emerson Place Definitive Subdivision*; dated June 6, 2020; prepared by Goddard Consulting LLC.
- *Wetland Resource Area Performance Standards Compliance*; dated June 6, 2020; prepared by Goddard Consulting LLC (responding to BETA Comment Letter dated March 31, 2020).
  - *Wetland Replication Area 1, 6/3/2020 – Planting Map*; prepared by Goddard Consulting LLC.
  - *Wetland Replication Area 2, 6/3/2020 – Planting Map*; prepared by Goddard Consulting LLC.
  - *Wildlife Habitat Evaluations*, dated March 30, 2020; prepared by Goddard Consulting LLC.
- *Riverfront Area Analysis – Stream 3*, dated August 28, 2020; prepared by Goddard Consulting LLC (responding to BETA's request during the July 13, 2020 Millis Conservation Commission Hearing).
- *Intermittent Stream Determination – Stream 1*, dated August 28, 2020; prepared by Goddard Consulting LLC (responding to BETA's request during the July 13, 2020 Millis Conservation Commission Hearing).
- *Notice of Intent–Peer Review Response Letter* addressing Riverfront Area Alternatives Analysis and updated Plan Set, dated August 31, 2020; prepared by Legacy Engineering and Goddard Consulting LLC (responding to BETA Comment Letter dated July 20, 2020).
- *Emerson Place Definitive Subdivision, Millis, MA – Notice of Intent Application, Revised Form 3* dated September 30, 2020; prepared by Legacy Engineering LLC.
- *Emerson Place Definitive Subdivision Plan (35 Sheets)*; dated February 12, 2020, revised through September 28, 2020; prepared by Legacy Engineering LLC, Signed and Stamped by Daniel J. Merrikin, P.E.
- *Wetland Replication Plan* as detailed on Sheet C-31 of the revised September 28, 2020 *Emerson Place Definitive Subdivision Plan*.



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:

#CE225-0426

MassDEP File #

eDEP Transaction #

MILLIS

City/Town

**E. Signatures**

This Order is valid for three years, unless otherwise specified as a special condition pursuant to General Conditions #4, from the date of issuance.

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

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

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.

10/14/2020  
1. Date of Issuance

4  
2. Number of Signers

Signatures:

James A. Lederer  
James A. Lederer

Edward Chisholm

Christine Gavin  
Christine Gavin

☐ by hand delivery on

Date

Daniel Lee

Carol Hayes  
Carol Hayes

John Steadman  
John Steadman

☒ by certified mail, return receipt requested, on

Date 10/15/2020



**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:  
 CE225-0426  
 MassDEP File #

eDEP Transaction #

Millis

City/Town

### **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.



**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:  
CE225-0426  
MassDEP File #

eDEP Transaction #  
Millis  
City/Town

**G. Recording Information**

Prior to commencement of work, this Order of Conditions must be recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land subject to the Order. In the case of registered land, this Order shall also be noted on the Land Court Certificate of Title of the owner of the land subject to the Order of Conditions. The recording information on this page shall be submitted to the Conservation Commission listed below.

Conservation Commission

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

To:

MILLIS

Conservation Commission

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

Ridge St. - Emerson Place

Project Location

CE225-0426

MassDEP File Number

Has been recorded at the Registry of Deeds of:

Norfolk

County

Book

Page

for:

Property Owner

and has been noted in the chain of title of the affected property in:

Book

Page

In accordance with the Order of Conditions issued on:

Date

If recorded land, the instrument number identifying this transaction is:

Instrument Number

If registered land, the document number identifying this transaction is:

Document Number

Signature of Applicant



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

DEP File Number: \_\_\_\_\_

**Request for Departmental Action Fee**  
**Transmittal Form**

Provided by DEP \_\_\_\_\_

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

**A. Request Information**

1. Location of Project

a. Street Address \_\_\_\_\_

b. City/Town, Zip \_\_\_\_\_

c. Check number \_\_\_\_\_

d. Fee amount \_\_\_\_\_

2. Person or party making request (if appropriate, name the citizen group's representative):

Name \_\_\_\_\_

Mailing Address \_\_\_\_\_

City/Town \_\_\_\_\_

State \_\_\_\_\_

Zip Code \_\_\_\_\_

Phone Number \_\_\_\_\_

Fax Number (if applicable) \_\_\_\_\_

3. Applicant (as shown on Determination of Applicability (Form 2), Order of Resource Area Delineation (Form 4B), Order of Conditions (Form 5), Restoration Order of Conditions (Form 5A), or Notice of Non-Significance (Form 6)):

Name \_\_\_\_\_

Mailing Address \_\_\_\_\_

City/Town \_\_\_\_\_

State \_\_\_\_\_

Zip Code \_\_\_\_\_

Phone Number \_\_\_\_\_

Fax Number (if applicable) \_\_\_\_\_

4. DEP File Number: \_\_\_\_\_

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



**B. Instructions**

1. When the Departmental action request is for (check one):

- ☐ Superseding Order of Conditions – Fee: \$120.00 (single family house projects) or \$245 (all other projects)
- ☐ Superseding Determination of Applicability – Fee: \$120
- ☐ Superseding Order of Resource Area Delineation – Fee: \$120



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

DEP File Number:

## Request for Departmental Action Fee Transmittal Form

Provided by DEP

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

### B. Instructions (cont.)

Send this form and check or money order, payable to the *Commonwealth of Massachusetts*, to:

Department of Environmental Protection  
Box 4062  
Boston, MA 02211

2. On a separate sheet attached to this form, state clearly and concisely the objections to the Determination or Order which is being appealed. To the extent that the Determination or Order is based on a municipal bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.
3. Send a **copy** of this form and a **copy** of the check or money order with the Request for a Superseding Determination or Order by certified mail or hand delivery to the appropriate DEP Regional Office (see <https://www.mass.gov/service-details/massdep-regional-offices-by-community>).
4. 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.