



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 #:286-0300
 eDEP Transaction
 #:1722792
 City/Town:SHUTESBURY

A. General Information

1. Conservation Commission SHUTESBURY
 2. Issuance a. OOC b. Amended OOC

3. Applicant Details

a. First Name DONNA & GARY b. Last Name WEST
 c. Organization
 d. Mailing Address 57-59 SHORE DRIVE
 e. City/Town SHUTESBURY f. State MA g. Zip Code 01072

4. Property Owner

a. First Name DONNA & GARY b. Last Name WEST
 c. Organization
 d. Mailing Address 57-59 SHORE DRIVE
 e. City/Town SHUTESBURY f. State MA g. Zip Code 01072

5. Project Location

a. Street Address 57-59 SHORE DRIVE
 b. City/Town SHUTESBURY c. Zip Code 01072
 d. Assessors B e. Parcel/Lot# 411, 412
 Map/Plat#
 f. Latitude 42.50459N g. Longitude 72.42763W

6. Property recorded at the Registry of Deed for:

| a. County | b. Certificate | c. Book | d. Page |
|-----------|----------------|---------|---------|
| FRANKLIN | | 7484 | 337 |
| FRANKLIN | | 3727 | 329 |

7. Dates

a. Date NOI Filed : 7/11/2023 b. Date Public Hearing Closed: 11/9/2023 c. Date Of Issuance: 11/10/2023

8. Final Approved Plans and Other Documents

| a. Plan Title: | b. Plan Prepared by: | c. Plan Signed/Stamped by: | d. Revised Final Date: | e. Scale: |
|--|---------------------------------|----------------------------|------------------------|-----------|
| NOTICE OF INTENT FOR 57-59 SHORE DRIVE | BERKSHIRE DESIGN GROUP | | 7/10/2023 | NO SCALE |
| TIGHT TANK PLAN MAP B LOT 411 & 412, #59 SHORE DRIVE | COLD SPRING ENVIRONMENTAL GROUP | | 8/9/2023 | 1"=20' |



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| | | | |
|--|------------------------|------------|----------|
| NOTICE OF INTENT 59 SHORE DRIVE, SHUTESBURY, MA REVISED SITE PLAN - SHEET L-101 | BERKSHIRE DESIGN GROUP | 4/10/2024 | NO SCALE |
| MEMORANDUM: RESPONSE TO COMMENTS FROM CONSERVATION COMMISSION PROVIDED ON 8/2/23 AND DEP PROVIDED ON 7/18/23 | BERKSHIRE DESIGN GROUP | 9/18/2023 | NO SCALE |
| WW06 SIMPLIFIED LICENSE APPLICATION FOR 59 SHORE DRIVE, SHUTESBURY, MA 01072 | DONNA & GARY WEST | 9/15/2023 | 1"=40' |
| MEMORANDUM: PLAN REVISIONS, O&M PLAN, LETTERS FROM LWA AND OWNER | BERKSHIRE DESIGN GROUP | 11/02/2023 | NO SCALE |
| NOTICE OF INTENT 59 SHORE DRIVE, SHUTESBURY, MA, SITE PLAN AND DETAIL SHEETS 1-3 | BERKSHIRE DESIGN GROUP | 11/02/2023 | 1"=10' |

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 checked="" type="checkbox"/> Public Water Supply | b. <input checked="" type="checkbox"/> Land Containing Shellfish | c. <input checked="" type="checkbox"/> Prevention of Pollution |
| d. <input checked="" type="checkbox"/> Private Water Supply | e. <input checked="" type="checkbox"/> Fisheries | f. <input checked="" type="checkbox"/> Protection of Wildlife Habitat |



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g. Ground Water Supply h. Storm Damage Prevention i. Flood Control

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

Approved subject to:

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

Denied because:

b. The proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect interests of the Act, and a final Order of Conditions is issued. **A description of the performance standards which the proposed work cannot meet is attached to this Order.**

c. The information submitted by the applicant is not sufficient to describe the site, the work or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the interests of the Act, and a final Order of Conditions is issued. **A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(6)(c).**

3. Buffer Zone Impacts: Shortest distance between limit of project disturbance and the wetland resource area specified in 310CMR10.02(1)(a). _____ a. linear feet

| Inland Resource Area Impacts:(For Approvals Only): | | | | |
|---|-----------------------------------|-----------------------------------|-----------------------------------|-----------------------------------|
| Resource Area | Proposed Alteration | Permitted Alteration | Proposed Replacement | Permitted Replacement |
| 4. <input checked="" type="checkbox"/> Bank | <u>235</u> a. linear feet | <u>235</u> b. linear feet | <u>0</u> c. linear feet | <u> </u> d. linear feet |
| 5. <input type="checkbox"/> Bordering Vegetated Wetland | <u> </u> a. square feet | <u> </u> b. square feet | <u> </u> c. square feet | <u> </u> d. square feet |
| 6. <input checked="" type="checkbox"/> Land under Waterbodies and Waterways | <u>115</u> a. square feet | <u>115</u> b. square feet | <u> </u> c. square feet | <u> </u> d. square feet |
| | <u> </u> e. c/y dredged | <u> </u> f. c/y dredged | | |
| 7. <input checked="" type="checkbox"/> Bordering Land Subject to Flooding | <u>943</u> a. square feet | <u>1069</u> b. square feet | <u> </u> c. square feet | <u> </u> d. square feet |
| Cubic Feet Flood Storage | <u>134</u> e. cubic feet | <u>534</u> f. cubic feet | <u> </u> g. cubic feet | <u> </u> h. cubic feet |
| 8. <input type="checkbox"/> Isolated Land Subject to Flooding | <u> </u> a. square feet | <u> </u> b. square feet | | |



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

Coastal Resource Area Impacts:

| Resource Area | Proposed Alteration | Permitted Alteration | Proposed Replacement | Permitted Replacement |
|--|---|-----------------------------|-----------------------------|-----------------------------|
| 10. <input type="checkbox"/> Designated Port Areas | Indicate size under Land Under the Ocean, below | | | |
| 11. <input type="checkbox"/> Land Under the Ocean | <u> </u> | <u> </u> | | |
| | a. square feet | b. square feet | | |
| | <u> </u> | <u> </u> | | |
| | c. c/y dredged | d. c/y dredged | | |
| 12. <input type="checkbox"/> Barrier Beaches | Indicate size under Coastal Beaches and/or Coastal Dunes below | | | |
| 13. <input type="checkbox"/> Coastal Beaches | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
| | a. square feet | b. square feet | c. c/y nourishment | d. c/y nourishment |
| 14. <input type="checkbox"/> Coastal Dunes | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
| | a. square feet | b. square feet | c. c/y nourishment | d. c/y nourishment |
| 15. <input type="checkbox"/> Coastal Banks | <u> </u> | <u> </u> | | |
| | a. linear feet | b. linear feet | | |
| 16. <input type="checkbox"/> Rocky Intertidal Shores | <u> </u> | <u> </u> | | |
| | a. square feet | b. square feet | | |
| 17. <input type="checkbox"/> Salt Marshes | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
| | a. square feet | b. square feet | c. square feet | d. square feet |
| 18. <input type="checkbox"/> Land Under Salt Ponds | <u> </u> | <u> </u> | | |
| | a. square feet | b. square feet | | |
| | <u> </u> | <u> </u> | | |
| | c. c/y dredged | d. c/y dredged | | |
| 19. <input type="checkbox"/> Land Containing Shellfish | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
| | 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 | | | |
| | <u> </u> | <u> </u> | | |
| | c. c/y dredged | d. c/y dredged | | |
| 21. <input type="checkbox"/> Land Subject to Coastal Storm Flowage | <u> </u> | <u> </u> | | |
| | a. square feet | b. square feet | | |



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22.

Restoration/Enhancement (For Approvals Only)

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

_____ a. square feet of BVW

_____ b. square feet of Salt Marsh

23.

Streams Crossing(s)

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

_____ a. number of new stream crossings

_____ b. number of replacement stream crossings

C. General Conditions Under Massachusetts Wetlands Protection Act

The following conditions are only applicable to Approved projects

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



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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 : "286-0300"
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



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- construction period sediment trapped in inlet and outlet control structures; *ii.* as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized; *iii.* any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10; *iv.* all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition; *v.* any vegetation associated with post-construction BMPs is suitably established to withstand erosion.
- c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 19(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMP Operation and Maintenance Plan ("O&M Plan") and certifying the following: *i.*) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and *ii.*) the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.
 - d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollutant Discharge Elimination System Multi-Sector General Permit.
 - e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 19(f) through 19(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 19(f) through 19(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.
 - f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.
 - g) The responsible party shall:
 - 1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location);
 - 2. Make the maintenance log available to MassDEP and the Conservation Commission ("Commission") 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



**Massachusetts Department of Environmental
Protection**

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prior written approval of the issuing authority.

- k) Areas designated as qualifying pervious areas for the purpose of the Low Impact Site Design Credit (as defined in the MassDEP Stormwater Handbook, Volume 3, Chapter 1, Low Impact Development Site Design Credits) shall not be altered without the prior written approval of the issuing authority.
- l) Access for maintenance, repair, and/or replacement of BMPs shall not be withheld. Any fencing constructed around stormwater BMPs shall include access gates and shall be at least six inches above grade to allow for wildlife passage.

Special Conditions:

SEE ATTACHED FINDINGS AND SPECIAL CONDITIONS.



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D. Findings Under Municipal Wetlands Bylaw or Ordinance

1. Is a municipal wetlands bylaw or ordinance applicable? Yes No

2. The 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.

SHUTESBURY
GENERAL
WETLANDS
PROTECTION
BYLAW

1. Municipal Ordinance or Bylaw _____

2. Citation _____

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

The special conditions relating to municipal ordinance or bylaw are as follows:
SEE ATTACHED FINDINGS AND SPECIAL CONDITIONS.



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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.

11/10/2023
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.

3
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:

Beth Willson

Bob Douglas

Janice Rowan

by hand delivery on

by certified mail, return receipt requested, on

Date

Date

5/14/24

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.

G. Recording Information

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



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subject to the Order of Conditions. The recording information on this page shall be submitted to the Conservation Commission listed below.

SHUTESBURY
Conservation Commission

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

To:
SHUTESBURY
Conservation Commission

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

57-59 SHORE DRIVE
Project Location

286-0300
MassDEP File Number

Has been recorded at the Registry of Deeds of:

County Book Page

for:
Property Owner DONNA & GARY WEST

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

Rev. 4/1/2010

SHUTESBURY CONSERVATION COMMISSION

SPECIAL CONDITIONS FOR AMENDED ORDER OF CONDITIONS

57-59 Shore Drive

Date of Issuance: 11/10/2023

DEP File Number: 286-0300

Applicants: Donna and Gary West

Consultants: Berkshire Design Group

FINDINGS OF FACTS

F-1. The Applicant has proposed changes to the project since the original Order of Conditions was issued. These changes are reflected in this Amended Order of Conditions. Project changes include:

a. Changing the layout and footprint of the house including removal of the garage, storage room, and retaining wall on the north end of the building, and addition of a raised deck on piers at the southwest corner of the building. These changes decrease the overall footprint of the house. The former garage area will now be part of the gravel driveway.

b. There are no changes to the approved stormwater management plan or planting plan for the site. There are no additional impacts to resource areas including the AURA from the project changes. All amended portions of these special conditions are in BOLD.

F-2. The Shutesbury Conservation Commission (hereafter, “the Commission) finds that the proposed project lies within jurisdictional Resource Areas as defined by the Wetlands Protection Act (hereafter, “the WPA”; MGL Chapter 131, § 40), the WPA Regulations (310 CMR 10.00), and Shutesbury General Wetlands Protection Bylaw (hereafter, “the Bylaw”) and Bylaw Regulations.

F-3. The Commission finds that the following Protected Resource Areas under the Wetlands Protection Act and Shutesbury General Wetlands Protection Bylaw, exist on this site:

- a. the Bank of Lake Wyola;
- b. Land under Water Bodies and Waterways (LUWW);
- c. Bordering Land Subject to Flooding as mapped as the 100-year flood plain;
- d. the 100-foot Buffer Zone (Adjacent Upland Resource Area or AURA) to the Bank of Lake Wyola;
- e. an Intermittent Stream and its Bank, as currently represented by a culvert;
- f. the 100-foot Buffer Zone (Adjacent Upland Resource Area or AURA) to the Intermittent Stream;

F-4. The Commission finds that the Intermittent Stream, currently culverted, meets the definitions of an Intermittent Stream in 310 CMR 10.58, based on Commission site visits on 7/19/23, 10/2/23 and 10/3/23, in which a defined stream channel, surface hydrology and

intermittent water flow, and hydrologically connected, upgradient Bordering Vegetated Wetlands were identified. Surface flow was not observed on 7/19/23. Based on field observations, this Intermittent Stream borders on an upgradient Bordering Vegetated Wetland near Wendell Road to the east. This intermittent stream channel drains through the property at 52 Shore Drive and enters a roadside swale that connects to 59 Shore Drive. Currently, the Bank of the Intermittent Stream is represented by a buried culvert pipe on 57-59 Shore Drive, draining directly into Lake Wyola.

- F-5. The property site consists of two combined parcels for 57 and 59 Shore Drive. The project proposes to demolish and reconstruct a single family home with a new tight tank septic system, a gravel driveway, retaining walls, and changes to grade within the AURA/100-foot Buffer Zone. The parcel associated with 57 Shore Drive previously had a 1,000 square foot home on it which the Applicants demolished in 2022. Three trees were also removed from this site at that time. The existing home at 59 Shore drive is 900 square feet in area. The Applicant proposes to demolish the existing home and septic system. The new home construction as proposed includes a 2,000-square-foot home and garage. A new tight-tank septic system is proposed but not yet permitted by the Shutesbury Board of Health. The area of the two combined lots is 13,520 square feet. The proposed total area of AURA alterations involve approximately 12,720 square feet or approximately 94% of the total area of the property.
- F-6. The Applicant proposes to remove the 12-inch culvert that constitutes the Bank of the Intermittent Stream and restore the stream bed elsewhere on the property. The proposed changes include redirecting the stream, installing a sediment forebay, and daylighting the stream into a newly constructed vegetated swale to Lake Wyola. The Commission finds that these changes shall improve water quality and the natural functions of the stream. Total linear feet of proposed Bank alteration, including both the stream Bank and the Bank of Lake Wyola amount 235 linear feet.
- F-7. The Applicant is seeking a permit for a pre-existing, permanent wooden dock extending into Lake Wyola. The dock consists of approximately 130 square feet of wooden decking. Proof of a Chapter 91 MassDEP Waterways Program application has been provided to the Commission. The Commission finds that a permanent dock that exists on the site does not currently have a MassDEP Waterways Program Chapter 91 license as of the date of this Order. This Order includes approval of the permanent dock, provided that all applicable state statutes and regulations are complied with. Although not under the jurisdiction of the Commission, the Applicant is responsible for full compliance with any requirements of the Massachusetts Department of Environmental Protection Waterways Program (MGL Chapter 91) as a condition of this Order of Conditions (See Special Condition #11 below).
- F-8. The parcel consisting of the former 57 Shore Drive was previously cleared of trees in 2022. The Applicants propose removing several trees and shrubs on the 59 Shore Drive parcel, and a re-planting plan has been proposed.
- F-9. Proposed erosion controls include a staked silt fence with strawbales.
- F-10. 310 CMR 10.54(4)(a) states that where the presumption set forth in 310 CMR 10.54(3) is not overcome, any proposed work on a Bank shall not impair the physical stability of the Bank or the water carrying capacity of the existing channel within the Bank. The Commission finds that the proposed work, including the daylighting of the Intermittent

Stream sufficiently meets this requirement to protect the Interests of the WPA and the Values of the Bylaw.

- F-11. The Commission does not approve the proposed work as a Limited Project under 310 CMR 10.53(3).
- F-12. The project involves work in the Bank and LUWW of Lake Wyola. Lake Wyola is a Great Pond and is listed as Priority Habitat by the Massachusetts Natural Heritage and Endangered Species Program (NHESP). Although not under the jurisdiction of the Commission, the Applicant is responsible for full compliance with any requirements of the Massachusetts Natural Heritage and Endangered Species Program (NHESP). In its 10/24/23 letter, NHESP informed the Commission that the Division determined the project, as proposed, will not adversely affect Resource Area Habitat of state-protected rare wildlife species.
- F-13. Work permitting under this Order of Conditions shall conform to the following plans and documents contained in the following documents:
- a. "Notice of Intent for 57-59 Shore Drive," prepared by Berkshire Design Group, dated July 10, 2023;
 - b. "Tight Tank Plan Map B Lot 411 & 412, #59 Shore Drive," prepared by Cold Spring Environmental Consultants, dated August 9, 2023;
 - c. "Memorandum: Responses to Comments from Conservation Commission provided on 8/2/23 and DEP provided on 7/18/23," prepared by Berkshire Design Group, dated September 28, 2023;
 - d. "WW06 Simplified License Application for 59 Shore Drive, Shutesbury, MA 01072," dated September 15, 2023;
 - e. "Memorandum: Plan Revisions, O&M Plan, Letters from LWA and Owner," prepared by Berkshire Design Group, dated November 2, 2023;
 - f. "Notice of Intent 59 Shore Drive, Shutesbury MA Site Plan and Details," Sheets 1-3, prepared by Berkshire Design Group, revised November 2, 2023.
 - g. "Notice of Intent 59 Shore Drive, Shutesbury, MA Revised Site Plan", Sheet L-101, prepared by Berkshire Design Group, dated April 10, 2024.**
- F-14. The Commission finds there is no practicable and substantially equivalent economic alternative to the proposed project with less adverse effects on the Interests identified in the Wetlands Protection Act and its Regulations, and on the Values protected by the Shutesbury General Wetlands Protection Bylaw and its Regulations.
- F-15. The Special Conditions issued below, under the WPA and the Shutesbury General Wetlands Protection Bylaw hereby incorporate the General Conditions #1 - #19 under the WPA Order of Conditions and General Conditions #1 - #18 under the Bylaw Order of Conditions.
- F-16. The Commission finds that the Applicants have partially rebutted the presumption of an adverse effect on the Protectable Resource Areas, contingent upon this Order of Conditions with the Special Conditions below, including all Perpetual Conditions listed herein.

GENERAL CONDITIONS

1. A member of the Conservation Commission or its agent may enter and inspect the property and the activity that are the subjects of this Order at all reasonable times, with or without probable cause or prior notice, and until a Certificate of Compliance is issued, for the limited purpose of evaluating compliance with this Order.
2. The term “Applicant” as used in this Order of Conditions shall refer to the owner, any successor in interest or successor in control of the property referenced in the Notice of Intent, supporting documents and these Special Conditions/Order of Conditions.
3. This document shall be included by reference in all contracts, plans and specifications dealing with the activity that is the subject of this Order, and that are created or modified after the issuance date of this Order, along with a statement that this Order shall supersede any conflicting contractual arrangements, plans or specifications.
4. The Applicant shall provide a copy of this Order to the person or persons supervising the activity that is the subject of this Order and shall be responsible for ensuring that all persons performing the permitted activity are fully aware of the terms and conditions of this Order.
5. Any person performing work on the activity that is the subject of this Order is individually responsible for understanding and complying with the requirements of this Order, the Act, 310 CMR 10.00, the Shutesbury General Wetlands Protection Bylaw and the Shutesbury General Wetland Bylaw Regulations.
6. This Order authorizes only the activity described on the approved plan(s) and approved documents referenced in this Order. Any other or additional activity in areas within the jurisdiction of the Commission shall require separate review and approval by the Commission.
7. If any change is made in the above-described plan(s) which may or will alter a Resource Area subject to protection under the Wetlands Protection Act, 310 CMR 10.00, the Shutesbury General Wetlands Protection Bylaw, and Bylaw Regulations, the Applicants shall inquire from this Commission or its agent, prior to implementing the change in the field, whether the change is significant enough to require the filing of a new Notice of Intent or an Order of Conditions. Any errors in the plans or information submitted by the Applicants shall be considered changes and the above procedures shall be followed.
8. It is the responsibility of the Applicants to complete any review required by all agencies with jurisdiction over the activity that is the subject of this Order, and to procure all required permits or approvals. These reviews, permits and approvals may include, but are not limited to, the following: U.S. Army Corps of Engineers, MassDEP, Massachusetts Natural Heritage & Endangered Species Program, and any local boards or building inspectors.
9. Prior to the start of any work and no later than 30 days from the issuance of this Order, the Commission shall receive in writing a letter with an original signature from the Applicants, stating that they have read the Order of Conditions and understand the Conditions.
10. Within 30 days of the issuance of this Order and before any work commences, the Applicants shall provide the Commission with proof of having recorded the Orders of Conditions with the Franklin County Registry of Deeds.

11. Pursuant to WPA General Conditions #1 and #3 and Bylaw General Conditions #1 and #4, a full Certificate of Compliance shall not be issued until the Applicant has furnished the Commission with proof of having recorded a Chapter 91 License at the Franklin Registry of Deeds or the Applicant has provided a written statement to the Commission that the dock has been removed and discontinued permanently. Should any substantive change in the dock design or layout be required by the MassDEP Waterways Program (Chapter 91), the Applicant shall submit an Amended Order of Conditions Request.
12. Should any substantive change in the approved design be required by any other regulatory body, the Applicant shall submit an Amended Order of Conditions Request.

PRE-CONSTRUCTION PHASE CONDITIONS

13. Prior to any work commencing on the site, the applicant shall display the DEP File Number for this Order (#286-0300) on a sign with minimum dimensions of two feet by two feet at a location clearly visible from the street. The sign shall remain in place and visible until a Certificate of Compliance is issued for the activity.
14. Prior to the commencement of any other activity on this site, the approved erosion control shall be installed as indicated on the approved plan. Immediately after installation of erosion controls, the Conservation Commission shall be contacted to conduct a Pre-Construction Site visit to inspect and approve the erosion controls. No further work shall commence until the Commission has reviewed and approved the erosion controls.
15. The Applicant shall notify the Commission by email at concom@shutesbury.org 48 hours before the commencement of any approved work.

CONSTRUCTION-PHASE CONDITIONS

16. The Applicant shall add additional armoring to the Bank of Lake Wyola at the outlet of the vegetated swale to prevent erosion and reduce perching.
17. Erosion controls shall be in place prior to the beginning of any phases of construction and shall be maintained during construction and until the site is fully stabilized and revegetated. The erosion control specifications provided in the Notice of Intent and the erosion controls provision in this Order shall be the minimum standards for this project.
18. The approved erosion controls shall serve at the limit of all work. Workers shall be informed that no use of machinery, storage of machinery or materials, stockpiling of soil, or construction activity is to occur beyond this line at any time.
19. Erosion controls shall be inspected by the Applicant daily on workdays and within twenty-four (24) hours of any significant rain events consisting of ½-inch or more of precipitation within a 24-hour period. At a minimum, erosion controls shall be inspected once a week during construction and until the site is fully stabilized and revegetated.
20. Any contractors responsible for the work shall comply with the Stormwater Management System Operation & Maintenance Plan outlined in Appendix A of this Order, except that the Commission shall be notified by email to concom@shutesbury.org within 24 hours of any any significant failure of stormwater management systems or erosion and sediment control

measures and shall be notified of any release of pollutants to any water body (stream, brook, pond, etc.) or Resource Area subject to the jurisdiction of the Commission.

21. Erosion controls shall be replaced/repared as necessary to ensure they are functional for the duration of the project and until the site is fully stabilized. Any material accumulated behind the silt fence barrier shall be removed promptly. Such material must be deposited in an approved upland location outside of any Resource Area, including the AURA, that is subject to the jurisdiction of the Commission. No work may proceed on the site until damage to the erosion controls has been corrected.
22. An adequate stockpile of erosion control materials shall be on site at all times for emergency or routine repairs.
23. At any time before, during or after construction, and until the issuance of a Certificate of Compliance, the Commission or its agent may require the Applicants to modify, augment, restore or maintain erosion control measures associated with the activity that is the subject of this Order.
24. Unconsolidated materials and debris piles shall remain under double-tarps (top and bottom) and shall be surrounded by a double-staked row of straw bales or straw wattles to prevent contact with rainwater. Any opening to the pile area shall be on the opposite side, away from the Bank of Lake Wyola.
25. All debris, either pre-existing or due to construction, shall be removed from the site by the time the construction is completed.
26. All equipment shall be inspected regularly for leaks. Any leaking hydraulic lines, cylinders or any other components shall be fixed immediately. Equipment must be maintained to prevent leakage or discharge of such pollutants. Equipment for fuel storage and refueling operations shall be located outside all areas within the jurisdiction of the Commission. Servicing and overnight storage of equipment (refueling, changing, adding, or applying lubricants or hydraulic fluids) must be done outside of the 100-foot AURA.
27. Used petroleum products, resulting from the maintenance of construction equipment, and construction debris, shall be collected and properly disposed of off-site. No on-site disposal of those items is allowed.
28. All equipment shall be operated, parked, and maintained so as to limit alterations of Resource Areas, including the AURA, to those areas clearly identified on the plans and demarcated in the field by the flagging and erosion controls. No equipment is to enter or cross wetland Resource Areas at any time unless the location of disturbance is marked on the plans referenced in this Order and flagged in the field.
29. Construction material and equipment shall be stored in a manner and location that will minimize the compaction of soils and the concentration of runoff and/or siltation.
30. No material of any kind may be buried, placed, or dispersed in Resource Areas, including the AURA, within the jurisdiction of the Commission by activities that are the subject of this Order, except as are expressly permitted by this Order or the plans approved herein.
31. Any material placed in protected Resource Areas by the Applicant without express authorization under this Order shall be removed by the applicant upon demand by the Conservation Commission or its agent.

32. Should water flow or surface water be present on the site during construction, the Applicant shall take appropriate measures to ensure that water is appropriately filtered for sediments.
33. No discharge of water without proper sediment and erosion control is allowed directly into a Resource Area subject to the jurisdiction of the Wetlands Protection Act or the Shutesbury General Wetlands Protection Bylaw.
34. The Commission reserves the right to impose additional conditions on portions of this project to mitigate any impacts which could result from site erosion, or any noticeable degradation of surface water quality discharging from the site, including additional dewatering measures.
35. Site grading and construction shall be scheduled to avoid periods of high surface water. Once begun, grading and construction shall continue in an expeditious manner to minimize the opportunity for erosion.
36. All slopes shall be stabilized immediately with permanent or temporary stabilization methods if heavy rain (at least ½-inch within a 24-hour period) is predicted.
37. All exposed soil finish grade surfaces, disturbed areas, slopes, and proposed landscape areas shall be landscaped and stabilized, or loamed, seeded, and mulched with a 1-inch (1”) layer of mulch straw or through the use of other approved means. Such stabilization work must be completed within five (5) days of the completion of construction. Outside of the growing season, exposed soil finish grade surfaces shall be stabilized with a three inch (3”) layer of mulch until climate conditions allow for seeding. During construction, any area of exposed soils that will be left idle for more than fourteen (14) days shall be stabilized with a layer of mulch or other means approved by the Commission. Temporary stabilization methods may include, but not be limited to, straw mats, jute netting, or erosion blankets. Continued maintenance of this area, in a manner which assures permanent stabilization and precludes any soil erosion, shall be the responsibility of the Applicants.
38. Areas slated for reseeding shall be seeded with a Conservation Mix grass seed as described in the Notice of Intent. Subsequent to seeding, disturbed areas will be covered with a straw mulch, erosion control blanket or netting, or other suitable material in order to provide an adequate surface protection until seed germination. No hay shall be permitted. Preference should be given to erosion control netting with biodegradable stitching.

POST-CONSTRUCTION

39. Upon 30 days of completion of the project, the Applicant shall contact the Commission to arrange a Post-Construction Site Visit.
40. Upon completion of construction and final soil stabilization, the Applicant shall submit the following to the Commission to request a Certificate of Compliance (COC):
 - (1) A Completed Request for a Certificate of Compliance form (WPA Form 8A or other form if required by the Conservation Commission at the time of request).
 - (2) A letter from a Registered Professional Engineer certifying compliance of the property with this Order of Conditions, and detailing any deviations that exist, and their potential effect on the project. A statement that the work is in “substantial compliance” with no detailing of the deviations shall not be accepted.

(3) An "As-Built" plan signed and stamped by a Registered Professional Engineer, Land Surveyor, or equivalent professional showing post-construction conditions within all areas under the jurisdiction of the WPA and the Bylaw. This plan shall include at a minimum:

- (a) all wetland resource area boundaries with associated buffer zones and regulatory setback areas taken from the plan(s) approved in this Order of Conditions;
- (b) locations and elevations of all stormwater management conveyances, structures and best management designs, including foundation drains, constructed under this Order within any Resource Area, including the AURA;
- (c) distances from any structures constructed under this Order to Resource areas - "structures" include, but are not limited to, all buildings, septic system components, wells, utility lines, fences, retaining walls, and roads/driveways;
- (d) a line delineating the limit of work - "work" includes any filling, excavating and/or disturbance of soils or vegetation approved under this Order;
- (e) wetland resource replication areas constructed under this Order.

(4) Post-construction photographs demonstrating compliance with this Order, including established vegetation where required.

- 40. The property owner of record or designee shall be responsible for the maintenance and repair of the Stormwater Management System as designed and described in Appendix A of this Order. The design capacity, storm water management treatment capacity and structural integrity of these facilities must be maintained. This Condition shall survive the expiration of this Order and shall be included as a continuing condition in perpetuity on the Certificate of Compliance.
- 41. Pesticides, herbicides, and fungicides shall not be used within 100 feet of the wetlands (includes stream bank). Organic pesticides, herbicides, or fungicides may be used subject to the review and approval of the Conservation Commission. This Condition shall survive the expiration of this Order and shall be included as a continuing condition in perpetuity on the Certificate of Compliance.
- 42. Only slow-release organic granular type fertilizers shall be used within 100 feet of the wetlands (includes stream bank). This Condition shall survive the expiration of this Order and shall be included as a continuing condition in perpetuity on the Certificate of Compliance.
- 43. Erosion control devices shall remain in place and properly functioning until all exposed soils have been stabilized with final vegetative cover and the Conservation Commission has authorized their removal. Once removal is authorized, erosion control shall be removed within two (2) weeks.

Town of Shutesbury Conservation Commission

Form 5 – Order of Conditions

Shutesbury General Wetlands Protection Bylaw (SWPB)

File # 286-0300

Shutesbury General Wetlands Protection Bylaw Regulations

A. Applicant Information

From: Shutesbury Conservation Commission

This issuance is for an:

Order of Conditions

Amended Order of Conditions

1. To Applicant:

Donna and Gary West

Name

Organization

57-59 Shore Drive

Mailing Address

Shutesbury

MA

01072

City / Town

State

Zip Code

Property Owner (if different from applicant):

Name

Mailing Address

City / Town

State

Zip Code

Project Location:

57-59 Shore Drive, Shutesbury, MA

42.50459N/-72.42763W

Street Address

Latitude/Longitude

B

411, 412

Assessors Map / Plat Number

Parcel / Lot #

2. Property recorded at the Registry of Deeds for:

Town of Shutesbury Conservation Commission

Form 5 – Order of Conditions

Shutesbury General Wetlands Protection Bylaw (SWPB)

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Shutesbury General Wetlands Protection Bylaw Regulations

| | | |
|----------|-----------|---------|
| Franklin | 7484/3727 | 337/329 |
| County | Book | Page |

Certificate (if registered land)

3. Dates:

| | | |
|-----------------------------|----------------------------|------------------|
| 7/11/2023 | 11/09/2023 | 11/10/2023 |
| Date Notice of Intent Filed | Date Public Hearing Closed | Date of Issuance |

4. Final Approved Plans and other Documents (attach plan references as needed):

| | |
|-------|------|
| Title | Date |
|-------|------|

5. Final Plans and Other Documents Signed and Stamped by:

| Plan Title | Prepared By/Signed and Stamped by | Scale | Final Revision Date |
|---|---------------------------------------|----------|---------------------|
| “Notice of Intent for 57-59 Shore Drive,” | Berkshire Design Group | No scale | July 10, 2023 |
| “Tight Tank Plan Map B Lot 411 & 412, #59 Shore Drive” | Cold Spring Environmental Consultants | 1”=20’ | August 9, 2023 |
| “Memorandum: Responses to Comments from Conservation Commission provided on 8/2/23 and DEP provided on 7/18/23” | Berkshire Design Group | NS | September 28, 2023 |
| “WW06 Simplified License Application for 59 Shore Drive, Shutesbury, MA 01072” | Donna and Gary West | 1”=40’ | September 15, 2023 |
| “Memorandum: Plan Revisions, O&M Plan, Letters from LWA and Owner” | Berkshire Design Group | NS | November 2, 2023 |
| “Notice of Intent 59 Shore Drive, Shutesbury MA Site Plan and Details,” Sheets 1-3 | Berkshire Design Group | 1”=10’ | November 2, 2023 |
| “Notice of Intent 59 Shore Drive, Shutesbury MA Revised Site Plan - Sheet L-101” | Berkshire Design Group | 1”=10’ | April 10, 2024 |

B. Findings

Findings pursuant to the Shutesbury General Wetlands Protection Bylaw & Regulations:

Town of Shutesbury Conservation Commission

Form 5 – Order of Conditions

Shutesbury General Wetlands Protection Bylaw (SWPB)

File # 286-0300

Shutesbury General Wetlands Protection Bylaw Regulations

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 area in which work is proposed is significant to the following interests of the Wetlands Protection Regulations. Additional Findings may be attached to this Order. Check all that apply:

- | | | |
|---|---|--|
| <input checked="" type="checkbox"/> Public Water Supply | <input checked="" type="checkbox"/> Flood Control | <input checked="" type="checkbox"/> Fisheries |
| <input checked="" type="checkbox"/> Private Water Supply | <input checked="" type="checkbox"/> Erosion and Sedimentation Control | <input checked="" type="checkbox"/> Storm Drainage |
| <input checked="" type="checkbox"/> Groundwater and Groundwater Quality | <input checked="" type="checkbox"/> Storm Damage Prevention | <input checked="" type="checkbox"/> Runoff |
| <input checked="" type="checkbox"/> Surface Water & Surface Water Quality | <input checked="" type="checkbox"/> Water Pollution | <input checked="" type="checkbox"/> Wildlife Habitat |
| <input type="checkbox"/> Recreation | <input type="checkbox"/> Aesthetics | <input type="checkbox"/> Historic Values |
| <input type="checkbox"/> Agriculture | <input type="checkbox"/> Aquaculture | |

Furthermore, this Commission hereby finds the project as proposed, is (check one of the following boxes)

- Approved** subject to: **Shutesbury Wetland Protection Bylaw**

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

- Denied** because:

The proposed work cannot be conditioned to meet the performance standards set forth in the Shutesbury Wetland Regulations and to protect those interests checked above. 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 these interests, and a final Order of Conditions is issued.

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 Shutesbury General Wetlands Protection Bylaw / Regulations.

Town of Shutesbury Conservation Commission

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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 to protect the Bylaw’s interests, and 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 of Conditions.

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

| Resource Area | Proposed Alteration | Permitted Alteration | Proposed Replacement | Permitted Replacement |
|---|-----------------------------------|------------------------------------|-----------------------------|------------------------------|
| AURA | 12,720 square feet | 12,720 square feet | | |
| Bordering Vegetated Wetland | square feet | square feet | square feet | square feet |
| Isolated Wetland | square feet | square feet | square feet | square feet |
| Land Under Waterbodies and Waterways | 115 square feet | 115 square feet | square feet | square feet |
| Bordering Land Subject to Flooding | c/y dredged 943 square feet | c/y dredged 1069 square feet | square feet | square feet |
| Cubic Feet Flood Storage | 134 cubic feet | 534 cubic feet | cubic feet | cubic feet |
| Isolated Land Subject to Flooding | square feet | square feet | | |
| Cubic Feet Flood Storage | cubic feet | cubic feet | cubic feet | cubic feet |
| Intermittent Stream | 235 Linear feet Of Bank. | 235 Linear feet Of Bank | | |

General Conditions (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. The Agent or members of the Conservation Commission and Massachusetts 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.

Town of Shutesbury Conservation Commission

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4. 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.
5. This Order does not become final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Massachusetts Department of Environmental Protection have been completed.
6. The work authorized hereunder shall be completed within three years form the date of this Order of Conditions 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.
7. No work shall be undertaken until the Order has become final and has been recorded in the Registry of Deeds or the Land Court in Franklin County, 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 this Conservation Commission prior to the commencement of work.
8. Where the Massachusetts 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 the Department.
9. Any change to the final plans as approved shall require the applicant to make a request in writing, submitted to the Conservation Commission, whether the change is significant enough to require the filing of a new Notice of Intent.
10. 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.
11. 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 maintained until a Certificate of Compliance has been issued by the Conservation Commission.
12. 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 their designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed.

Town of Shutesbury Conservation Commission

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Shutesbury General Wetlands Protection Bylaw (SWPB)

File # 286-0300

Shutesbury General Wetlands Protection Bylaw Regulations

13. Any excess material (e.g., soil and/or spoil) which is to remain on the Applicant's site, as well as all areas of disturbed soil, shall be stabilized with the appropriate materials (e.g. mulch, grass, and/or plantings) to prevent erosion and sedimentation.
14. No hay may be used for erosion controls.
15. 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 Town of Shutesbury Conservation Commission.
16. Any excess material (e.g., soil and/or spoil) which is to be removed from the site is to be removed of in a legal manner.
17. Notwithstanding the foregoing conditions, the Applicant is responsible throughout the construction period to take any and all measures necessary to protect the Wetland Resource Area. Should any damage occur during the courses of construction, the Applicant, as the responsible party shall bear the full cost of restoring the Wetland to the satisfaction of the commission.
18. Upon completion of the project the Applicant shall submit the following information to the Shutesbury Conservation Commission in order to receive a Certificate of Compliance.
 - a. Two request forms for a Certificate of Compliance (WPA Form 8A and SWPB Form 8A);
 - b. A written statement from a registered Professional engineer that the project is in compliance with this document and referenced plans, and if different from the original plan, how and where it differs;
 - c. A signed and stamped as-built plan;
 - d. A written statement from a qualified wetland scientist attesting to compliance with state and local regulations as required for wetland replication and/or restoration areas. The wetland replication areas shall be monitored through two growing seasons to achieve required standards.

SPECIAL CONDITIONS: See attached Findings and Special Conditions.

Town of Shutesbury Conservation Commission

Form 5 – Order of Conditions

Shutesbury General Wetlands Protection Bylaw (SWPB)

File # 286-0300

Shutesbury General Wetlands Protection Bylaw Regulations

This Order is valid for three years from the date of issuance, unless otherwise specified as a special condition pursuant to General Conditions #6, from the date of issuance.

Original Order issued 11/10/2023

Date of Issuance

Order of Conditions Expiration Date: 11/10/2026

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 must be mailed to the MA Department of Environmental Protection Regional Office at the same time and the property owner (if different from the applicant).

See Attached 2020 Certificate of Vote authorizing digital signatures.

Signatures:

Beth Willson

Beth Willson

Robert Douglas

Robert Douglas

Janice Rowan

Janice Rowan

Scott Kahan

Town of Shutesbury Conservation Commission

Form 5 – Order of Conditions

Shutesbury General Wetlands Protection Bylaw (SWPB)

File # 286-0300

Shutesbury General Wetlands Protection Bylaw Regulations

This Order is issued to the applicant as follows:

by hand delivery on:

by certified mail, return receipt requested, on:
5/14/2024

Date

Date

Certified Mailing No. _____

Appeals

Any person aggrieved by a decision of the Commission under the Bylaw may appeal to a court of competent jurisdiction pursuant to MGL Ch. 249, §4.

C. Recording Information

This Order of Conditions must be recorded in the Registry of Deeds or 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 page 7 of Form 5 shall be submitted to the Conservation Commission listed below.

Shutesbury Conservation Commission, PO Box 276, Shutesbury, MA 01072

DETACH ON THE LINE, HAVE STAMPED BY THE REGISTRY OF DEEDS AND SUBMIT TO THE CONSERVATION COMMISSION

TO: Shutesbury Conservation Commission

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

57-59 Shore Drive, Shutesbury, MA 01072

286-0300

Project Location

File Number

Has been recorded at the Registry of Deeds of:

Franklin

County

Book

Page

Town of Shutesbury Conservation Commission

Form 5 – Order of Conditions

Shutesbury General Wetlands Protection Bylaw (SWPB)

File # 286-0300

Shutesbury General Wetlands Protection Bylaw Regulations

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

CERTIFICATE OF VOTE AUTHORIZING SIGNATURES PURSUANT TO M.G.L. c.110G

On May 14, 2020, the Shutesbury Conservation Commission met in open session through publicly accessible video-conference software, pursuant to the "Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §20," issued by Governor Charles D. Baker on March 12, 2020. At this duly held meeting, the following action was taken:

Motion: Shutesbury Conservation Commission hereby recognizes and accepts the provisions of M.G.L. c.110G regarding electronic signatures and that its members will henceforth execute documents either with electronic signatures or with wet ink signatures and that both will carry the same legal weight and effect. Motion was seconded.

Roll Call vote:

Commissioner Penny Jaques: aye
Commissioner Russ Mizula: aye
Commissioner Robin Harrington: aye
Commissioner Liam Cregan: aye
Vote was Unanimous

The above is a true and accurate account of the proceedings of the Conservation Commission.

Title/Signature: Alice P. Jaques Date: 20 May, 2020

Commonwealth of Massachusetts
County of Franklin, ss.

On this 20 of May, 2020, before me, personally appeared Alice P. Jaques, Chair of said Conservation Commission, as aforesaid, and proved to me through satisfactory evidence of identification, which was Personally Known to me to be the person whose name is signed on the preceding document, and acknowledged to me that she signed it voluntarily for its stated purpose on behalf of the Town of Shutesbury.

Susan Mosher
Notary Public

My Commission Expires: 4/1/2022

Certified by Town/City Clerk:

Susan Mosher Date: May 20, 2020
Susan Mosher

