



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:

172-0624

MassDEP File #

eDEP Transaction #

HAMILTON

City/Town

A. General Information

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

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



1. From: Hamilton
Conservation Commission

2. This issuance is for
(check one): a. ☒ Order of Conditions b. ☐ Amended Order of Conditions

3. To: Applicant:

Ryan

a. First Name

McShera

b. Last Name

Red Barn Architecture

c. Organization

8-10 Martin St., Unit 4

d. Mailing Address

Essex

e. City/Town

MA

f. State

01929

g. Zip Code

4. Property Owner (if different from applicant):

Aaron

a. First Name

Esker

b. Last Name

c. Organization

18 Alan Road

d. Mailing Address

Hamilton

e. City/Town

MA

f. State

01982

g. Zip Code

5. Project Location:

18 Alan Road

a. Street Address

Hamilton

b. City/Town

65

c. Assessors Map/Plat Number

79

d. Parcel/Lot Number

Latitude and Longitude, if known:

d m s
d. Latitude

d m s
e. Longitude



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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):
Essex (Southern District)
a. County Essex b. Certificate Number (if registered land) 370
c. Book 30179 d. Page 370
7. Dates: 06.9.2021 7.28.2021
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):
Esker Residence
a. Plan Title Red Barn Architecture b. Prepared By Ryan McShera
c. Signed and Stamped by 7.28.2021 1/16"=1'-0"
d. Final Revision Date e. Scale
f. Additional Plan or Document Title Job # NB 074 MA 20 7.27.2021
g. Date

B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act:

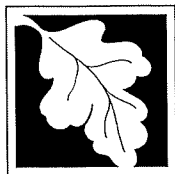
Following the review of the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act (the Act).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



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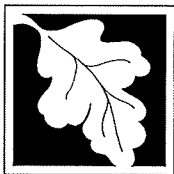
B. Findings (cont.)

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 the 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 Act's interests, 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 310 CMR 10.02(1)(a) 46
a. linear feet

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

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input type="checkbox"/> Bank	a. linear feet	b. linear feet	c. linear feet	d. linear feet
5. <input type="checkbox"/> Bordering Vegetated Wetland	a. square feet	b. square feet	c. square feet	d. square feet
6. <input type="checkbox"/> Land Under Waterbodies and Waterways	a. square feet	b. square feet	c. square feet	d. square feet
	e. c/y dredged	f. c/y dredged		
7. <input type="checkbox"/> Bordering Land Subject to Flooding	a. square feet	b. square feet	c. square feet	d. square feet
Cubic Feet Flood Storage	e. cubic feet	f. cubic feet	g. cubic feet	h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding	a. square feet	b. square feet		
Cubic Feet Flood Storage	c. cubic feet	d. cubic feet	e. cubic feet	f. cubic feet
9. <input type="checkbox"/> Riverfront Area	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.)

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. ^{cu yd} nourishment	d. ^{cu yd} nourishment
14. <input type="checkbox"/> Coastal Dunes	a. square feet	b. square feet	c. ^{cu yd} nourishment	d. ^{cu yd} nourishment
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		



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B. Findings (cont.)

* #22. 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.

22. ☐ Restoration/Enhancement *:

a. square feet of BVW

b. square feet of salt marsh

23. ☐ Stream Crossing(s):

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.
 - 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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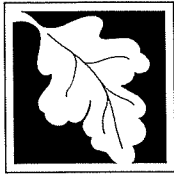
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City/Town

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 172-0624 "
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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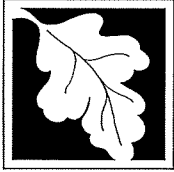
City/Town

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:

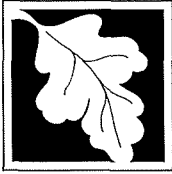
i.) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and

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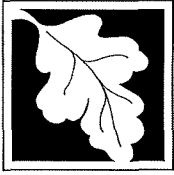
C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

- 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 for 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 Hamilton hereby finds (check one that applies):
Conservation Commission

- 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:

Conservation

Chapter 17

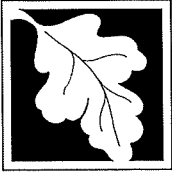
1. Municipal Ordinance or Bylaw

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):

The Permit pursuant to the Hamilton Conservation Bylaw is issued separately from this Order of Conditions.



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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.

Hamilton

Conservation Commission

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

To:

Hamilton

Conservation Commission

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

Project Location

MassDEP File Number

Has been recorded at the Registry of Deeds of:

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

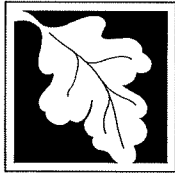
If recorded land, the instrument number identifying this transaction is:

Instrument Number

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

Document Number

Signature of Applicant



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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.

7.28.2021

1. Date of Issuance

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

4

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

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:

George E. Tully
Virginia M. Crocker
Chris Hill

Lauren M. Lynn

☐ by hand delivery on

☒ by certified mail, return receipt requested, on

Date

Date

8/19/21

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 of 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.

18 Alan Road – Home Addition & Deck Extension – Hamilton, MA

ATTACHMENT A
SPECIAL CONDITIONS

Order of Conditions –
Home Addition & Deck Extension at 18 Alan Road, Hamilton
for Ryan McShera of Red Barn Architecture
on behalf of Aaron Esker
DEP File # 172-0624

Under the Order of Conditions (“the Order”) issued under MassDEP File Number **172-0624**, the Hamilton Conservation Commission (“the Commission”) hereby finds that in addition to the General Conditions Under the Massachusetts Wetlands Protection Act on the MA DEP’s WPA Form 5, the following Special Conditions are necessary in accordance with the Performance Standards set forth in the regulations to protect the interests checked above for this project. Any violation of these Conditions will make the Applicant subject to an Enforcement Order.

This Order of Conditions addresses proposed construction of an addition to the rear of an existing home, as well as the extension of an existing deck to meet the new extension. Work is taking place within the 50 ft. no build zone set up by the Hamilton wetland bylaw. This work is being allowed to allow the extension to remain in keeping with the existing home. Over the course of the Conservation Commission meeting of 7.28.2021, minor field edits to the proposal were allowed. These were conducted electronically, and a final plan approved by the Commission was submitted by the Applicant immediately following the meeting. This edited plan is referenced by this document, and shall be recorded as part of this Order of Conditions. These edits specify what work will be allowed in the no-build zone, the approximate location of the septic system, the primary access point for construction vehicles and materials, and where construction materials will be staged.

Unless extended this Order of Conditions (OOC) DEP # 172-0624 will expire on July 28th, 2024 under the Wetlands Protection Act (WPA / The Act) and will expire on July 28th 2022 under Hamilton’s Wetlands Bylaw.

The Commission orders that all work shall be performed in accordance with said conditions and with the referenced Notice of Intent and all other relevant documents listed below in Condition 22. 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 prevail.

18 Alan Road – Home Addition & Deck Extension – Hamilton, MA

GENERAL CONDITIONS (CONTINUED)

Please review the preceding General Conditions on the DEP WPA Form 5, particularly Condition 1.

21. All work must be in compliance with the Hamilton Wetland Protection Bylaw, Regulations, and Policies.

22. The work shall conform to the following plans and documents, unless otherwise specified in this Order:

a. WPA Form 3/Notice of Intent: Submitted for: Aaron Esker
18 Alan Road, Hamilton, MA
Map 65, Lot 79

Prepared by: Ryan McShera
Red Barn Architecture
8-10 Martin St., Unit 4
Essex MA 01929
Dated: June 9th, 2021

b. Site Plan: Entitled: Esker Residence
Addition/Renovation
At 18 Alan Road, Hamilton, MA 01982

Prepared by: Ryan McShera
Red Barn Architecture
8-10 Martin St., Unit 4
Essex MA 01929
Dated 5/26/2021 Revised: 7/28/2021

23. **The approved wetland boundaries pertaining to this Order are only valid for this particular project, and not for any future projects.**

24. The Commission reserves the right to require additional conditions if deemed necessary to protect the resource areas and interests as defined in MGL Chapter 131 Section 40 (310 CMR 10.00) with proper notification of all parties.

25. **This Order of Conditions (hereafter OOC), shall apply to any successor(s) in interest or successor(s) in control and shall survive the issuance of the Certificate of Compliance, specifically for the project permitted as DEP # 172-0624 this Condition #25, Condition #33, and those contained in the “Perpetual Conditions” section # 33: 60, 62, 63, & 64 are considered perpetual conditions. Within ten (10) calendar days inclusive of the transfer of ownership of the subject parcel, in whole or in part, including lots or buildings conveyed under individual deeds, the Conservation Commission shall be notified in writing by the seller of the name and address of the new owner. This condition shall survive the issuance of the Certificate of Compliance.**

Within ten (10) calendar days inclusive of such transfer, a written, signed, and notarized affidavit shall be filed with the Conservation Commission by the seller, stating that the new owner(s):

- Has read and understands the Order of Conditions;
- Understands all terms applicable to the project site;
- Understands that any work within 100 feet of wetlands or within 200 feet of perennial streams requires a permit from the Conservation Commission;
- Understands that the dumping of yard waste, brush, or other materials in the wetlands is not allowed;
- Intends to comply with all provisions of the Order, including obtainment of a Certificate of Compliance if the seller has not already done so;
- In addition, this affidavit shall include the following sentence: “I, _____, the new owner of _____, understand that any work within 100 feet of wetlands or within 200 feet of perennial streams requires approval by the Hamilton Conservation Commission and that dumping of yard waste, brush, or other materials in the wetlands is not allowed.”;
- This affidavit shall also include a plan of the lot indicating the wetland boundary, building(s), and any other features.

All current and future new tenants shall be provided with a copy of this Order of Conditions and a signed affidavit acknowledging receipt shall be provided to the Commission.

26. Any violation of these conditions will make the Applicant subject to an Enforcement Order.
27. Members and agents of the Hamilton Conservation Commission (hereafter HCC), shall have the right to enter and inspect the premises to evaluate compliance with these conditions and to require submittal of any data deemed necessary by the Commission for that evaluation.
28. **The Applicant, contractor, or site engineer responsible for the project’s completion shall have on site at all times a copy of this Order of Conditions**, including all referenced documents, while activities regulated by this Order are being performed.
29. Any change in the plans approved under this OOC, including those due for review by other boards or resulting from the aforementioned conditions, must be submitted to the Commission in writing for approval prior to implementation. The Commission will then decide whether the change is substantial enough to require a new Notice of Intent filing or a request for an amendment to this OCC. Any errors found in the plans or information submitted by the Applicant shall be considered as changes.
30. If any unforeseen problem occurs during the Project which affects any of the seven statutory interests of the Massachusetts Wetlands Protection Act and/or the Hamilton Wetland Protection Bylaw and Regulations, the Applicant shall notify the Conservation Commission and an immediate meeting shall be held between the Commission, the Applicant, the Applicant’s representative and/or engineer/contractor, and other concerned parties to determine the corrective measures agreed upon. In the event of a dispute amongst the participants of any meeting, the Commission’s view shall prevail.
31. Upon completion of this project the owner or his designee shall submit the following to the Conservation Commission to receive a Certificate of Compliance per Condition 12:

18 Alan Road – Home Addition & Deck Extension – Hamilton, MA

- a. A written statement from a registered professional engineer / surveyor / wetland scientist of the Commonwealth of Massachusetts certifying that the work has been completed in compliance with this Order of Conditions and the approved plans referenced herein (or approved revisions). Any discrepancies shall be noted. If the work completed differs significantly from the work proposed in the Notice of Intent and approved by the Commission, the Commission may require the Applicant implement measures necessary to comply with this Order.
 - b. An as-built plan which must show all wetland resource area boundaries with associated buffer zones and any No Cut/No Disturbance Zones taken from the plan(s) approved in this OOC. The as-built plan must show elevations of all filled, altered, or replicated wetlands. This as-built plan may not be the originally submitted final approved site plan with changes highlighted and explained.
32. The following special conditions shall extend beyond the issuance of a Certificate of Compliance, in perpetuity, and shall be referred to in all future deeds to this property. **This condition shall survive the issuance of the Certificate of Compliance.**
61. Regarding the prohibition of sodium chloride for snow and ice control
62. Regarding the prohibitions on the control of dust
63. Regarding the prohibition on non-organic pesticides, herbicides, & fertilizers
64. Regarding the prohibition on underground fuel storage
65. Regarding the prohibition on invasive species and how to determine which species are invasive
33. No driveway, footing, or roof drain with an above-ground or subsurface discharge, nor any garage floor drain, deck, addition, shed, or pool, shall be installed within the 100-foot buffer zone or the 200-foot riverfront protection area without prior written approval by the Conservation Commission, unless depicted on the approved design plans referenced herein.
34. Failure of the Applicant to comply with one or more individual conditions set forth in this OOC **does not exonerate the Property Owner, successor in control, or successor in interest** of the property described in the Notice of Intent in meeting or complying with the remaining conditions in this OOC.

PRIOR TO CONSTRUCTION

Please note General Conditions 8, 9, and 10.

35. Prior to the commencement of any work on the site, the Applicant shall submit in writing via email to the Commission the names, addresses, and telephone numbers (both business and 24-hour emergency numbers) of the person(s) responsible on-site for compliance with this Order and their alternate. The Applicant shall also notify the Commission in writing of any changes to this information.
36. The Applicant or designee shall report in writing via email to the Hamilton Conservation Commission prior to the commencement of construction, every 30 days during construction, and for as long thereafter as the ground remains unstable, as well as upon completion of the project until such time as the COC is issued for the project. These reports shall include an update on the

18 Alan Road – Home Addition & Deck Extension – Hamilton, MA

status of the erosion controls, what work within 100 feet of wetlands or within 200 feet of perennial streams has been completed to date, and what work is proposed for the next month.

37. Prior to the commencement of any work on site, the Property Owner or his designee **shall submit for approval by the HCC/staff a detailed Construction Sequence** with a timetable and details, to be completed before other work begins on site.
38. Prior to commencement of any work on site, the wetland boundaries shall be clearly marked and/or repaired with flags/stakes so that said areas are clearly distinguishable, and shall be confirmed by the Commission or its agent. **The Applicant shall maintain wetland flagging until the Certificate of Compliance is issued.**
39. Prior to the commencement of any work on site, all erosion and sedimentation control measures shall be installed for inspection and approval by the Commission or its agent. **The Commission must be notified at least 7 days prior to the commencement of work for such inspection.**
40. A Pre-construction meeting shall be held, between the Applicant and their designated Project Superintendent and Site Contractor with the HCC or its agent to review the proposed work and measures designed to mitigate any impact on the wetlands, and to ensure that all conditions of the OOC are understood.
41. **Any fill brought on site must be clean, debris-free, and devoid of invasive plants or their parts or seeds.**
42. **All construction vehicles must be cleaned of accumulated soil or plant matter from other sites prior to entering the site, through washing, brooming, or another method approved in advance by the HCC.**
43. It is the Applicant's responsibility to **ensure that the work to be performed hereunder will be properly supervised** by the design engineer and the wetlands biologist, or by persons of equivalent qualifications. Upon written request by the HCC/staff, within fourteen (14) days of the receipt of the request, the Applicant shall submit a report from the design engineer or wetlands biologist, or other qualified person, describing the project's compliance with this OCC, and addressing any other concerns identified in the request relative to compliance to the Wetlands Protection Bylaw and the Wetlands Protection Act
44. In order to prevent the spread of invasive species from one portion of the project site to another, construction vehicles may not enter locations infested with invasive species. If this is unavoidable, vehicles shall be washed or broomed clean prior to leaving the infested portion of the site.
45. Every attempt to **prevent invasive plant species** from entering the site shall be taken. **Machinery** that has been working where especially problematic invasive species such as purple loosestrife, Japanese knotweed, or common reed (Phragmites) occur **shall be cleaned of plant parts and soil before entering the construction site.**
46. **No additional clearing or grading** in the 100' Buffer Zone to wetlands, other than what is shown on the approved plans, may be done without written approval of the HCC/staff.

47. The Applicant/Responsible Party **shall ensure a hazardous materials spill containment kit is maintained on site at all times** throughout construction. The kit **shall be appropriately sized** for the cumulative volumetric capacity of hazardous fluids contained by on-site equipment.
48. **No clearing of vegetation , including trees, or disturbance of soil shall occur prior to the Pre- Activity Meeting.** Minimal disturbance of shrubs and herbaceous plants may be allowed prior to the Pre-Activity Meeting if absolutely necessary in order to place erosion control marker-stakes and to establish stakes designating the "limit of work" where required.

SEDIMENT AND EROSION CONTROLS

Please note General Condition 18.

49. As needed, vehicles will be washed on site to prevent the tracking of earth onto Alan Road. Any earth on Alan Road will be promptly cleaned up, and returned to the site.
50. Soil erosion and deposition into wetland resource areas shall be prevented at all time by effective control methods. The Applicant shall implement the methods indicated in the referenced Notice of Intent and as specified below:
- a. The *minimum* required erosion control barriers shall consist of a staked filter sock, straw wattle with appropriate diameter (10" minimum), as inspected and approved by the Commission or its agent before work commences. To minimize wildlife entanglement and plastic debris pollution, choose temporary erosion and sediment control products that either do not contain netting, or that contain netting manufactured from 100% biodegradable non-plastic materials such as jute or sisal fiber. Degradable, photodegradable, UV-degradable, oxo-degradable, or oxo-biodegradable plastic netting (including polypropylene, nylon, polyethylene, and polyester) are not acceptable alternatives. Natural materials sourced from outside the U.S. are also unacceptable, due to the risk of importing exotic invasive pests. Netting used in these products should have a loose-weave wildlife-safe design with movable joints between the horizontal and vertical twines, allowing the twines to move independently and thus reducing the potential for wildlife entanglement. Avoid the use of silt fences reinforced with metal or plastic mesh. When no longer required, temporary erosion and sediment control products should be promptly removed.
 - b. The use of haybales is strictly prohibited for erosion control, unless specifically allowed by the Commission (as shown on the project site plans approved by the HCC as referenced herein)
 - c. Erosion control measures shall be installed and maintained in accordance with U.S. Natural Resources Conservation Service recommended methods.
 - d. The limit of work shall be the erosion control barriers beyond which no work shall occur.
 - e. The Commission may require the Applicant to employ additional erosion and/or damage prevention measures as it deems necessary.

- f. Erosion controls shall be inspected weekly and immediately following storm events. Damaged or non-functioning erosion control devices shall be maintained, reinforced, or replaced as necessary.
- g. Any failure of erosion control measures resulting in deposition of soils into the wetland resource area(s) shall be **immediately** reported to the Conservation Commission office at (978) 465-0862 extension 310.
- h. The Applicant shall take immediate steps to control any erosion that occurs on site that impacts areas under jurisdiction of the Wetlands Protection Act and the Hamilton Wetlands Bylaw and Regulations.
- i. Any sedimentation that occurs outside of the erosion control barriers shall be immediately removed using hand tools. The cause of the erosion/sedimentation shall be immediately addressed.
- j. All accumulated sediment shall be removed from the face of the erosion control barriers using hand tools (e.g. shovels, rakes, and wheelbarrows) whenever the level of sediment is within six (6) inches of the top of the barrier.
- k. The Applicant shall maintain a reserve of the approved erosion control materials equal to at least 10% of the maximum length of erosion control materials used on site during the duration of the project, with stakes, to be used for emergency repairs. These materials are not to be used for daily maintenance of erosion controls.
- l. Soil, sediment, debris, or other material removed during maintenance or repair of erosion control barriers, or remediation of erosion damage, shall be disposed of outside the wetlands or riverfront buffer zone.

Exposed soils shall be stabilized as soon as practical following disturbance. Slopes and other disturbed areas not subject to construction activities shall be stabilized (either temporarily or permanently) immediately following excavation/grading. Temporary stabilization shall consist of seeding with **annual oats** or other approved species, or installation of jute netting, staked mulches, or other Natural Resources Conservation Service accepted methods, maintaining respect to Condition 41a.

51. **Erosion control devices and wetland flags shall remain in place until all disturbed surfaces have been permanently stabilized and a Certificate of Compliance is issued by the Commission.** The erosion control devices can only be removed once the Applicant has submitted a Request for Certificate of Compliance AND the HCC and/or its agent has conducted a site visit and granted permission to do so. The biodegradable erosion controls may be broken up and spread on site, but not within any wetland resource area(s) or Conservation Easement. Any non-biodegradable material used within the erosion controls must be removed and discarded off-site. The erosion control devices must be removed prior to final issuance of the Certificate of Compliance.
52. **Prior to the issuance of the Certificate of Compliance, all disturbed areas shall be stabilized to the satisfaction of the Commission.**

SOIL STOCKPILES AND FILL STORAGE

53. At no time shall debris or other material be buried or disposed of within the buffer zone, other than that fill which is allowed by this Order and as shown on the referenced plans.
54. All fill, stumps, brush, logs, rubbish, construction debris, excavated materials, construction equipment and vehicles, and construction materials (i.e. gravel, bentonite, etc.), if permitted to be stored on-site, shall be stored in the designated location approved by the Commission.
55. Any soil stockpiles that will remain on site for longer than two weeks must either be fully covered with an impermeable material, or seeded with a short-lived (incapable of reseeding) annual herbaceous cover crop.

STORMWATER MANAGEMENT

56. There shall be no direct discharge of stormwater runoff into streams or other wetland resource areas. Runoff from the site shall be directed overland to maximize groundwater recharge and cleansing of the runoff through contact with natural soils and vegetation. Discharges from the perimeter drains shall be at least 50 feet from any wetland resource area (or as shown on the project site plans approved by the HCC as referenced herein).
57. The Applicant or his designee shall report any runoff problems/concerns immediately to the Hamilton Conservation Commission office at (978) 626-5247 extension 70247.
58. All discharge pipes shall have rain barrels, rain gardens, level spreaders, or similar BMP items at the outlet to minimize erosion.
59. To control run off from the roof of the house, where roof gutters are installed the shall flow to downspouts connected to suitable infiltration BMP's that are appropriately size in accordance with DEP SWM standards, or where roof gutters are not proposed, drip strips (clean crushed stone trench) which are appropriately size in accordance with DEP SWM standards shall be installed.

TIME LIMITS

60. All **disturbed areas in the Buffer Zone** will be stabilized by vegetation, heavy mulching, sodding, or matting **prior to November 15 each year**. No work within the Buffer Zone or resource areas may be done between **November 15 and March 15** of each year, unless given prior approval by the HCC/staff. After prior written request, approval shall be granted when the capacity to effectively manage disturbed soils, eliminate sedimentation and off-site transport of soils, and demonstrated ability to maintain site stability are verified to the satisfaction of the HCC/staff.

PERPETUAL CONDITIONS

Please note Conditions #25 & #33 are also considered to be Perpetual Conditions

61. No sodium chloride shall be used within 100 feet of a wetland resource area or within 200 feet of a perennial stream if the area will drain to a resource area and regulated buffer zone without significant dilution treatment, and any contract or agreement for snow or ice removal shall so stipulate. **This condition shall survive the issuance of the Certificate of Compliance.**
62. No oil, calcium chloride, or other salt shall be used within 100 feet of a wetland resource area or within 200 feet of a perennial stream during any construction phase for the control of dust. **This condition shall survive the issuance of the Certificate of Compliance.**
63. Non-organic fertilizers, pesticides, and herbicides shall not be used within 100 feet of a wetland resource area or within 200 feet of a perennial stream. Organic fertilizers used within 100 feet of a wetland resource area or within 200 feet of a perennial stream shall be slow-release. **This condition shall survive the issuance of the Certificate of Compliance.**
64. No underground storage of fuels is allowed within 100 feet of wetland resource areas or within 200 feet of a perennial stream. **This condition shall survive the issuance of the Certificate of Compliance.**
65. No plants listed on the latest Massachusetts DAR Prohibited Plant List (available at http://www.mass.gov/agr/farmproducts/Prohibited_Plant_Index2.htm), the Massachusetts Invasive Plant Advisory Group's Invasive, Likely Invasive, Potentially Invasive, or Not Currently Meeting Criteria lists (<http://www.massnrc.org/mipag/index.htm>), the Connecticut Invasive Plant Working Group's Invasive and Potentially Invasive plant list (http://cipwg.uconn.edu/invasive_plant_list/), the Rhode Island Natural History Survey Invasive Species List (http://rinhs.org/wp-content/uploads/2011/10/Rhode-Island-Invasive-Species_2013_b.pdf), New York's Prohibited & Regulated Invasive Species List (http://www.dec.ny.gov/docs/lands_forests_pdf/islist.pdf), Vermont's Noxious Weed List (<http://www.vtinvasives.org/plants/plant-quarantine-rule>), New Hampshire's Prohibited Invasive Species List (<http://agriculture.nh.gov/publications-forms/documents/prohibited-invasive-species.pdf>), and Maine's Noxious Weed List (<http://www.invasive.org/species/list.cfm?id=48>), may be brought onto or planted anywhere on the property. If at any point these hyperlinks are out of date, this Condition must still be observed, according to the prohibitions on each State's plant list. **This condition shall survive the issuance of the Certificate of Compliance.**

CONSERVATION COMMISSION
TOWN OF HAMILTON
COMMONWEALTH OF MASSACHUSETTS

CONSERVATION BYLAW (Ch. 17) PERMIT

TO

Applicant:	Property Owner:
Name: Ryan McShera	Aaron Esker
Address: 8-10 Martin St., Unit 4, Essex MA, 01929	18 Alan Road, Hamilton MA, 01982

This project is located at ***18 Alan Road***

The Notice of Intent for this project was filed on ***6.9.20021***. Public Hearing Closed ***7.28.2021***.

Plans:

Title: Esker Residence	Dated: 7.28.2021	Signed and Stamped by Ryan McShera
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Findings

The commission finds that the area in which work is proposed is within the AURA, and within the buffer zone to a Bordering Vegetated Wetland and is subject to protection under the Hamilton Conservation Bylaw Chapter 17 and Regulations which are significant to the protection of interests identified in the Bylaw, specifically:

Resource Area	Significant to the protection of:
Bordering Vegetated Wetland	Protection of Wildlife Habitat
	Prevention of Pollution
	Groundwater Supply

Primary Standard for the project: The primary standard to be applied in this project is that the applicant's structures and activities in Areas Subject to Protection under the Bylaw or adjacent Buffer Zone shall not alter an area subject to protection under the Bylaw in such a way as to adversely affect the protection provided by that area to the public interests identified in the Bylaw.

The Commission finds the design and mitigating measures proposed by the applicant in the Notice of Intent and adjunct documents and plans referenced on page one above, with the Standard and Additional Conditions attached to this Permit, will serve as a sufficient basis to commence the project with satisfactory protection to the interests of the Bylaw. The applicant's responsibility is not limited to following these procedures, however, but additionally to assure that the Primary Standard is met. Therefore additional or alternative measures may be called for if the Commission finds there is field evidence of any failure to meet that standard.

CONSERVATION BYLAW (CH. 17) PERMIT (contd.)

In such a case, applicants shall within a time deemed reasonable by the Commission propose alternative or additional measures to meet the standard, for the approval of the Commission. Applicant or representatives shall be responsible for notifying Commission within 48 hours if they become aware of any evidence of adverse effect on the interests of the Bylaw.

Further findings are contained on attached

Conditions

The conditions for this permit may be found on WPA Form 5 "Order of Conditions" and attached to the WPA Form 5 issued for this work under DEP File# 172-0624. This permit shall be recorded with the WPA Form 5 "Order of Conditions" at the Southern Essex Registry of Deeds.

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CONSERVATION BYLAW (CH. 17) PERMIT (contd.)

This Permit is issued by the Town under its Bylaw and its effect is independent of any Wetlands Protection Act Order of Conditions, so that it is unaffected by any appeal of an Order of Conditions to the Department of Environmental Protection, or by any superseding order from the Department.

Issued by Hamilton Conservation Commission

Signature(s):

George E. Barr
Virginia M. Cookson
Chris [unclear]
Lauren M. Lynch

DEP FILE # 172-0624

This permit EXPIRES one year from the date of issuance, July 28th, 2021.

Either all work pursuant to this permit is completed by the expiration date, or the Applicant must obtain an extension from the Commission.

Applications for extensions must be filed no later than 30 days prior to the expiration date.

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

ACKNOWLEDGEMENT

On this 9th of August day of 2020, before me, the undersigned notary public, personally appeared Lauren M. Lynch proved to me through satisfactory evidence of identification, which were the undersigned notary public's personal knowledge of the identities of the principals, to be the person whose names are signed on the preceding document, and acknowledged to me that they signed it voluntarily for its stated purpose.

All signed as duly appointed Members of the Town of Hamilton Conservation Commission.

Notary Public

Anne R. Huguen

My Commission Expires

June 9, 2028

