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GEORGETOWN CONSERVATION COMMISSION

Memorial Town Hall ♦ One Library Street ♦ Georgetown, MA 01833

Phone: (978) 352-5712 ♦ Fax: (978) 352-5725

Order of Conditions Under the Georgetown Wetland Protection Bylaw

From: Georgetown Conservation Commission
1 Library Street
Georgetown, MA 01833
(Issuing Authority)



To: John Colantoni
342 Linebrook Road
Ipswich, MA 01938
(Applicant)

Owner: Same as Applicant

THIS ORDER OF CONDITIONS IS ISSUED AND DELIVERED AS FOLLOWS:

☒ Picked up by:

Name (please print): John Colantoni

Signature: [Signature]

Date: 2 / 27 / 20

☐ By certified mail, return receipt requested:

Tracking Number: _____

Date: ____ / ____ / ____

This project is located at: 51 West Main Street (**Map** 11A / **Lot** 32), Georgetown, MA 01833

The Georgetown Notice of Intent Application was filed on **1/30/2020** for the construction of a commercial building and seven townhouses.

GCC Findings:

The GCC has reviewed the above-referenced NOI and plans and has held a public hearing on the project. Based on the information available to the GCC at this time, the GCC has determined that the area on which the proposed work is to be done is significant to the following interests, (wetland values) protected under the Georgetown Wetland Bylaw.

- ☐ Public or Private Water Supply
- ☐ Land Containing Shellfish
- ☒ Storm Damage Prevention
- ☒ Groundwater Supply
- ☒ Protection of Wildlife Habitat
- ☐ Aesthetics

- ☒ Flood Control
- ☒ Erosion & Sedimentation Control
- ☐ Fisheries
- ☒ Prevention of Pollution
- ☐ Recreation
- ☐ Agricultural & Aquatic Values

The Commission hereby finds the project, as proposed is:

☒ Accepted

Therefore, the GCC hereby finds that conditions are necessary, in accordance with the Bylaw, to protect those interest checked above. The GCC orders that all the works shall be performed in accordance with the Conditions outlined in ATTACHMENT #1 and with the Permit Application as submitted, all its associated attachments, and plans referenced below.

Plans & Other Documents:

Total:	Dated:	Signed & Stamped By:	On File With:
1	3/31/2019, final revision date 12/22/19	Thad D. Berry	GCC

Denied

☐ The proposed work cannot be conditioned to meet the performance standards set forth in the Georgetown Wetlands Protection Bylaw (rev. October 17, 2005) and the Georgetown Wetlands Protection Regulations (rev. June 10, 2004). Therefore work may not go forward on this project unless a new Notice of Intent is submitted which provides measures to meet these regulations.

☐ 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 Georgetown Wetlands Protection Bylaw (rev. October 17, 2005) and the Georgetown Wetlands Protection Regulations (rev. June 10, 2004). Therefore work may not go forward on this project unless a new Notice of Intent is submitted which provides measures to meet these regulations.

See ATTACHMENT #1 for a description of the findings leading to this denial.

Plans & Other Documents:

Total:	Dated:	Signed & Stamped By:	On File With:

Carl Shedd
~~W. B.~~
W. B. Shedd
C. Shedd
Elizabeth Shedd

GCC: 2020-01

ATTACHMENT #1
ORDER OF CONDITIONS
GCC: 2020-01, DEP # 161-0877
51 West Main Street, Assessor's Map 11A, Lot 32

§ 1. FINDINGS:

The Georgetown Conservation Commission, the "Commission," hereby finds the following **FACTS**:

- A. All or parts of the property (identified on the Georgetown Board of Assessors Maps as Map 11A, Lot 32), the "Subject Property," on which work is authorized by this Order of Conditions, "Order," is subject to protection under the Massachusetts Wetlands Protection Act (M.G.L. Ch. 131, §. 40), the "Act," and Regulations hereunder (310 CMR 10.00), "State Regulations."
- B. All or parts of the Subject Property, on which work is authorized by this Order, is subject to protection under the Georgetown Wetland Protection Bylaw (Ch. 161 of the Town Code), the "Bylaw," and regulations hereunder, "Local Regulations."
- C. The applicant(s) for the Notice of Intent and any owner(s) of the Subject Property or any successor(s) in interest or successor(s) in control of the Subject Property, the "Applicant," are hereby ordered to comply with all provisions of the Act, the Bylaw, State Regulations, Local Regulations, and all Conditions within this Order, which are required under both the Act and the Bylaw unless stated otherwise, through the issuance of a Certificate of Compliance, "CoC."
- D. As stated in the Final Plan submitted to the Commission, the Georgetown Conservation Commission has not verified the wetlands delineation and did not confirm this delineation.

§ 2. FINAL PLAN:

The final plans approved by the Commission under this Order, "**51 West Main Street**," include a plan prepared by **Thad D. Berry** dated **3/31/2019**, **final revision date 12/22/2020**.

§ 3. CONDITIONS FOR THIS PROJECT AND SUBJECT PROPERTY:

- 3.1 To work closely with the Conservation Commission Agent in the field.
- 3.2 Vernal Pool to be certified spring of 2020.
- 3.3 6 Blue bird boxes to be installed.
- 3.4 At the pre-construction meeting, applicant will provide a detailed schedule of when work will be done. A detailed schedule of site inspections will be worked out at this time. Final decision of how many and when inspection to occur to be approved by the Agent.

§ 4. CONDITIONS DEFINING TERMS

This Statement and the following conditions shall apply in perpetuity and shall be referred to in all future deeds subject to the property:

- A. The term "GCC" shall refer to the Georgetown Conservation Commission or any successor agency of this municipality.

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- B. The term “DEP” shall refer to the Massachusetts Department of Environmental Protection or any successor agency of the Commonwealth.
- C. The term “NOI” shall refer to the Notice of Intent (permit application) and all supporting plans and documents submitted to the GCC by the applicant.
- D. The term “OoC” shall refer to this Order of Conditions as may be modified or amended.
- E. The term “CoC” shall refer to the Certificate of Compliance, certifying that all work undertaken on the subject property has been completed in compliance with this OoC and shall include any continuing or perpetual Conditions contained within this OoC.
- F. The term “person” shall refer to any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, administrative agency, public or quasi-public corporation or body, and any other legal entity, its’ legal representatives, Agents, or assigns.
- G. The term “applicant” shall refer to any owner(s), or any successor(s) in interest or successor(s) in control, of the subject property, through issuance of CoC.
- H. The term “subject property” shall refer to the property upon which any work permitted in this OoC shall take place.
- I. The term “Act” shall refer to the Massachusetts Wetlands Protection Act, M.G.L. Ch. 131 S. 40, as may be amended.
- J. The term “State Regulations” shall refer to 310 CMR 10.00 under the Act, as may be amended.
- K. The term “Bylaw” shall refer to s. 161 if the Town Code of Georgetown, as may be amended.
- L. The term “local Regulations” shall refer to regulations under the bylaw, as may be amended.
- M. The term “wetland resource area” shall refer to any freshwater wetland, vernal pool, intermittent or perennial body of water or water course, “Bordering Vegetated Wetland” (“BVW”), or “Isolated Land Subject to Flooding” as defined under the State Regulations or as defined under Local Regulations, or as determined by the GCC.
- N. The term “floodland resource area” shall refer to any “Bordering Land Subject to Flooding” as defined under State Regulations or any “Land Subject to Flooding or Inundation by Groundwater or Surface Water” as defined under Local Regulations or as determined by the GCC.
- O. The term “river” shall be as defined under State Regulations of Local Regulations, or shall refer to any watercourse determined by the GCC to flow throughout the year except during periods of drought of when otherwise deprived of watercourses.
- P. The term “resource area” shall refer to any wetland resource area, floodland resource area, and land within 100 horizontal linear feet (or greater should the Act or Bylaw be so amended) of any wetland resource area or floodland resource area, or any land within 200 horizontal linear feet (or greater should the Act or Bylaw be so amended) of any river.
- Q. The term “buffer-filter strip shall refer to any naturally vegetated or naturally landscaped area of land that buffers native wildlife uses of any adjoining wetland resource area from nearby human activities, filters and slows runoff from any altered areas into any adjoining wetland resource area, and prevents erosion and sedimentation.
- R. The term “intensive landscaping” shall refer to any area in which vegetation is maintained so that it does not grow in a natural manner, such as and without limitation, lawns.
- S. The term “debris” shall refer to any chemically contaminated material; any concrete and asphalt rubble; any tree stumps; any “bulky waste,” “garbage,” “rubbish,” “refuse,” “special waste” or “waste” as defined in 310 CMR 19.01 (Disposal of Solid Waste by Sanitary Landfill)

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as may be amended, or as defined in Local Regulations as may be amended, or as determined by the GCC.

- T. The term “native” shall refer to any specimen of flora or fauna that is of a genotype indigenous to a specified site or area, as determined by a competent authority or as determined by the GCC.
- U. The term “jurisdictional” shall refer to any resource area and 100’ of any resource area as noted in the Bylaw, and shall include any area outside of the 100’ buffer that may have an adverse impact on said resource areas and 100’ therein.

§ 5. ADDITIONAL CONDITIONS FOR THIS PROJECT AND SUBJECT PROPERTY:

5.1. GENERAL CONDITIONS

The following Conditions shall apply until CoC is issued:

- 5.1.1. This OoC must be recorded in its entirety at the Registry of Deeds, Salem, Massachusetts. The form provided in this OoC shall be completed and stamped at said Registry. Said form shall be returned by certified mail (return receipt requested) to the GCC prior to the commencement of any work on the project. If said form is not returned to the GCC by the applicant before, any work commences the GCC reserves the right to verify recording or to record this OoC and bill the applicant for its reasonable cost for so doing. The applicant with a check or money order shall pay such bill in full within 30 days of receipt.
- 5.1.2. Prior to any work commencing, a sign, (not placed on a living tree if practical), shall be displayed showing DEP File No. **161-0877** and shall be prominently displayed in a manner that is visible and legible to the public, and maintained in place until issuance of the CoC.
- 5.1.3. Prior to any work commencing, a sign shall be displayed at the work site that reads as follows: “Georgetown Conservation Commission File Number: **2020-01.**” Such sign shall be no less than 2 feet square and no more than 3 feet square in size, and shall be prominently displayed in a manner that is visible and legible to the passing public (not placed on a living tree), and maintained in place until issuance of the CoC.
- 5.1.4. A timetable of all planned work on the subject property shall be submitted in writing to the GCC at least 72 hours in advance of any work on the subject property. Such timetable shall include planned completion dates.
- 5.1.5. Work may commence as soon as the GCC issues this OoC and the applicant complies with Conditions 5.1.1; 5.1.2; 5.1.3; 5.1.4; 5.2.1; 5.4.1; and 5.5.1. However, to the extent that this OoC is subject to review by DEP, this OoC may be appealed to DEP within 10 days of issuance or by DEP within 10 days of its receipt of this OoC. Any superseding OoC by DEP shall not have the effect of reducing protections to any area or value subject to protection under the Bylaw or Conditions imposed under the Bylaw, as the findings and rulings of the GCC under the Bylaw are subject to appeal through the Superior Court in accordance with M.G.L. Ch. 249 §4. Therefore, any work commenced prior to the expiration of any appeal period under the State Act or under the Bylaw is done at the applicant’s risk. Any such work may be halted or any alteration because of such work may be ordered to be restored or modified at the applicant’s expense.
- 5.1.6. The GCC shall be notified in writing within 7 days of any transfer of title of any portion of the subject property if any such transfer takes place prior to issuance of CoC. Such notification shall include the legal name(s), address(s), and daytime and evening telephone number(s) of any person to which title or any portion of subject property is transferred.

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- 5.1.7. Wherein there is any conflict between any provision of this OoC and any provision of a final order issued by DEP or any court pertaining to the Act, the provision that provides the greater protection to any resource area under the Bylaw shall take precedence. Wherein there is any conflict between any provision of this OoC and any provision of a final order issued by any court pertaining to the Bylaw, the provision that provides greater protection to any resource area shall take precedence.
- 5.1.8. The GCC reserves the right to impose additional future Conditions by majority vote in public meeting to mitigate any actual or potential adverse impacts which could result from erosion, or any noticeable degradation of surface water quality, if any other degradation of any wetland resource area from siltation or runoff, or any other adverse impact on any other area or value protected under the Act or Bylaw. These additional future Conditions may result from permitted or unauthorized activities or alterations on the subject property or naturally occurring events, e.g. extreme weather conditions. Should such additional Conditions be required by the GCC, they shall be completed within 24 hours of the GCC's order or as otherwise specified by the GCC. Should any such additional Condition be issued in writing by the GCC, it shall be recorded on the deed per Condition 2.A.1.
- 5.1.9. Any failure to comply with any Condition stated in this OoC, or imposed by the GCC prior to issuance of CoC, shall be deemed cause for the GCC to impose: an Enforcement Order; fines; additional Conditions; Modification of this OoC; the requirement of a proper bond or deposit of money or negotiable securities or other undertaking of financial responsibility sufficient in the opinion of the GCC to secure the project in whole or in part ("security"), at the applicant's expense without limitation as to cost to the applicant; the requirement that an independent consultant, approved by the GCC, analyze or verify any aspect of the subject property, and make recommendations to the GCC at the applicant's expense without limitation as to cost to the applicant; or revocation of this OoC and full restoration of all altered areas without limitation as to cost to the applicant; as the GCC deems necessary and reasonable to protect the public interests served by the Act and the Bylaw. Should the GCC determine that it is necessary to require a Modification of this OoC, security, an independent consultant, or revocation of this OoC, such action shall be taken by majority vote at a public meeting after no less than 7 days written notification by certified mail to the applicant and after no less than 7 days public notice in a newspaper of general circulation in this municipality.
- 5.1.10. A Conservation Commissioner, Agent of the Commission or DEP shall have the right to enter and inspect the subject property at all reasonable times, until a CoC is issued, to evaluate compliance with this OoC, the Act, the Bylaw, State Regulations, and Local Regulations, and may acquire any information, measurements, photographs, observations, and/or materials, or may require the submittal at the applicant's expense of any data or information deemed necessary by the GCC or DEP for that evaluation.

5.2. CONDITIONS FOR THE SUBMITTAL OF REVISED PLANS

The following Conditions shall apply until CoC is issued:

- 5.2.1. (A revised plan and narrative that shows any changes required by any provision in this OoC shall be submitted in writing to the GCC for its approval in public meeting prior to commencing any work on the project.)
- 5.2.2. Any errors in the referenced plans or NOI or information submitted by the applicant, including any errors in the delineation of any resource area, shall be promptly reported in writing to the GCC if discovered by the applicant.

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- 5.2.3. Should issuance of additional permits or any requirement of modifications by any agency of the United State of America or the Commonwealth of Massachusetts or any political subdivision thereof or this municipality result in a change in the project, a revised plan and narrative, signed and stamped by a registered professional engineer, that shows any such required changes shall be submitted in writing to the GCC for its written approval in public meeting prior to implementation.

5.3. CONDITIONS FOR MODIFICATIONS

The following Conditions shall apply until the CoC is issued:

- 5.3.1. Any changes in the referenced plans or NOI or information submitted by the applicant, or any changes resulting from any condition of this OoC must be submitted in writing to the GCC with a request for approval prior to implementation in the field. One of the following responses will be made by the GCC:
- 5.3.1a. If the GCC finds, by majority vote in public meeting, that said changes are insignificant or beneficial to the interests protected by the Act or the Bylaw and would have no possible adverse impact on the property of any abutter, the GCC will notify the applicant in writing that no amendment is needed and the changed project may proceed; or
- 5.3.1b. If the GCC finds, by majority vote in public meeting, that said changes significantly deviate from the original plans, NOI, or this OoC, or might have an adverse impact in the property of any abutter, that the interests of the Act or the Bylaw would best be served by holding a public hearing on the request, the GCC will notify the applicant that a Modification will require another public hearing within 21 days, advertised at the applicant's expense, and notification to abutters and Town Boards by the applicant, in order to take testimony from all interested parties; within 21 days of the close of said public hearing, the GCC, at its discretion, may issue an amended OoC; and the applicant shall comply with Conditions therein and the amended project may proceed; or
- 5.3.1c. If the GCC finds, by majority vote in public meeting, that said changes are significant and would substantially change the nature, scope, purpose, or impact of the project, the GCC will direct the applicant to file a new NOI and no work shall commence until the GCC, at its discretion, issues a superseding OoC.

5.4. PROJECT MANAGEMENT CONDITIONS:

The following Conditions shall apply until CoC is issued:

- 5.4.1. This OoC shall be included in all site preparation, construction and landscaping contracts, subcontracts, and specifications dealing with the work proposed and shall supersede any conflicting contract requirements. The applicant shall assure that all contractors, subcontractors, and any other person performing the permitted work are fully aware of the terms and conditions of this OoC. The applicant, or designee, shall, at all times that any work is being undertaken on this project have a copy of this OoC, NOI and referenced plans at the subject property and shall assure compliance with the Conditions of this OoC at all times.
- 5.4.2. The applicant shall notify the GCC, in writing and by telephone, no less than 72 hours before any work on the project commences and shall advise the GCC of the name(s) and telephone number(s) of the person(s) on site responsible for compliance with this OoC, who shall be contacted in cases of an emergency to notify the applicant of non-compliance. This emergency contact list shall be resubmitted by telephone and in writing within 48 hours of any changes that are made to it. The

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emergency contact list shall contain the following minimum information for primary, secondary, and tertiary points of contact: name, address, daytime phone number, evening phone number, pager (if available), and fax phone number (if available).

- 5.4.3. Any surplus construction materials or any surplus excavated materials, which are not needed for use on the subject property, shall be disposed of lawfully outside the subject property and outside any other area subject to protection under the Act or the Bylaw.
- 5.4.4. Any debris resulting from any demolition or site preparation work shall be disposed of lawfully outside the subject property and outside any other area subject to protection under the Act and Bylaw.
- 5.4.5. Any surface or subsurface debris encountered within the limit of alterations shall be disposed of lawfully outside the subject property and outside any other area subject to protection under the Act and the Bylaw.
- 5.4.6. The subject property shall be maintained free of surface litter, trash or garbage to the maximum extent practical.

5.5. EROSION AND SEDIMENTATION CONTROL CONDITIONS

The following Conditions shall apply until CoC is issued:

- 5.5.1. Prior to any earth moving activity, erosion and sedimentation controls shall be installed along the limit of permitted alterations, and verified by the Agent or a member of the GCC.
- 5.5.2. Alteration shall not occur, nor shall heavy equipment be allowed, down gradient of the erosion control.
- 5.5.3. If soils are to be disturbed and not worked upon for longer than 90 days, a temporary cover of suitable vegetation should be established to prevent erosion and sedimentation.
- 5.5.4. The applicant shall move swiftly to control any erosion problems that occur on the subject area. The GCC reserves the right to require additional erosion and / or damage prevention controls it may deem necessary.
- 5.5.5. Any damage caused directly or indirectly because of this project to any wetland resource area, is the responsibility of the applicant to repair, restore or replace by in-kind or greater replication. Sedimentation or erosion into these areas shall be considered damage to wetland resource areas. The GCC shall be promptly notified by telephone and in writing of any damage to any wetland resource areas. Following notification, the applicant shall submit a plan for abatement of the problem and repair, restoration or replacement. This plan must be approved by the GCC majority vote in public meeting prior to implementation.
- 5.5.6. All erosion and siltation controls shall be maintained in a state of good repair until the project has been completed. The applicant shall notify the GCC in writing within 30 days of project completion. The GCC or its Agent shall then conduct an inspection of the site. Upon satisfactory inspection, the GCC or its Agent shall provide authorization for the removal of all erosion and siltation controls. Within 30 days of receipt of such authorization or as otherwise directed by the GCC or its Agent, the applicant shall remove and lawfully dispose of the erosion and sedimentation control devices and all silt or sediment retained by them; and shall promptly seed, vegetate or otherwise stabilize any resulting disturbed soils. All such work shall be done by hand.
- 5.5.7. The erosion control specifications provided in the latest plan and the erosion control provision in this OoC will be the minimum standards for this project. Additional measures may be required by the GCC or its Agent.

5.6. CONDITIONS FOR GRADING

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The following conditions shall apply until CoC is issued:

- 5.6.1. Once begun, grading shall move uninterrupted until completion to avoid erosion and siltation of any wetland resource area.
- 5.6.2. Any grading on this project shall not increase runoff, nor cause flood or storm damage, to abutters or the property of others. Grading shall be accomplished so that runoff shall not be directed to the property of others.

5.7. CONDITION REQUIRING REIMBURSEMENT FOR GCC SITE INSPECTIONS

The following Conditions shall apply until CoC is issued:

- 5.7.1. Site Inspections by the Agent of the GCC shall take place at the GCC's or Agent's discretion from the date of issuance of this OoC through issuance of CoC; and the GCC shall be reimbursed on a monthly basis for its reasonable costs for doing so. Starting with confirmation of the erosion control as specified within this OoC. Routine Site Inspections by the Agent of the GCC shall be reimbursed at a rate of \$50 per month and such reimbursement shall not exceed \$100 per year, through issuance of CoC. Notwithstanding the above, Emergency Site Inspections shall take place on an as-needed basis (as frequently as daily) during any period in which an Enforcement Order on this project is in effect; and the applicant agrees to reimburse the GCC on a monthly basis for its reasonable costs of Emergency Site Inspections by its Agent at a rate of \$150 per Inspection, (regardless of the number of Emergency Site Inspections undertaken by the Agent of the GCC).

5.8. CONDITIONS FOR ISSUANCE OF A CERTIFICATE OF COMPLIANCE

The following shall apply until the CoC is issued:

- 5.8.1. Not more than 30 days following the removal and proper disposal of all erosion sedimentation controls and stabilization of any resulting disturbed soils, the applicant shall submit a written request for a CoC, accompanied by an affidavit prepared by a professional engineer or land surveyor registered in the Commonwealth of Massachusetts, stating that the project has been completed in accordance with the requirements of this OoC, and referencing the date the final site visit was conducted. Additionally, the applicant shall submit an as-built plan signed and stamped by a professional engineer registered in the State of Massachusetts, showing all structures, septic system, contours, and resource areas on site. The applicant shall pay the local filing fee for a CoC upon submittal of the Request for a Certificate of Compliance.
- 5.8.2. Once the GCC has reviewed the applicant's request for a CoC, the GCC or its Agent shall conduct a final inspection of the site. Upon satisfactory final inspection, the GCC shall issue a CoC.
- 5.8.3. The CoC must be registered at the Registry of Deeds in Salem, Massachusetts.

5.9. SEVERABILITY

The invalidity of any provision of this OoC shall not invalidate any other provision thereof.