

# CAMBRIDGE DISCOVERY PARK

**APPLICATION TO CAMBRIDGE PLANNING BOARD  
FOR MAJOR AMENDMENT NO. 1 TO  
PLANNING BOARD MASTER PLAN SPECIAL PERMIT PB#198,  
FOR A PARKWAY OVERLAY DISTRICT SPECIAL PERMIT,  
AND FOR DESIGN REVIEW OF BUILDING 600**



July 22, 2014

10 Acorn Park Drive  
Cambridge, MA  
02140

# CAMBRIDGE DISCOVERY PARK

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## **Volume II – Supplemental Materials (Traffic Report and Order of Conditions)**

Submitted by

BHX, LLC  
Trustee of Acorn Park Holdings Realty Trust  
c/o The Bulfinch Companies, Inc.  
250 First Avenue, Suite 200  
Needham, MA 02494  
Tel: 781.707.4000  
Fax: 781.707.4001



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## Narrative to Supporting Materials

BHX, LLC, as Trustee of Acorn Park Holdings Realty Trust (“Bulfinch”), is embarking on the next step in the phased redevelopment of Cambridge Discovery Park, the former Arthur D. Little Company campus in the northwest corner of Cambridge. Bulfinch now proposes to construct a 150-room hotel with associated amenities including meeting and function space, a restaurant/bar, a fitness facility, and a pool.

This Volume II to the Application to Cambridge Planning Board for Major Amendment No. 1 to Planning Board Master Plan Special Permit PB#198, for a Parkway Overlay District Special Permit, and for Design Review of Building 600, provides supporting documents: a traffic analysis and the orders of conditions for the proposed hotel project.

The traffic analysis memorandum (copy at Tab A) from Vanasse & Associates, Inc. (“VAI”) compares the daily and peak hour vehicles trips that will be generated by the proposed 82,000 square foot hotel to those that would have been generated by the formerly-proposed approximately 120,000 square foot office/research building. VAI concludes that, overall, the change in use will reduce the impact on peak hour vehicle trips to and from Cambridge Discovery Park.

In 2004, Bulfinch worked with the Cambridge Conservation Commission to develop a “banking” mechanism whereby flood storage capacities created by the demolition of former ADL buildings were banked, for use as new buildings are constructed, with flood storage capacities for each incremental foot tracked in a Flood Storage Table. This resulted in the issuance of Order of Conditions No. 123-180 for the phased redevelopment of Cambridge Discovery Park. Condition 44 to the Order requires that Bulfinch file a notice of intent for each phase of redevelopment (other than tenant fit-out or renovations occurring entirely within a building), with an updated Flood Storage Table. A copy of the original order is attached at Tab B. The Order has been amended and extended several times; the Cambridge Conservation Commission has reviewed and approved updated Flood Storage Tables for each phase of construction.

On October 31, 2013, Bulfinch filed a notice of intent for the construction of a hotel to be known as Building 600. As required by the Order, the notice included an updated Flood Storage Table. As noted in the Cambridge Conservation Commission’s Amended Order of Conditions No. 123-180 approving Building 600, the Flood Storage Table was reviewed and approved for accuracy by James Wilcox, Director of Engineering Services for the Cambridge Department of Public Works. On November 18, 2013, the Cambridge Conservation Commission issued Amended Order of Conditions No. 123-180, approving the Building 600 project. A copy of this amended order is attached at Tab C.

A group of Cambridge residents appealed this decision to Massachusetts Department of Environmental Protection, Northeastern Regional Office (“NERO”). On June 27, 2014, NERO issued the Superseding Amended Order of Conditions, which denied all of the group’s claims and upheld the Cambridge Conservation Commission’s decision as issued. A copy of this superseding amended order is attached at Tab D.

**TAB A**

## MEMORANDUM

**TO:** Ms. Susan E. Clippinger, Director  
City of Cambridge  
Traffic, Parking and Transportation  
Department  
344 Broadway  
Cambridge, MA 02139

**FROM:** F. Giles Ham, P.E. *FGH*  
Managing Principal  
Vanasse & Associates, Inc.  
10 New England Business Center Drive  
Suite 314  
Andover, MA 01810  
(978) 474-8800

**DATE:** September 27, 2013

**RE:** 6599 – Cambridge Discovery Park

**SUBJECT:** Building 600 – Proposed 150-Room Hotel

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### INTRODUCTION

As requested, Vanasse & Associates, Inc. (VAI) has provided supplemental transportation information with respect to a 150-room hotel to be located at Cambridge Discovery Park in Cambridge, MA. The proposed 85,000 square foot (sf) hotel will replace the planned Building 600, which was anticipated to be approximately 120,000 sf. The following information is provided with respect to the change in use as it relates to vehicle trips and parking demand.

### Vehicle Trips

In September 2004, VAI completed a detailed Transportation Impact Study in accordance with City Guidelines. The study included a development program of 826,000 sf of office and R&D uses. The mode split assumptions included 70 percent drive alone, 12 percent ridesharing, 15 percent transit, 1 percent walking, and 2 percent bicycle. The overall vehicle trip estimate was 5,966 daily (2,983 in/2,983 out) and 878 morning trips consisting of 754 entering and 119 exiting. During the evening peak hour, a total of 818 vehicle trips were estimated consisting of 134 entering and 684 exiting. The Building 600, which will be replaced by the hotel, represents 120,000 sf of the total 826,000 sf or 14.5 percent.

Traffic generation of the proposed 150-room hotel was based upon the *Trip Generation Manual* Land Use Code 310-Hotel. For comparison purposes, we have assumed no mode share for the hotel even though it is located in close proximity to the MBTA Red Line and shuttle service is provided to the area. In addition, many of the proposed hotel's guests may be visiting companies at Cambridge Discovery Park or the nearby Cambridge Park Drive and can walk to their meetings. The trip generation comparison of the proposed 150-room hotel (unadjusted) and the previously planned Building 600 at 120,000 sf is presented in Table 1.



**Table 1**  
**TRIP GENERATION SUMMARY**

Time Period/Direction	Vehicle Trips		
	120,000 sf Office/R&D	150-Room Hotel	Increase (Decrease)
<i>Average Weekday Daily:</i>			
Entering	433	485	52
<u>Exiting</u>	<u>433</u>	<u>485</u>	<u>52</u>
Total	866	970	104
<i>Weekday Morning Peak Hour:</i>			
Entering	110	47	(63)
<u>Exiting</u>	<u>17</u>	<u>33</u>	<u>16</u>
Total	127	80	(47)
<i>Weekday Evening Peak Hour:</i>			
Entering	20	46	26
<u>Exiting</u>	<u>99</u>	<u>44</u>	<u>(55)</u>
Total	119	90	(29)

As shown, assuming all hotel trips are via auto, the change in use will generate slightly more total daily trips, but fewer vehicle trips during the weekday morning and evening commuter hours.

### **Parking**

Section 17.43.1 of the Cambridge Zoning Ordinance limits parking at Cambridge Discovery Park to 1,052 spaces. That section also provides that notwithstanding the provisions of Article 6 (off-Street parking and Loading Requirements), 1,052 parking spaces shall be the maximum required for any amount of development at Cambridge Discovery Park, regardless of the mix of uses, up to 900,000 square feet of gross floor area (excluding structured parking). The master plan special permit for the phased redevelopment of Cambridge Discovery Park authorizes up to 826,000 square feet of gross floor area and 1,052 parking spaces.

Except as provided in Section 17.40, the requirements and regulations applicable to Office 2 districts apply at Cambridge Discovery Park. Absent the provisions of Section 17.43.1 discussed above, as originally proposed, Building 600 would have required 1 space per 800 square feet for general office use or 1 space per 1,050 square feet of laboratory use. At the proposed 120,000 square feet of gross floor area, this would have amount to between 114 and 150 spaces. By contrast, the proposed 150-room hotel would require approximately 85 parking spaces (75 spaces for the sleeping rooms, at 1 per 2 sleeping room, plus 10 for the function room space). Initially, this hotel parking will be accommodated in the existing Garage A. After Garage B is built, in conjunction with the construction of Building 400 and 500, hotel parking will shift to Garage B. Attached is a table from Shared Parking<sup>1</sup>, which illustrates the temporal distribution of parking for land uses. In this case, the hotel use peak parking demand is after

<sup>1</sup> *Shared Parking 2<sup>nd</sup> Edition*; Urban Land Institute; 2007.



11:00 PM, while the office use peak is at 10:00 AM. These uses have non-coincident peaks which lessens the overall impact on parking. A total of 12 bicycle spaces will be provided at the hotel.

Overall, the change in use from a 120,000 sf office and R&D use to a 150-room hotel has a reduced impact on peak hour vehicle trips and parking demand during the day.

cc: R. Schlager, M. DiOrio – The Bulfinch Companies  
SWT, MKJ, File



**Institute of Transportation Engineers (ITE)**  
**Trip Generation, 9th Edition**  
**Land Use Code (LUC) 310 - Hotel**

Average Vehicle Trips Ends vs: Rooms  
 Independent Variable (X): 150

**AVERAGE WEEKDAY DAILY**

$T = 8.95 * (X) - 373.16$   
 $T = 8.95 * 150 - 373.16$   
 $T = 969.34$   
 $T = 970$  vehicle trips  
 with 50% ( 485 vpd) entering and 50% ( 485 vpd) exiting.

**WEEKDAY MORNING PEAK HOUR OF ADJACENT STREET TRAFFIC**

$T = 0.53 * (X)$   
 $T = 0.53 * 150$   
 $T = 79.50$   
 $T = 80.00$  vehicle trips  
 with 59% ( 47 vpd) entering and 41% ( 33 vpd) exiting.

**WEEKDAY EVENING PEAK HOUR OF ADJACENT STREET TRAFFIC**

$T = 0.60 * (X)$   
 $T = 0.60 * 150$   
 $T = 90.00$   
 $T = 90$  vehicle trips  
 with 51% ( 46 vpd) entering and 49% ( 44 vpd) exiting.

**SATURDAY DAILY**

$T = 9.62 * (X) - 294.56$   
 $T = 9.62 * 150 - 294.56$   
 $T = 1148.44$   
 $T = 1,148$  vehicle trips  
 with 50% ( 574 vpd) entering and 50% ( 574 vpd) exiting.

**SATURDAY MIDDAY PEAK HOUR OF GENERATOR**

$T = 0.69 * (X) + 4.32$   
 $T = 0.69 * 150 + 4.32$   
 $T = 107.82$   
 $T = 108$  vehicle trips  
 with 56% ( 60 vph) entering and 44% ( 48 vph) exiting.

**SUNDAY DAILY**

$T = 5.95 * (X)$   
 $T = 5.95 * 150$   
 $T = 892.50$   
 $T = 892$  vehicle trips  
 with 50% ( 446 vph) entering and 50% ( 446 vph) exiting.

**SUNDAY MIDDAY PEAK HOUR OF GENERATOR**

$T = 0.70 * (X) - 29.89$   
 $T = 0.70 * 150 - 29.89$   
 $T = 75.11$   
 $T = 75$  vehicle trips  
 with 46% ( 35 vph) entering and 54% ( 40 vph) exiting.

# SHARED PARKING

**Table 2-5** Recommended Time-of-Day Factors for Weekdays

Land Use	User	6 a.m.	7 a.m.	8 a.m.	9 a.m.	10 a.m.	11 a.m.	Noon	1 p.m.	2 p.m.	3 p.m.	4 p.m.	5 p.m.	6 p.m.	7 p.m.	8 p.m.	9 p.m.	10 p.m.	11 p.m.	Midnight	Source	
Shopping Center—Typical	Customer	1%	5%	15%	35%	65%	85%	95%	100%	95%	90%	90%	95%	95%	95%	80%	50%	30%	10%	—	1	
	Peak December	1%	5%	15%	30%	55%	75%	90%	100%	100%	100%	100%	85%	80%	75%	65%	50%	30%	10%	—	1	
	Late December	1%	5%	10%	20%	40%	65%	90%	100%	100%	100%	100%	100%	70%	55%	40%	25%	15%	5%	—	1	
Fine/Casual Dining	Employee	10%	15%	40%	75%	85%	95%	100%	100%	100%	100%	100%	95%	95%	95%	90%	75%	40%	15%	—	2	
	Customer	—	—	—	15%	15%	40%	75%	75%	65%	40%	50%	75%	100%	100%	100%	100%	100%	95%	75%	25%	2
Family Restaurant	Employee	—	20%	50%	75%	90%	90%	90%	90%	90%	75%	75%	100%	100%	100%	100%	100%	100%	85%	35%	2	
	Customer	25%	50%	60%	75%	85%	90%	100%	90%	50%	45%	45%	75%	80%	80%	80%	60%	55%	50%	25%	2	
Fast Food	Employee	50%	75%	90%	90%	100%	100%	100%	100%	100%	75%	75%	95%	95%	95%	95%	80%	65%	65%	35%	2	
	Customer	5%	10%	20%	30%	55%	85%	100%	100%	90%	60%	55%	60%	85%	80%	30%	30%	20%	10%	5%	3	
Nightclub	Employee	15%	20%	30%	40%	75%	100%	100%	100%	95%	70%	60%	70%	90%	90%	60%	40%	30%	20%	20%	2	
	Customer	—	—	—	—	—	—	—	—	—	—	—	—	25%	50%	75%	100%	100%	100%	100%	2	
Cineplex—Typical	Employee	—	—	—	5%	5%	5%	10%	10%	—	10%	20%	45%	60%	80%	100%	100%	100%	100%	100%	2	
	Customer	—	—	—	—	—	—	20%	45%	55%	55%	55%	60%	60%	80%	100%	100%	80%	65%	40%	2.6	
Late December	Employee	—	—	—	—	—	—	35%	60%	75%	80%	80%	80%	80%	100%	100%	100%	85%	70%	55%	2.6	
	Customer	—	—	—	—	—	—	50%	60%	60%	75%	75%	100%	100%	100%	100%	100%	100%	70%	50%	2	
Performing Arts Theater	Employee	—	—	—	—	—	—	1%	1%	1%	1%	1%	1%	1%	25%	100%	100%	100%	—	—	2	
	Customer	—	—	—	—	—	—	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%	2	
No matinee	Employee	—	10%	10%	20%	20%	20%	30%	30%	30%	30%	30%	30%	30%	100%	100%	100%	100%	30%	10%	5%	2
	Customer	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	2	
Arenas	Employee	—	10%	10%	20%	20%	20%	30%	30%	30%	30%	30%	30%	30%	100%	100%	100%	100%	85%	25%	—	2
	Customer	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	2	
Stadium	Employee	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	2	
	Customer	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	2	
8 p.m. start	Employee	—	10%	10%	20%	20%	20%	30%	30%	30%	30%	30%	30%	100%	100%	100%	100%	100%	85%	25%	—	2
	Customer	70%	40%	40%	70%	70%	80%	60%	70%	70%	70%	80%	90%	100%	100%	100%	100%	100%	100%	25%	10%	2
Health Club	Employee	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	100%	100%	100%	100%	100%	100%	100%	2.4	
	Customer	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	2.4	
Convention Center	Employee	—	—	50%	100%	100%	100%	100%	100%	100%	100%	100%	100%	50%	30%	30%	30%	20%	20%	—	2	
	Visitor	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	2	
Hotel—Business	Employee	5%	30%	33%	33%	100%	100%	100%	100%	100%	100%	100%	100%	40%	25%	20%	20%	20%	5%	—	2	
	Guest	95%	90%	80%	70%	60%	60%	55%	55%	60%	60%	65%	70%	75%	75%	80%	85%	95%	95%	100%	5	
Hotel—Leisure	Employee	95%	95%	90%	80%	70%	70%	65%	65%	70%	70%	75%	80%	85%	85%	90%	95%	95%	100%	100%	2	
	Guest	—	—	30%	10%	10%	5%	100%	100%	33%	10%	10%	30%	55%	60%	70%	67%	60%	40%	30%	5.3	
Restaurant/Lounge	Employee	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	2	
	Customer	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	2	
Conference/Banquet	Employee	5%	30%	90%	90%	100%	100%	100%	100%	100%	100%	100%	100%	50%	30%	30%	30%	20%	10%	—	2	
	Customer	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	2	
Convention	Employee	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	2	
	Customer	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	2	
Residential	Employee	—	10%	10%	20%	20%	20%	20%	20%	20%	20%	20%	20%	40%	20%	20%	20%	20%	20%	10%	5%	2
	Guest	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	2	
Residential	Employee	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	2	
	Resident	100%	90%	85%	80%	75%	70%	65%	70%	70%	70%	70%	70%	45%	20%	20%	20%	20%	20%	80%	50%	2
Office	Employee	—	1%	20%	60%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	2	
	Visitor	3%	30%	75%	95%	100%	100%	100%	90%	90%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	2	
Medical/Dental Office	Employee	—	—	90%	90%	100%	100%	100%	100%	100%	100%	100%	100%	67%	30%	30%	15%	—	—	—	2	
	Customer	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	3	
Bank	Employee	—	—	50%	90%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	2	
	Customer	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	2	

**Sources:**  
 1. Confidential data provided by developer.  
 2. Data provided by team members.  
 3. Harris Development, Ltd. and Harris Development, Inc. (Washington, D.C. Institute of Transportation Engineers, 2004).  
 4. John W. Dersel, "Parking Requirements for Health Clubs," *Journal of the American Planning Association*, 2004.  
 5. "The Parking Problem: How Do We Solve It? Enough?" Urban Land Institute, 1988.  
 6. Parking study conducted by Park Harris Butt & Associates for the Prisoner Companies, 2001.

**Table 13**  
**FULL-BUILD TRIP GENERATION SUMMARY**

Time Period/Direction	ITE Vehicle Trips				Person Trips <sup>a</sup>				Automobile Trips			
	Office Trips <sup>b</sup>	R&D Trips <sup>c</sup>	Total Trips	Total <sup>d</sup>	Drive-Along Trips <sup>e</sup>	Ridesharing Trips <sup>f</sup>	Transit Trips <sup>g</sup>	Pedestrian Trips <sup>h</sup>	Bicycle Trips <sup>i</sup>	Proposed Trips <sup>j</sup>	Existing Trips <sup>k</sup>	Net Increase in Trips
<i>Average Weekday Daily:</i>												
Entering	2,436	1,202	3,638	3,965	2,775	476	595	40	79	2,983	1,298	1,685
Exiting	2,436	1,202	3,638	3,965	2,775	476	595	40	79	2,983	1,298	1,685
Total	4,872	2,404	7,276	7,930	5,550	952	1,190	80	158	5,966	2,596	3,370
<i>Weekday Morning Peak Hour:</i>												
Entering	634	292	926	1,009	706	121	152	10	20	759	332	427
Exiting	86	60	146	159	111	19	24	2	3	119	32	87
Total	720	352	1,072	1,168	817	140	176	12	23	878	364	514
<i>Weekday Evening Peak Hour:</i>												
Entering	116	48	164	179	125	21	27	2	4	134	40	94
Exiting	565	270	835	910	637	109	137	9	18	684	314	370
Total	681	318	999	1,089	762	130	164	11	22	818	354	464

<sup>a</sup>Mode splits based on general assumptions and the 1990 U.S. Census Data and Statistics for Tract No. 3549 published by the Metropolitan Planning Organization in the 1997 Transportation Plan for the Boston region, approved April 29, 1997.

<sup>b</sup>Based on ITE Trip Generation Manual, Seventh Edition and LUC 710 – General Office Building; 537,700 sf.

<sup>c</sup>Based on ITE Trip Generation Manual, Seventh Edition and LUC 760 – Research and Development Center; 288,300 sf.

<sup>d</sup>Multiply ITE vehicle trips by vehicle occupancy ratio of 1.09 persons/vehicle per census tract data.

<sup>e</sup>Assume 70 percent of total person trips.

<sup>f</sup>Assume 12 percent of total person trips.

<sup>g</sup>Assume 15 percent of total person trips.

<sup>h</sup>Assume 1 percent of total person trips.

<sup>i</sup>Assume 2 percent of total person trips.

<sup>j</sup>Drive-alone plus rideshare person trips divided by vehicle occupancy ratio of 1.09 persons per vehicle.

<sup>k</sup>Based on counts conducted at Acorn Park Drive by VAI in October and November 2000, when Acorn Park was fully occupied.

September 2004 Report

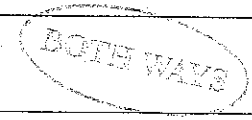
**TAB B**



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

DEP File Number:  
 123-180

**A. General Information**



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



From: Cambridge  
 1. Conservation Commission

2. This issuance is for (check one):  Order of Conditions  Amended Order of Conditions

3. To: Applicant:  
Robert Schlager BHX, LLC as Trustee of Acorn Park Holdings  
 a. First Name b. Last Name c. Company  
Realty Trust

250 First Avenue, Suite 200  
 d. Mailing Address

Needham MA 02494  
 e. City/Town f. State g. Zip Code

4. Property Owner (if different from applicant):  
 a. First Name b. Last Name c. Company  
 d. Mailing Address  
 e. City/Town f. State



2004 01353531  
 Bk: 1230 Pg: 56 Cert#: 220006  
 Doc: ORD 10/25/2004 12:16 PM  
 Bk: 01230 Pg: 57 Cert#: 220007  
 Doc: ORD 10/25/2004 12:16 PM

5. Project Location:  
Acorn Park Drive Cambridge  
 a. Street Address b. City/Town  
See NOI page 2a See NOI page 2a  
 c. Assessors Map/Plat Number d. Parcel/Lot Number  
 Latitude and Longitude, if known (note: electronic filers will click for GIS locator):  
42° 23.93" 71°9.04"  
 e. Latitude f. Longitude

6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):  
Middlesex South 220006 & 220007  
 a. County b. Certificate (if registered land)  
32042 483 & 468  
 c. Book d. Page

7. Dates: 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):  
Cambridge Discovery Park, Notice of Intent (Sheets C-1 through C-13, C-14 through C-34. Landscaping Plan in 2 sheets)  
BSC Group & CRJA/Carol R. Johnson Associates, Inc. Richard F. Gosselin / David E. Varga  
 c. Signed and Stamped by  
Various (1":100', 1":20')  
 e. Scale  
 d. Final Revision Date  
See attached list

f. Additional Plan or Document Title July 30, 2004  
 g. Date  
 9. Total WPA Fee Paid: \$1050.00 \$512.50 \$537.50  
 a. Total Fee Paid b. State Fee Paid c. City/Town Fee Paid

220006-1230-56  
 220007-1230-57



**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. 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:

- 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:

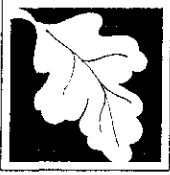
- the proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect these interests, and a final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

- 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).**

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

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
3. <input type="checkbox"/> Bank	a. linear feet _____	b. linear feet _____	c. linear feet _____	d. linear feet _____
4. <input type="checkbox"/> Bordering Vegetated Wetland	a. square feet _____	b. square feet _____	c. square feet _____	d. square feet _____
5. <input type="checkbox"/> Land Under Waterbodies and Waterways	a. square feet _____ e. cu.yd dredged _____	b. square feet _____ f. cu.yd dredged _____	c. square feet _____	d. square feet _____





**B. Findings (cont.)**

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
6. <input checked="" type="checkbox"/> Bordering Land Subject to Flooding Cubic Feet Flood Storage	a. square feet 0 cu.ft. e. cubic feet	b. square feet 0 cu. ft. f. cubic feet	c. square feet 4,063 cu. ft. g. cubic feet	d. square feet 4,063 cu. ft. h. cubic feet
7. <input type="checkbox"/> Isolated Land Subject to Flooding Cubic Feet Flood Storage	a. square feet  c. cubic feet	b. square feet  d. cubic feet	e. cubic feet	f. cubic feet
8. <input type="checkbox"/> Riverfront area  Sq ft within 100 ft  Sq ft between 100-200 ft	a. total sq. feet  c. square feet  e. square feet	b. total sq. feet  d. square feet  f. square feet		

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

9. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below			
10. <input type="checkbox"/> Land Under the Ocean	a. square feet	b. square feet		
	c. cu.yd dredged	d. cu.yd dredged		
11. <input type="checkbox"/> Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
12. <input type="checkbox"/> Coastal Beaches	a. square feet	b. square feet	c. c/y nourishmt.	d. c/y nourishmt.
13. <input type="checkbox"/> Coastal Dunes	a. square feet	b. square feet	c. c/y nourishmt.	d. c/y nourishmt.
14. <input type="checkbox"/> Coastal Banks	a. linear feet	b. linear feet		
15. <input type="checkbox"/> Rocky Intertidal Shores	a. square feet	b. square feet		
16. <input type="checkbox"/> Salt Marshes	a. square feet	b. square feet	c. square feet	d. square feet
17. <input type="checkbox"/> Land Under Salt Ponds	a. square feet	b. square feet		
	c. cu.yd dredged	d. cu.yd dredged		
18. <input type="checkbox"/> Land Containing Shellfish	a. square feet	b. square feet	c. square feet	d. square feet
19. <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. cu.yd dredged	b. cu.yd dredged		
20. <input type="checkbox"/> Land Subject to Coastal Storm Flowage	a. square feet	b. square feet		



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

(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. 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.
7. 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.
8. 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 this 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.
9. 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, "MA DEP"]

"File Number 123-0180 "



# WPA Form 5 – Order of Conditions

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

## C. General Conditions Under Massachusetts Wetlands Protection Act

10. 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 DEP.
11. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
12. The work shall conform to the plans and special conditions referenced in this order.
13. Any change to the plans identified in Condition #12 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.
14. 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.
15. 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.
16. 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.
17. 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.

Special Conditions:

See attached

If you need more space for additional conditions, select box to attach a text document

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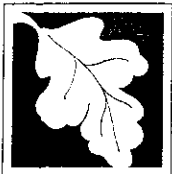
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# WPA Form 5 – Order of Conditions

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

## D. Findings Under Municipal Wetlands Bylaw or Ordinance

1. Furthermore, the \_\_\_\_\_ hereby finds (check one that applies):  
Conservation Commission

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

a. Municipal Ordinance or Bylaw

b. 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.

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

a. Municipal Ordinance or Bylaw

b. Citation

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.

c. The special conditions relating to municipal ordinance or bylaw are as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If you need more space for additional conditions, select box to attach a text document



**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

DEP File Number:  
123-180

**E. Issuance**

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

October 4, 2004  
 1. Date of Issuance

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

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

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:

Albe Simenas  
Debra H. Altman  
Justin Jensen  
John Ford  
Maureen McCaffrey  
John St. (Director)

**Notary Acknowledgement**

Commonwealth of Massachusetts County of

Middlesex

On this 14<sup>th</sup> Day of

October  
~~September~~ 2004  
 Month Year

Before me, the undersigned Notary Public, personally appeared

Jennifer Wright, Director  
 Name of Document Signer

proved to me through satisfactory evidence of identification, which was/were

Drivers License  
 Description of evidence of identification

to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

As Director of Cambridge City/Town Conservation Commission

Brenda Boyd  
 Signature of Notary Public  
 Notary Public  
 Printed Name of Notary Public  
 My Commission Expires January 17, 2008  
 My Commission Expires (Date)

Place notary seal and/or any stamp above

This Order is issued to the applicant as follows:

by hand delivery on  by certified mail, return receipt requested, on

Date

Date



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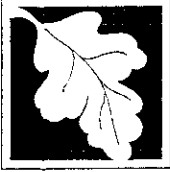
## F. Appeals

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 DEP 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.

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.

Section G, Recording Information is available on the following page.





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

DEP File Number:  
 123-180

**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 subject to the Order of Conditions. The recording information on Page 7 of this form shall be submitted to the Conservation Commission listed below.

Cambridge  
 Conservation Commission

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

To:

Cambridge  
 Conservation Commission

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

Acorn Park Drive, Cambridge	123-180
Project Location	DEP File Number

Has been recorded at the Registry of Deeds of:

County	Book	Page
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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

## ATTACHMENT

Order of Conditions, DEP File No. 123-180  
Cambridge Discovery Park Redevelopment  
Acorn Park Drive  
Cambridge, Massachusetts

### Section A - Findings of Fact:

After the Commission approved the resource area delineation in July 2004, a notice of intent was submitted on July 30, 2004. Please see Section B for a complete list of submittals.

The applicant's intent is as per the Special Area 4 Zoning approved by the City of Cambridge. The intent is to remove the development along the Little River and maximize build-out on the North side of Acorn Park Drive, increasing flood storage and decreasing impervious surface. The total build-out will be completed in phases. Phase 1 consists of the demolition of two buildings and the construction of Building 100, Building 200 foundation, and a parking structure.

**A copy of the existing conditions and proposed post-phase 1 development has been recorded with this order of conditions. As well as a copy of Table 1: Flood Storage Table and Table 2: Pervious Surface Area Table.**

The current FEMA defined 100-year flood elevation is 8.2 NGVD. However, the applicant has provided calculations for flood storage compensation for up to elevation 10.8 NGVD.

### Section B – Documents and Plans:

NOI Submission July 30, 2004

- Notice of Intent, Building 100, prepared by BSC Group, July 2004
- NOI Plans, Building 100, Sheets C1-C34, Landscape Plan (2 sheets), prepared by BSC Group, July 30, 2004
- NOI Plans, prepared by BSC Group, July 30, 2004
- Drainage Report, prepared by BSC Group, July 30, 2004

Public Hearing 1 August 9, 2004

No handouts

Public Hearing 2 September 13, 2004

- Responses to Comments and Questions, prepared by BSC Group, August 26, 2004
- Letter from BSC Group to Commission submitting replacement pages for portions of the following sections of the Drainage Report:

- 1) Section 3.0 Flood Storage Mitigation
- 2) Section 9.1 Impervious Calcs, and
- 3) Section 10.0 Flood Storage Plans & Calculations

Public Hearing 3      September 27, 2004

- Revisions to Section 9.1 Impervious Calculations of Drainage Report
- Tables showing the summary of flood storage volumes and impervious area over future phases
- Schematic design of two (2) stormwater basins
  - 1) Kidney Shaped
  - 2) Swale and Basin (accepted by the Commission)

**Section C - Special Conditions:**

18. Work shall conform to the Notice of Intent under the Massachusetts Wetlands Protection Act, M.G.L. ch. 131, sec. 40, submitted to the Cambridge Conservation Commission on July 29, 2004, and the additional information and modifications outlined in the supplemental documents and plans provided by the applicant. Specifically, the proposed work shall conform to the most recent revisions to the Notice of Intent document and plans, received by the Commission as stated above.
19. Any further proposed or executed changes in the plans approved under this Order shall require the applicant to seek an amended Order of Conditions or to file a new Notice of Intent, or to inquire of the Cambridge Conservation Commission in writing whether the change or changes is/are substantial enough to require a new filing. Any errors in the plans or information by the applicant shall be considered changes and the above procedures shall be followed.
20. Prior to any work on the site, the applicant shall record this Order of Conditions at the Middlesex Registry of Deeds pursuant to Condition 8. Failure to do so shall be deemed cause to revoke this Order.
21. The applicant shall provide to the Conservation Commission copies of all other permits, variances, licenses or determinations which may be necessary for this project by other local, state and federal agencies, such as the Chapter 91 License, NPDES permit, Water Quality Certificate, Army Corps of Engineers permit, MEPA Certificate, building permits, and zoning board approvals. The applicant shall provide copies of all applicable permits to the Commission at least 2 weeks prior to commencement of work authorized under any such permit.
22. This Order of Conditions shall be included in all construction contracts and subcontracts dealing with the work proposed and shall supersede all conflicting contract requirements that are less protective of Wetland Resource Areas.
23. The applicant and its contractor shall keep at least one copy of this Order at the project site until a Certificate of Compliance is issued for the project. The copy of the Order shall be kept at a location mutually acceptable to the applicant and the Commission, so that the order will be available for review during regular working

hours. The sign with the DEP File Number for this project, required in condition 9 above, shall remain posted at the site until a Certificate of Compliance is issued for this project.

24. All erosion control measures shall be installed before work commences and kept in working conditions until all areas are stabilized. After installation, a site visit shall be arranged with the Director to ensure that installation meets the intended standards.
25. The applicant or its agent shall specify to the Commission, prior to commencement of activity on the site, the name and telephone number of the person(s) designated by the applicant to be responsible for compliance with the conditions of this Order on the site and his/her alternate.
26. Prior to initiation of work on the site, the applicant shall convene a pre-construction site meeting with the Director of the Commission, a representative of the contractor performing the work, and the person responsible for compliance with this Order per Special Condition 25.
27. The applicant shall provide 72 hours written notice to the Commission prior to commencement of activity on the site.
28. The members and agents of the Conservation Commission shall have the right to enter the site to verify compliance with this Order and to require the submittal of additional data deemed necessary by the Commission for that verification. The Commission understands that construction-site safety procedures must be followed during site visits.
29. If some unexpected or unforeseen event crops up with respect to the Wetlands Protection Act and/or this Order of Conditions, that needs to be addressed, all work shall stop until the event can be brought to the attention of the Director of the Commission and a decision made by the Director as to whether it needs to be brought before the Commission.
30. Prior to the use of chemicals to aid in the planting plan and vegetation management, the applicant and/or representative must submit a proposal to be approved by the Commission including but not limited to a delineation of the subject area, reason for proposed application, chemicals to be used (including MSDS sheets), and all applicator licenses if needed.
31. If a workday commences with rain, no outside work involving earth moving or other activities which might give rise to erosion or sedimentation shall take place in the buffer zone or resource area that day. If rain commences after the start of work, all outside work involving earth moving or other activities which might give rise to erosion or sedimentation shall cease in the buffer zone or resource area for that day, and all work areas in the buffer zone and resource area shall be covered with mulch and/or a waterproof tarp, to prevent any sedimentation to the river.

32. All disturbed areas shall be stabilized during and after construction to prevent erosion and sedimentation. Upon completion of construction, all disturbed areas will be immediately stabilized, with mulching, planting or other means to prevent erosion, as specified in the project's Notice of Intent and Stormwater Management Plan. Site landscaping in accordance with the Landscape and Planting Plan shall commence as soon as possible after construction is complete.
33. All structures and equipment used for temporary stormwater management during construction, such as silt curtain/hay-bale fences, silt booms, debris screens, and catch basins, shall be maintained in good working condition at all times. These structures shall be inspected weekly, and immediately after rainstorms or snowmelt events, and repaired and/or cleaned if necessary.
34. No untreated construction runoff shall be routed directly into any Wetlands Resource Area, surface water, or storm drain. Runoff and other discharges from construction areas shall be routed to sedimentation/erosion control structures or allowed to flow over land in a direction away from Wetlands Resource Areas at all times during construction.
35. The applicant, contractor, owner, successor or assignees shall be responsible for ensuring the lasting integrity of the surface cover on the site and site activities so as to prevent erosion, siltation, sedimentation, chemical contamination or other detrimental impact to the on-site and/or off-site resource areas so as to comply with this Order and the Wetlands Protection Act.
36. All drainage structures constructed per this Order shall be inspected and maintained as described in the applicant's final approved Stormwater Management Operation and Maintenance Plan, except as outlined in this Order. This condition shall remain in effect in perpetuity and shall not expire with a Certificate of Compliance for the project.
37. Any surface drains on the project site shall have a permanent plaque within one foot of the structure, which shall indicate that drainage flows directly into the Little River and that dumping is prohibited.
38. All stockpiling, refueling and maintenance activities during construction shall occur within a defined area outside of wetland resource areas and their buffer zones, provided that such activities may occur on bordering land subject to flooding which is not also another wetland resource area or associated buffer zone. A plan showing this defined area shall be submitted to the Commission prior to initiation of work on the site.
39. The applicant shall be prepared to effectively deal with spillage of fuel or hydraulic fluids from equipment. A quick-absorbent material, such as "Speedy Dry" or equivalent, shall be stored in a dry, readily available area and used in the event

petroleum-based fluids are spilled or leaked. The spent material is then to be containerized and disposed of properly. Any release of fuel or lubricants at the work site shall be reported to the Commission immediately. There shall be no discharge or spillage of fuel, oil, or any other pollutant into any Wetland Resource Area.

40. No construction material debris, other debris or refuse from construction workers shall be allowed to enter or remain in the buffer zone or any wetland resource area. Any debris entering these areas must be removed immediately by hand.
41. The applicant shall take appropriate steps to control dust at the project site and prevent its spread by trucks leaving the site.
42. There shall be no use of sodium de-icing agents on the site. The applicant shall submit to the Commission and the DPW a plan that identifies the method of de-icing which will have the least impact on water quality and function of pervious pavement areas.
43. Construction of the Project shall result in an increase in flood storage capacity at each incremental elevation, as shown on **Table I**, attached to this Order and incorporated herein by reference (the "Flood Storage Table"), over current flood storage conditions (the "September 2004 Flood Storage Conditions").
44. The Applicant shall file a Notice of Intent for every future phase of the redevelopment of Cambridge Discovery Park, (other than tenant fit-out or renovations occurring entirely within a building(s)), which Notice of Intent shall include an updated Flood Storage Table, stamped by a Massachusetts registered professional engineer. The updated Flood Storage Table shall demonstrate the changes in flood storage capacity for each affected incremental elevation, both with respect to that future phase and the cumulative changes from the September 2004 Flood Storage Conditions. In any future phase of development, any decrease in flood storage capacity resulting from that phase shall not exceed eighty percent (80%) of the increase in flood storage capacity measured between September 2004 Conditions and flood storage capacity at the time the Notice of Intent is filed for such future phase. *For example, if at the time of a future phase of development, the net increase in flood storage capacity between elevations 5 and 6 created during the prior phase(s) is 120 cubic yards then eighty percent, or 96 cubic yards, of that increased flood storage capacity may be used in that phase.*
45. In any event, and without limiting the provisions of Special Condition no. 44, each updated Flood Storage Table shall demonstrate that flood storage capacity at the completion of such future phase shall be at least as great, at each incremental elevation, as in the September 2004 Conditions.
46. The Applicant's flood storage calculations and Flood Storage Table for this Project address incremental elevations up to 8.2 feet NGVD, based on the current 100-year flood elevation established by the Federal Emergency Management Agency ("FEMA"). Any future Flood Storage Table submitted with any future Notice of



Intent shall demonstrate compliance with Special Conditions nos. 43–45 of this Order based on the then-applicable 100-year flood elevation as established by FEMA or any successor agency. In addition to utilizing FEMA’s then-current 100-year flood elevation, such future Flood Storage Tables shall comply with applicable Massachusetts Department of Environmental Protection and City of Cambridge regulations and guidance documents in effect at the time such updated Flood Storage Table is submitted.

47. Construction of the Project shall result in an increase in pervious surface area at the Project site, as demonstrated in **Table 2** attached to this Order and incorporated herein by reference (the “Pervious Surface Area Table”), over current Pervious Surface conditions (the “September 2004 Pervious Surface Area Conditions”).
48. Each Notice of Intent for any future phase of the redevelopment of Cambridge Discovery Park shall include an updated Pervious Surface Area Table, stamped by a Massachusetts registered professional engineer. The updated Pervious Surface Area Table shall demonstrate the changes in pervious surface area, both with respect to that phase and the cumulative changes from the September 2004 Pervious Surface Area Conditions. In any future phase of development, any decrease in pervious surface area resulting from that phase shall not exceed eighty percent (80%) of the increase in pervious surface area measured between September 2004 Pervious Surface Area Conditions and pervious surface area at the time the Notice of Intent is filed for such future phase. *For example, if at the time of a future phase of development, the net increase in pervious area created during the prior phase(s) is 1.0 acres then the total amount of impervious area may be increased by 0.80 acres by that future phase.*
49. In any event, and without limiting the provisions of Special Condition no. 47, the updated Pervious Surface Area Table shall demonstrate that pervious surface area at the completion of such future phase shall be at least as great as in the September 2004 Pervious Surface Area Conditions.
50. The Applicant shall not request nor shall the Commission issue any Order of Conditions for any future phase of redevelopment of the Project site in the absence of compliance with these Special Conditions nos. 48.
51. As provided in 310 CMR 10.05(9)(e), these Special Conditions nos. 43-50 shall continue past the completion of the work and shall remain in effect in perpetuity and shall survive the issuance of a Certificate of Compliance for this Project or for any future phases of the redevelopment of Cambridge Discovery Park.
52. The applicant is responsible for submitting a planting plan for approval prior to installation. The planting plan must at a minimum provide 1:1 replication for trees removed as per the proposed tree ordinance; except for the parking lot area.
53. The applicant must submit a report from a certified arborist after three (3) growing seasons to state the health of the new plantings. The applicant is responsible for any replacements based upon the report.

54. The applicant must submit for approval by the Commission a stormwater basin plan for the swale and basin schematic design (presented on September 27, 2004). The plan must include the complete design, performance standards, operation and maintenance plan, and a monitoring plan. The plan must be approved prior to construction of the basin.

# Table 1 - Flood Storage Table

## Calculation Sheet



Project No. 11278.70  
 Subject Compensatory Flood Storage  
 Location Cambridge Discovery Park

Calc By Dbiancavilla  
 Date 9/13/2004  
 Revised by JEWhite  
 Date 9/17/2004

### SUMMARY OF NET AVAILABLE FLOOD STORAGE VOLUME CALCULATIONS - COMPARED WITH EXISTING 2004 STORAGE VOLUMES

Elevation	Existing Incremental Available Flood Storage (CY)	Building 100	
		Adjusted Incremental Available Flood Storage (CY)	Net Change from Existing (CY)
up to 4	25	1,971	1,946
4 to 5	1,817	2,649	832
5 to 6	7,235	7,989	754
6 to 7	14,718	14,982	264
7 to 8	17,621	17,782	161
8 to 9	17,893	18,152	259
9 to 10	18,098	18,269	171
10 to 10.8	14,592	14,969	377
<b>Total Storage</b>	<b>91,999</b>	<b>96,763</b>	<b>4,764</b>
<b>Buildings being demolished</b>		<b>35 (north) and 20a (south)</b>	

# Table 2 - Pervious Surface Area Table

## Calculation Sheet



Report Date 19-Aug-04  
 Project No. 11278.70  
 Subject Impervious Calculations  
 Location Cambridge Discovery Park

Calc By D. Hackett  
 Rev. Date 9/27/2004  
 Checked by D. Biancavilla  
 Date

### IMPERVIOUS AREA SUMMARY - COMPARISON TO EXISTING CONDITIONS\*

#### BUILDING 100

	Impervious			Pervious	Total Area
	Buildings	Pavements	TOTAL	TOTAL	
Total EXISTING	152,979 sf 3.51 Ac 13.3 %	293,404 sf 6.74 Ac 25.4 %	446,383 sf 10.25 Ac 38.7 %	708,037 sf 16.25 Ac 61.3 %	1,154,420 sf 26.50 Ac 100.0 %
Total BUILDING 100	179,402 sf 4.12 Ac 15.5 %	205,252 sf 4.71 Ac 17.8 %	384,654 sf 8.83 Ac 33.3 %	769,766 sf 17.67 Ac 66.7 %	1,154,420 sf 26.50 Ac 100.0 %
Net Change	26,423 sf 0.61 Ac 2.3 %	(88,152) sf (2.02) Ac (7.6) %	(61,729) sf (1.42) Ac (5.3) %	61,729 sf 1.42 Ac 5.3 %	

~~1230-56-0-2~~

- Exhibit -

Legal Description of Land

Reference is made to that certain "ALTA/ASCM Land Title Survey in Arlington, Belmont & Cambridge, Mass." prepared for Bulfinch Acquisition Corp. by The BSC Group, Inc. dated 11/13/00 (the "Survey").

PARCEL 1/No. 243 Concord Turnpike on the Survey

All that certain tract of parcel of land with the improvements thereon lying, situate and being in Middlesex County, Massachusetts and being more particularly described as follows:

A certain parcel of land situate on the State Highway, sometimes called the Concord Turnpike, in said Cambridge, bounded and described as follows:

- NORTHEASTERLY      on said State Highway, two hundred (200) feet;
- NORTHWESTERLY      on the boundary line between Cambridge and Belmont, three hundred twenty (320) feet more or less;
- SOUTHWESTERLY      on the brook, two hundred and fifty-three (253) feet more or less; and
- SOUTHEASTERLY      on land now or late of Dutchland Farms, Inc., three hundred and forty (340) feet more or less; containing one and 68/100 (1 68/100) acres and being shown as Lot C on a plan by Fred A. Joyce, Surveyor, dated November 9, 1936, recorded with Middlesex South District Deeds in Book 6079, Page 253.

cert # 220006      1230-56

6-8

**PARCEL 2/Lot 5 on the Survey**

A parcel of land situate in the City of Cambridge, County of Middlesex, Commonwealth of Massachusetts and more particularly bounded as follows:

- SOUTHERLY by Lot No. 6, 189.42 feet;
- SOUTHWESTERLY by the same, 424.14 feet;
- WESTERLY by the same, 208.10 feet;
- NORTHWESTERLY by the same, 318.00 feet;
- NORTHEASTERLY by Lot No. 243, 253.94 feet;
- NORTHERLY by land now or formerly Ferdinand F. Martignetti, et al, 78.77 feet;  
and
- EASTERLY by Lot No. 2, 633.29 feet.

Containing 6.61 acres, more or less.

Said parcel is shown as Lot 5 on that certain subdivision plan entitled "Land Court Subdivision Plan of Land in Cambridge/Belmont Massachusetts Middlesex County October 24, 2000" and prepared by the BSC Group, filed as Land Court Plan No. 20345-G, a copy of which is on file at the Office of the Land Court Engineers.

cert # 220006 1230-56

1025213.1 libd

LAND COURT, BOSTON, The land  
herein described will be shown on  
our approved plan to follow as

NOV 15 2000

Plan: 20345 G Lot 5

(EXAMINED AS TO DESCRIPTION ONLY)  
Louis A. Moore, Engineer

Bl. 1230  
P. 56

7-8



Legal Description of Land

Reference is made to that certain "ALTA/ASCM Land Title Survey in Arlington, Belmont & Cambridge, Mass." prepared for Bulfinch Acquisition Corp. by The BSC Group, Inc. dated 11/13/00 (the "Survey").

Building 35 Property

Four contiguous parcels of Land (the last two being registered land) situated on the Northerly side of Acorn Park as follows:

PARCEL 1/Lot 1 on the Survey

SOUTHERLY	by Acorn Park by three lines measuring respectively 121.70 feet, 205.26 feet and 98.84 feet;
WESTERLY	by land now or formerly of Marshall B. Dalton and others, Trustees, 193.45 feet;
NORTHERLY	by Lot Y4 as shown on the plan hereinafter mentioned by two lines measuring respectively 119 feet and 15.48 feet;
NORTHEASTERLY	45.38 feet;
NORTHWESTERLY	295.58 feet, said two lines being along land of Marshall B. Dalton and others, Trustees, shown on said plan as a parcel containing 7,001 square feet, and being the Parcel 2 herein described;
NORTHERLY	again, by Lot 337 as shown on said plan, 37.27 feet; and
EASTERLY	by land now or late of New England Mutual Life Insurance Company, 329.27 feet.

Said parcel is shown on a "Plan of Land in Cambridge and Arlington, Massachusetts," dated August 17, 1956, by William S. Crocker, Inc., Civil Engineer, recorded with said Deed as Plan No. 251 of 1957, in Book 8915, Page 81, and the same contains according to said Plan 119,627 square feet.

PARCEL 2/Lot 2 on the Survey

- SOUTHWESTERLY 45.38 feet;
- SOUTHEASTERLY 295.58 feet; said two lines being along land now or formerly of Marshall B. Dalton and others, Trustees, shown on said plan as land of West Cambridge Trust, and being the First Parcel herein described;
- NORTHERLY by Lot 342 as shown on Land Court Subdivision Plan 4351z, being Parcel 3 herein described, by two lines measuring respectively 60.73 feet and 123.34 feet;
- NORTHWESTERLY by Lot 340 as shown on Land Court Subdivision Plan 4351Y, being Parcel 4 herein described, 81.98 feet;
- NORTHWESTERLY more WESTERLY by Lot Y3 as shown on Land Court Subdivision Plan 4351x. 64.19 feet.

Said parcel is shown on on a "Plan of Land in Cambridge and Arlington, Massachusetts," dated August 17, 1956, by William S. Crocker, Inc., Civil Engineer, recorded with said Deed as Plan No. 251 of 1957, in Book 8915, Page 81, as the parcel containing 7001 square feet.

PARCEL 3/Lot 3 on the Survey Ld Reg

- NORTHERLY on land now or late of Bolton, being Lot 341 on Land Court Subdivision Plan 4351z, 236.14 feet;
- SOUTHERLY by what was known as the Northerly line of Alewife Brook Parkway, being Parcel 2 herein described, by two lines measuring respectively 60.73 feet and 123.34 feet; and
- SOUTHWESTERLY by Lot 340 as shown on said Plan, being Parcel 4 herein described, 61.13 feet.

Said parcel is shown as Lot 342 on said Subdivision Plan 4351z, filed in the South Registry District of Middlesex County with Certificate of Title No. 97885 and comprises the premises described in said Certificate of Title.

Bk. 619 P. 135

~~Title 215452 Bk. 1207 P. 103~~

Cert # 220007 123057

6-17

~~155603~~

PARCEL 4/Lot 4 on the Survey *Lot Reg.*

- SOUTHERLY by what was known as the Northerly line of Alewife Brook Parkway, being Parcel 2 herein described, 81.98 feet;
- NORTHWESTERLY by Lots Y3 and Y2 as shown on Plan hereinafter mentioned, 54.61 feet; and
- NORTHEASTERLY by Lot 339 on said Plan, a portion of which comprises Parcel 3 herein described, 61.13 feet.

Said parcel is shown as Lot 340 on Subdivision Plan 4351y, filed in said Registry District with Certificate of Title No. 93873 and comprises the premises described in said Certificate of Title.

*Bk. 599 P. 123*

The aforesaid four contiguous parcels are shown as Lot 1 containing 119,627± square feet; Lot 2 containing 7,001± square feet; Lot 3 containing 2,912± square feet; and Lot 4 containing 1,634± square feet respectively on a plan entitled "Plan of Land in Arlington, Belmont and Cambridge, Massachusetts prepared for Arthur D. Little, Inc. by Boston Survey Consultants" dated October 31, 1978 and recorded with the Middlesex South Registry of Deeds as Plan No. 338 of 1978 in Book 13674, Page End (the "Master Plan").

~~Title: 215453 Bk 1207 P 103~~

*Cost \$ 2000*

*1230-57*

Buildings 20, 20A and 32 Property

PARCEL 5/Lot 7 on the Survey

A certain parcel of land situated on the Southerly and Easterly sides of Acorn Park and at the Southeasterly corner of Acorn Park and Concord Turnpike, partly in Cambridge and partly in Arlington, both in Middlesex County, Massachusetts, with the buildings thereon situated and bounded and described as follows:

- NORTHERLY by Acorn Park by three lines measuring respectively 39.63 feet, 209.61 feet and 289.03 feet;
- WESTERLY by said Acorn Park by two lines measuring respectively 309.53 feet, 63.35 feet;
- NORTHWESTERLY on the junction of Acorn Park and Concord Turnpike by a curved line having a radius of 30 feet, 50.79 feet;
- NORTHERLY again, on Concord Turnpike, 39.67 feet;

*7-17*

- SOUTHERLY by land of the Commonwealth of Massachusetts, 66.17 feet;
- EASTERLY by the same land by two lines measuring respectively about 390 feet and 225.70 feet;
- SOUTHERLY again, by the same land, by three lines measuring respectively 239.60 feet, 282.46 feet and 58.57 feet;
- WESTERLY again, by land now or late of Kingman and others, Trustees, 113.12 feet;
- NORTHERLY by land late of New England Mutual Life Insurance Company, 159.96 feet; and
- WESTERLY again, by the same land, 125 feet.

Said premises comprise a portion of the premises shown on the following three plans; one dated May 4, 1953, by William S. Crocker, Inc., Civil Engineer, recorded with Middlesex South District Deeds, Book 8110, Page 322, as Plan No. 1334 of 1953; one dated August 17, 1956, by William S. Crocker, Inc., Civil Engineer, recorded with said Deeds, Book 8915, Page 81, as Plan No. 251 of 1957; and one dated December 10, 1959, by William S. Crocker, Inc., recorded with Deeds, Book 9608, Page 81, as Plan No. 843 of 1960, and said premises contain according to said plans about 125,497 square feet.

The aforesaid parcel is shown as Lot 7 containing 125,504± square feet on the Master Plan.

**Building 25 Property**

**PARCEL 6/Lot 12 on the Survey**

A certain parcel of land with the buildings thereon situated on the Northerly side of Acorn Park, in Cambridge, Middlesex County, Massachusetts, bounded and described as follows:

- SOUTHERLY by Acorn Park by two lines measuring respectively 52.86 feet and 77.15 feet;
- WESTERLY by land now or formerly of New England Mutual Life Insurance Company, 126.34 feet;
- NORTHERLY by the same land, 130 feet; and
- EASTERLY by the same land, 125 feet;

8-17

Said premises are shown on a plan marked "Plan of Land in Cambridge, Mass." dated Dec. 10, 1959, Revised Feb. 26, 1960, by William S. Crocker, Inc., recorded with Middlesex South District Deeds, Book 9608, Page 67, and contain according to said plan 16,285 square feet.

The aforesaid parcel is shown as Lot 12 containing 16,285± square feet on the Master Plan.

Three parcels of land situated on either side of Acorn Park (the first two of said parcels are contiguous) bounded and described as follows:

**PARCEL 7/Lot 13 on the Survey**

A certain parcel of land with the buildings thereon situated on Concord Turnpike and on Acorn Park, partly in Cambridge and partly in Arlington, both in Middlesex County, Massachusetts, bounded and described as follows:

- NORTHERLY                    on Concord Turnpike, 1.83 feet;
- NORTHEASTERLY            on the junction of Concord Turnpike and Acorn Park by a curved line having a radius of 30 feet measuring 43.45 feet;
- EASTERLY                    on Acorn Park 327.96 feet;
- SOUTHEASTERLY            on the same curved line having a radius of 30 feet measuring 39.41 feet;
- SOUTHERLY                    on the same 323.47 feet;
- WESTERLY                    on other land now or formerly of Gerald W. Blakeley, Jr. et als, Trustees, 329.27 feet;
- NORTHERLY                    on registered land of now or formerly Marshall B. Dalton and others, Trustees, being Lot 337 as shown on Land Court Subdivision Plan 4351W and a part of Lot F as shown on Land Court Subdivision Plan 4351L, by two lines measuring respectively 336.51 feet and 99.75 feet; and
- WESTERLY                    on the same land 43.45 feet.

Said parcel is shown on a plan designated "West Cambridge Industrial Center, Arlington and Cambridge, Mass." dated May 4, 1953, by William S. Crocker, Civil Engineer, recorded with said Deeds in Book 8110, Page 322, as Plan No. 1334 of 1953, and contains according to said plan 135,000 square feet.

9-17

~~4155603~~

Excluded from said Parcel 7 hereinabove described is a certain parcel of land with the buildings thereon situated on the Southerly side of Acorn Park, in Cambridge, Middlesex County, Massachusetts, bounded and described as follows (and being shown as Lot 12 on the Survey):

- SOUTHERLY by Acorn Park by two lines measuring respectively 52.86 feet and 77.15 feet;
- WESTERLY by land now or formerly of New England Mutual Life Insurance Company 126.34 feet;
- NORTHERLY by the same land, 130 feet; and
- EASTERLY by the same land, 125 feet.

Said premises are shown on a plan marked, "Plan of Land in Cambridge, Mass.," dated Dec. 10, 1959, Revised Feb. 26, 1960, by William S. Crocker, Inc., recorded with Middlesex South District Deeds, Book 9608, Page 67, and contain according to said plan 16,285 square feet.

PARCEL 8/Lot 14 on the Survey *Lol Reg*

A parcel of land with the buildings thereon situated on Concord Turnpike, partly in Arlington and partly in Cambridge both in Middlesex County, Massachusetts, bounded and described as follows:

- NORTHEASTERLY by the Southwesterly line of Concord Turnpike, 408.79 feet;
- EASTERLY by land formerly of Herbert F. Allen and now of New England Mutual Life Insurance Company, 43.45 feet;
- SOUTHERLY by what was formerly land of the Commonwealth of Massachusetts and in part land now or formerly of said New England Mutual Life Insurance Company and land now or formerly of Gerald W. Blakeley, Jr. and other Trustees, 473.53 feet; and
- NORTHWESTERLY by Lot 338 as shown on the plan hereinafter mentioned, 222 feet.

Said parcel is shown as Lot 337 on said plan. *Bk 537 P. 7*

All of said boundaries are determined by the Land Court to be located as shown on a subdivision plan, as approved by the Land Court, filed in the Land Registration Office, a copy of a portion of which numbered 4351W is filed in the South Registry District of Middlesex County with Certificate of Title No. 81357 in Registration Book 537, Page 7, being the same premises described in Certificate of Title No. 81357 in said Registry District.

~~Title 215453 Bk 1207 P. 103~~

*cert # 220007*

*1230-57 10-17*

**PARCEL 9/Lot 15 on the Survey**

A parcel of land situated on the Southerly side of Acorn Park in Cambridge, Middlesex County, Massachusetts, bounded and described as follows:

- NORTHERLY                    by Acorn Park, 160 feet;
- EASTERLY                    by other land now or formerly of Marshall B. Dalton et al, Trustees, 125 feet;
- SOUTHERLY                  by the same land, 159.96 feet; and
- WESTERLY                    by land now or late of Kingman and others, Trustees, 125 feet.

Said premises are shown on a plan marked "Plan of Land in Cambridge, Mass." dated Dec. 10, 1959 by William S. Crocker, Inc. recorded with said Deeds in Book 9608, Page 81, as plan 843 of 1960 and contain 19,189 square feet according to said plan.

The aforesaid three parcels are shown as Lot 13 containing 118,715± square feet, Lot 14 containing 49,972± square feet; and Lot 15 containing 19,189± square feet, respectively on the Master Plan.

NOTE:                    There is included in the insured premises title in and to the fee of that portion of Acorn Park in Arlington lying between Lots 7 and 13 as shown on the Master Plan.

**Two contiguous parcels of land situated on the Southerly side of Acorn Park in Cambridge, Middlesex County, Mass., bounded and described as follows:**

**PARCEL 10/Lot 5 on the Survey**

A parcel of land on the Southerly side of Acorn Park (formerly called Burton Street) in said Cambridge shown on Plan of West Cambridge Industrial Center, Arlington and Cambridge, Massachusetts, dated May 4, 1953 by William S. Crocker, Civil Engineer, said Plan being recorded with said Deeds Book 8110, Page 322, bounded and described as follows:

- NORTHERLY                    on Acorn Park (as laid out and shown on said Plan which layout has since been changed Northerly of its location on said Plan), 91.35 feet;
- EASTERLY                    on land now or formerly of Eugene A. Kingman, et al Trustees 219.72 feet;
- SOUTHERLY                  on land of the Commonwealth of Massachusetts, 91.43 feet; and

11-17

WESTERLY on the same 218.82 feet.

Containing according to said Plan, 19,950 square feet.

**PARCEL 11/Lot 6 on the Survey**

A parcel of land in said Cambridge bounded and described as follows:

Beginning at a point in the western end of Acorn Park, thence running by a line in Acorn Park as now laid out south 89° 26' 46" East a distance of 85.15 feet;

thence about easterly by a curved line with a radius of 2168.28 feet, by a line in Acorn Park, as now laid out, a distance of 209.61 feet;

thence turning and running southwesterly by the southeasterly line of Acorn Park, as now laid out and by land now or formerly of Marshall B. Dalton et als, Trustees, a distance of 287.36 feet;

thence turning and running north 16° 22' 16" west by land now or formerly of the Commonwealth of Massachusetts and the end of Acorn Park as now laid out, a distance of 38.10 feet to the point of beginning.

Said parcel is shown on plan designated "Plan of Land in Cambridge and Arlington, Massachusetts" dated August 17, 1956, by William S. Crocker, Inc., Civil Engineer, recorded with said Deeds, Book 8915, Page 81 and contains according to said Plan, 3,727 square feet.

Excluded, however, from Parcel 11 hereinabove described is a portion of which is bounded and described as follows:

A triangular parcel of land situated on the Southerly side of said Acorn Park bounded and described as follows:

NORTHEASTERLY by said Acorn Park, 199.64 feet;

SOUTHERLY by a lot containing 18,016 square feet of land on a plan hereinbelow referred to, being land now or formerly of Marshall B. Dalton et als. Trustees, 195.99 feet; and

WESTERLY by the remainder of the second parcel above described being a lot containing 2,541 square feet shown on the plan hereinafter mentioned, 18.40 feet.

Said parcel is shown on a plan entitled "Plan of Land in Cambridge, Mass." dated Dec. 10, 1959 by William S. Crocker, Inc. recorded with said Deeds Book 9608, Page 81 and containing according to

12-17



said plan, 1,179 square feet more or less.

The aforesaid parcels 10 and 11 are shown as Lot 5 containing 19,950 square feet and Lot 6 containing 2,541± square feet respectively on the Master Plan.

PARCEL 12/Lot 8 on the Survey *Ld Reg*

- SOUTHEASTERLY by land now or formerly of The Commonwealth of Massachusetts Metropolitan District Commission - Alewife Brook Parkway, 460.82 feet;
- SOUTHERLY by Lot 1 as shown on plan hereinafter mentioned 120.64 feet;
- WESTERLY by land now or formerly of Lancaster H. Heustis, 637.31 feet; and
- NORTHEASTERLY by land now or formerly of First National Stores, Inc. and of Franklin Wyman et al., 712.37 feet.

Said parcel is shown as Lot 2 on said plan (Plan #25650B).

All of said boundaries are determined by the Court to be located as shown on a subdivision plan, as approved by the Court, filed in the Land Registration Office, a copy of which is filed in the Registry of Deeds for the South Registry District of Middlesex County in Registration Book 592, Page 155, with Certificate 92505.

~~Title: 215455 Bk. 1207 P. 05~~ *Cent # 220007 1230-57*

PARCEL 13/Lot 9 on the Survey

- SOUTHERLY by the Northerly line of Alewife Brook Parkway, 134.48 feet;
- SOUTHWESTERLY by land now or formerly of Henry O. Cushman, 111.64 feet;
- NORTHWESTERLY by lot P as shown on plan hereinafter mentioned, 57.83 feet; and
- NORTHEASTERLY by lot Y3 on said plan, 195.60 feet.

Said parcel is shown as Lot Y4 on said plan (Plan 4351X). *Bk. 537 P. 6*

Together with the right to use the right of way over a strip of said Lot Y3 twenty feet in width located along the southerly and southeasterly boundary of said Lot Y-3 so as to permit ingress to and egress from said Lot Y-4 over the twenty foot right of way leading from Lot Y-3 to the Concord Turnpike.

~~Title: 215455 Bk. 1207 P. 05~~ *Cent # 220007 1230-57*

PARCEL 14/Lot 10 on the Survey *Ld Reg*

- SOUTHERLY by the Northerly line of Alewife Brook Parkway, 64.19 feet;
- SOUTHWESTERLY by Lot Y4 as shown on said plan hereinafter mentioned, 195.60 feet;
- NORTHWESTERLY by Lot P on said plan, 100 feet;
- NORTHEASTERLY by Lot W and X1 on said plan, 160.98 feet;
- SOUTHEASTERLY 25 feet;
- NORTHEASTERLY 80 feet, by Lot Y2 on said plan; and
- SOUTHEASTERLY by Lot 338 on said plan, 29.61 feet.

Said parcel is shown as Lot Y3 on said plan (Plan 4351X).

All of said boundaries are determined by the Court to be located as shown on a subdivision plan, as approved by the Court, filed in the land Registration Office, a copy of which is filed in the Registry of Deeds for the South Registry District of Middlesex County in Registration Book 537, Page 6, with Certificate 81356.

Together with the right to use the right of way over the twenty foot way leading from Lot Y-3 to the Concord Turnpike.

~~T.H.C. 215455 Bl. 1207 P105~~

*cert # 220007*

*1230-57*

PARCEL 15/Lot 11 on the Survey

That parcel beginning at a point in Cambridge in the Westerly boundary of land now or late of Gerald W. Blakeley, Jr., et als, Trustees, distant 193.45 feet on bearing south 16° 22' 16" (16° 40' 22" Plan) East from the easterly corner of land now or late of Marshall B. Dalton, et als, Trustees (Land Court Case No. 25650);

Thence running north 89° 26' 46" west by land now or formerly of the Commonwealth of Massachusetts a distance of 478.21 feet to land now or late of said Dalton, et als, Trustees;

Thence turning and running in a northeasterly direction by a line with a radius of 5453.83 feet, a distance of 383.87 feet to a point;

Thence turning slightly and running north 65° 11' 23" (64° 53' 17" Plan) east a distance of 76.95 feet to a point;

Thence turning and running south 16° 22' 16" (16° 53' 17" Plan) east, a distance of 193.45 feet to the

*14-17*

point of beginning; containing 42,868 square feet according to said plan.

The aforesaid four constituent parcels are shown as Lot 8 containing 198,340± square feet, Lot 9 containing 12,654± square feet, Lot 10 containing 21,051± square feet, and Lot 11 containing 42,868± square feet respectively on the Master Plan.

PARCEL 16/Lot X1 on the Survey Ld Reg

That certain parcel of land situated in Cambridge in the County of Middlesex and said Commonwealth, bounded and described as follows:

- SOUTHEASTERLY by Lot F as shown on plan hereinafter mentioned, 135 feet;
- SOUTHWESTERLY 80 feet; and
- SOUTHEASTERLY 15 feet, by Lot X-2 on said plan;
- SOUTHWESTERLY by Lot Y-1 on said plan, 90 feet;
- NORTHWESTERLY by Lot W on said plan, 150 feet; and
- NORTHEASTERLY by Lots R and Q on said plan, 170 feet.

Said parcel is shown as Lot X-1 on said plan. Bl. 530 P. 158

All of said boundaries are determined by the Court to be located as shown on a subdivision plan, as approved by the Court, filed in the land Registration Office, a copy of which is filed in the Registry of Deeds for the South Registry of Middlesex County in Registration Book 530, Page 158, with Certificate 80108 (Plan 4351V).

Together with the right to use the right of way twenty feet wide and one hundred eight feet long extending northwesterly from the said premises to the State Highway as shown on Land Court Plan 4351V in common with others entitled thereto, for all purposes for which private ways are commonly used in the City of Cambridge.

~~Title: 215434 Bl. 1201 P. 104~~

Cont # 220067

1230-57

PARCEL 17/Lot W on the Survey Ld Reg

Also another certain parcel of land situated in said Cambridge, bounded and described as follows:

- SOUTHWESTERLY by Lot Y as shown on plan hereinafter mentioned, 70.98 feet;
- NORTHWESTERLY by Lot P on said Plan, 150 feet;

~~155603~~

NORTHEASTERLY by Lot R on said plan, 70.98 feet; and

SOUTHEASTERLY by Lot X on said plan, 150 feet.

Said parcel is shown as Lot W on said plan.

All of said boundaries are determined by the Court to be located as shown on a subdivision plan, as approved by the Court, filed in the land Registration Office, a copy of which is filed in the Registry of Deeds for the South Registry District of Middlesex County in Registration Book 495, Page 381, with Certificate 74199 (Plan 4351U).

~~File: 215454 Bl. 1207 P 104~~

cert # 220007

PARCEL 18/Acorn Park Road on the Survey

1230-57

Together with the right to use Acorn Park as described in a document entitled "Declaration of Easements" dated June 24, 1999 recorded in Book 30386, Page 262 and filed as Document No. 1111893.

1025159.1 libd

16-17

01/11/04  
11/11/04  
PRINCE

DOCUMENT 01353531

①

Southern Middlesex LAND COURT

REGISTRY DISTRICT

RECEIVED FOR REGISTRATION

On: Oct 25, 2004 at 12:16P

Document Fee: 75.00

Receipt Total: \$150.00

CERT: 220006 BK: 01230 Pg: 56

**TAB C**

Amend

BOTH WAYS



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

123-180  
MassDEP File Number  
Document Transaction Number  
Cambridge  
City/Town

**A. General Information**

**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: Cambridge  
Conservation Commission

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

3. To: Applicant:

Robert Schlager  
a. First Name b. Last Name  
BHX LLC, as Trustee for Acorn Park Holdings Realty Trust  
c. Organization  
250 First Avenue, Suite 200  
d. Mailing Address  
Needham MA 02494  
e. City/Town f. State g. Zip Code

2013 01660502  
Bk: 01230 Pg: 56 Cert#: 220006  
Doc: AMEND 12/04/2013 02:11 PM

4. Property Owner (if different from applicant):

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

REFERENCE REQUESTED  
BOOK 43954 PAGE 299

5. Project Location:

Acorn Park Drive Cambridge  
a. Street Address b. City/Town  
See List in Amended NOI dated 10/31/2013  
c. Assessors Map/Plat Number  
Latitude and Longitude, if known: 42 23.93' 71 9.04'  
e. Latitude f. Longitude

6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):

Middlesex  
a. County b. Certificate Number (if registered land) \_\_\_\_\_  
See List in Amended NOI dated 10/31/2013  
c. Book d. Page \_\_\_\_\_

7. Dates: 10/31/2013 amendment 11/18/2013 11/18/2013  
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):

See Amended NOI dated 10/31/2013  
a. Plan Title \_\_\_\_\_  
b. Prepared By \_\_\_\_\_ c. Si \_\_\_\_\_  
d. Final Revision Date \_\_\_\_\_ e. S: Page: 1 of 12 12/04/2013 02:28 PM  
f. Additional Plan or Document Title \_\_\_\_\_ g. Date \_\_\_\_\_

2013 00250359  
Bk: 63017 Pg: 568 Doc: AMEND  
Page: 1 of 12 12/04/2013 02:28 PM

IK  
H  
13  
(151764)  
= INCORPORATED  
amend

After recording,  
please return to:  
Charles Le Ray  
Dain Turpy Le Ray  
Wood 3 Garner, PC  
129 South Street  
3rd Floor  
Boston, MA 02111

220006  
220007



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

123-180  
 MassDEP File Number

**WPA Form 5 – Order of Conditions**

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

Document Transaction Number  
 Cambridge  
 City/Town

**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.

**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).**

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

- 3.  Buffer Zone Impacts: Shortest distance between limit of project disturbance and Bank or Bordering Vegetated Wetland boundary (if available)

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		





**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

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**B. Findings (cont.)**

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
7. <input checked="" type="checkbox"/> <b>Bordering Land Subject to Flooding</b>	<b>See Repor</b>			
Cubic Feet Flood Storage	a. square feet	b. square feet	c. square feet	d. square feet
	e. cubic feet	f. cubic feet	g. cubic feet	h. cubic feet
8. <input type="checkbox"/> <b>Isolated Land Subject to Flooding</b>				
Cubic Feet Flood Storage	a. square feet	b. square feet		
	c. cubic feet	d. cubic feet	e. cubic feet	f. cubic feet
9. <input type="checkbox"/> <b>Riverfront Area</b>				
Sq ft within 100 ft	a. total sq. feet	b. total sq. feet		
	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

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

10. <input type="checkbox"/> <b>Designated Port Areas</b>	Indicate size under Land Under the Ocean, below			
11. <input type="checkbox"/> <b>Land Under the Ocean</b>	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
12. <input type="checkbox"/> <b>Barrier Beaches</b>	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. <input type="checkbox"/> <b>Coastal Beaches</b>	a. square feet	b. square feet	c. c/y nourishmt.	d. c/y nourishmt.
14. <input type="checkbox"/> <b>Coastal Dunes</b>	a. square feet	b. square feet	c. c/y nourishmt.	d. c/y nourishmt.
15. <input type="checkbox"/> <b>Coastal Banks</b>	a. linear feet	b. linear feet		
16. <input type="checkbox"/> <b>Rocky Intertidal Shores</b>	a. square feet	b. square feet		
17. <input type="checkbox"/> <b>Salt Marshes</b>	a. square feet	b. square feet	c. square feet	d. square feet
18. <input type="checkbox"/> <b>Land Under Salt Ponds</b>	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
19. <input type="checkbox"/> <b>Land Containing Shellfish</b>	a. square feet	b. square feet	c. square feet	d. square feet
20. <input type="checkbox"/> <b>Fish Runs</b>	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"/> <b>Land Subject to Coastal Storm Flowage</b>	a. square feet	b. square feet		



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### 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. 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.
7. 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.
8. 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.
9. 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 123-180"



Massachusetts Department of Environmental Protection  
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### C. General Conditions Under Massachusetts Wetlands Protection Act

10. 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.
11. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
12. The work shall conform to the plans and special conditions referenced in this order.
13. Any change to the plans identified in Condition #12 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.
14. 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.
15. 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.
16. 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.
17. 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

18. **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 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.



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

- 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;
  - 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.



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

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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 Attachment**

## D. Findings Under Municipal Wetlands Bylaw or Ordinance

- 1. Is a municipal wetlands bylaw or ordinance applicable?  Yes  No
- 2. The \_\_\_\_\_ hereby finds (check one that applies):
  - a.  that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw specifically:

1. Municipal Ordinance or Bylaw

2. Citation

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



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

# WPA Form 5 – Order of Conditions

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## D. Findings Under Municipal Wetlands Bylaw or Ordinance (cont.)

- b.  that the following additional conditions are necessary to comply with a municipal ordinance or 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 (if you need more space for additional conditions, attach a text document):

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**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:  
123-180  
MassDEP File #

eDEP Transaction #  
Cambridge  
City/Town

**E. Signatures**

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

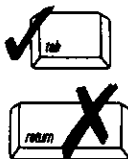
This Order is valid for three years, unless otherwise specified as a special condition pursuant to General Conditions #4, from the date of issuance.

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

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

11/18/2013  
1. Date of Issuance  
7  
2. Number of Signers

The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy must be mailed, hand delivered or filed electronically at the same time with the appropriate MassDEP Regional Office.



Signatures

*Kelli Mark*  
*Althea Simenas*  
*Edward W. Pickering*

*Dorothy H. Altman*  
*B. Haney*  
*[Signature]*  
*[Signature]*

by hand delivery on  
Date 11/22/2013

by certified mail, return receipt requested, on  
Date

**F. Appeals**

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

**ATTACHMENT**

**Amended Order of Conditions, DEP File No. 123-180**

**Cambridge Discovery Park Redevelopment**

**Acorn Park Drive**

**Cambridge, Massachusetts**

**Findings of Fact:**

The proponents, BHX LLC, submitted an amendment on October 31, 2013. The public hearing was duly advertised and held on November 18, 2013. The Commission held the public hearing, allowed public comment, closed public comment and voted unanimously to accept the amendment.

The submitted amendment is specific to the requirements in special conditions 43-50 of the original Order of Conditions dated October 4, 2004. These special conditions require a Notice of Intent Amendment for each phase of the redevelopment project. The flood storage volume submission for Building 600 has been reviewed and approved for accuracy by James Wilcox, Director of Engineering Services at the City of Cambridge Department of Public Works. The Commission determined that the incremental flood storage up to 7.6 feet NGVD as determined by FEMA meets the standards of the Wetlands Protection Act, 310 CMR 10.0.



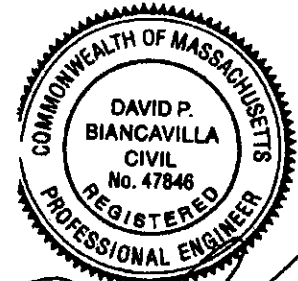
# Calculation Sheet



Project No.	1.1278.72	J. White
Subject	Compensatory Flood Storage Calculations	10/11/2013
Location	Cambridge Discovery Park	D. Biancavilla

## SUMMARY OF NET AVAILABLE FLOOD STORAGE VOLUMES VOLUME CALCULATIONS - PROPOSED BUILDING 600 COMPARED WITH EXISTING 2004 STORAGE VOLUMES

Elevation	Existing (2004)	PROPOSED BUILDING 600	
	Incremental Available Flood Storage (CY)	Incremental Available Flood Storage (CY)	Net Change from 2004 (CY)
up to 4	25	4,632	4,607
4 to 5	1,817	3,389	1,572
5 to 6	7,235	11,505	4,270
6 to 7	14,718	16,562	1,844
7 to 7.6	10,573	11,801	1,228
<b>Total Storage</b>	<b>34,368</b>	<b>47,889</b>	<b>13,521</b>



*D. Biancavilla*  
10/31/13

Note: Flood storage table reflects the current FEMA 100 flood elevation of 7.6' NGVD 29. All calculations have been based on this current best available data.

# Calculation Sheet



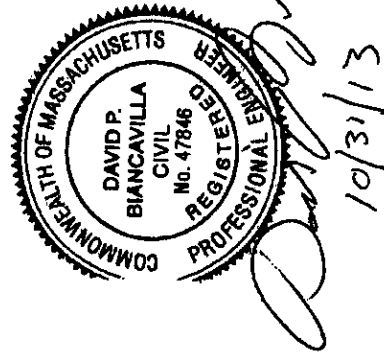
Report Date 29-Oct-13  
 Project No. 11278.72  
 Subject Impervious Calculations  
 Location Cambridge Discovery Park

Calc By C. Thomas  
 Date 10/29/2013  
 Checked by D. Biancavilla, PE  
 Date 10/29/2013

## IMPERVIOUS AREA SUMMARY

Original Condition <sup>1</sup> (09-13-04)	152,979 sf 3.51 AC 13.3 %	293,404 sf 6.74 AC 25.4 %	446,383 sf 10.25 AC 38.7 %	708,037 sf 16.25 AC 61.3 %	1,154,420 sf 26.50 AC 100.0 %
Proposed Conditions	133,178 sf 3.06 AC 11.5 %	127,193 sf 2.92 AC 11.0 %	260,371 sf 5.98 AC 22.6 %	894,049 sf 20.52 AC 77.4 %	1,154,420 sf 26.50 AC 100.0 %

1. Original Condition as September 13, 2004 prior to any CDP development.



**TAB D**



Commonwealth of Massachusetts  
Executive Office of Energy & Environmental Affairs

RECEIVED  
THE BULFINCH COMPANIES

# Department of Environmental Protection

Northeast Regional Office • 205B Lowell Street, Wilmington MA 01887 • 978-694-3200

DEVAL L. PATRICK  
Governor

RICHARD K. SULLIVAN JR.  
Secretary

DAVID W. CASH  
Commissioner

June 27, 2014

Friends of Alewife Reservation  
c/o Ellen Mass  
186 Alewife Brook Parkway, #304  
Cambridge, MA 02138

RE: WETLANDS/Cambridge  
DEP File #123-0180  
**Superseding Amended Order of  
Conditions – Building 600  
Acorn Park Drive**

Dear Ms. Mass:

The Northeast Regional Office of the Department of Environmental Protection, Wetlands Program (MassDEP) has completed its review of the above-referenced file in preparation to issuing a Superseding Amended Order of Conditions. Pursuant to the provisions of Massachusetts General Laws, Chapter 131, section 40, MassDEP is issuing the enclosed Superseding Amended Order of Conditions allowing the project based upon: 1) information contained in the file to date and plans submitted; 2) information gathered during the on-site inspection; and 3) reasons MassDEP has deemed necessary to protect the statutory interests identified in the Wetlands Protection Act (“the Act”).

The proposed project is for the construction of a four-story, 150-room hotel at Cambridge Discovery Park (CDP). CDP is a 26.5-acre site located in the northwest corner of Cambridge. Project activities include construction of a drop off and short-term parking area, access drive, and associated grading, drainage, utilities, and landscaping at what is known as Building 600, Acorn Park Drive.

MassDEP’s review of the file and on-site inspections confirm that the project site contains the following Area Subject to Protection: 1) Bordering Land Subject to Flooding (BLSF). In accordance with the Act and its regulations (310 CMR 10.00), this Area is presumed to protect one or more of the interests identified in the Act and as listed in the attached Order. The project will alter BLSF.

Project Background: Master Plan, Master Order of Conditions, and Flood Storage

The original Order of Conditions (the "Order") for DEP File #123-180 was issued on October 4, 2004. This Order remains valid through several Extension Permits issued by the Cambridge Conservation Commission as well as the Permit Extension Act of 2012. Special Condition No. 44 of the Order requires that a Notice of Intent application be filed for every future phase of the redevelopment. Accordingly, a Notice of Intent requesting an Amendment to the Order was filed in October of 2013 for Building 600. The Cambridge Conservation Commission issued an Amended Order of Conditions on November 22, 2013; this Amended Order was appealed by a ten-resident group. MassDEP accepted this appeal and held a site inspection on January 15, 2014.

The proposed Building 600 represents the next step in a multi-phase redevelopment of the former Arthur D. Little research campus and has been designed in accordance with a Master Plan Special Permit issued by the Cambridge Planning Board and Master Plan Order of Conditions. At present, all of the former Arthur D. Little buildings have been removed and Buildings 100, 200, 300 and Parking Garage 'A' have been constructed with associated access and utilities. The 454-space former Arthur D. Little parking lot located on land owned by the Department of Conservation and Recreation (DCR) and the parcel between the Little River and Acorn Park Drive have been restored to open space and a small visitor parking lot has been constructed on the DCR land. A stormwater wetland pond has been constructed on the parcel between the Little River and Acorn Park Drive and is functioning to treat stormwater from the developed portions of Cambridge Discovery Park. It has been sized to treat the full build-out conditions. A smaller stormwater wetland pond constructed west of Building 100 treats stormwater from that portion of the campus and discharges treated stormwater to the large wetland area west of the campus.

With the exception of small areas of Acorn Park Drive and immediately adjacent land, all of CDP is located within the 100-year floodplain. The original Order established flood storage and impervious area banking mechanisms for the entire redevelopment project which recognize that redevelopment will occur in several phases, and that the footprints and corresponding flood storage volumes of buildings being removed and constructed in any particular phase may not match. Thus, as buildings are removed, their corresponding flood storage volumes are "banked" for use in connection with later construction activities. The Order requires the applicant to maintain a "positive balance" for each incremental foot of flood elevation at all times; the applicant is not allowed to borrow against future phases. A similar requirement applies with respect to impervious area. Upon completion, the overall project will result in net gains of flood storage capacity and pervious area.

Special Conditions Nos. 44-50 of the Order specify the requirements for future phases of the redevelopment project. As mentioned previously, Special Condition No. 44 requires that a Notice of Intent application be filed for every future phase of the redevelopment and that an updated Flood Storage Table, stamped by a Massachusetts-registered Professional Engineer, be submitted to update the changes to floodplain cut and fills at each phase of development. Each

phase must show no net loss of flood storage capacity at each incremental foot up to the FEMA 100-year flood elevation, as compared to the original pre-October 2004 conditions.

The updated and stamped Flood Storage Table has been provided and shows that there will be a net gain of 13,521 cubic yards of storage from 2004 conditions after construction of Building 600. Floodplain compensation will be provided within the Building 600 crawl space in a similar manner as that provided under Building 200/300. Grates enclosing the crawl space will provide 77 percent open area and will provide an unrestricted hydraulic connection between the stored volume and the flood waters thus meeting the performance standards of 310 CMR 10.57 for Bordering Land Subject to Flooding.

#### Vertical Datum: NGVD vs NAVD

At the site visit of January 15<sup>th</sup>, 2014, the appellant group expressed concerns about the datum used in the floodplain analysis. The datum originally used for the development of site plans, engineering calculations, and the floodplain banking mechanism is the National Geodetic Vertical Datum of 1929 (NGVD29). Use of this datum corresponded to the Federal Emergency Management Agency (FEMA) map current at the time of the project's inception in 2004. At that time, the Flood Insurance Rate Map for the City of Cambridge, dated January 5, 1982, specified a 100-year flood elevation for the project area of 8.2 NGVD29.

Subsequently, a revised Flood Insurance Rate Map (FIRM) for the City of Cambridge was issued by FEMA on June 4, 2010. This revised FIRM uses the North American Vertical Datum of 1988 (NAVD88) and revised the 100-year flood elevation for the project area to 6.8 NAVD88. NAVD88 is 0.8 feet lower than NGVD29. The following compares the previous 100-year flood elevation and datum to the current flood elevation and datum:

1982 Flood Insurance Study: 8.2 feet NGVD29

2010 Flood Insurance Study: 6.8 feet NAVD88 = 7.6 feet NGVD29

Regardless of which datum is used, the revised FIRM has decreased the 100-year floodplain elevation for the project site. The proposed Building 600 has been designed to set the first floor at 10.8 feet NGVD29 (10 feet NAVD88) which is greater than three feet above the 100-year flood elevation for the project site.

#### Regulatory Floodway

In addition to revising the floodplain elevation, the 2010 revision to the FIRM placed the existing and proposed CDP buildings within the regulatory floodway of the Little River. Although the floodway is not a resource area regulated by the Wetlands Protection Act, the appellant group expressed concerns regarding the siting of Building 600 within the floodway; subsequently, discussion of this issue is included in this cover letter.

In August of 2010, the consultant for CDP submitted to FEMA a request for a conditional letter of map revision (CLOMR) for the master plan full build-out of the CDP. In April of 2012, FEMA issued CLOMRs to the Town of Arlington and the City of Cambridge for CDP which

provided a "No-Rise Certification" relative to the master plan full build-out. In issuing the CLOMR, FEMA has determined that the proposed project meets the minimum floodplain management criteria of the National Flood Insurance Program. Once CDP is fully built-out, a "letter of map revision" or LOMR will be required to be filed with FEMA along with an as-built of the CDP project confirming the findings of the CLOMR.

#### Cambridge Climate Change Vulnerability Assessment

The City of Cambridge is undertaking a climate change vulnerability assessment that will serve as a foundation for the City's climate change preparedness plan. The appellant group has requested that MassDEP delay the issuance of Superseding Amended Order of Conditions until this assessment has been completed. This assessment has not been completed as of this date.

While recognizing the importance of understanding the impacts of climate change on infrastructure, this Superseding Amended Order of Conditions is governed only by the performance standards of the Wetlands Protection Act; in this instance, the BLSF performance standards found at 310 CMR 10.57. As this project complies with the performance standards found at 10.57, there is no regulatory mechanism to delay issuance of this Superseding Amended Order.

It is MassDEP's conclusion that the proposed project meets all applicable performance standards; furthermore, it is MassDEP's determination that the enclosed Superseding Amended Order of Conditions approving the project as proposed and conditioned serves to protect the statutory interests identified in the Wetlands Protection Act, M.G.L., Chapter 131, section 40. However, MassDEP reserves the right, should there be further proceedings in this case, to raise additional issues and present further evidence as may be appropriate. Should you or any concerned party dispute these findings, your attention is directed to the language at the end of the attached Order specifying the rights and procedures for appeal.

Should you have any questions regarding this decision, please contact me at (978) 694-3255.

Very truly yours,



Heidi M. Davis, Acting Section Chief  
NERO Wetlands and Waterways Program

Cc: Cambridge Conservation Commission, 344 Broadway, Cambridge MA 02139  
Arlington Conservation Commission, 730 Massachusetts Ave, Arlington MA 02476  
Ingeborg Hegemann, BSC Group, Inc., 33 Waldo Street, Worcester MA 01608  
Mark DiOrio, Bulfinch Co's, Inc., 250 First Avenue, Suite 200, Needham MA 02494







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8. Final Approved Plans and Other Documents (attach additional plan or document references as needed):  
 "Cambridge Discovery Park, Building 600, Cambridge Massachusetts. Notice of Intent"

BSC Group	David Varga & David Biancavilla
b. Prepared By	c. Signed and Stamped by
October 31, 2013	As noted.
d. Final Revision Date	e. Scale
"Master Order of Conditions" issued by the Cambridge Conservation Comm	October 4, 2004
f. Additional Plan or Document Title	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. Check all that apply:

- |   |  |   |
|---|--|---|
| a. <input type="checkbox"/> Public Water Supply           | b. <input type="checkbox"/> Land Containing Shellfish          | c. <input checked="" type="checkbox"/> Prevention of Pollution        |
| d. <input type="checkbox"/> Private Water Supply          | e. <input checked="" type="checkbox"/> Fisheries               | f. <input checked="" type="checkbox"/> Protection of Wildlife Habitat |
| g. <input checked="" type="checkbox"/> Groundwater Supply | h. <input checked="" type="checkbox"/> Storm Damage Prevention | i. <input checked="" type="checkbox"/> 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.

**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 these interests, 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



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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).**

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

3.  Buffer Zone Impacts: Shortest distance between limit of project disturbance and wetland boundary (if available)

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		

**B. Findings (cont.)**

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
7. <input checked="" type="checkbox"/> Bordering Land Subject to Flooding	See NOI			
Cubic Feet Flood Storage	a. square feet	b. square feet	c. square feet	d. square feet
	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

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

10.  Designated Port Areas Indicate size under Land Under the Ocean, below

11.  Land Under the Ocean

a. square feet	b. square feet
c. c/y dredged	d. c/y dredged

12.  Barrier Beaches Indicate size under Coastal Beaches and/or Coastal Dunes below

13.  Coastal Beaches

a. square feet	b. square feet	c. c/y nourishmt.	d. c/y nourishmt.
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- |  |   |                |                   |                   |
|--|---|----------------|-------------------|-------------------|
| 14. <input type="checkbox"/> Coastal Dunes                         | _____   | _____          | _____             | _____             |
|  | a. square feet  | b. square feet | c. c/y nourishmt. | d. c/y nourishmt. |
| 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 |                   |                   |

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

(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.



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6. 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.
7. 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 MassDEP have been completed.
8. 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 MassDEP 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.
9. 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 123-0180"

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

10. Where the MassDEP is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before MassDEP.
11. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to MassDEP.
12. The work shall conform to the plans and special conditions referenced in this order.
13. Any change to the plans identified in Condition #12 above shall require the applicant to inquire of MassDEP in writing whether the change is significant enough to require the filing of a new Notice of Intent.
14. The Agent or members of the Conservation Commission and MassDEP 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 MassDEP for that evaluation.



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15. 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.
16. 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 MassDEP.
17. 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 MassDEP, 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

18. **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 the Stormwater Standards,**
  - 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.

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

- 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;



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- 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 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 BMPs 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, and 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



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- 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.
- SOC** Special Conditions (see the attached sheet(s) for additional conditions numbered 19 thru x).

Brief Description of Project:

The proposed project is for the construction of a four-story, 150-room hotel at the Cambridge Discovery Park at what is known as Building 600, Acorn Park Drive.

Findings:

This Superseding Amended Order of Conditions references the "Master Order of Conditions" for DEP File #123-0180 issued by the Cambridge Conservation Commission on October 4, 2004. This Master Order established a mechanism for banking flood storage area and impervious area created by the removal of the former Arthur D. Little Company buildings. The Master Order has been amended several times to apply banked flood storage area and impervious area to new construction at the redeveloped campus. Special Conditions #43-50 of this Order require the filing of an amended Notice of Intent for each phase of the Cambridge Discovery Park. This Superseding Amended Order of Conditions addresses construction of Building 600. MassDEP has determined that the proposed project meets the performance standards of the Wetlands Protection Act, 310 CMR 10.00.

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## D. Findings Under Municipal Wetlands Bylaw or Ordinance

To the extent that the Order is based on a municipal bylaw or ordinance, and not on the Massachusetts Wetlands Protection Act or regulations, MassDEP has no jurisdiction to supersede the local bylaw order.

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## E. Issuance

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

6-27-14

1.) Date of Issuance

The Superseding 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 Conservation Commission, appellant and the property owner, if different from the applicant.

Issued by the Massachusetts Department of Environmental Protection:

Signature:

  
Heidi M. Davis, Acting Section Chief, Wetlands Program

June 27, 2014

Date

This Order is issued to the applicant as follows:

by hand delivery on

by certified mail, return receipt requested, on

Date

Date

6-27-14

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## F. Appeals

The applicant, the landowner, any person aggrieved by the Superseding Order, Determination or other Reviewable Decision as defined at 310 CMR 10.04, who previously participated in the proceedings leading to this reviewable Decision, the conservation commission, or any ten (10) residents of the city or town where the land is located if at least one resident was previously a participant in the permit proceeding, are hereby notified of their right to appeal this Reviewable Decision pursuant to M.G.L. c.30A, section 10, provided the request is made by certified mail or hand delivery to MassDEP, along with the appropriate filing fee and a MassDEP Fee Transmittal Form within ten (10) business days of the date of issuance of this superseding Order or Determination, and addressed to:

Case Administrator  
Office of Appeals and Resolution  
Massachusetts Department of Environmental Protection



One Winter Street, 2<sup>nd</sup> Floor  
Boston, MA 02108

A copy of the request (herein referred to as Appeal Notice) shall at the same time be sent by certified mail or hand delivery to the Conservation Commission, the applicant, the person that requested the Superseding Order or Determination, and the issuing office of the MassDEP at:

Mass. Department of Environmental Protection  
Northeast Regional Office  
Wetlands and Waterways Program  
205B Lowell Street  
Wilmington, MA 01887

In the event that a ten resident group requested the Superseding Order or Determination, the Appeal Notice shall be served on the designated representative of the ten resident group, whose name and contact information is included in this Reviewable Decision (when relevant).

Contents of Appeal Notice

An Appeal Notice shall comply with MassDEP's Rules for Adjudicatory Proceedings, 310 CMR 1.01 (6) and 310 CMR 10.05 (7)(j), and shall contain the following information:

- (a) the MassDEP Wetlands File Number, name of the applicant, landowner if different from applicant and address of the project;
- (b) the complete name, mailing address, email address, and fax and telephone numbers of the party filing the Appeal Notice; If represented by consultant or counsel, the name, fax and telephone numbers, email address and mailing address of the representative; If a ten residents group, the same information for the group's designated representative.
- (c) If the Appeal Notice is filed by a ten (10) resident group, then a demonstration of participation by at least one resident in the previous proceedings that led to this Reviewable Decision;
- (d) If the Appeal Notice is filed by an aggrieved person, then a demonstration of participation in the previous proceedings that lead to this Reviewable Decision and sufficient written facts to demonstrate status as a person aggrieved;
- (e) The names, telephone and fax numbers, email addresses, and mailing addresses of all other interested parties, if known;
- (f) A clear and concise statement of the alleged errors contained in MassDEP's decision and how each alleged error is inconsistent with 310 CMR 10.00 and does not contribute to the protection of the interests identified in the Wetlands Protection Act, M.G.L. c. 131 sect 40, including reference to the statutory or regulatory provisions that the party filing the Appeal Notice alleges has been violated by MassDEP's decision, and the relief sought, including any specific desired changes to MassDEP's decision.

- (g) a copy of MassDEP's Reviewable Decision that is being appealed and a copy of the underlying Conservation commission decision if the Reviewable Decision affirms the Commission decision;
- (h) a statement that a copy of the request has been sent by certified mail or hand delivery to the applicant and Commission;
- (i) If asserting a matter that is Major and Complex, as defined at 310 CMR 10.04 (1), a statement requesting that the Presiding Officer make a designation of Major and Complex, with specific reasons supporting the request.

Filing Fee and Address

A copy of the Appeal Notice along with a MassDEP Fee Transmittal Form and a valid check or money order payable to the Commonwealth of Massachusetts in the amount of one hundred dollars (\$100) must be mailed to:

Commonwealth of Massachusetts  
Massachusetts Department of Environmental Protection  
Commonwealth Master Lockbox  
P.O. Box 4062  
Boston, Massachusetts 02211

The request will be dismissed if the filing fee is not paid, unless the appellant is exempt or granted a waiver. The filing fee is not required if the appellant is a city or town (or municipal agency), county, district of the Commonwealth of Massachusetts, or a municipal housing authority. MassDEP may waive the adjudicatory hearing filing fee pursuant to 310 CMR 4.06 (2) for a person who shows that paying the fee will create an undue financial hardship. A person seeking a waiver must file an affidavit setting forth the facts believed to support the claim of undue financial hardship together with the hearing request as provided above.

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

Regional Office of the Massachusetts Department of Environmental Protection

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

To:

Northeast Regional Office

Regional Office of the Department of Environmental Protection

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

Building 600 at Acorn Park Drive.

Project Location

123-0180

MassDEP File Number

Has been recorded at the Registry of Deeds of:

Middlesex

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