



Miriam DeFant <mdefant.shutesbury@gmail.com>

FW: Order of Conditions for Ames Pond, 286-0291 - Proposed Change in Plans

1 message

Chris Volonte <chris@kestreltrust.org>

Thu, Nov 3, 2022 at 4:25 PM

To: Miriam DeFant <mdefant.shutesbury@gmail.com>

Cc: Conservation Commission <concom@shutesbury.org>, Terramor LLC - Walker Korby <terramorllc@gmail.com>

Hello Miriam, I'm writing to inform the Conservation Commission of a proposed change in plans for the Ames Pond Trail Maintenance project (Order of Conditions attached), and to inquire whether the proposed change is significant enough to require the filing of a new Notice of Intent.

In sum, we propose that instead of being located along the southwestern edge of the meadow, the formal, accessible path to the pond viewing platform will cross over the northern upper part of the meadow and down to the pond along the northeastern edge of the meadow (please see attached map and narrative plan). We hope the proposal comes as good news, since it conforms to the Conservation Commission's suggestion that the accessible entrance trail through the wet meadow utilize the higher, drier portion of the meadow that is mostly outside BVW. Because of the change in location to a drier substrate, we are renewing our request to use compacted stone dust to create portions of the trail that are outside of BVW.

Based on input from the Shutesbury Highway Superintendent, we also propose to locate the parking area as shown on the attached plan. It is shifted slightly toward Wendell Rd. The parking area will be constructed using gravel as previously planned; however, a layer of geotextile fabric will be included to reduce displacement (please see attached map and narrative plan).

To complete this Phase 1 of the Ames Pond project (parking area, entrance trail, viewing platform), KLT has engaged Walker Korby (Terramor, LLC), a local contractor who developed his land and trail stewardship skillsets working for The Trustees of Reservations, focusing on making natural recreational places both accessible and sustainable.

Would it be possible for the Conservation Commission to consider our inquiry at your upcoming meeting on Thursday, November 10?

Thank you for your consideration!

Best, Chris

Christine Volonte, M.S., M.A.

Stewardship Director

Kestrel Land Trust

www.kestreltrust.org

413-549-1097 (office)

Pronouns: she/her/hers ([what is this?](#))

From: Miriam DeFant <mdefant.shutesbury@gmail.com>
Sent: Friday, July 29, 2022 2:07 PM
To: Chris Volonte <chris@kestreltrust.org>; Christin Mcdonough <CMcdonough@swca.com>; Conservation Commission <concom@shutesbury.org>
Subject: Order of Conditions for Ames Pond, 286-0291

Dear Chris and Christin,

Here is the permit. A copy will also be mailed to KLT. Thank you for your cooperation with this project. We are very excited and will await a chance to visit this beautiful property when the work is complete!

Best,

Miriam





Miriam DeFant

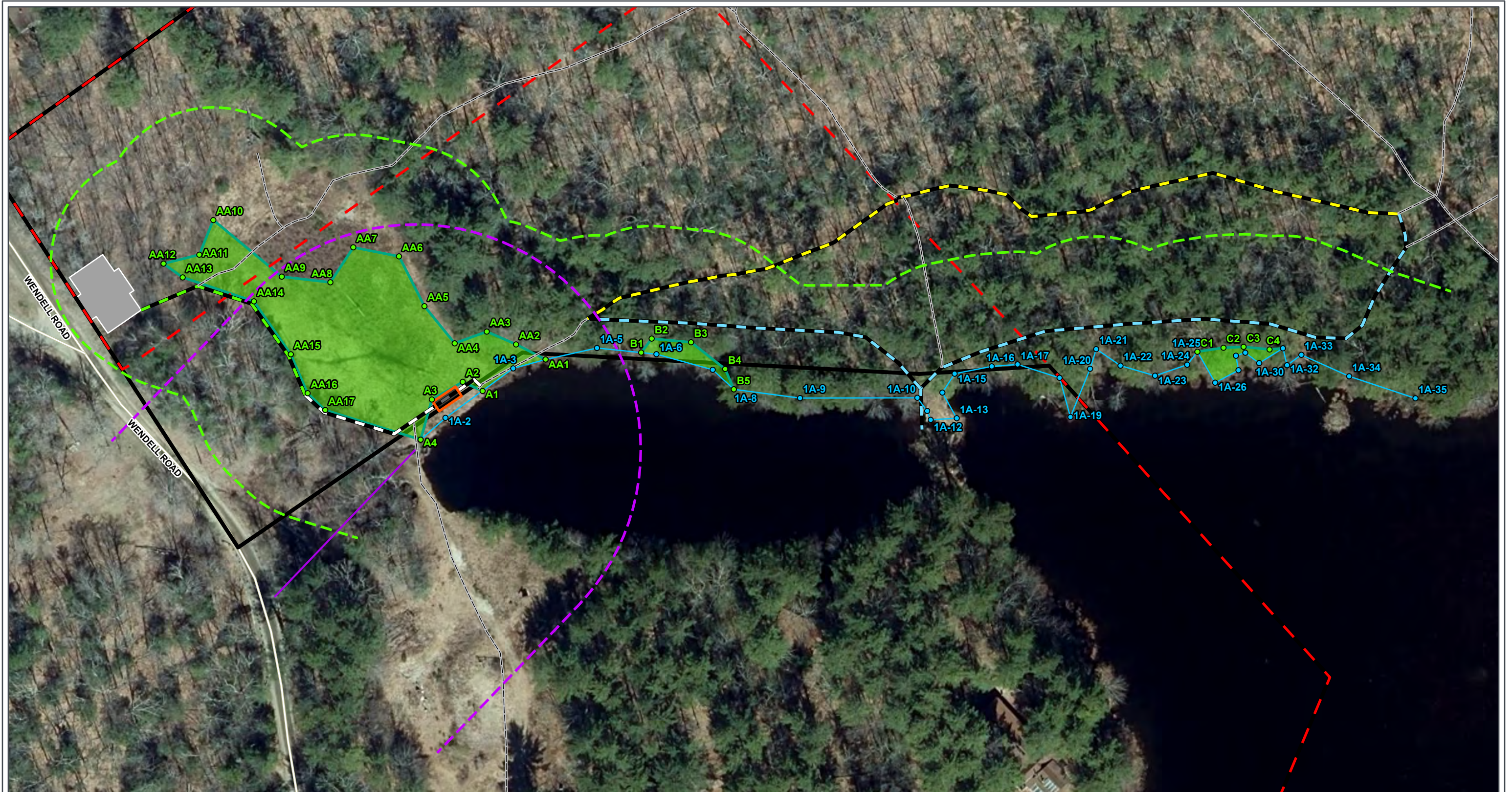
Shutesbury Conservation Commission, Chair

Shutesbury Historical Commission

Please be advised that the Secretary of the Commonwealth has determined that all email messages and attached content sent from and to this email address are public records unless qualified as an exemption under the Massachusetts Public Records Law (MGL c.4 § 7(26)).

4 attachments

-  **Ames Pond Trail Maintenance OOC-Kestrel Land Trust, 286-0291, 72922.pdf**
680K
-  **SCC OOC Cover Letter 286-0291.pdf**
570K
-  **2022_07_05_Ames_Pond_NOI_FINAL_A_WETLAND_MAP.pdf**
653K
-  **2022_11_01_Ames Trail Reroute_MAP_and PLAN_Korby.pdf**
994K



AMES POND TRAIL RESTORATION
Figure 5. Wetland Delineation
 Map 1 of 4

- | | | |
|---|---|--|
| <ul style="list-style-type: none"> Existing Trail - No Maintenance General Maintenance Proposed Accessible Trail Puncheon Trail Closure | <ul style="list-style-type: none"> Stream Bank Flag Wetland Flag 100-Foot Buffer Zone 200' Riverfront Area Delineated Wetland Line Top of Bank Mean Annual High Water Line Road | <ul style="list-style-type: none"> Bordering Vegetated Wetland Conservation Restriction Boundary Proposed Parking Area Proposed Viewing Platform Property Boundary |
|---|---|--|

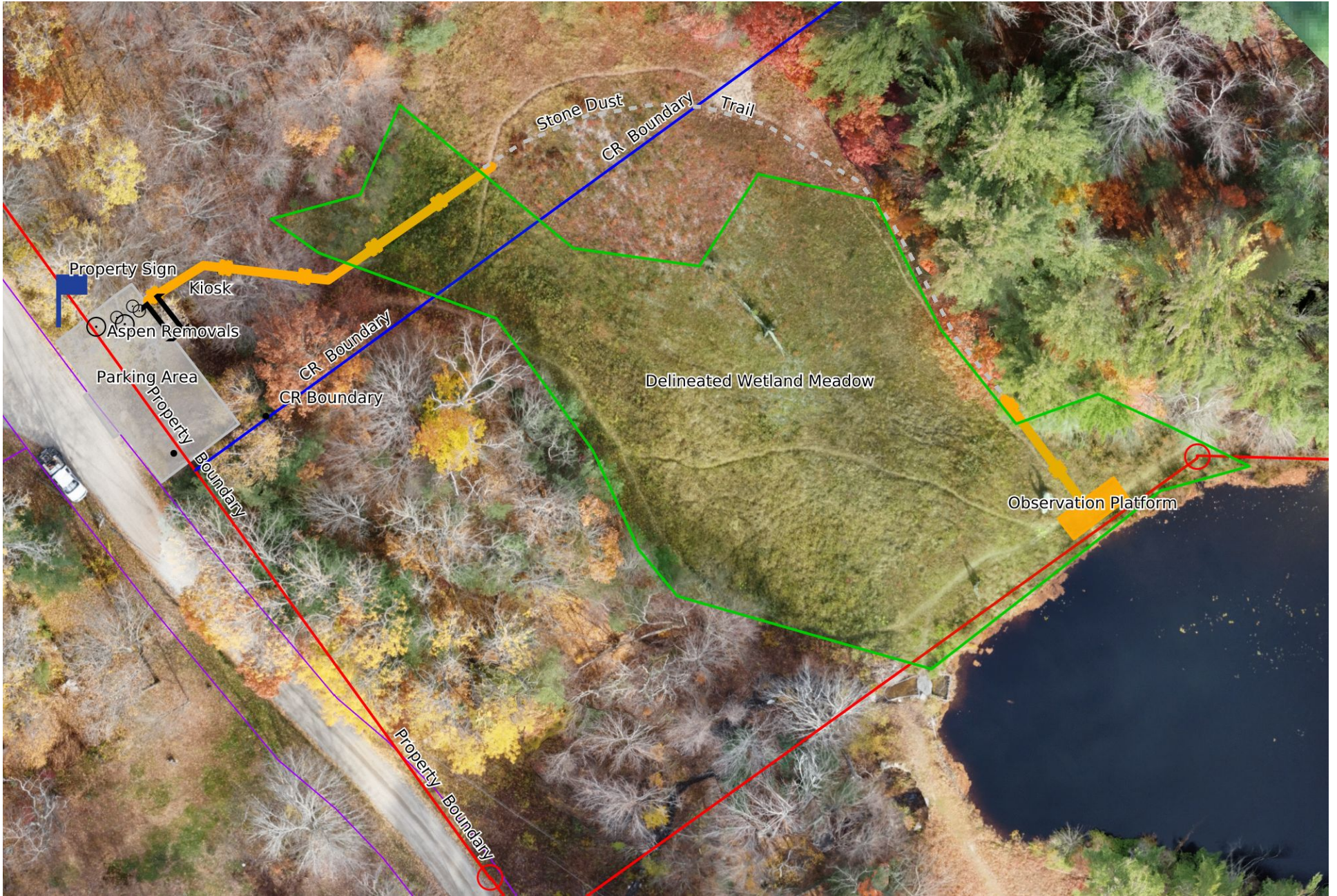


Shutesbury, MA
 USGS 7.5' Quadrangle:
 Millers Falls
 Shutesbury
 72.4205°W 42.499°N

Base Map: ESRI ArcGIS Online,
 accessed June 2022

Updated: 6/30/2022
 Project No. 69584





New Proposed Trail - Ames

WGS84

UTM Zone 18T



mi
Parcels (c) LandGrid

Scale **1:564** 1 inch = 47 feet

0.1 km



Ames Pond Phase 1 Trail Improvements

Proposal by Walker Korby (Terramor, LLC)

11/03/2022

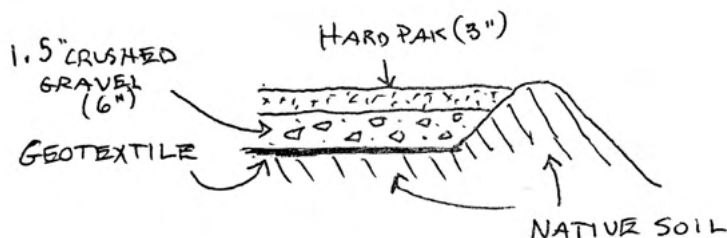
Parking Area

The parking area departs from the original proposal only slightly: the newly proposed location is closer to Wendell Rd., and geotextile fabric will be layered beneath the gravel. The parking area is proposed to be 60 ft wide by 36 ft deep and set back from the edge of the road by 5 ft, as permitted by the Shutesbury Highway Superintendent. An 18 ft wide apron will be installed between the road to the parking area using at least 3" of compacted Hardpak recycled 1-¼ minus aggregate. The placement of the lot will be situated in such a way to minimize tree removal. The current proposed layout will require removing the following 5 trees:

- Three 6" dbh bigtooth aspens
- Two 11" dbh bigtooth aspens

These trees are clustered and covered in bittersweet, are young and do not contain cavities. The stumps will be left in place to decay naturally, as they are on the outer edge of the parking area. An area of bittersweet and multiflora rose will also be removed and the mound of material beneath the bittersweet will be removed from site if there is not a feasible way to blend it into the site without creating a larger disturbance. We will push aside any of the top organic layer from the area to create a more stable substrate for the fabric and stone for parking, and preferably use that material to dress the edges of the parking area afterward as long as it seems to be not full of bittersweet or multiflora rose rootstock. 6-10" of compacted 1.5" minus crushed gravel will be installed on top of a layer of 6.0 oz geotextile fabric. This particular gravel product is a sandy rounded gravel that allows for water to pass through more easily. By reducing displacement, the fabric will compensate for the choice not to excavate and replace the soil with a more structural gravel.

We will grade the compacted gravel base to create a generally level surface, pitched no more than 3% in any direction to prevent water pooling on top of the parking area, which leads to potholes. The area closest to the connection to the trail will be the most level in order to accommodate accessibility guidelines. A 3" layer of Hardpak will be installed on top of the crushed gravel which will create a very stable surface. This material is a recycled mix of aggregate products that is more natural looking, less expensive, and more resilient than crushed stone, and it creates a very uniform surface.



Meadow Entrance Trail

The current proposed walking trail departs from the original proposal based on in-depth site observations and perspectives, and we believe that the new proposal will have less impact on the resource area, as well as the following benefits: longer life as a stable accessible surface, less aesthetic disruption, easier maintenance, and less construction expense.

In sum, we propose that instead of being located along the southwestern edge of the meadow as originally planned, the formal, accessible path to the pond viewing platform will pass over the northern upper part of the meadow and down to the pond along the meadow's NE edge. Since the substrate along this route is dry and gravelly, and two trail sections (60 ft and 240 ft) would be outside the BVW, we propose that these two sections be constructed of compacted stone dust as described below. A 3'x6' rest area will be installed at the halfway mark between the parking area and the viewing platform (approx. 200 ft).

This plan keeps 300 ft of pathway out of the BVW, on drier, gravelly substrate, and mostly on an existing compacted trail corridor. The use of selected sections of compacted stone dust trail, especially near the parking area, also allows for the annual mowing maintenance, as the stone trail can be driven over with a mower, while the puncheon cannot.

The newly proposed trail connects off the parking area as a compacted stone dust trail at a grade that is between 3-5%. This will likely require some additional material to be added to the surface, as the current grade is slightly over 5%. This material would be "bank run gravel," a clean stony/sandy mix that has no organic material in it, is structurally stable, and is well drained as the stone particles are rounded.

Once gravel is installed and compacted, a layer of geotextile will be installed to maintain stability, then 3-4" of compacted ½" Dense Graded Base (TRG, or Stonedust) will be installed on the top. The width of the trail will be approximately 42" wide (no less than 40" and no more than 44") to allow for wheelchair access, but to keep the footprint as small as is reasonable.

To prepare the surface for the fabric and stone to be placed, we will rototill the top 3" of any organic material and scrape it aside from the trailway by hand, to be used as the edging for the trail. The surface will then be compacted, geotextile added, and 3-4" of compacted stone dust will be installed on top of that, crowned slightly (no more than 2% in any direction) to prevent water pooling on the trail. Use of geotextile allows less stone to be added to the trail while still maintaining trail stability (keeping the trail bed from sinking through subsurface compaction over time, for example).

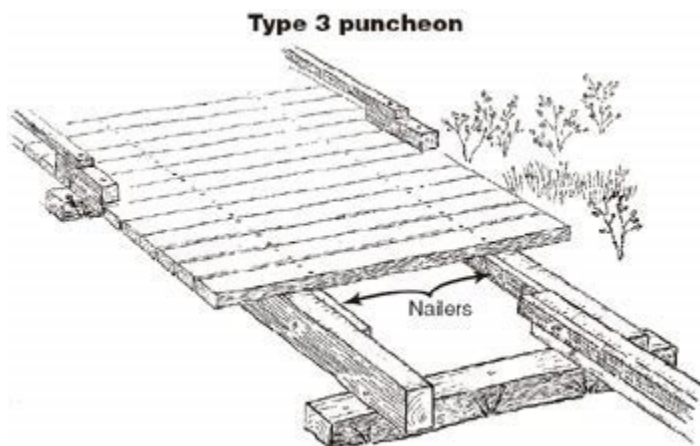
For the two trail sections located within BVW (140 ft and 50 ft), the same Type 3 puncheon (wooden walkway) that was originally proposed would be used. This type of construction is designed to "float" on the surface as it is not anchored to the ground, which is why the mud sills need to extend beyond the edges of the walkable surface. Sills need to be set into the ground 4-6" with a small amount of well drained substrate (crushed stone) to reduce the effects of frost

heaving, which would potentially make the puncheon uneven and less accessible. We will be able to use a “cookie cutter” approach and remove the top layers of soil and organic material precisely where the mud sills will be placed, by hand.

The puncheon will be built with pressure treated wood and screwed rather than nailed for easier maintenance. It will be 48” wide with 40” of walking surface, as the “bull rails” (the edging) will take up some of the width. The puncheon will span a section approximately 140 ft at the beginning, then 50 ft at the end of the trail, where it will merge seamlessly into a 10x24 ft pond viewing platform, which will be made using the same puncheon construction techniques.

The interface between the puncheon and the stone trail will be accomplished using a combined approach of setting the last mud sill in slightly deeper, to pitch the puncheon down no more than 3%, and building up the stone slightly to ramp up. The stone will butt up against a sill on the edge of the puncheon so there will be no gap or elevation difference. The end sections of puncheon will extend 10 ft out beyond the edge of the delineated BVW toward where the trail enters the woods.

Puncheon Construction



1. Excavation and Installation of Mud Sills

6x6 Pressure Treated (PT) timbers sills will be set at least 4" into the existing ground, on top of 4" of crushed stone as needed. Installed at 4ft and 6ft intervals in order for the stringers to be as low profile as possible. Sills will be 5ft wide and extend beyond the outside edge of the puncheon to create the flotation necessary for this type of construction.

2. Installation of Stringers

Two 4x4" PT stringers pinned to sills 24" apart. Each section tied together with 24" 4x4 stringer tie.

3. *Installation of Decking*

2"x6" PT decking with 1/2" spacing 4ft wide.

4. *Installation of Bull Rails*

2x4" PT rails set on 1" spacers on the outside edge of decking.

5. *Installation of 10'x24' Observation Platform*

At the terminus of puncheon, built with the same techniques.

Site Considerations

Any wood and woody debris will be chipped in the parking area and kept on site for dressing the edges of the parking area. Materials for the parking area construction will be delivered, spread and compacted on the same day. The only planned soil disturbance is to remove top layers of organic material, (approx 3-6") in order to get to a more stable mineral soil for gravel to sit on. The parking area will be installed first, so any further building materials will be staged there. Erosion control measures will be in place as dictated by the OOC, including straw wattle around the area to worked on, and around any stockpiles that are left more than a day.

Materials and tools will be carried along the trail corridor in a minimal ground pressure (less than 4psi) low impact wide tracked materials hauler (4ft wide 800lbs) with a wide tire trailer, and/or by hand using volunteers. Sod layer will be removed by hand underneath where mud sills will be installed, and crushed stone will be installed, using an electric wheeled dump cart, and tracked dumper. The trail corridor will first be mowed by hand with an electric brush saw in the BVW. Outside of BVW a lightweight 43" wide machine with turf tires will be used to power a 36" wide rototiller to loosen the top 3" (or less) of organic material along the trail corridor. A tracked 36" wide dumper will allow us to make fewer trips in and out of the trail corridor, lessening potential compaction and impact than even manual wheelbarrows would, as the PSI on the ground will be considerably less. It will be necessary to bring in stone before the puncheon is built, so we will use specialized ground mats to traverse the BVW areas that will reduce the ground compaction and impact even more. Because of the efficiency of the machine, the ground mats will only need to be down for approximately 8 hours.

No implements or machines will traverse outside of the 48" trail corridor, and no organic material (besides PT wood) will be brought from off site, greatly reducing the risk of introducing any unwanted species. Any exposed soil should be minimized, and if there is any, it will be seeded with a proper seed mix (wetland or upland) and covered with seed-free mulch straw.



Massachusetts Department of Environmental Protection

eDEP Transaction Copy

Here is the file you requested for your records.

To retain a copy of this file you must save and/or print.

Username: **286LINDA**

Transaction ID: **1397987**

Document: **WPA Form 5 - OOC**

Size of File: **136.54K**

Status of Transaction: **Submitted**

Date and Time Created: **7/29/2022:1:46:11 PM**

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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:
 MassDEP File #:286-0291
 eDEP Transaction #:1397987
 City/Town:SHUTESBURY

A. General Information

1. Conservation Commission SHUTESBURY

2. Issuance a. OOC b. Amended OOC

3. Applicant Details

a. First Name	CHRISTINE	b. Last Name	VOLONTE		
c. Organization	KESTREL LAND TRUST				
d. Mailing Address	PO BOX 1016				
e. City/Town	AMHERST	f. State	MA	g. Zip Code	01004

4. Property Owner

a. First Name	CHRISTINE	b. Last Name	VOLONTE		
c. Organization	KESTREL LAND TRUST				
d. Mailing Address	PO BOX 1016				
e. City/Town	AMHERST	f. State	MA	g. Zip Code	01004

5. Project Location

a. Street Address	711 WENDELL ROAD				
b. City/Town	SHUTESBURY	c. Zip Code	01072		
d. Assessors Map/Plat#	ZK	e. Parcel/Lot#	118		
f. Latitude	42.49914N	g. Longitude	72.42269W		

6. Property recorded at the Registry of Deed for:

a. County	b. Certificate	c. Book	d. Page		
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7. Dates

a. Date NOI Filed : 7/5/2022 b. Date Public Hearing Closed: 7/28/2022 c. Date Of Issuance: 7/29/2022

8. Final Approved Plans and Other Documents

a. Plan Title:	b. Plan Prepared by:	c. Plan Signed/Stamped by:	d. Revised Final Date:	e. Scale:
NOTICE OF INTENT, AMES POND TRAIL MAINTENANCE	CHRISTIN MCDONOUGH, SWCA ENVIRONMENTAL CONSULTANTS		July 5, 2022	1"=1,000'

B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act

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

Check all that apply:

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

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

Approved subject to:

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

Denied because:

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

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

Inland Resource Area Impacts:(For Approvals Only):

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input type="checkbox"/> Bank	_____ a. linear feet	_____ b. linear feet	_____ c. linear feet	_____ d. linear feet
5. <input checked="" type="checkbox"/> Bordering Vegetated Wetland	2361 a. square feet	2361 b. square feet	0 c. square feet	_____ d. square feet
6. <input type="checkbox"/> Land under Waterbodies and Waterways	_____ a. square feet	_____ b. square feet	_____ c. square feet	_____ d. square feet
	_____ e. c/y dredged	_____ f. c/y dredged		
7. <input type="checkbox"/> Bordering Land Subject to Flooding	_____ a. square feet	_____ b. square feet	_____ c. square feet	_____ d. square feet
Cubic Feet Flood Storage	_____ e. cubic feet	_____ f. cubic feet	_____ g. cubic feet	_____ h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding	_____ a. square feet	_____ b. square feet		
Cubic Feet Flood Storage				

Massachusetts Department of Environmental Protection

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	c. cubic feet	d. cubic feet	e. cubic feet	f. cubic feet
9. <input checked="" type="checkbox"/> Riverfront Area	<u>2010</u>	<u>2010</u>		
	a. total sq. feet	b. total sq. feet		
Sq ft within 100 ft	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Sq ft between 100-200 ft	<u> </u>	<u> </u>	<u> </u>	<u> </u>
	g. square feet	h. square feet	i. square feet	j. square feet

Coastal Resource Area Impacts:

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

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22.

Restoration/Enhancement (For Approvals Only)

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

_____ a. square feet of BVW

_____ b. square feet of Salt Marsh

23.

Streams Crossing(s)

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

_____ a. number of new stream crossings

_____ b. number of replacement stream crossings

C. General Conditions Under Massachusetts Wetlands Protection Act

The following conditions are only applicable to Approved projects

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
 - a. the work is a maintenance dredging project as provided for in the Act; or
 - b. the time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order.
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not exceed the issuance date of the original Final Order of Conditions.
7. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.
8. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.
9. No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to the Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of work..
10. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing

□ **Massachusetts Department of Environmental Protection**

Bureau of Resource Protection - Wetlands

WPA Form 5 - Order of Conditions

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

Provided by MassDEP:

MassDEP File #:286-0291

eDEP Transaction #:1397987

City/Town:SHUTESBURY

the words,

" Massachusetts Department of Environmental Protection"
[or 'MassDEP']
File Number : "286-0291"

11. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before Mass DEP.
12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
13. The work shall conform to the plans and special conditions referenced in this order.
14. Any change to the plans identified in Condition #13 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
15. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.
17. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.
18. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.

NOTICE OF STORMWATER CONTROL AND MAINTENANCE REQUIREMENTS

19. The work associated with this Order(the "Project") is (1) is not (2) subject to the Massachusetts Stormwater Standards. If the work is subject to Stormwater Standards, then the project is subject to the following conditions;
 - a) All work, including site preparation, land disturbance, construction and redevelopment, shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollutant Discharge Elimination System Construction General Permit as required by Stormwater Standard 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.
 - b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that: *i.* all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures; *ii.* as-built final construction

□ **Massachusetts Department of Environmental Protection**

Bureau of Resource Protection - Wetlands

WPA Form 5 - Order of Conditions

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BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized; *iii.* any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10; *iv.* all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition; *v.* any vegetation associated with post-construction BMPs is suitably established to withstand erosion.

- c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 19(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMP Operation and Maintenance Plan ("O&M Plan") and certifying the following: *i.*) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and *ii.*) the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.
- d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollutant Discharge Elimination System Multi-Sector General Permit.
- e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 19(f) through 19(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 19(f) through 19(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.
- f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.
- g) The responsible party shall:
 - 1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location);
 - 2. Make the maintenance log available to MassDEP and the Conservation Commission ("Commission") upon request; and
 - 3. Allow members and agents of the MassDEP and the Commission to enter and inspect the site to evaluate and ensure that the responsible party is in compliance with the requirements for each BMP established in the O&M Plan approved by the issuing authority.
- h) All sediment or other contaminants removed from stormwater BMPs shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.
- i) Illicit discharges to the stormwater management system as defined in 310 CMR 10.04 are prohibited.
- j) The stormwater management system approved in the Order of Conditions shall not be changed without the prior written approval of the issuing authority.

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

Special Conditions:

SEE ATTACHED SPECIAL CONDITIONS FOR DEP FILE # 286-0291. THIS ORDER OF CONDITIONS IS FOR 5 YEARS FOR MAINTENANCE ACTIVITIES.

D. Findings Under Municipal Wetlands Bylaw or Ordinance

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

2. The Conservation Commission hereby (check one that applies):

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

1. Municipal Ordinance or Bylaw _____

2. Citation _____

Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order or Conditions is issued. Which are necessary to comply with a municipal ordinance or bylaw:

b. APPROVES the proposed work, subject to the following additional conditions.

1. Municipal Ordinance or Bylaw SHUTESBURY
GENERAL
WETLANDS
PROTECTION
BYLAW

2. Citation _____

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

The special conditions relating to municipal ordinance or bylaw are as follows:
SEE ATTACHED SPECIAL CONDITIONS FOR DEP FILE # 286-0291.

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E. Signatures

This Order is valid for three years from the date of issuance, unless otherwise specified pursuant to General Condition #4. If this is an Amended Order of Conditions, the Amended Order expires on the same date as the original Order of Conditions. 7/29/2022
1. Date of Original Order

Please indicate the number of members who will sign this form. This Order must be signed by a majority of the Conservation Commission. 5
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: _____ Scott Kahan _____

_____ Miriam DeFant _____ Beth Willson _____

_____ Mary David _____

_____ Robin Harrington _____

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

_____ Date _____ 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 for Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

Any appellants seeking to appeal the Department's Superseding Order associated with this appeal will be required to demonstrate prior participation in the review of this project. Previous participation in the permit proceeding means the submission of written information to the Conservation Commission prior to the close of the public hearing, requesting a Superseding Order, or providing written information to the Department prior to issuance of a Superseding Order.

The request shall state clearly and concisely the objections to the Order which is being appealed and how the Order does not contribute to the protection of the interests identified in the Massachusetts Wetlands Protection Act

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Signature of Applicant

Rev. 4/1/2010

SHUTESBURY CONSERVATION COMMISSION

SPECIAL CONDITIONS for Notice of Intent for Ames Pond Trail Maintenance

DATE: July 15, 2022

DEP File Number: 286-0291

ADDRESS: 711 WENDELL ROAD, SHUTESBURY

APPLICANT: CHRISTINE VOLONTE, KESTREL LAND TRUST

FINDINGS OF FACTS

1. The Shutesbury Conservation Commission (hereafter, “the Commission) finds that the proposed project, delineated on the document entitled, “Ames Pond Trail Restoration, Figure 5, Wetland Delineation” (SWCA Environmental Consultants, dated July 5, 2022), includes the following jurisdictional Resource Areas as defined by the Wetlands Protection Act (MGL Chapter 131, § 40), the Rivers Protection Act (MGL Chapter 268, Acts of 1996), the Wetlands Protection Act Regulations (310 CMR 10.00), and Shutesbury General Wetlands Protection Bylaw and Bylaw Regulations:
 - a. The Commission finds that the Bank of Ames Pond and South Brook and the associated 100’ Buffer Zone is present, although it was mapped but not flagged in the field.
 - b. The Commission finds that Land Under Waterways associated with Ames Pond is present but was not mapped or flagged.
 - c. The Commission approves the delineation of Bordering Vegetated Wetlands A through M as mapped.
 - d. The Commission approves the delineation of the 200-foot Riverfront Area of South Brook on the property. South Brook is a perennial stream and a Cold Water Fishery.
 - e. Bordering Land Subject to Flooding is neither delineated nor approved by the Commission under this Order.
 - f. The Shutesbury General Wetlands Protection Bylaw protects the 100-foot Buffer Zone as a Resource Area.
 - g. The Commission finds that a portion of the project area, delineated on Figures 3 and 4 of the NOI submission, is located within Priority Habitat of Rare Species.
2. The project proposes to upgrade several trails to improve public safety and accessibility, including improving/repairing existing wetlands crossings, board walks, and puncheons and expanding parking on Wendell Road. The project proposes to close a portion of trail along Ames Pond, stabilize rock steps leading to a vista lookout, installing improved wayfinding and interpretive signage, and installing a viewing platform near Ames Pond.
3. Work permitting under this Order of Conditions shall conform to the following plans and documents contained in the document, “Notice of Intent Ames Pond Trail Maintenance,” prepared by SWCA Environmental Consultants, dated July 5, 2022, with the exception that only a puncheon is approved, as opposed to a crushed gravel surface, for the accessible trail from the Wendell Road parking and along the A-Series wetland.

4. The Commission finds there is no practicable and substantially equivalent economic alternative to the proposed project with less adverse effects on the interests identified in M.G.L. c. 131 § 40 and the Shutesbury General Wetlands Protection Bylaw.
5. The Commission finds that the Applicants have rebutted the presumption of an adverse effect on the Protectable Resource Areas, contingent upon this Order of Conditions with the Special Conditions below.
6. This Order of Conditions is issued for five (5) years for maintenance activities.

GENERAL CONDITIONS

1. A member of the Conservation Commission or its agent may enter and inspect the property and the activity that are the subjects of this Order at all reasonable times, with or without probable cause or prior notice, and until a Certificate of Compliance is issued, for the limited purpose of evaluating compliance with this Order.
2. The term “Applicant” as used in this Order of Conditions shall refer to the owner, any successor in interest or successor in control of the property referenced in the Notice of Intent, supporting documents and these Special Conditions/Order of Conditions. The Commission shall be notified in writing within 30 days of all transfers of title of any portion of property that take place prior to the issuance of the Certificate of Compliance.
3. This document shall be included by reference in all contracts, plans and specifications dealing with the activity that is the subject of this Order, and that are created or modified after the issuance date of this Order, along with a statement that this Order shall supersede any conflicting contractual arrangements, plans or specifications.
4. The Applicant shall provide a copy of this Order to the person or persons supervising the activity that is the subject of this Order and shall be responsible for ensuring that all persons performing the permitted activity are fully aware of the terms and conditions of this Order.
5. Any person performing work on the activity that is the subject of this Order is individually responsible for understanding and complying with the requirements of this Order, the Act, 310 CMR 10.00 (and Shutesbury General Wetlands Protection Bylaw and local Wetland Bylaw Regulations).
6. If any change is made in the above-described plan(s) which may or will alter an area subject to protection under the Wetlands Protection Act, 310 CMR 10.00 (and the Shutesbury General Wetlands Protection Bylaw and Bylaw Regulations), the Applicant shall inquire from this Commission or its agent, prior to implementing the change in the field, whether the change is significant enough to require the filing of a new Notice of Intent or an Order of Conditions. Any errors in the plans or information submitted by the Applicant shall be considered changes and the above procedures shall be followed.
7. The Commission shall receive in writing a letter with an original signature from the Applicant, no later than 30 days from the issuance of this Order and before start of work, stating that they have read the Order of Conditions and understand the Conditions.
8. This Order does not approve any vegetation planting or seeding.

PRE-CONSTRUCTION PHASE CONDITIONS

8. Prior to any work commencing on the site, the Applicant shall display the DEP file number for this Order on a sign with minimum dimensions of two feet by two feet at a location clearly visible from the street. The sign shall remain in place and visible until a Certificate of Compliance is issued for the activity.
9. Prior to the commencement of any further activity approved by this Order, erosion controls, as described in the Notice of Intent, shall be installed in any area requiring ground disturbance, including the parking lot area.
10. Erosion controls shall be installed before the commencement of any other work for this project.
11. Erosion controls shall consist of 12-inch straw wattles. No hay is permitted. Soil stabilization erosion matting shall be installed on all disturbed slopes greater than 3:1.
12. Erosion control straw wattles shall be installed around any stockpiles of materials with the open end of the sock away from the Bank of the Resource Area.
13. Minimal disturbance of shrubs and herbaceous plants may be allowed if absolutely necessary. Limited tree removal in the parking lot area and for routine trail maintenance shall be allowed. Wherever possible, tree stumps should remain in place. Limited tree removal for access to art installations shall be permitted.
14. The Applicant shall notify the Commission 48 hours before the commencement of work.

CONSTRUCTION-PHASE CONDITIONS

12. The approved erosion controls shall serve at the limit of all work. Workers shall be informed that no use of machinery, storage of machinery or materials, stockpiling of soil, or construction activity is to occur beyond this line at any time.
13. Erosion controls shall be routinely inspected by the Applicant and replaced/maintained as necessary to ensure they are functional for the duration of the project and until the site is fully stabilized. An adequate stockpile of erosion control materials shall be on site at all times for emergency or routine repairs.
14. At any time before, during or after construction, and until the issuance of a Certificate of Compliance, the Commission or its agent may require the Applicant to modify, augment, restore or maintain erosion control measures associated with the activity that is the subject of this Order.
15. All construction materials, waste products, refuse, debris, or excavate may only be stockpiled or collected in areas outside the jurisdiction of the Commission or in the parking area. All debris, either pre-existing or due to construction, shall be removed from the site by the time the construction is completed.
16. No refueling of power equipment shall be allowed except in the area designated for a parking area.
17. No wheeled or tracked vehicles shall be allowed except for the limited requirements for annual mowing of the A-Series wetland and the transport of construction materials for this project. Contractors shall minimize any incursions outside of the established trail footprints.

Construction-phase movement of materials shall be either hauled by hand or moved with a low-impact, narrow, off-road vehicle.

18. All puncheon and boardwalk materials shall be installed by hand.
19. Stockpiling and staging of materials shall only be allowed in areas outside of the Commission's jurisdiction except for the parking area adjacent to Wendell Road and the area south of the carriage road crossing.
20. Unconsolidated materials shall remain under double-tarps (top and bottom) and shall be surrounded by a double-staked row of straw bales to prevent contact with rainwater. Any opening to the pile area shall be on the opposite side, away from the Bank of Ames Pond and South Brook.
21. No material of any kind may be buried, placed, or dispersed in areas within the jurisdiction of the Commission by activities that are the subject of this Order, including the 100-foot Buffer Zone, except as are expressly permitted by this Order or the plans approved herein.
22. Any material placed in protected Resource Areas by the Applicant without express authorization under this Order shall be removed by the Applicant upon demand by the Conservation Commission or its agent.
23. No trash dumpsters shall be allowed within 100 feet of areas subject to protection under the Massachusetts Wetlands Protection Act or the Shutesbury General Wetlands Protection Bylaw.
24. This Order authorizes only the activity described on the approved plan(s) and approved documents referenced in this Order. Any other or additional activity in areas within the jurisdiction of the Commission shall require separate review and approval by the Commission or its agent.
25. Erosion controls shall remain in place in good condition for the duration of the project and until the site is fully stabilized and revegetated.
26. The area of construction shall remain in a stable condition at the close of each construction day.
27. Site grading and construction shall be scheduled to avoid periods of high surface water. Once begun, grading and construction shall continue in an expeditious manner to minimize the opportunity for erosion.
28. No later than 12 months after the completion of the project, the Applicant shall provide photographs of the site to the Commission to verify the revegetation progress. If the areas of disturbed soil are less than 80% revegetated, the Commission may require additional seeding or planting.

POST-CONSTRUCTION

23. Pesticides, herbicides, and fungicides shall not be used within 100 feet of the wetlands (includes stream bank). Organic pesticides, herbicides, or fungicides may be used subject to the review and approval of the Conservation Commission. This condition shall survive the expiration of this Order and shall be included as a continuing condition in perpetuity on the Certificate of Compliance.

- 24.** Only slow-release organic granular type fertilizers shall be used within 100 feet of the wetlands (includes stream bank). This condition shall survive the expiration of this Order and shall be included as a continuing condition in perpetuity on the Certificate of Compliance.
- 25.** No additional net loss of permeable surfaces is permitted without written approval of the Conservation Commission.
- 26.** Upon 30 days of completion of the project, the Applicant shall contact the Commission to arrange a Post-Construction Site Visit.
- 27.** Annual mowing of the A-series BVW shall occur only after the ground is frozen in November or later.

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

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

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

Roll Call vote:

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

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

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

Commonwealth of Massachusetts
County of Franklin, ss.

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

Susan Mosher
Notary Public

My Commission Expires: 4/1/2022

Certified by Town/City Clerk:

Susan Mosher Date: May 20, 2020
Susan Mosher

