



Massachusetts Department of Environmental Protection, BRP - Wetlands
and Town of Holliston Conservation Commission
Form 2 - Determinations of Applicability
MA Wetlands Protection Act M.G.L. c. 131, §40
and Holliston Administration Bylaw, Article XXX

D-680
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Planning

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



A. General Information

From:

Holliston
Conservation Commission

To: Applicant

Ann & Steve McElhinney
Name
12 Carriage House Way
Mailing Address
Medway MA 02053
City/Town State Zip Code

Property Owner (if different from applicant):

New Hopping Brook Realty Trust
Name
42 Westboro Road
Mailing Address
North Grafton MA 01536
City/Town State Zip Code

1. Title and Date (or Revised Date if applicable) of Final Plans and Other Documents:

Annotated Approval Not Required Plan of Land
Title

9/27/2019 (annotated
8/25/2020)
Date

Title

Date

2. Date Request Filed:

August 25, 2020

B. Determinations

Pursuant to the authority of M.G.L. c. 131, § 40 and Article XXX of the Bylaws of the Town of Holliston, the Conservation Commission considered your Request for Determination of Applicability, with its supporting documentation, and made the following Determinations.

Project Description (if applicable):

The applicant is contesting the wetland delineation confirmed under #D-659 for 555 Hopping Brook Road, in that 3 vernal pools were not accounted for. These vernal pools do not meet the state criteria for a vernal pool, but the applicant contends that they may meet the definition under the bylaw.

However, the Determination of Applicability for #D-659 was **not** appealed within the statutory 10 business day period, and as such, stands and is valid for 3 years, expiring on January 7, 2023. The Conservation Commission lacks the authority to alter the delineation set forth in this previous Determination, except in the cases of fraud or a mutually agreed upon mistake.

Project Location:

555 Hopping Brook Road
Street Address
Map 4, Block 6
Assessors Map/Plat Number

Holliston
City/Town
Lot 15.A
Parcel/Lot Number



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B. Determinations (cont.)

The following Determination(s) is/are applicable to the proposed site and/or project relative to the Wetlands Protection Act and regulations and the Holliston Wetlands Administration Bylaw and regulations:

Positive Determination

Note: No work within the jurisdiction of either/both the Act and/or the Bylaw may proceed until a final Order of Conditions (issued following submittal of a Notice of Intent or Abbreviated Notice of Intent) or Order of Resource Area Delineation (issued following submittal of Simplified Review ANRAD) has been received from the issuing authority (i.e., Conservation Commission or the Department of Environmental Protection).

☐ 1. The area described on the referenced plan(s) is an area subject to protection under the Act and/or the Bylaw. Removing, filling, dredging, or altering of the area requires the filing of a Notice of Intent.

☐ 2a. The boundary delineations of the following resource areas described on the referenced plan(s) are confirmed as accurate. Therefore, the resource area boundaries confirmed in this Determination are binding as to all decisions rendered pursuant to the Act and/or the Bylaw, as applicable, and applicable regulations regarding such boundaries for as long as this Determination is valid.

☒ 2b. The boundaries of resource areas listed below are not confirmed by this Determination, regardless of whether such boundaries are contained on the plans attached to this Determination or to the Request for Determination.

Vernal pool (Article XXX only)

☐ 3. The work described on referenced plan(s) and document(s) is within an area subject to protection under the Act and/or the Bylaw and will remove, fill, dredge, or alter that area. Therefore, said work requires the filing of a Notice of Intent.

☐ 4. The work described on referenced plan(s) and document(s) is within the Buffer Zone and will alter an Area subject to protection under the Act and/or the Bylaw. Therefore, said work requires the filing of a Notice of Intent or ANRAD Simplified Review (if work is limited to the Buffer Zone).

☐ 5. The area and/or work described on referenced plan(s) and document(s) is subject to review and approval by:

Holliston

Name of Municipality

Pursuant to the following municipal wetland ordinance or bylaw:

Holliston Wetlands Administration Bylaw

Name

Article XXX

Ordinance or Bylaw Citation



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B. Determinations (cont.)

- ☐ 5. The area described in the Request is subject to protection under the Act. Since the work described therein meets the requirements for the following exemption, as specified in the Act and the regulations, no Notice of Intent is required:

Exempt Activity (site applicable statutory/regulatory provisions)

- ☒ 6. The area and/or work described in the Request is not subject to review and approval by:

Holliston

Name of Municipality

Pursuant to a municipal wetlands ordinance or bylaw.

Holliston Wetlands Administration Bylaw

Name

Article XXX

Ordinance or Bylaw Citation

C. Authorization

These Determinations are issued to the applicant and delivered as follows:

- ☐ by hand delivery on

- ☒ by certified mail, return receipt requested on

Date

Date

8/19/2020

7018 0680 0001 2954 1499

These Determinations are valid for **three years** from the date of issuance (except Determinations for Vegetation Management Plans which are valid for the duration of the Plan). These Determinations do not relieve the applicant from complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.

These Determinations must be signed by a majority of the Conservation Commission. A copy must be sent to the appropriate DEP Regional Office (see <http://www.mass.gov/dep/about/region.findyour.htm>) and the property owner (if different from the applicant).

Signatures:

Christopher Bajdek, Chair

Authorized to sign on behalf of the Holliston Conservation
Commission pursuant to a vote taken on 9/8/2020.

9/8/2020

Date



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B. Determination (cont.)

- ☐ 6. The following area and/or work, if any, is subject to the Holliston Wetlands Administration Bylaw but not subject to the Massachusetts Wetlands Protection Act:
-
- ☐ 7. If a Notice of Intent is filed for the work in the Riverfront Area described on referenced plan(s) and document(s), which includes all or part of the work described in the Request, the applicant must consider the following alternatives. (Refer to the MA Wetlands Protection Act regulations at 10.58(4)c. for more information about the scope of alternatives requirements):
- ☐ Alternatives limited to the lot on which the project is located.
 - ☐ Alternatives limited to the lot on which the project is located, the subdivided lots, and any adjacent lots formerly or presently owned by the same owner.
 - ☐ Alternatives limited to the original parcel on which the project is located, the subdivided parcels, any adjacent parcels, and any other land which can reasonably be obtained within the municipality.
 - ☐ Alternatives extend to any sites which can reasonably be obtained within the appropriate region of the state.

Negative Determination

Note: No further action under the Wetlands Protection Act is required by the applicant. However, if the Department is requested to issue a Superseding Determination of Applicability, work may not proceed on this project unless the Department fails to act on such request within 35 days of the date the request is post-marked for certified mail or hand delivered to the Department. Work may then proceed at the owner's risk only upon notice to the Department and to the Conservation Commission. Requirements for requests for Superseding Determinations and Bylaw appeals are listed at the end of this document.

- ☒ 1. The area described in the Request is not an area subject to protection under the Act or the Bylaw or the Buffer Zone.
- ☐ 2. The work described in the Request is within an area subject to protection under the Act or Bylaw, but will not remove, fill, dredge, or alter that area. Therefore, said work does not require the filing of a Notice of Intent.
- ☐ 3. The work described in the Request is within the Buffer Zone, as defined in the regulations, but will not alter an Area subject to protection under the Act or the Bylaw. Therefore, said work does not require the filing of a Notice of Intent, subject to the following conditions (if any).
- ☐ 4. The work described in the Request is not within an Area subject to protection under the Act or the Bylaw (including the Buffer Zone). Therefore, said work does not require the filing of a Notice of Intent, unless and until said work alters an Area subject to protection under the Act or the Bylaw.
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D. Appeals

Under the MA Wetlands Protection Act, the applicant, owner, any person aggrieved by this Determination, any owner of land abutting the land upon which the proposed work is to be done, 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 Department of Environmental Protection Regional Office (see <http://www.mass.gov/dep/about/region.findyour.htm>) to issue a Superseding Determination of Applicability. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and Fee Transmittal Form (see 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 Determination. 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 Determination which is being appealed.

To the extent that the Determination is based on the Holliston Wetlands Administration Bylaw and not on the Massachusetts Wetlands Protection Act or regulations, the Department of Environmental Protection has no appellate jurisdiction.

Determinations issued under the Holliston Wetlands Administrative Bylaw, Article XXX of the Bylaws of the Town of Holliston, may be appealed to the MA Superior Court, or in certain limited circumstances the MA Land Court, under the provisions of M.G.L. Ch. 249, s.4, within 60 days of the date of issuance. Appeals taken to the MA Department of Environmental Protection under the MA Wetlands Protection Act only have no impact or effect on Determinations issued pursuant to the Holliston Wetlands Administration Bylaw, Article XXX.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
DEP Regional Addresses
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Mail transmittal forms and DEP payments, payable to:

Commonwealth of Massachusetts
Department of Environmental Protection
Box 4062
Boston, MA 02211

DEP Western Region
436 Dwight Street
Suite 402
Springfield, MA 01103
Phone: 413-784-1100
Fax: 413-784-1149

Adams	Colrain	Hampden	Monroe	Pittsfield	Tyringham
Agawam	Conway	Hancock	Montague	Plainfield	Wales
Alford	Cummington	Hatfield	Monterey	Richmond	Ware
Amherst	Dalton	Hawley	Montgomery	Rowe	Warwick
Ashfield	Deerfield	Heath	Monson	Russell	Washington
Becket	Easthampton	Hinsdale	Mount Washington	Sandisfield	Wendell
Belchertown	East Longmeadow	Holland	New Ashford	Savoy	Westfield
Bernardston	Egremont	Holyoke	New Marlborough	Sheffield	Westhampton
Blanford	Erving	Huntington	New Salem	Shelburne	West Springfield
Brimfield	Florida	Lanesborough	North Adams	Shutesbury	West Stockbridge
Buckland	Gill	Lee	Northampton	Southampton	Whately
Charlemont	Goshen	Lenox	Northfield	South Hadley	Wilbraham
Cheshire	Granby	Leverett	Orange	Southwick	Williamsburg
Chester	Granville	Leyden	Otis	Springfield	Williamstown
Chesterfield	Great Barrington	Longmeadow	Palmer	Stockbridge	Windsor
Chicopee	Greenfield	Ludlow	Pelham	Sunderland	Worthington
Clarksburg	Hadley	Middlefield	Peru	Tolland	

DEP Central Region
627 Main Street
Worcester, MA 01608
Phone: 508-792-7650
Fax: 508-792-7621
TDD: 508-767-2788

Acton	Charlton	Hopkinton	Millbury	Rutland	Uxbridge
Ashburnham	Clinton	Hubbardston	Millville	Shirley	Warren
Ashby	Douglas	Hudson	New Braintree	Shrewsbury	Webster
Athol	Dudley	Holliston	Northborough	Southborough	Westborough
Auburn	Dunstable	Lancaster	Northbridge	Southbridge	West Boylston
Ayer	East Brookfield	Leicester	North Brookfield	Spencer	West Brookfield
Barre	Fitchburg	Leominster	Oakham	Sterling	Westford
Bellingham	Gardner	Littleton	Oxford	Stow	Westminster
Berlin	Grafton	Lunenburg	Paxton	Sturbridge	Winchendon
Blackstone	Groton	Marlborough	Pepperell	Sutton	Worcester
Bolton	Harvard	Maynard	Petersham	Templeton	
Boxborough	Hardwick	Medway	Phillipston	Townsend	
Boylston	Holden	Mendon	Princeton	Tyngsborough	
Brookfield	Hopedale	Milford	Royalston	Upton	

DEP Southeast Region
20 Riverside Drive
Lakeville, MA 02347
Phone: 508-946-2700
Fax: 508-947-6557
TDD: 508-946-2795

Abington	Dartmouth	Freetown	Mattapoisett	Provincetown	Tisbury
Acushnet	Dennis	Gay Head	Middleborough	Raynham	Truro
Attleboro	Dighton	Gosnold	Nantucket	Rehoboth	Wareham
Avon	Duxbury	Halifax	New Bedford	Rochester	Wellfleet
Barnstable	Eastham	Hanover	North Attleborough	Rockland	West Bridgewater
Berkley	East Bridgewater	Hanson	Norton	Sandwich	Westport
Bourne	Easton	Harwich	Norwell	Scituate	West Tisbury
Brewster	Edgartown	Kingston	Oak Bluffs	Seekonk	Whitman
Bridgewater	Fairhaven	Lakeville	Orleans	Sharon	Wrentham
Brockton	Fall River	Mansfield	Pembroke	Somerset	Yarmouth
Carver	Falmouth	Marion	Plainville	Stoughton	
Chatham	Foxborough	Marshfield	Plymouth	Swansea	
Chilmark	Franklin	Mashpee	Plympton	Taunton	

DEP Northeast Region
1 Winter Street
Boston, MA 02108
Phone: 617-654-6500
Fax: 617-556-1049
TDD: 617-574-6868

Amesbury	Chelmsford	Hingham	Merrimac	Quincy	Wakefield
Andover	Chelsea	Holbrook	Methuen	Randolph	Walpole
Arlington	Cohasset	Hull	Middleton	Reading	Waltham
Ashland	Concord	Ipswich	Millis	Revere	Watertown
Bedford	Danvers	Lawrence	Milton	Rockport	Wayland
Belmont	Dedham	Lexington	Nahant	Rowley	Wellesley
Beverly	Dover	Lincoln	Natick	Salem	Wenham
Billerica	Dracut	Lowell	Needham	Salisbury	West Newbury
Boston	Essex	Lynn	Newbury	Saugus	Weston
Boxford	Everett	Lynnfield	Newburyport	Sherborn	Westwood
Braintree	Framingham	Malden	Newton	Somerville	Weymouth
Brookline	Georgetown	Manchester-By-The-Sea	Norfolk	Stoneham	Wilmington
Burlington	Gloucester	Marblehead	North Andover	Sudbury	Winchester
Cambridge	Groveland	Medfield	North Reading	Swampscott	Winthrop
Canton	Hamilton	Medford	Norwood	Tewksbury	Woburn
Carlisle	Haverhill	Melrose	Peabody	Topsfield	



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

Request for Departmental Action Fee Transmittal Form

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

A. Request 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. Person or party making request (if appropriate, name the citizen group's representative):

Name

Mailing Address

City/Town

State

Zip Code

Phone Number

Fax Number (if applicable)

Project Location

Mailing Address

City/Town

State

Zip Code

2. Applicant (as shown on Notice of Intent (Form 3), Abbreviated Notice of Resource Area Delineation (Form 4A); or Request for Determination of Applicability (Form 1)):

Name

Mailing Address

City/Town

State

Zip Code

Phone Number

Fax Number (if applicable)

3. DEP File Number:

B. Instructions

1. When the Departmental action request is for (check one):

- ☐ Superseding Order of Conditions (\$100 for individual single family homes with associated structures; \$200 for all other projects)
- ☐ Superseding Determination of Applicability (\$100)
- ☐ Superseding Order of Resource Area Delineation (\$100)

Send this form and check or money order for the appropriate amount, payable to the *Commonwealth of Massachusetts* to:

Department of Environmental Protection
Box 4062
Boston, MA 02211



Massachusetts Department of Environmental Protection

Bureau of Resource Protection - Wetlands

Request for Departmental Action Fee Transmittal Form

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

B. Instructions (cont.)

2. On a separate sheet attached to this form, state clearly and concisely the objections to the Determination or Order which is being appealed. To the extent that the Determination or Order is based on a municipal bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.
3. Send a **copy** of this form and a **copy** of the check or money order with the Request for a Superseding Determination or Order by certified mail or hand delivery to the appropriate DEP Regional Office (see <http://www.mass.gov/dep/about/region/findyour.htm>).
4. 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.