



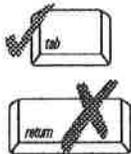
**Massachusetts Department of Environmental Protection**  
 Bureau of Resource Protection - Wetlands  
**WPA Form 5 – Order of Conditions**  
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

DEP File Number:

SE69-526  
 Provided by DEP

**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:

SEEKONK  
 Conservation Commission

This issuance is for (check one):

- Order of Conditions  
 Amended Order of Conditions

To: Applicant:

Advantage Development, L.L.C.  
 Name  
1414 Atwood Avenue  
 Mailing Address  
Johnston RI 02919  
 City/Town State Zip Code

Property Owner (if different from applicant):

Fred Darling  
 Name  
1105 Fall River Avenue  
 Mailing Address  
Seekonk MA 02771  
 City/Town State Zip Code

1. Project Location:

<u>Fall River Avenue (Route 114A)</u> Street Address	<u>Seekonk</u> City/Town
<u>7</u> Assessors Map/Plat Number	<u>9,64,72,179,259,300,350</u> Parcel/Lot Number

2. Property recorded at the Registry of Deeds for:

<u>Bristol</u> County	<u>See Attached list</u> Book	<u>                    </u> Page
<u>N/A</u> Certificate (if registered land)		

3. Dates:

<u>7/29/03</u> Date Notice of Intent Filed	<u>10/06/03</u> Date Public Hearing Closed	<u>10/23/03</u> Date of Issuance
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4. Final Approved Plans and Other Documents (attach additional plan references as needed):

<u>Stormwater Management Study, Lowe's</u>	<u>Sept 2003</u>
<u>Lowe's Home Improvement Warehouse Plans</u>	<u>9/19/03</u>

5. Final Plans and Documents Signed and Stamped by:

David Flanagan  
 Name

6. Total Fee:

\$525.00  
 (from Appendix B: Wetland Fee Transmittal Form)



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**B. Findings**

*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:

- |  |   |   |
|--|---|---|
| <input checked="" type="checkbox"/> Public Water Supply  | <input type="checkbox"/> Land Containing Shellfish          | <input checked="" type="checkbox"/> Prevention of Pollution |
| <input checked="" type="checkbox"/> Private Water Supply | <input type="checkbox"/> Fisheries                          | <input type="checkbox"/> Protection of Wildlife Habitat     |
| <input checked="" type="checkbox"/> Groundwater Supply   | <input checked="" type="checkbox"/> Storm Damage Prevention | <input checked="" type="checkbox"/> Flood Control           |

Furthermore, 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, to protect those interests checked above. 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 to protect those interests checked above. 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.
- 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).

**General Conditions** (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.



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**B. Findings (cont.)**

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 69-526 "**
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.



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**B. Findings (cont.)**

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 (use additional paper, if necessary):

(See Attached Special Conditions)

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**Findings as to municipal bylaw or ordinance**

Furthermore, the SEEKONK hereby finds (check one that applies):  
 Conservation Commission

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

Name \_\_\_\_\_ Municipal Ordinance or Bylaw \_\_\_\_\_

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.

- that the following additional conditions are necessary to comply with a municipal ordinance or bylaw, specifically:

Name \_\_\_\_\_ Municipal Ordinance or Bylaw \_\_\_\_\_

The Commission orders that all work shall be performed in accordance with the said additional 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.

## SPECIAL ORDERS OF CONDITIONS

1. Prior to any earth moving activity, a combination silt fence/staked hay bale barrier shall be placed along the limit of activity between all disturbed areas and the wetlands as shown on the approved plans or by the direction of the Commission or its agent.
2. The Seekonk Conservation Agent shall be contacted to inspect the silt fence/staked hay bale barrier before the commencement of any earth moving activities.
3. The areas of construction shall remain in a stable condition at the close of each construction day. Erosion controls shall be inspected at this time, and repaired, reinforced or replaced as necessary. All damaged control measures shall either be repaired or replaced immediately. Captured sediment deposits shall periodically be removed and legally disposed of off-site.
4. Baled hay and mulch shall be of acceptable herbaceous growth, free from noxious weeds or woody stems, and shall be dry.
5. The base of all stockpiles should be protected by a hay bale barrier or silt fence.
6. An adequate stockpile of erosion control materials shall be on site at all times for emergency or routine replacement.
7. All dewatering operations must discharge directly into a sediment filter. No discharge of water is allowed directly into an area subject to jurisdiction of the Seekonk Wetlands by-laws and regulations.
8. The site shall be graded at all times and maintained such that all storm water runoff is diverted to soil erosion and sediment control facilities.
9. Grading shall be accomplished so that runoff shall not be directed to the wetlands or the property of others without erosion control barriers. The project shall not increase runoff, nor cause flood or storm damage, to abutters or the property of others.
10. All permanent seeding and landscaping shall be in accordance with the requirements of the contract documents.
11. All construction and post-construction stormwater management shall be conducted in accordance with the supporting documents submitted with the Notice of Intent, DEP Stormwater Management Policy and as approved by the Commission in this Order of Conditions.
12. All Stormwater best management practices shall be maintained as specified in the Stormwater Management System Operation and Maintenance Plan submitted with the Notice of Intent and incorporated in the Order of Conditions. Evidence of maintenance of the Stormwater Management system shall be provided to the Commission on a periodic basis.
13. The Conservation Commission shall be notified in writing, when any maintenance functions that may impact the wetlands, such as, but not limited to, replacing backfill and repairing drains and rip-rap aprons, are to be performed.
14. Any debris or "dumped" material placed in wetland resource areas shall be removed by the applicant on a monthly basis.
15. Paved roadway must be kept clean at all times.
16. Upon completion of this project, the applicant shall submit the following to the Conservation Commission.
  - a. A letter from the applicant requesting a Certificate of Compliance along with the applicable fee.

- b. A written statement from a registered professional engineer of the Commonwealth certifying that the work has been conducted as shown on the plan(s) and documents referenced above, and as conditioned by the Commission.
  - c. An "as-built" plan prepared and signed and stamped by a registered professional engineer or land surveyor of the Commonwealth, for the public record.
  - d. A recorded conservation restriction certificate and the restriction agreement.
  - e. A written statement by the wetland scientist certifying that the wetland replication has been done in accordance with the approved wetland replication plan. Such certification shall be accompanied by a plan showing the limits of the replication area and the final grades as surveyed by a licensed surveyor which meets grades shown on the plans approved in this Order of Conditions.
17. If unforeseen problems occur during construction which may affect the statutory interests of the Seekonk Wetland by-laws and regulations or the Wetlands Protection Act, upon discovery by either the Conservation Commission, its agent, or the applicant, the Commission shall immediately be notified, and an immediate meeting shall be held between the Commission or its agent, the applicant, and other concerned parties to determine the correct measures to be employed. The applicant shall then act to correct the problems using the corrective measures agreed upon. Subsequent to resolution, the activity and resulting actions shall be documented in writing.
18. During the winter season, snow storage practices shall comply with DEP's policy and snow shall be stored in the area as shown on the approved plans.
19. The applicant is responsible for creating a conservation restriction on the subject property to provide for the perpetual protection of the resource areas. The conservation restriction shall be completed and recorded in the Registry of Deeds before a Certificate of Compliance is issued for this project.
20. The details for the proprietary water quality devices shall be provided to the Conservation Commission for their approval before construction begins.
21. It is the responsibility of the applicant to procure all other applicable federal, state, and local permits and approvals associated with this project.
22. The wetland replication shall be performed in accordance with the approved replication plan. The Commission reserves the right to require additional plantings to ensure achievement of 75% cover of wetland plant species within two full growing seasons, as specified in 310 CMR 10.55 (4) (b).
23. The Commission or its Agent shall be given 48 hours notice prior to the beginning of construction of the wetland replication area.
24. Replication construction activities must be supervised by a wetland specialist who shall be a professional with experience in wetland replication, wetland hydrology and a working knowledge of botany. Such a person shall be retained to supervise and monitor construction of the wetland replication areas until the replication area meets the requirements of this Order of Conditions.
25. Any damage caused as a direct result of this project to any wetland resource areas shall be the responsibility of the applicant or its agent to repair, restore and/or replace. Sedimentation or erosion into these areas shall be considered damage to wetland resource areas. If sediment reaches these areas the Commission shall be contacted and a plan for abatement of the problem and proposed restoration/mitigation measures shall be submitted for approval and implementation.



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**B. Findings (cont.)**

Additional conditions relating to municipal ordinance or bylaw:

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

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

Date October 23, 2003

This Order must be signed by a majority of the Conservation Commission. 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 (see Appendix A) and the property owner (if different from applicant).

Signatures:

Richard C. Wallace Karen M. Bussell  
 \_\_\_\_\_  
Warren P. Leach  
Christy A. Clay

On 8 Day Of October 2003  
 Day Month and Year

Before me personally appeared

Richard C. Wallace

to me known to be the person described in and who executed the foregoing instrument and acknowledged that he/she executed the same as his/her free act and deed.

Wahlene T. Siconio  
 Notary Public - Wahlene T. Siconio

January 7, 2008  
 My Commission Expires

This Order is issued to the applicant as follows:

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



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### **C. 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 Appendix E: 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.

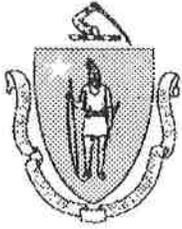
The request shall state clearly and concisely the objections to the Order which is being appealed and how the Order does not contribute to the protection of the interests identified in the Massachusetts Wetlands Protection Act, (M.G.L. c. 131, § 40) and is inconsistent with the wetlands regulations (310 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.

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### **D. 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 Form 5 shall be submitted to the Conservation Commission listed below.*

**SEEKONK**  
Conservation Commission



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**D. Recording Information (cont.)**

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

To:

**SEEKONK**  
 Conservation Commission

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

**Fall River Avenue**  
 Project Location

**SE 69-526**  
 DEP File Number

Has been recorded at the Registry of Deeds of:

**Bristol**  
 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