

Applicant: Advantage Development, LLC

ORDER OF CONDITIONS

Seekonk General Wetland Protection By-Law

From SEEKONK CONSERVATION COMMISSION Issuing Authority.

To Advantage Development, LLC Fred Darling
(Name of person making request) (Name of property owner)

Address 1414 Atwood Avenue Johnston, RI 02919 Address 1105 Fall River Avenue Seekonk, MA

This Order is issued and delivered as follows:

- by hand delivery to applicant or representative making request on _____ (date)
- by certified mail, return receipt requested on October 23, 2003 (date)

This project is located at Fall River Avenue (Route 114A) Plat 7, Lots 9, 64, 72, 179, 259, 300, 350

The property is recorded at the Registry of Deeds, Bristol County North.
Book See Attached List Page _____ Certificate (if registered) N/A

The Notice of Intent for this project was filed on July 29, 2003 (date)

The public hearing was closed on October 6, 2003 (date)

Findings

The Seekonk Conservation Commission has reviewed the above-referenced Notice of Intent and plans and has held a public hearing on the project. Based on the information available to the Conservation Commission at this time, the Conservation Commission has determined that the area on which the proposed work is to be done is significant to the following interests in accordance with the Presumptions of Significance set forth in the regulations for each Area Subject to Protection Under the Seekonk General Wetland Protection Bylaw and Regulations (check as appropriate):

- | | | |
|--|---|---|
| <input checked="" type="checkbox"/> Public water supply | <input checked="" type="checkbox"/> Flood control | <input type="checkbox"/> Land containing shellfish |
| <input checked="" type="checkbox"/> Private water supply | <input checked="" type="checkbox"/> Storm damage prevention | <input type="checkbox"/> Fisheries |
| <input checked="" type="checkbox"/> Ground water supply | <input checked="" type="checkbox"/> Prevention of pollution | <input type="checkbox"/> Protect. of Wildlife Habitat |

Therefore, the Seekonk Conservation Commission hereby finds that the following conditions are necessary, in accordance with the Performance Standards set forth in the regulations, to protect those interests checked above. The Seekonk Conservation Commission orders that all work shall be performed in accordance with said 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.

General Conditions

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, by-laws 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 Massachusetts Wetlands Protection 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 and both that date and the special circumstances warranting the extended time period are set forth in this Order.
5. This Order may be extended by the issuing authority for one or more periods of up to one year 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, containing 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. No work shall be undertaken until any appeal proceedings have been completed.
8. **No work shall be undertaken until the Final Order 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 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 Seekonk Conservation Commission on the form at the end of this Order prior to the commencement of the work.
9. Upon completion of the work described herein, the applicant shall forthwith request in writing that a Certificate of Compliance be issued stating that the work has been satisfactorily completed.
10. The work shall conform to the following plans and special conditions:

Plans: Stormwater Management Report, Sept. 2003 & Lowe's Home Improvement Warehouse Plans, September 19, 2003 signed by David Flanagan
11. Any change to the plans identified in Condition #10 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.
12. The Agent or members of the Conservation Commission 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 for that evaluation.

13. 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.
14. Prior to the commencement of any work on the site:
 - a. The applicant shall inform the Seekonk Conservation Commission in writing of the name, address, business and home telephone number of the project supervisor who will be responsible for insuring on-site compliance with this Order.
 - b. The Seekonk Conservation Commission shall be notified of the date upon which construction activities on the site will commence at least 2 business days before work begins by letter or telephone (508) 336-2944.
 - c. The border of the resource areas on the site shall be clearly marked in the field by stakes or flags placed at 25 foot intervals. A continuous barrier shall be established between the work area and the designated Resource Areas, including those areas of proposed replication. The barrier shall consist of a hay/straw bale dike or acceptable alternative as specified on the approved plans.
15. The Seekonk Conservation Commission may, at their discretion, require an as-built plan, signed and stamped by a professional engineer or land surveyor registered in the Commonwealth of Massachusetts further to General Condition #11.
16. Failure to comply with General Condition #8, shall be deemed cause to revoke these Orders of Condition. As an alternative, the Commission may record this Order in the Registry and charge the applicant the cost of recording.
17. The limit of work shall be as shown on plan presented and approved at the meeting.
18. See attached documentation which shall be incorporated into Orders of Conditions by agreement between the applicant and the Seekonk Conservation Commission.

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 it's 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.

Issued by Seekonk Conservation Commission

Signatures

Richard C. Wallace
Warren P. Leach
A. F. [unclear]

[unclear]

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

On this 8 day of October, 2003, 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.

Janadette Deplano
(Notary Public/Justice of the Peace)

July 2, 2010
(My Commission Expires)

The applicant, the owner, any person aggrieved by this Order, 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 Department of Environmental Protection to issue a Superseding Order of Conditions, providing the request is made by certified mail or hand delivery to the Department, with the appropriate filing fee and Fee Transmittal Form as provided in 310 CMR 10.03(7) within ten days from the date of issuance of this Determination. A copy of the request shall at the same time be sent certified mail or hand delivery to the Conservation Commission and the applicant.

Detach on dotted line and submit to the Seekonk Conservation Commission prior to commencement of work.

To Seekonk Conservation Commission Issuing Authority.

Please be advised that the Order of Conditions for the project at _____ File Number SE 69-526 has been recorded at the Registry of Deeds, Bristol County, North, and has been noted in the chain of title of the affected property in accordance with General Condition 8 on ____ 200__ .

If recorded land, the instrument number which identifies this transaction is ____.

If registered land, the document number which identifies this transaction is ____.

Signature _____ Applicant.