

City/Town: Seekonk

Applicant: Walmart Real Estate Business Trust

Form 5

Commonwealth
of Massachusetts

ORDER OF CONDITIONS

Seekonk General Wetland Protection By-Laws

From SEEKONK CONSERVATION COMMISSION Issuing Authority.

To Ashley Tucker, Walmart Real Estate Business Trust
(Name of person making request)

Antone Oliveria
(Name of property owner)

Address 2001 SE 10th St., Bentonville, AR 72716-0550 Address 34 Lake St., Rehoboth, MA 02769
Order is issued and delivered as follows:

 by hand delivery to applicant or representative making request on (date)

x by certified mail, return receipt requested on 2/10/12 (date)

This project is located at 1300 Fall River Avenue.

The property is recorded at the Registry of Deeds, Bristol County North.

Book 1670/1673/7335/14757

Page 423/974/243/106

Certificate (if registered) N/A

The Notice of Intent for this project was filed on 05/31/11 (date)

The public hearing was closed on 1/23/12 (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 Act (check as appropriate):

x Public water supply

x Flood control

 Land containing shellfish

x Private water supply

x Storm damage prevention

x Fisheries

x Ground water supply

x Prevention of pollution

x Protect of Wildlife Habitat

Total Filing Fee Submitted \$1,900.00 State Share City/Town Share \$1,900.00

Total Refund Due \$ City/Town Portion \$ State Portion \$

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 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 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, 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 all administrative appeal periods from this Order have elapsed or, if such an appeal has been filed, until all proceedings before the Department 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. No work shall begin until the erosion control measures have been installed according to the approved plans. Failure to do so may result in penalties, fines, and revoking of the Final Order.
10. A sign shall be displayed at the site not less than two square feet or more than three square feet in the size bearing the words, "Massachusetts Department of Environmental Protection, File Number n/a ".

11. Where the Department of Environmental Protection is requested to make a determination and to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before the Department.
12. 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.
13. The work shall conform to the following plans:

**Plans: Site Development Plans for Walmart Store #2184-07
Proposed Retail Development
Lots 25, 29, 30, 33, 63, 199 & 218, MAP 7, 1300 Fall River Avenue and
Anthony Street, Town of Seekonk**

Total	Dated	Signed and Stamped by:	On file with:
<u>(1)</u>	<u>1/23/12</u>	<u>Matthew D. Smith</u> <u>Bohler Engineering</u>	<u>Seekonk Con.Com.</u>

Special Conditions:

See Attached.

SPECIAL CONDITIONS

1. The term “Applicant” as used in this Order of Conditions shall refer to the owner referenced in the Notice of Intent, supporting documents and this Order of Conditions and any subsequent owners of the property. The Applicant shall notify the Commission in writing within 30 days of the sale of any portion of the property.

Currently, the applicant on record is: Ashley Tucker, Walmart Real Estate Business Trust.

Ph. Number: (479) 204-2594.

Please contact the Conservation Commission if any of this information has changed.

2. Upon the sale of the property to subsequent owners, the new owner shall provide a letter to the Conservation Commission acknowledging that he/she understands the wetland restrictions bound to this property.
3. Prior to any work commencing on the site, the applicant shall submit the name of the general contractor, address and phone number to the Conservation Commission.
4. The applicant shall provide a copy of this Order to the contractor and will 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 and the Seekonk General Wetlands Protection Bylaw and Regulations.
6. 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 will require separate review and approval by the Commission or its Conservation Agent.
7. If any plan changes are made after approval by the Commission, an amendment shall be submitted. The amendment requires the re-opening of the public hearing and issuance of amended Orders.
8. Erosion control measures shall be installed as shown on the approved plans.
9. Immediately after installation of erosion controls, the Conservation Agent shall be contacted at 508-336-2944 in order to conduct an inspection to ensure that erosion controls have been properly installed.

10. Erosion and sedimentation control devices shall be inspected after each storm event and repaired or replaced as necessary. Any accumulated silt adjacent to the barriers shall be removed.
11. If at any time during construction, the erosion control measures fail and have a negative impact on the resource area and/or buffer zone, the construction site shall be shut down and fines of \$300.00 per day will be issued to both the applicant and any contractor that performed the work. Fines will stop and work may
12. begin once the erosion control measures have been repaired or replaced and the area has been restored to the Commission's satisfaction.
13. All post-construction stormwater management structures shall be installed in accordance with the plans and documents approved by the issuing authority.
14. The Conservation Commission shall be notified a minimum of 24 hours in advance of excavation for all infiltration systems. Please contact the Conservation Agent at 508-336-2944.
15. In the event that groundwater is encountered during the installation of the rain garden or infiltration basins, the applicant shall contact the Conservation Commission immediately to discuss alternative designs/solutions.
16. All underground infiltration systems shall include suitable access points, brought to finish grade, to provide for the inspection and cleaning of the infiltration system. Access ports shall have a minimum diameter of 12-inches.
17. A Registered Professional Engineer shall inspect and document the following:
 - (a) The bottom of excavation of all infiltration systems shall be inspected prior to the placement of any fill or any drainage structures.
 - (b) Document the condition of the excavation by photographs and provide a certification letter that there is at least a 2-foot separation between the bottom of the infiltration system and seasonal high groundwater.
 - (c) Confirm that sub-soils on which the infiltration system will be placed area consistent with the plan requirements and the assumptions of the hydrologic analysis.
18. The Commission requires that an Infiltration As-Built plan shall specify the size and type of all piping components and drainage structures and the beginning and end inverts of all pipes and the location of all covers, access and inspection ports. The as-built shall

include the location of all roof drain connections and a certification by the engineer/land surveyor that all roof drainage connections shown on the approved plans have been made.

19. The Applicant and subsequent owners shall operate and maintain all stormwater BMPs in accordance with the design plans and the Operation and Maintenance Plans approved by the Conservation Commission. This condition shall remain in perpetuity, and shall be recorded as such on the Certificate of Compliance.
20. The applicant must establish a maintenance agreement with a licensed provider for inspection and maintenance services for the Stormceptor devices. Proof of this agreement must be submitted to the Conservation Commission prior to obtaining a Certificate of Occupancy from the Building Inspector.
21. The applicant shall submit the final Stormwater Pollution Prevention Plan prior to construction.
22. The Applicant shall notify the Town once the stormwater BMPs are operational. The Town shall provide operation and maintenance forms for each stormwater management BMP on the project site to the Applicant. The Applicant shall be responsible for completing and submitting these forms as required for each stormwater BMP to the Seekonk Conservation Commission at 100 Peck Street, Seekonk, MA.
23. Provide a construction schedule, prior to construction, indicating work within the buffer zone/vernal pool restoration area shall be avoided during the springtime. If work in the buffer zone/vernal pool restoration area will occur during the springtime, the Commission shall be notified in advance.
24. The buffer zone/vernal pool restoration area shall be reviewed by site observations performed by a biologist a minimum of two times each growing season. These site observations shall include the preparation of a record/log containing the vegetative composition of the % cover by each species. The planted vegetation shall also be evaluated to ensure 80% survivability with replacement plantings installed for each planted specimen that does not survive the proposed monitoring period. The overall goal shall be 80% cover by non-invasive plant species after two growing seasons and a memo with the log and summary of findings/recommendations would be issued to the Conservation Commission agent after each observation. This shall be done for two (2) years post-restoration.
25. All construction materials, earth stockpiles, landscaping materials, slurry pits, waste products, refuse, debris, stumps, slash, or excavate may only be stockpiled or collected in areas as shown and labeled on the approved plan(s), or if no such areas are shown must be placed or stored outside all resource areas and associated buffer zones under cover and be surrounded by erosion control measures to prevent contact with rain water.

26. Upon completion of construction of the project and prior to obtaining a Certificate of Occupancy, the applicant shall submit the following to the Conservation Commission to request a Certificate of Compliance (COC):

- (a) A Completed Request for a Certificate of Compliance form (WPA Form 8A) and check for \$35.00 made payable to the Town of Seekonk.
- (b) A letter from a Massachusetts Registered Professional Engineer certifying compliance of the property with this Order of Conditions, and detailing any deviations that exist, and their potential effect on the project. A statement that the work is in "substantial compliance" with no detailing of the deviations shall not be accepted.
- (c) An "As-Built" plan signed and stamped by a Registered Professional Engineer or Land Surveyor showing post-construction conditions. This plan shall include at a minimum:
 - (i) All wetland resource area boundaries with associated buffer zones and regulatory setback areas taken from the plan(s) approved in this Order of Conditions;
 - (ii) Buildings, utilities, chain-link fencing, stormwater management BMPs, pipe sizes and inverts;
 - (iii) Topography shown in 1-foot contours and spot shot elevations where necessary;
 - (iv) All tree and shrub plantings, identifying species and size.

If the applicant does not request a COC once the project is completed, the Commission shall issue fines of \$300.00 per day. The fines shall stop once all of the information has been submitted.

27. The applicant shall record the COC at the Registry of Deeds and the proof of recording shall be provided to the Commission.

28. With respect to all conditions, the Conservation Commission designates the Conservation Agent to act on its behalf in administering and enforcing this Order.

Issued by Seekonk Conservation Commission

Signatures

Richard C. Wallace Bernadette Deplander
Chitzler Clay _____
Robert McKerny _____
Warren T. Leach _____

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

On this 23 day of January, 2012 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.

Bernadette Deplander MY COMMISSION EXPIRES July 19, 2017
 (Notary Public) JULY 14, 2017 (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 1300 Fall River Avenue, File Number N/A 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 _____ 2012.

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

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

Signature _____ Applicant.