

Form 5

Commonwealth
of Massachusetts

ORDER OF CONDITIONS

Seekonk General Wetland Protection By-Laws

From: SEEKONK CONSERVATION COMMISSION Issuing Authority.

To: H. Charles Tapalian (Name of person making request) Same (Name of property owner)

Address: PO Box 6684 Providence, RI 02940 Address Same

This Order is issued and delivered as follows:

by hand delivery to applicant or representative making request on 6/29/10 (date)

by certified mail, return receipt requested on: _____ (date)

This project is located at: Fall River Avenue & Cole Street.

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

Book 15142 / 17625 Page 1 / 82 Certificate (if registered) N/A

The Notice of Intent for this project was filed on: 9-16-09 (date)

The public hearing was closed on: 6-14-10 (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):

- Public water supply
- Private water supply
- Ground water supply

- Flood control
- Storm damage prevention
- Prevention of pollution

- Land containing shellfish
- Fisheries
- Protection 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 applies:
 - (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 **SE 69-660**".

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: Greenbrier Condominiums prepared for RI Seekonk Meadows LLC Fall River Avenue & Cole Street Seekonk, MA Sheets 1- 21, dated 5/24/10

Revised and Supplemental Drainage Materials, Greenbrier Condominiums, AP 8, Lot 148 & AP 10A, Lot 1, Fall River Avenue & Cole Street dated 5/3/10

Total	Dated	signed and stamped by:	On file with:
<u>(1)</u>	<u>5/24/10</u>	<u>Allan L Shear</u>	<u>Seekonk Conservation</u>

Special Conditions (Use additional paper if necessary)

SEE ATTACHED SPECIAL ORDER OF CONDITIONS

Issued by Seekonk Conservation Commission

Signatures Richard C. Wallace [Signature]
Robert D. McKenna _____
R. F. Hill _____

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

On this 14 day of June 2010, 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 DeBeauder MY COMMISSION EXPIRES July 2, 2010
(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 Fall River Ave. & Cole St. File Number SE 69-660 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.

SPECIAL ORDER OF 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:

H. Charles Tapalian
RI Seekonk Holdings LLC
PO Box 6684
Providence, RI 02940
Ph. Number: 401-447-0847

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, the Wetlands Protection Act MGL c.131 sec. 40, 310 CMR 10.00 and the Seekonk General Wetlands Protection Bylaw and Regulations.
6. Prior to the installation of erosion controls the applicant shall determine that all wetland flags are in-place. Any missing wetland flags shall be replaced by the applicant.
7. Erosion control measures shall be installed as shown on the approved plans.
8. 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. All wetland flags must be in-place at this time. Any missing wetland flags shall be replaced by the applicant.
9. 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.

10. If at any time during construction, the erosion control measures fail and have a negative impact on the resource area and/or buffer zone, fines of \$300.00 per day will be issued to both the applicant and general contractor. Fines will stop once the erosion control measures have been repaired or replaced and the area has been restored to the Commission's satisfaction.
11. Immediately upon completion of the building foundations and prior to further construction activities, the applicant shall engage a Professional Engineer or Surveyor to prepare an as-built plan which accurately depicts the foundation location and its proximity to wetland resource areas as approved under this Order of Conditions. Said plan shall immediately be submitted to the Conservation Commission for review.
12. All stormwater best management practices shall be maintained as specified in the Operation and Maintenance Plan submitted with the Notice of Intent and incorporated in the Order of Conditions.
13. The applicants, owners, and their successors and assignees shall maintain all culverts, collection basins, traps, retention and detention ponds, outlet structures, and other elements of drainage systems.
14. There shall be no increase in the post-development discharges from the storm drainage system or any other changes in post-development conditions that alter the post-development watershed boundaries as currently depicted in the Notice of Intent and approved by this Order of Conditions, unless specifically approved in writing by the Commission.
15. 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.
16. 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 surrounded by a erosion control measures to prevent contact with rain water.
17. There shall be no pumping of water from wetland resource areas.
18. The wetland replication shall be performed in accordance with the approved plans. 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).
19. The wetland resource areas to be altered shall not be altered until development of the replication area is in progress and the proposed replication area is excavated to the proposed base grade. The wetland replication area shall be brought to the approximate surface elevation of the existing adjacent wetland area.

20. The Commission shall be given 48 hours notice prior to the beginning of construction of the replacement area. The Commission or its agent must meet with the construction engineer and the wetland specialist to discuss the requirement and to ensure compliance with all special conditions.
21. The replication area shall be constructed in the following manner:
 - a. Prior to excavation of the proposed replication area, proposed grades shall be staked by licensed land surveyors, indicating cuts necessary to achieve grades as shown on the plans. The extent of cut should include necessary over-excavation to allow for backfill of organic or clean loam materials.
 - b. Plants from the altered wetland areas shall be transplanted in their original organic material to the replacement area. Wetland plants shall be carefully dug with attention given to the root system, balled and/or burlapped in a professional manner, and temporarily stored in a shady area and watered on a daily basis.
 - c. The topsoil from the replication area shall be stockpiled separately from other soils for reuse in the replication area.
 - d. The area shall be excavated and graded to the proposed contours shown on the site plan.
 - e. The adjacent slopes shall be graded as shown on the plan with the topsoil again stockpiled.
 - f. All stockpiled soils shall be isolated from wetland resource areas and protected with plastic or canvas from erosion or drying.
 - g. Stockpiled organic soils shall then be placed on the replication site. (Ideally, wetland soils shall be placed in the replication area in such a way as to reproduce the original soil horizons.)
 - h. Prior to planting or seeding, final grades shall be surveyed by licensed land surveyors to ensure that grades have been achieved as shown on the plan.
 - i. The upper layer of the replacement area shall consist of soil, plants, plant propagules removed from the wetland to be filled, and other approved plant materials as described on a re-vegetation plan.
22. 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.
23. Siltation barriers shall be placed at the perimeter of the replication area and at the top of any unstabilized adjacent slope. These will remain in place and be maintained until all areas are completely stabilized.
24. The siltation barriers shall serve as a limit of work delineation for project activities. No disturbance to adjacent wetland resource areas resulting from work on the project shall occur during or after construction of the replication area.

25. Following construction of the replication area and prior to other work on the site, the wetland specialist shall certify to the Commission that the area has been constructed in compliance with the Order of Condition. Such certification shall be accompanied by a plan showing the limits of the replication area and final grades as surveyed by a licensed land surveyor, which meet grades shown on the plans approved in this Order of Conditions.
26. Upon completion of construction of the project, 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. The plan shall be a 1"=40' scale. 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, roads, parking lots, stormwater management BMPs, pipe sizes and inverts, split rail fence;
 - (iii) Topography shown in 1-foot contours and spot shot elevations where necessary;
 - (iv) Limits of construction.

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.