

Form 5

*Commonwealth  
of Massachusetts*

# ORDER OF CONDITIONS

## Seekonk General Wetland Protection By-Laws

From: SEEKONK CONSERVATION COMMISSION Issuing Authority.

To: Kooloian Realty, LP Same  
(Name of person making request) (Name of property owner)

Address 143 Smithfield Road N. Providence RI 02904 Address: Same

This 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 11-18-09 (date)

This project is located at 767 & 761 Fall River Avenue Seekonk MA .

The property is recorded at the Registry of Deeds, Bristol County North.  
Book 6295 & 7466 Page 188 & 76 Certificate (if registered) N/A

The Notice of Intent for this project was filed on 09-01-09 (date)

The public hearing was closed on 11-09-09 (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):

- |                                   |                                      |   |
|-----------------------------------|--------------------------------------|---|
| <u>  X  </u> Public water supply  | <u>  X  </u> Flood control           | <u>    </u> Land containing shellfish       |
| <u>  X  </u> Private water supply | <u>  X  </u> Storm damage prevention | <u>  X  </u> Fisheries                      |
| <u>  X  </u> Ground water supply  | <u>  X  </u> Prevention of pollution | <u>  X  </u> 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 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 SE 69-667".

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: Notice of Intent Plan for Kooloian Property 767 & 761 Fall River Ave. Seekonk MA (AP 8, Lots 16 & 17)**

Total	Dated	Signed and Stamped by:	On file with:
<u>(1)</u>	<u>10/19/09</u>	<u>Paul D. Carlson</u>	<u>Seekonk Conservation</u>

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**Special Conditions** (Use additional paper if necessary)

- 1) The deadline for planting the wetland replication and mitigation area is: June 15, 2010.

Issued by Seekonk Conservation Commission

Signatures Richard C. Wallace  
Robert McKenna  
[Signature]  
R.C. Wall

Warren P. Seal  
Christopher Clapp  
[Signature]  
[Signature]

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

On this 9 day of November 20 09, 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.

**MY COMMISSION EXPIRES**

**JULY 2, 2010**

Bernadette Reynolds  
(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 767 & 761 Fall River Ave. File Number SE 69-667 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.