

Form 5

Commonwealth  
of Massachusetts

# ORDER OF CONDITIONS

## Seekonk General Wetland Protection By-Laws

From SEEKONK CONSERVATION COMMISSION Issuing Authority.

To <u>Steven Decastro, Decastro Builders</u> (Name of person making request)	<u>Same</u> (Name of property owner)
Address <u>25 Asylum Road, Warren, RI 02885</u>	<u>Same</u> Address

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 12/12/11 (date)

This project is located at 160 Olney Street (AP 6, Lot 40), Seekonk, MA 02771.

The property is recorded at the Registry of Deeds, Bristol County North.  
Book 18891 Page 174 Certificate (if registered) N/A

The Notice of Intent for this project was filed on 04/06/11 (date)

The public hearing was closed on 11/21/11 (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):

- |  |   |   |
|--|---|---|
| <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 checked="" type="checkbox"/> Fisheries                   |
| <input checked="" type="checkbox"/> Ground water supply  | <input checked="" type="checkbox"/> Prevention of pollution | <input checked="" type="checkbox"/> Protect of Wildlife Habitat |

Total Filing Fee Submitted \$1,050.00 State Share \$512.50 City/Town Share \$537.50.

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 **SE 069-0707**".

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: Definitive Subdivision Plan of "Caleb Estates"  
160 Olney Street, Seekonk, MA, Assessors Map 6, Lot 40  
Prepared by InSite Engineering Services, LLC**

Total	Dated	Signed and Stamped by:	On file with:
<u>(1)</u>	<u>Revised 11/7/11</u>	<b>Paul D. Carlson</b>	<u>DEP, 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 applicant and 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:

Steven Decastro  
Decastro Builders  
25 Asylum Road  
Warren, RI 02885  
Ph. Number: 401-255-3329

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 Act, 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 referenced in the Order of Conditions.
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 shall be issued to both the applicant and general contractor. Fines shall stop once the erosion control measures have been repaired or replaced and the area has been restored to the Commission's satisfaction.
11. The maintenance and repair of the stormwater management best management practices (BMPs) is the responsibility of the property owner until work is finished, the road has been accepted by the Town and the maintenance has been turned over to a Homeowner's Association.
12. Evidence of maintenance of the Stormwater Management system shall be provided by the applicant to the Commission on a semi-annual basis. This condition shall be noted on the Certificate of Compliance and shall continue until the road is accepted by the Town.
13. All stormwater BMP's shall be inspected and cleaned as per the Operation and Maintenance Plan. After each inspection and cleaning, the applicant shall provide to the Commission written confirmation that the inspection and cleaning were conducted. This condition shall be noted on the Certificate of Compliance and shall continue until the road is accepted by the Town.
14. The applicant shall clean and remove all sediment and debris from all stormwater management BMPs after the street sweeping of the binder course and prior to the top course installation of the road. The applicant or his/her representative shall contact the Conservation Agent and Superintendent of Public Works to inspect the BMPs after they have been cleaned.
15. The Conservation Agent, Town Planner and Superintendent of Public Works will inspect the road and drainage once the top course installation is completed.
16. In the event that groundwater is encountered during the installation of the infiltration basin, the applicant shall contact the Conservation Commission immediately to discuss alternative designs/solutions.
17. This Order shall pertain to the roadways, utilities within the roadway layout, and associated drainage facilities. Individual lot construction, including driveways, lot utilities, sewage and water shall require review of individual lot site plans.
18. 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.

19. The grading and drainage patterns shall be the same as shown on the approved subdivision plans, in order to prevent stormwater runoff from draining onto adjacent properties and causing potential flooding issues. Any deviations from the approved plans that could have a negative impact on adjacent properties shall result in an enforcement order and fines of \$300/day until the grading has been corrected.
20. Prior to issuance of a building permit for lots ANR-1, Lot-1, Lot-2 and Lot-3, the lot owner/developer shall submit a lot site plan to the Conservation Commission containing the following:
- All proposed structures, septic system, driveway and grading. The impervious surface coverage and the grading shall be the same as depicted on the approved Subdivision Plans;
  - Site specific soil data and a roof drainage system design meeting the design requirements shown on the plans, including the separation from seasonal high groundwater;
  - Erosion and Sediment Control shall be shown and shall adhere to the Erosion and Sediment Control notes during development of each lot. The lot plan should illustrate the placement and details of these measures.

The Commission shall not sign off on the building permit if the lot site plan does not comply with the above a. through c.

21. An as-built plan shall be submitted to the Conservation Commission for lots ANR-1, Lot-1, Lot-2 and Lot-3 prior to the Certificate of Occupancy (CO). The as-built plans shall show the following:
- All structures, septic system, driveway and grading in 1-foot contours with spot shots as necessary.
  - Roof drainage system.
  - Erosion and Sediment Control shall be shown and shall adhere to the Erosion and Sediment Control notes during development of each lot. The lot plan should illustrate the placement and details of these measures.

The Commission shall not sign off on the CO if the as-built plan does not conform to the lot site plan in specified in Special Condition 20.

22. A Notice of Intent shall be filed for individual house construction for Lot 4.
23. 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.
24. All stockpiles shall be located at least 100-feet from regulated wetland resource areas.
25. There shall be no pumping of water from wetland resource areas.

26. The Town shall monitor the performance of the channels and outlets for at least two years following placement into service, with corrective action by the developer if erosion or sedimentation results from operation of the system.

27. The USEPA NPDES Construction General Permit Notice of Intent and associated Stormwater Pollution Prevention Plan be furnished to the Town, prior to initiation of construction.

28. Upon completion of construction of the road and drainage, 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) Road, stormwater management BMPs, pipe sizes and inverts;

(iii) Topography shown in 1-foot contours and spot shot elevations where necessary;

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

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

30. 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  
[Signature]  
[Signature]

[Signature]  
Warren P. Seal

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

On this 21 day of November 20 11, 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.

Kerodette Deplander  
(Notary Public)

MY COMMISSION EXPIRES  
JULY 14, 2017

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 160 Olney Street, File Number SE 69-107 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 20.

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

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

Signature \_\_\_\_\_ Applicant.