

310 CMR 10.99

Form 5



Commonwealth
of Massachusetts

DEP File No. 69-236
(To be provided by DEP)

City/Town Seekonk
Applicant Heritage Homes

**Order of Conditions
Massachusetts Wetlands Protection Act
G.L. c. 131, §40**

From Seekonk Conservation Commission

To Heritage Homes of Attleboro, Inc. Same
(Name of Applicant) (Name of property owner)

P. O. Box 73
Address Chartley, MA 02712 Address Same

This Order is issued and delivered as follows:

- by hand delivery to applicant or representative on _____ (date)
- by certified mail, return receipt requested on November 27, 1990 (date)

This project is located at Plat 5, Lot 101, Blacksmith Road

The property is recorded at the Registry of Bristol County

Book 1702 Page 704

Certificate (if registered) _____

The Notice of Intent for this project was filed on November 5, 1990 (date)

The public hearing was closed on November 26, 1990 (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 Commission at this time, the 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 type="checkbox"/> Public water supply | <input type="checkbox"/> Flood control | <input type="checkbox"/> Land containing shellfish |
| <input type="checkbox"/> Private water supply | <input type="checkbox"/> Storm damage prevention | <input type="checkbox"/> Fisheries |
| <input checked="" type="checkbox"/> Ground water supply | <input checked="" type="checkbox"/> Prevention of pollution | <input checked="" type="checkbox"/> Protection of wildlife habitat |

Total Filing Fee Submitted _____ State Share _____
 City/Town Share _____ (½ fee in excess of \$25)
 Total Refund Due \$ _____ City/Town Portion \$ _____ State Portion \$ _____
 (½ total) (½ total)

Therefore, the 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 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. This 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 to be done. The recording information shall be submitted to the Commission on the form at the end of this Order prior to commencement of the work.
9. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words, "Massachusetts Department of Environmental Protection,
File Number 69-236
10. 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.
11. 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.
12. The work shall conform to the following plans and special conditions:

SPECIAL ORDERS OF CONDITION

13. Any changes made or intended to be made in the plans shall require the applicant to inquire of the Conservation Commission, in writing, whether the change is substantial enough to warrant filing a new Notice of Intent.
14. 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.
15. 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.
16. 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 in advance of the date upon which construction activities on the site are to commence.
 - 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 plans. This barrier shall be inspected by the Seekonk Conservation Commission prior to start of any other on-site construction.
17. Members and Agents of the Seekonk Conservation Commission shall have the right to enter and inspect the site, for the purpose of evaluating compliance with the conditions and performance standards stated in this Order, the Act, & 310 CMR 10.00. The Commission reserves the right to request any additional data deemed necessary to further their evaluation.

18. The applicant, owner, successors or assignees shall be responsible for maintaining all on-site drainage structures and out falls, assuring the lasting integrity of vegetative cover on the site so as to prevent erosion, siltation, sedimentation, chemical contamination or other detrimental impact to the on-site wetland and/or off-site resource areas.

The maintenance requirements specified in this order shall not expire with the issuance of a Certificate of Compliance. The property owner of record shall be responsible for on-going maintenance as required by this order.

19. It shall be the responsibility of the applicant or their agents to make known these Orders of Condition to all parties involved in work on the project.
20. Used petroleum products from the maintenance of construction equipment and construction debris shall be collected and disposed of off-site. No on-site disposal of these items is allowed.
21. Any refuse material found on the site shall be disposed of at an approved facility, and in no case will these materials be buried or disposed of off-site. No on-site disposal of these items is allowed.
22. Dust control, if required, shall be limited to water. No salts or wetting agent shall be used.
23. All proposed plantings must be maintained by the applicant or current property owner to ensure survival.
24. Should any or all of the proposed plants fail to survive at least one full growing season from the time they have been planted, the applicant or current owner shall be fully responsible for replacing and maintaining the same plant species for one additional growing season.

Plans:

| Title | Dated | Signed and Stamped by: | On File with |
|--|-------|------------------------|--------------|
| <u>ID1, Project Narrative, ID2, Site locus on U.S.G.S. Prov. Quadrangle</u> | | | |
| <u>ID3, Site locus on Heritage Hts. Index Map, ID4, Floodway and Flood</u> | | | |
| <u>Boundary Map, ID5, Soil Map and Legend, ID6, National Wetland Inventory</u> | | | |
| <u>Map, ID7, Estimated Habitat Map, ID8, Water Quality Certification</u> | | | |
| <u>ID9, U.S. Army Corps of Engineers 404 Permit, ID12, Haybale Erosion</u> | | | |
| <u>Control Detail, ID13, Proposed Site and Erosion Control Plan</u> | | | |

Special Conditions (Use additional paper if necessary)

1. Comply with Byron Holmes' modification that the clay area is brought 4' below the leaching trench elevation, making it 35'.
2. That the clay barriers and septic system on Lot 101 be built simultaneously with the clay barriers and septic system on Lot 102.
3. Lot lines must be staked.
4. Please read Special Conditions #13-#24.

(Leave Space Blank)

Plans:

| Title | Dated | Signed and Stamped by: | On File with: |
|--|-------|------------------------|---------------|
| <u>ID1, Project Narrative, ID2, Site locus on U.S.G.S. Prov. Quadrangle</u> | | | |
| <u>ID3, Site locus on Heritage Hts. Index Map, ID4, Floodway and Flood</u> | | | |
| <u>Boundary Map, ID5, Soil Map and Legend, ID6, National Wetland Inventory</u> | | | |
| <u>Map, ID7, Estimated Habitat Map, ID8, Water Quality Certification</u> | | | |
| <u>ID9, U.S. Army Corps of Engineers 404 Permit, ID12, Haybale Erosion</u> | | | |
| <u>Control Detail, ID13, Proposed Site and Erosion Control Plan</u> | | | |

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.....
(Leave Space Blank)

Issued By Seekonk Conservation Commission

Signature(s) Warren P. Leach
[Signature] [Signature]
[Signature] [Signature]
[Signature] [Signature]

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

On this 26th day of November 1996, before me personally appeared Warren Leach, 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.

[Signature]
Notary Public [Signature] My Commission Expires Feb. 21, 1997
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, 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 by certified mail or hand delivery to the Conservation Commission and the applicant.

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

To _____ Issuing Authority

Please be advised that the Order of Conditions for the project at _____

File Number _____ has been recorded at the Registry of _____ and

has been noted in the chain of title of the affected property in accordance with General Condition 8 on _____, 19____.

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

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

Signature _____ Applicant

Issued by the Department of Environmental Protection

Signature _____

On this _____ day of _____, 19_____, before me personally appeared _____ 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.

Notary Public

My commission expires

The applicant, the owner, any person aggrieved by the Superseding Order, any owner of land abutting the land upon which the proposed work is to be done, or any ten persons pursuant to G.L. c. 30A §10A, are hereby notified of their right to request an adjudicatory hearing pursuant to G.L. c. 30A, §10, 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 Superseding Order, and is addressed to: Docket Clerk, Office of General Counsel, Department of Environmental Protection, One Winter Street, Boston, MA 02108. A copy of the request shall at the same time be sent by certified mail or hand delivery to the conservation commission, the applicant, and any other party.

A Notice of Claim for an Adjudicatory Hearing shall comply with the Department's Rules for Adjudicatory Proceedings, 310 CMR 1.01(6), and shall contain the following information:

- (a) the DEP Wetlands File Number, name of the applicant and address of the project;
- (b) the complete name, address and telephone number of the party filing the request, and, if represented by counsel, the name and address of the attorney;
- (c) the names and addresses of all other parties, if known;
- (d) a clear and concise statement of (1) the facts which are grounds for the proceeding, (2) the objections to this Superseding Order, including specifically the manner in which it is alleged to be inconsistent with the Department's Wetlands Regulations (310 CMR 10.00) and does not contribute to the protection of the interests identified in the Act, and (3) the relief sought through the adjudicatory hearing, including specifically the changes desired in the Superseding Order;
- (e) a statement that a copy of the request has been sent to the applicant, the conservation commission and each other party or representative of such party, if known.

Failure to submit all necessary information may result in a dismissal by the Department of the Notice of Claim for an Adjudicatory Hearing.

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

To _____, Issuing Authority

Please be advised that the Order of Conditions for the project at _____

File Number _____ has been recorded at the Registry of _____ and

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

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Signature _____ Applicant