

City/Town: Seekonk  
Applicant:

Form 5

Commonwealth  
of Massachusetts

# ORDER OF CONDITIONS

## Seekonk General Wetland Protection By-Laws

From SEEKONK CONSERVATION COMMISSION Issuing Authority.

To Richard Recny, Seekonk Equities, LLC by: Time Equities, as agent Same  
 (Name of person making request) (Name of property owner)

Address 55 Fifth Avenue, 15<sup>th</sup> Floor, New York, NY 10003 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 04/15/11 (date)

This project is located at 145-201 Highland Avenue, Seekonk, MA 02771.

The property is recorded at the Registry of Deeds, Bristol County North.  
 Book 10125 Page 189 Certificate (if registered) N/A

The Notice of Intent for this project was filed on 11/02/10 (date)

The public hearing was closed on 03/28/11 (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):

- |                                   |                                      |  |
|-----------------------------------|--------------------------------------|--|
| <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> Protect of Wildlife Habitat |

Total Filing Fee Submitted \$8,325.00 State Share \$4,150.00 City/Town Share \$4,175.00

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 069-697".

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: Seekonk Crossings, 145-201 Highland Avenue, Seekonk, Massachusetts,  
AP 8, Lot 141**

Total	Dated	Signed and Stamped by:	On file with:
<u>(1)</u>	<u>Revised April 4, 2011</u>	<u>Joseph A. Casali</u>	<u>DEP, Seekonk Con.Com.</u>

### 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:

Seekonk Equities, LLC by: Time Equities  
 Richard Recny  
 55 Fifth Avenue, 15<sup>th</sup> Floor  
 New York, NY 10003  
 Ph. Number: 212-206-6022

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. 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.
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.

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. In the event that groundwater is encountered during the installation of the bioretention structures, the applicant shall contact the Conservation Commission immediately to discuss alternative designs/solutions.
12. 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.
13. 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.
14. Provide an as-built survey of the existing basin and documentation of all repair/maintenance measures completed to ensure future basin performance.
15. Provide an as-built survey of the existing basin, document completion (i.e., sediment removal from the settling area) and once as-builts are completed, evaluate the basin's capacity to remove TSS, nutrients, and other pollutants of concern to the impaired Runnins River based on presumptive performance standards of the MASWMS.
16. Enhance settling area to meet MASWMS for an adequate sediment forebay.
17. Extend the flow path to increase residence time and improve pollutant removal performance – this is particularly important if the reported existing “timber baffle” is deteriorated or non-functional.
18. Provide trash racks on outlet structures to reduce floatable debris to the Runnins River.
19. 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, 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) Limits of construction and boulders.

~~The fines shall stop once all of the 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. information has been submitted.~~

20. The applicant shall record the COC at the Registry of Deeds and the proof of recording shall be provided to the Commission.
21. 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 H. Plauder  
Robert McKenna \_\_\_\_\_  
Christina Clegg \_\_\_\_\_  
Warren P. Search \_\_\_\_\_

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

On this 28 day of March 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.

Bernadette H. Plauder MY COMMISSION EXPIRES July 14, 2017  
(Notary Public/Justice of the Peace) 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 145-201 Highland Ave. File Number SE 69-697 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.