



OFFICE OF THE TOWN CLERK
TOWN OF LEICESTER
LEICESTER, MASSACHUSETTS 01524
TELEPHONE 617-892-9711

J. Herbert Williamson
Town Clerk

April 2, 1990

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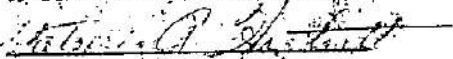
Registry of Deeds
County of Worcester
Central District Court House
Worcester, Ma

RE: Order of Conditions for DEP #197-87

To whom it may concern:

Please be advised that the attached document consisting of eleven (11) pages, starting with page number 5-1 and ending with page 5-4B, is a true attested copy of the document issued by the Leicester Conservation Commission on March 19, 1990.

A TRUE COPY. ATTEST:


Patricia A. Hartnett
Assistant Town Clerk
Leicester, Massachusetts

Commonwealth
of Massachusetts

DEP File No.

197-97

(To be provided by DEP)

City/Town

Leicester

Applicant

I & M Builders Contracti

Order of Conditions
Massachusetts Wetlands Protection Act
G.L. c. 131, §40
AND THE TOWN OF LEICESTER WETLAND BYLAW

From Leicester Conservation CommissionTo I & M Builders SAME
(Name of Applicant) (Name of property owner)Address 4 Karen Drive SAME
Auburn, MA 01501

This Order is issued and delivered as follows:

☒ by hand delivery to applicant or representative on March 19, 1990 (date)

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

This project is located at Lot B Pine St.The property is recorded at the Registry of DeedsBook 12517 Page 343Certificate (if registered) NONEThe Notice of Intent for this project was filed on January 11, 1990 (date)Amended--March 01, 1990The public hearing was closed on March 15, 1990 (date)

Findings
Leicester 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 Leicester 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

Total Filing Fee Submitted 157.50 State Share 112.50
 City/Town Share _____ (1/2 fee in excess of \$25)
 Total Refund Due \$ _____ City/Town Portion \$ _____ State Portion \$ _____
 (1/2 total) (1/2 total)

Effective 11/10/89

Therefore, the Leicester Conservation Commission 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 Leicester Conservation 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 Leicester Conservation 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 197-97
10. Where the Department of Environmental Protection is requested to make a determination and to issue a Superseeding 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:

Plans:

Title	Dated	Signed and Stamped by:	On File with:
1A Site Plan	1/9/90 2/2/90	George Smith	LCC
2A US.G.S			LCC
Revised Compensatory	--2/1/90, 2/2/90 and 3/9/90	George Smith, Jr.	LCC

Special Conditions (Use additional paper if necessary)

See Attached pages #3-C to #3-E for additional conditions
for DEP #197-97.

(Leave Space Blank)

Plans:

Title

Dated

Signed and Stamped by:

On File with:

Special Conditions (use additional paper if necessary)

Please see page 3-A.

(Leave Space Blank)

13. The Leicester Conservation Commission (herein after referred to as the LCC) approves this Notice of Intent as mandated under section 10.57 of the Act that allow said construction with the following conditions:

14. In accordance with General Condition #8, this document in its entirety, which consists of 11 pages starting with page number 5-1 and ending with page 5-4B shall be recorded with the Registry of Deeds, Worcester, immediately following the 10 day appeal period (which commences upon the date of issuance) and proof of said Registration (see form 4A lower portion) will be returned to the Leicester Conservation Commission before work shall commence. Failure to comply with this Order shall be deemed cause to revoke this Order of Conditions permit.

15. Any damage caused, as a direct result of this project, to the wetland resource areas shall be the responsibility of the applicant and/or owner to repair or replace. Sedimentation of soils into wetland or retention pond shall be considered damage to these resource areas.

16. This Order shall apply to any successor in interest or successor in control of the applicant. The LCC shall be notified in writing, at the time of all transfers of title immediately upon doing so.

17. Any person who purchases, inherits, or otherwise acquires real estate upon which work has been done in violation of this Order, shall forthwith comply with this Order or restore such real estate to its conditions prior to any such violation.

18. This Order covers only the work and work area described in the Notice of Intent. Any work or alteration elsewhere on the property or any subdivided lot is not allowed under this Order.

a.) Members and agents of the LCC shall have the right to enter and inspect the property to evaluate compliance with this Order.

b.) The applicant shall submit data or information deemed necessary by the LCC for such evaluation.

19. Materials and equipment shall be stored in a manner and location which will minimize the compaction of soils and the concentration of run-off. Refueling of vehicles shall be in an area outside the buffer zone. If a spill occurs contaminated soils shall be removed according to guidelines established by DEP Division of Hazardous Waste.

20. Issuance of these conditions does not in any way imply or certify that the site or downstream areas will not be subject to flooding, storm damage, or any other form of damage due to wetness.

21. Any request for an extension of this Order of Conditions shall be submitted by certified mail at least thirty (30) days prior to the expiration date. The expiration date is (one year minimum or three (3) maximum years) from the date of issuance.

22. In advance of any work on this project, the applicant shall notify the LCC and arrange an on-site conference between the LCC, or a LCC representative, the Contractor and himself. The purpose of this conference is to insure that all of the orders of Conditions are understood.

23. Any proposed or executed changes in the plans approved under this Order, must be submitted to the LCC for approval prior to implementation. One of the following responses will be made:

1) If the LCC finds, by majority vote, said changes to be insignificant to the interests of the Act and/or the Town of Leicester Wetland Bylaw, then the LCC will so notify the Applicant in writing.

2) If the LCC finds, by majority vote, said changes to be significant and/or deviate from the original plans, Notice of Intent, or this Order of Conditions, and that the interests of the Act and/or the Leicester Wetlands Bylaw would best be served by the issuance of additional conditions, the LCC will conduct another Public Hearing within 21 days, advertised at the applicant's expense, in order to take testimony from all interested parties. Within 21 days of the close of the public hearing the LCC will issue an Amended Order of Conditions. No work shall be undertaken until the Amended Order of Conditions has been recorded in the Registry of Deeds in the manner described in General Condition #8, and until all administrative appeal periods from the Amended Order of Conditions have elapsed.

3) If the LCC finds, by majority vote, said changes to be significant and would substantially change the nature, scope, purpose or impact of the project, then the LCC will direct the applicant to file a new Notice of Intent.

24. Upon completion of the work described herein, the applicant shall request of the LCC, in writing, that a Certificate of Compliance be issued. The applicant must submit to the LCC a written report by a Registered Professional Engineer, stating that the work has been satisfactorily completed in compliance with all Conditions of this Order. Failure to do so shall be presumed to establish non-compliance with this Order. The Certificate of Compliance must be recorded at the Registry of Deeds within 30 days of issuance.

25. When work has been completed the applicant shall submit "as built" plans for this project, when applying for a Certificate of Compliance. These plans shall be certified by his Engineer or other appropriate official. Said plans shall specify how, if any, the completed work differs from that shown in the original plans.

26. The embankment at compensatory storage area must be protected against erosion by grass.

27. Provide permanent protection to the side of the slopes consisting of grass to prevent siltation.

28. The site must be graded to drain primarily toward wetland.

29. Adequate erosion and sedimentation control measures as outlined by the Soil Conservation Guidelines shall be implemented and maintained in effect throughout the entire construction phase, and until the site has become stabilized with an adequate vegetative cover.

30. Haybale dams as sedimentation structures are found to be an accepted method and could be used throughout these orders. The developer may utilize any sedimentation and siltation control plan he finds to meet said orders of conditions.

31. There shall be no disturbance of the wetland beyond the haybale line.

32. The project must be completed so that the amount of flood storage provided after development is at least equal to that which presently exists under all storm events.

33. Prior to the placement of any fill, impervious surface or foundation placement within the 100-year floodplain, the compensatory storage areas will be constructed to final grade.

34. The plan of record shall be in full compliance with the MA Uniform Building Code 780 CMR s. 744.0, Federal Emergency Management Agency (FEMA) requirements and the Town of Leicester Wetlands Bylaw as they relate to construction within the 100-year floodplain--A & V Zones.

35. No additional fill shall be placed at the site and no fill shall be placed below elevation 838 (Assumed elevation)

36. Whether from onsite or off site sources, any fill used in connection with this project shall be clean fill as defined in Title 5 of the State Environmental Code...Acceptable fill: The fill material shall be clean coarse washed sand or other clean granular material essentially free of clay, fines, dust, organic matter, large stones, masonry, stumps, frozen clumps of earth, wood, tree branches, and water material, and shall have a percolation rate of less than 2 minutes per inch before and after placement. Before the fill is put in place, all trees, brush, and stumps shall be removed from the area to be filled. Topsoil, peat and other impervious materials shall be removed from all areas beneath the area to be filled by this Order. (310 CMR 15:02(17)).

37. All waste products, grubbed stumps, slash, construction materials etc. shall be deposited at an approved landfill and shall not be in any manner incorporated into the project site with the exception of the reduction of stumps and slash to mulch.

38. Any stockpiling of topsoil shall be protected from siltation.

39. BUFFER STRIPS: A strip of thick brushy vegetation along the edge of a wetland is valuable to wildlife, increases absorption of rain and reduces erosion. No cutting or removal of vegetation is permitted in this strip, 10 feet wide.

40. A Board of Health permit for septic system design must be submitted to the LCC prior to any construction within 100 feet of any resource area on or off site.

41. Prior to the installation of the subsurface sewerage disposal system, you are advised of the necessity to comply with, or receive a variance from the local Board of Health and obtain a valid health permit. The Order of Conditions re-emphasizes this requirement and prohibits any construction prior to obtaining a Board of Health permit. A leaching facility must be 50 feet from any wetland resource area (including the top of the watercourse bank) unless a variance has been granted by the Board of Health and the DEP, Dept. of Water Pollution Control.

42. A sign not less than two square feet nor more than three square feet in size bearing the words "Mass. D.E.P. File #197-97" will be visibly displayed at the site facing the street--Pine Street

43. No underground petroleum product storage tanks or other hazardous substances are allowed within 100' of any wetland or within any velocity (V) floodzone as indicated on the most recent FEMA floodzone maps. This condition shall survive the Order, and shall run with the title of the property.

44. All construction, unless otherwise herein so stated, shall conform in every respect with the plans submitted and approved by the LCC entitled "Site Plan revised edition 3/9/90".

NOTE: If any revisions has taken place:

a. The revised plan approved by the LCC on March 15, 1990 shall be followed.

LEICESTER

Conservation Commission

Issued By

Signature(s)

Ann D. Marsel
Deborah Gracie Charles W. Etnow
Starr Buttieri
Joseph Chiuschiolo

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

On this 19th day of March, 1996, before me
 personally appeared Ann D. Marsel, 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.

Laurie A. Hartnett
 Notary Public

March 16, 1995
 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 Leicester Conservation Commission for commencement of work.

To Leicester Conservation Commission Issuing Authority

Please be advised that the Order of Conditions for the project at Lot B Pine Street, Leicester

File Number 197-97 has been recorded at the Registry of Deeds 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 Superseeding 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 Superseeding 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 Superseeding 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 Superseeding 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 _____ prior to commencement of work.

To _____ Issuing Authority

Please be advised that the Order or 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 6 on _____ 18_____

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

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

Signature _____ Applicant

5-48

ATTEST: WORC, Anthony J. Vignoli, Registrar