OLD BUSINESS
11-9-09

TOWN OF MIDDLEBOROUGH

EARTH REMOVAL PERMIT

FINAL ORDER OF CONDITIONS

Permit No. 2009 - 03

Tispaquin Street - Fred Green Realty Trust

Cranberry Bog Project

November 9, 2009

* * * *

BOARD OF SELECTMEN

* * * *

EARTH REMOVAL APPLICATION

FOR

FRED GREEN REALTY TRUST

MIDDLEBORO, MA

PREPARED BY:
GILMORE CONSULTANTS
P.O. BOX 67
SOUTH CARVER, MA
Telephone (508) 866-3900 Fax (508) 866-2970
Email cranco1@comcast.net

TABLE OF CONTENTS

EARTH REMOVAL APPLICATION

CONSERVATION COMMISSION ORDER OF CONDITIONS

CERTIFIED LIST OF ABUTTERS

USGS LOCUS MAP

GILMORE CONSULTANTS
P.O. Box 67
South Carver, MA

FRED GREEN REALTY TRUST

EARTH REMOVAL APPLICATION

GILMORE CONSULTANTS
P.O. Box 67
South Carver, MA 02366

EARTH REMOAL APPLICATION
FRED GREEN REALTY TRUST
TISPAQUIN STREET

PROJECT PURPOSE

Fred Green Realty Trust will be undertaking a construction project that will begin in late 2009 with an anticipated completion date late fall 2012. This project will include construction of two cranberry bogs plus enlarging an existing reservoir. By necessity this project will require the removal of 70,581 cubic yards of earth to provide the appropriate site hydrology to support both the proposed cranberry bogs and reservoir. Site construction has been phased to insure seamless transition from current site conditions to the completed project.

The existing cranberry bogs will remain in operation throughout construction activities. Expansion of reservoir will not require any dewatering activities with all construction being self-contained.

EXISTING SITE CONDITIONS

Presently the subject property is open space that includes the following:

- approximately five acres of cranberry bog,
- one acres pine forest,
- one acres of Bordering Vegetated Wetlands, and
- field edges.

The grade is relatively level in the front half of the property then slopes upward along the north and east property boundaries. The property then gradually slopes down to Woods Pond Brook. There are no predominant geological features on site.

Soil Survey of Plymouth County, 1969 soil map 36 identify Merrimac Sandy Loam and Hinckley gravelly loamy sand as the predominant soil group in upland areas of the site with peat soils in Bordering Vegetated Wetland (BVW) areas. On site soil examination support this classification.

CONSTRUCTION NARRATIVE

Earth removal activities proposed for the subject property are necessary and incidental to the construction associated with expansion of the existing cranberry bog and reservoir and construction of new cranberry bogs and a proposed tailwater recovery system. All construction activities will be self contained.

This project has been designed as a single phase construction activity. Excavation includes earth removal associated with the expansion of the existing reservoir concurrently with earth removal activities associated with new cranberry bog construction. Construction activities have been designed to permit continuous operation of the existing cranberry bogs and minimize impacts to adjacent property owners.

TOWN OF MIDDLEBOROUGH

EARTH REMOVAL APPLICATION
and renewal form

Name of Applicant: FRED GRERIN REALTY TRUST
ROBERT DOW TR.

Address of Applicant: 15 NELSON GROVE ROAD.

Town or City: LAKEVILLE, MA. 02347

Owner of Property: ROBERT DOW TR.

Location of Property: TISPAQUIN Street

Property Assessor's Parcel and Map Numbers Map 67 Parcel 249
Map _____ Parcel _____
Map _____ Parcel _____

New Application or Renewal: NEW.

Existing Permit Number: N/A.

Parcel(s) Acreage: 22.0 ACRES

Estimated Number of Cubic Yards to be Removed: 70,581 YD^3

Requested Time Frame of Operation (Maximum 3 years) THREE YEARS

Is there proposed rock crushing? NO

Is there proposed screening equipment? BOG USE ONLY.

Is there proposed dewatering operations? NO

Is there additional equipment requested for the site? NO

if so what _____

Project Description and Reasons for Request:

CONSTRUCT 2.8 ACRES CRANBERRY BOG, AND EXPAND EXISTING RESERVOIR

Preferred Traffic Route:

TISBAQUIN ST. SOUTH TO ROUTE 28

Has a plan and Notice of Applicability (NOA) or Intent (NOI) been submitted to the Town of Middleborough's Conservation Commission? YES

Has Order of Conditions by Conservation Commission been issued: If so what is project number and date of conditions : YES ! DEP FILE # 220-1098 ISSUED - 6/25/09

Provide a copy of the Order of Conditions so they may be attached to the permit.

Is there a Department of Environmental Protection – Water Management Act Registration or Permit for this property? NOT REQUIRED

Permit No. N/A Registration No. N/A

Has a Farm Plan been completed? NO Please provide a copy.

Expected Date of Project Completion: OCTOBER 2011

Engineering Firm Name: GILMORE CONSULTANTS

Engineer's Contact/Name : BEN GILMORE

Street: 25 CEDARBERRY ROAD, P.O. BOX 67

Town/City SOUTH CARVER, MA

Phone Number: (508) 866-3900

Have you authorized the engineer to speak on your behalf regarding project questions that may come up prior to the public hearing?

X yes _____ no

Do you owe any property taxes, water, sewer or any other financial obligation to the Town of Middleborough that is not current?

_____ yes X no

Robert Dor

Signature of Applicant

Phone Number (508) 866-3900

CHECKLIST

PLEASE COMPLETE CHECKLISTS FOR PLANS AND PROJECT PLAN AND INITIAL:

PLANS	Check	Initials
A. Cover page that shows:		
1. Name of project:	✓	BG.
2. General directional and town locus:	✓	BG.
3. Water Resource Protection District limits	✓	BG.
4. Engineering Firm Name and address	✓	BG.
5. Flood Map limits (if applicable)	✓	BG.
6. Zoning District limits	✓	BG.
B. Civil Drawing Sheet 1 - that show at a minimum:		
1. Existing streets	✓	BG.
2. Property lines and names of adjacent properties/abutters	✓	BG.
3. Existing tree lines	✓	BG.
4. Existing and proposed topographical contours (5' foot minimum)	✓	BG.
5. Town roadways	✓	BG.
6. Proposed treed buffer zones between edges of excavation and abutters	✓	BG.
7 Proposed buffer zones between property excavation and town street(s)	✓	BG.
8 Distances of proposed reservoir or excavations from property lines of abutters.	✓	BG.
9 Location and type of proposed excavation and work	✓	BG.
10. Locations of stockpiling of materials	N/A	
11. Proposed reservoir volume, slopes and bottom elevations	✓	BG.
12. Site of proposed dewatering pond, discharge and overflow structure	N/A.	
13. Any proposed buildings, structures or utilities	✓	BG.
14. Roadway systems and gates, and proposed paving areas	✓	BG.
15. Proposed areas of agricultural uses	✓	BG.
16. Indications of phased operations	N/A	
17. Areas to be seeded	✓	BG.
18. Existing and proposed slopes with limits of final grading	✓	BG.
19. Locations of ditches	✓	BG.
20. Wetlands and water resource areas	✓	BG.
21. Elevations of water (high, low) as applicable	✓	BG.
22. Drainage patterns with directional arrows showing flow	✓	BG.
23. Fencing	✓	BG.
24. Professional Engineers Civil stamp	✓	BG.
25. Date of preparation	✓	BG.
Other information as appropriate to good engineering design		

C. Civil Drawing Sheet Number 2 (as applicable)

1. Pond specifications with erosion controls	✓	BG.
2. Erosion controls	✓	BG.
3. Side Flow Profile	✓	BG.

PROJECT PLAN

The purpose of the project plan is to provide a written description of the property, Past activities, state permit requirements and how the project will move through construction. The project proponent is encouraged to 'paint a picture' of how the project will proceed over the requested permit time period. The following items must be included in the project plan.

Purpose of project
Description of site and prior work
Reasons for earth removal permit
Describe past earth removal activities and compliance issues that may have occurred.
How project will be constructed with phases and time lines provided
Time duration requested for permit

Describe:

The phases, associated time lines and anticipated yardage to be removed each year.

Describe the buffer zones that are to be maintained from the site excavation or pond limits to the property lines, keeping in mind that a treed buffer zone is desired by the Board of 100 feet from individual property lines, and 200 feet from town roadways.

Any specific site conditions that special attention.

Proposed dewatering system for the area should include the abutters who have overburden wells in the area (2000 feet in circumference).

Note that there may be a requirement of determining hydrological affects if abutters complain of insufficient waters in their wells.

If ponds -reservoirs - tailwater recovery systems are to be constructed, please utilize the Soil Conservation Service - Pond Specifications for Excavated Ponds, contained in the Appendix as guidelines.

Estimated volume of material to be excavated and removed from site.
Estimated volume of materials to be kept on site
Maximum sloping
Show volume of pond required for bog size.
Criteria for excavation of ponds and water storage areas

CONSERVATION COMMISSION
ORDER OF CONDITIONS

Ben G. Hart

Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

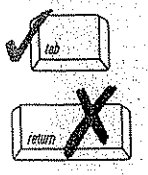
WPA Form 5 – Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

MassDEP File Number: 220-1098

A. General Information

Important: When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



1. From: Middleborough
   Conservation Commission

2. This issuance is for (check one): a. ☒ Order of Conditions b. ☐ Amended Order of Conditions

3. To: Applicant:

Robert	Dow Tr.	
a. First Name	b. Last Name	
Fred S. Green Realty Trust		
c. Organization		
15 Nelson Grove Road		
d. Mailing Address		
Lakeville	MA	02347
e. City/Town	f. State	g. Zip Code

4. Property Owner (if different from applicant):

same		
a. First Name	b. Last Name	
c. Organization		
d. Mailing Address		
e. City/Town	f. State	g. Zip Code

5. Project Location:

Tispaquin Street	Middleborough
a. Street Address	b. City/Town
Map 67	Lot 249
c. Assessors Map/Plat Number	d. Parcel/Lot Number
Latitude and Longitude, if known:	41-53.842'N / e. Latitude
	70-49.744'W / f. Longitude

6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):

Plymouth	
a. County	b. Certificate Number (if registered land)
12616	116
c. Book	d. Page

7. Dates:

4/13/2009	6/25/09	6/25/09
a. Date Notice of Intent Filed	b. Date Public Hearing Closed	c. Date of Issuance

8. Final Approved Plans and Other Documents (attach additional plan or document references as needed):

Cranberry Bog Expansion Middleborough, MA	
a. Plan Title	
Vautrinot Surveyingm, Inc.	Benjamin A. Gilmore II, Registered Professional Engiener
b. Prepared By	
6/25/2009	1"= 60'
d. Final Revision Date	e. Scale
f. Additional Plan or Document Title	g. Date

B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act:

Following the review of the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act. Check all that apply:

a. ☐ Public Water Supply
b. ☐ Land Containing Shellfish
c. ☒ Prevention of Pollution
d. ☒ Private Water Supply
e. ☐ Fisheries
f. ☒ Protection of Wildlife Habitat
g. ☒ Groundwater Supply
h. ☒ Storm Damage Prevention
i. ☐ Flood Control

2. This Commission hereby finds the project, as proposed, is: (check one of the following boxes)

Approved subject to:

a. ☒ the following conditions which are necessary in accordance with the performance standards set forth in the wetlands regulations. This Commission orders that all work shall be performed in accordance with the Notice of Intent referenced above, the following General Conditions, and any other special conditions attached to this Order. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.

Denied because:

b. ☐ the proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect these interests, and a final Order of Conditions is issued. **A description of the performance standards which the proposed work cannot meet is attached to this Order.**

c. ☐ the information submitted by the applicant is not sufficient to describe the site, the work, or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the Act's interests, and a final Order of Conditions is issued. **A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(6)(c).**

Inland Resource Area Impacts: Check all that apply below. (For Approvals Only)

3. ☐ Buffer Zone Impacts: Shortest distance between limit of project disturbance and wetland boundary (if available) — a. linear feet

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. ☐ Bank	a. linear feet	b. linear feet	c. linear feet	d. linear feet
5. ☐ Bordering Vegetated Wetland	a. square feet	b. square feet	c. square feet	d. square feet
6. ☐ Land Under Waterbodies and Waterways	a. square feet	b. square feet	c. square feet	d. square feet
	e. c/y dredged	f. c/y dredged		

B. Findings (cont.)

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
7. ☐ Bordering Land Subject to Flooding	a. square feet	b. square feet	c. square feet	d. square feet
Cubic Feet Flood Storage	e. cubic feet	f. cubic feet	g. cubic feet	h. cubic feet
8. ☐ Isolated Land Subject to Flooding	a. square feet	b. square feet		
Cubic Feet Flood Storage	c. cubic feet	d. cubic feet	e. cubic feet	f. cubic feet
9. ☐ Riverfront area	a. total sq. feet	b. total sq. feet		
Sq ft within 100 ft	c. square feet	d. square feet	e. square feet	f. square feet
Sq ft between 100-200 ft	g. square feet	h. square feet	i. square feet	j. square feet

Coastal Resource Area Impacts: Check all that apply below. (For Approvals Only)

10. ☐ Designated Port Areas	Indicate size under Land Under the Ocean, below			
11. ☐ Land Under the Ocean	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
12. ☐ Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. ☐ Coastal Beaches	a. square feet	b. square feet	c. c/y nourishmt.	d. c/y nourishmt.
14. ☐ Coastal Dunes	a. square feet	b. square feet	c. c/y nourishmt.	d. c/y nourishmt.
15. ☐ Coastal Banks	a. linear feet	b. linear feet		
16. ☐ Rocky Intertidal Shores	a. square feet	b. square feet		
17. ☐ Salt Marshes	a. square feet	b. square feet	c. square feet	d. square feet
18. ☐ Land Under Salt Ponds	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
19. ☐ Land Containing Shellfish	a. square feet	b. square feet	c. square feet	d. square feet
20. ☐ Fish Runs	Indicate size under Coastal Banks, inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above			
	a. c/y dredged	b. c/y dredged		
21. ☐ Land Subject to Coastal Storm Flowage	a. square feet	b. square feet		

C. General Conditions Under Massachusetts Wetlands Protection Act

(only applicable to approved projects)

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, bylaws, 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. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition 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. Any fill shall contain 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. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.

8. No work shall be undertaken until the Order has become final and then 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 the 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 this Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of work.

9. A sign shall be displayed at the site not less then two square feet or more than three square feet in size bearing the words,

"Massachusetts Department of Environmental Protection" [or, "MassDEP"]

"File Number 220-1098 "

C. General Conditions Under Massachusetts Wetlands Protection Act

10. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before MassDEP.

11. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.

12. The work shall conform to the plans and special conditions referenced in this order.

13. Any change to the plans identified in Condition #12 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.

14. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.

15. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.

16. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.

17. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.

18. **The work associated with this Order is** (1) ☒ **is not** (2) ☐ **subject to the Massachusetts Stormwater Policy Standards. If the work is subject to the Stormwater Policy, the following conditions apply to this work and are incorporated into this Order:**

    a) No work, including site preparation, land disturbance, construction and redevelopment, shall commence unless and until the construction period pollution prevention and erosion and sedimentation control plan required by Stormwater Standard 8 is approved in writing by the issuing authority. Until the site is fully stabilized, construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan, and if applicable, the Stormwater Pollution Plan required by the National Discharge Elimination System Construction General Permit.

C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

b) No stormwater runoff may be discharged to the post-construction stormwater BMPs until written approval is received from the issuing authority. To request written approval, the following must be submitted: illicit discharge compliance statement required by Stormwater Standard 10 and as-built plans signed and stamped by a registered professional engineer certifying the site is fully stabilized; all construction period stormwater BMPs and any illicit discharges to the stormwater management system have been removed; and all post-construction stormwater BMPs were installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure they are not damaged and will function properly.

c) Prior to requesting a Certificate of Compliance, the responsible party (defined in General Condition 18(e)) shall submit to the issuing authority an Operation and Maintenance (O & M) Compliance Statement for the Stormwater BMPs. This Statement shall identify the responsible party for implementing the Operation and Maintenance Plan and also state that: 1. "Future responsible parties shall be notified in writing of their continuing legal responsibility to operate and maintain the stormwater management BMPs and implement the Pollution Prevention Plan; and 2. The Operation and Maintenance Plan for the stormwater BMPs is complete and will be implemented upon receipt of the Certificate."

d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Discharge Elimination System Multi-Sector General Permit.

e) Unless and until another party accepts responsibility, the issuing authority shall presume that the responsible party for maintaining each BMP is the landowner of the property on which the BMP is located. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement acceptable to the issuing authority evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 18(f) through 18(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 18(f) through 18(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.

f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the Operation and Maintenance Plan section of the approved Stormwater Report, and the Massachusetts Stormwater Handbook.

g) The responsible party shall:

1. Maintain an operation and maintenance log for the last three years including inspections, repairs, replacement and disposal (for disposal the log shall indicate the type of material and the disposal location);
2. Make this log available to MassDEP and the Conservation Commission upon request; and
3. Allow members and agents of the MassDEP and the Conservation Commission to enter and inspect the premises to evaluate and ensure that the responsible party complies with the Operation and Maintenance requirements for each BMP set forth in the Operations and Maintenance Plan approved by the issuing authority.

h) All sediments or other contaminants removed from stormwater BMPs shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.

i) Illicit discharges to the stormwater management system as defined in 310 CMR 10.04 are prohibited.

C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

j) The stormwater management system approved in the Final Order of Conditions shall not be changed without the prior written approval of the issuing authority. Areas designated as qualifying pervious areas for purpose of the Low Impact Site Design Credit shall not be altered without the prior written approval of the issuing authority.

k) Access for maintenance of stormwater BMPs shall not be obstructed or blocked. Any fencing constructed around stormwater BMPs shall include access gates. Fence(s) shall be at least six inches above grade to allow for wildlife passage.

Special Conditions (if you need more space for additional conditions, please attach a text document):

D. Findings Under Municipal Wetlands Bylaw or Ordinance

1. Is a municipal wetlands bylaw or ordinance applicable? ☐ Yes ☐ No
2. The _____ hereby finds (check one that applies):
   Conservation Commission
   a. ☐ that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw specifically:

      _____ _____
      1. Municipal Ordinance or Bylaw 2. Citation

      Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order of Conditions is issued.

   b. ☐ that the following additional conditions are necessary to comply with a municipal ordinance or bylaw:

      _____ _____
      1. Municipal Ordinance or Bylaw 2. Citation

3. The Commission orders that all work shall be performed in accordance with the following 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.
   The special conditions relating to municipal ordinance or bylaw are as follows (if you need more space for additional conditions, attach a text document):

Standard Conditions

1. A member of the Conservation Commission or its agent may enter and inspect the property and the activity that are the subjects of this Order of Conditions (OOC) at all reasonable times, with or without probable cause or prior notice, and until a Certificate of Compliance (COC) is issued, for the limited purpose of evaluating compliance with this OOC.

2. The term "applicant" as used in this OOC shall refer to the owner, any successor in interest or successor in control of the property referenced in the Notice of Intent, supporting documents and this OOC. The Commission shall be notified in writing within 30 days of all transfers of title of any portion of property that take place prior to the issuance of the COC.

3. This document shall be included by reference in all contracts, plans and specifications dealing with the activity that is the subject of this OOC, and that are created or modified after the issuance date of this OOC, along with a statement that this OOC shall supersede any conflicting contractual arrangements, plans or specifications.

4. The applicant shall provide a copy of this OOC to the person or persons supervising the activity that is the subject of this OOC, and will be responsible for ensuring that all persons performing the permitted activity are fully aware of the terms and conditions of this OOC.

5. If any change is made in the above-described plan(s) which may or will alter an area subject to protection under the Wetlands Protection Act, 310 CMR 10.00, the applicant shall inquire from this Commission or its agent, prior to implementing the change in the field, whether the change is significant enough to require the filing of a new Notice of Intent. Any errors in the plans or information submitted by the applicant shall be considered changes and the above procedures shall be followed.

6. It is the responsibility of the applicant to complete any review required by all agencies with jurisdiction over the activity that is the subject of this OOC, and to procure all required permits or approvals before any work commences. These reviews, permits and approvals may include but are not limited to the following:
   a. Review by the U.S. Army Corps of Engineers for any Category 2 or Individual Permit activity, and procurement of any permits or approvals identified by the Corps;
   b. Review by the Department of Environmental Protection (DEP) and procurement of any permits or approvals identified by DEP;
   c. Review by the Massachusetts Natural Heritage and Endangered Species Program for any projects within estimated and/or priority habitat and any permits or approvals identified by the Program;

d. Review by local planning boards, boards of health, zoning boards, and building inspectors, and procurement of any permits or approvals required by these boards or agencies.

7. 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 (unless authorized to do so) under cover and surrounded by a double-staked row of hay bales to prevent contact with rain water.

8. No material of any kind may be buried, placed or dispersed in areas within the jurisdiction of the Commission by activities that are the subject of this OOC, except as are expressly permitted by this OOC or the plans approved herein.

9. There shall be no pumping of water from wetland resource areas.

10. All waste products, grubbed stumps, slash, construction materials, etc. shall be deposited at least 100 feet from wetland resource areas unless specified in this OOC.

11. No fuel, oil, or other pollutants shall be stored in any resource area or the buffer zone thereto, unless specified in this OOC or expressly authorized by the Commission or their agent.

12. Any material placed in wetland resource areas by the applicant without express authorization under this OOC shall be removed by the applicant upon demand by the Conservation Commission or its agent.

13. There shall be no underground storage of fuel or other hazardous substance in areas within the jurisdiction of the Conservation Commission.

14. Removal and storage of hazardous waste, if in an area subject to protection under the Wetlands Protection Act shall be as follows:
    a. Removal and storage shall be conducted only when approved and directed by DEP, the U.S. Environmental Protection Agency (EPA) or other applicable state or federal agency under which remedial activities are directed and shall be conducted in the manner specified in the Notice of Intent and appropriate agency directives.
    b. All hazardous materials, products and waste produced , stored or removed must be handled, treated and disposed of in accordance with local, state and federal law regulating such materials and must be located outside of the buffer zone to wetland resource areas, unless specifically authorized by the OOC and appropriate state and federal licensing and permitting agencies.

c. No hazardous waste shall be introduced or discharged into or toward wetland resource areas.
d. No hazardous waste shall be introduced or discharged into the sanitary or sewage systems in such a manner which will result in an impact to wetland resource areas unless approved by the Conservation Commission, board of health, DEP and/or EPA.
e. Identification of all types of hazardous materials used, produced or stored shall be submitted to the Conservation Commission in writing.

15. No trash dumpsters will be allowed within 100 feet of areas subject to protection under the Wetlands Protection Act unless authorized by the OOC.

16. This OOC shall pertain to the roadways, utilities within the roadway layout, and associated drainage facilities. Individual lot construction, including driveways, lot utilities, sewage and water, if under the Commission's jurisdiction, shall require individual Notices of Intent and/or Requests for Determination.

17. This OOC authorizes only the activity described on the approved plans(s) and approved documents referenced in this OOC. Any other or additional activity in areas within the jurisdiction of the Commission will require separate review and approval by the Commission or its agent.

Strict compliance with these Standard Conditions may be waived when in the judgment of the Conservation Commission such action is in the public interest and not inconsistent with the Wetlands Protection Act.

Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 5 – Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

MassDEP File Number: 220-1098

E. Issuance

This Order is valid for three years, unless otherwise specified as a special condition pursuant to General Conditions #4, from the date of issuance.
Please indicate the number of members who will sign this form:
This Order must be signed by a majority of the Conservation Commission.

June 25, 2009
1. Date of Issuance

five
2. Number of Signers

The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate Department of Environmental Protection Regional Office, if not filing electronically, and the property owner, if different from applicant.

Signatures:

Edward M. Thorne

Robert A

Tom Burgen

Patricia A. Delaney

Notary Acknowledgement

Commonwealth of Massachusetts County of Plymouth

On this 25th Day of June Month 2009 Year

Before me, the undersigned Notary Public, personally appeared Michael O'Shaughnessy, Esq. Name of Document Signer

proved to me through satisfactory evidence of identification, which was/were personally known

Description of evidence of identification

to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

As member of Middleborough City/Town Conservation Commission

Phyllis J. Barbato
Signature of Notary Public

Phyllis J. BARBATO
Printed Name of Notary Public

August 6, 2015
My Commission Expires (Date)

Place notary seal and/or any stamp above

This Order is issued to the applicant as follows:

☐ by hand delivery on Date

☐ by certified mail, return receipt requested, on Date

F. Appeals

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land subject to this Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate MassDEP Regional Office to issue a Superseding Order of Conditions. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and a completed Request of Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant. Any appellants seeking to appeal the Department's Superseding Order associated with this appeal will be required to demonstrate prior participation in the review of this project. Previous participation in the permit proceeding means the submission of written information to the Conservation Commission prior to the close of the public hearing, requesting a Superseding Order or Determination, or providing written information to the Department prior to issuance of a Superseding Order or Determination.

The request shall state clearly and concisely the objections to the Order which is being appealed and how the Order does not contribute to the protection of the interests identified in the Massachusetts Wetlands Protection Act (M.G.L. c. 131, § 40), and is inconsistent with the wetlands regulations (310 CMR 10.00). To the extent that the Order is based on a municipal ordinance or bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.

Section G, Recording Information is available on the following page.

G. Recording Information

This Order of Conditions must be 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 subject to the Order. In the case of registered land, this Order shall also be noted on the Land Court Certificate of Title of the owner of the land subject to the Order of Conditions. The recording information on this page shall be submitted to the Conservation Commission listed below.

Middleborough
Conservation Commission

Detach on dotted line, have stamped by the Registry of Deeds and submit to the Conservation Commission.

To:

Middleborough
Conservation Commission

Please be advised that the Order of Conditions for the Project at:

Tispaquin Street
Project Location

SE# 220-1098
MassDEP File Number

Has been recorded at the Registry of Deeds of:

Plymouth	12616	116
County	Book	Page

for:

Robert Dow Tr.
Property Owner

and has been noted in the chain of title of the affected property in:

Book	Page

In accordance with the Order of Conditions issued on:

6/25/2009
Date

If recorded land, the instrument number identifying this transaction is:

Instrument Number

If registered land, the document number identifying this transaction is:

Document Number

Signature of Applicant

ORDER OF CONDITIONS

BOARD OF SELECTMEN

General Information

The time line and proposed work for the Fred Green Realty Trust Tispaquin Street Cranberry Bog Project shall be as outlined in the **Project Plan** required under this permit, and approved by the Town's Agent.

The Project Plan outlines the proposed construction sequence and time lines for the project that establish defined milestones for timely completion of the earth removal and cranberry bog and reservoir construction. The project plan shall be updated annually and approved by the Town's Agent.

The following sections are applicable under this permit:

a. General Conditions
b. Standard Conditions and Site Requirements
c. Special Conditions
d. Inspection Fees and Bonding

A. General Conditions

1. All phased construction work consisting of regrading shall be completed and required plantings shall be 'growing' prior to any application for a future earth removal permit or opening of new phases. No cutting, clearing or grubbing of areas not included under the Project Plan as 'phased' work shall be performed at the site.

If any aforesaid described work is done in unpermitted areas - without the written permission of the Town's Agent future earth removal requests may be forfeited.

The Town of Middleborough's Earth Removal Bylaw - as amended - should be reviewed by the project proponent to ensure that compliance requirements are met.

2. This permit is valid for **three (3) years** and may be renewed for up to one (1) year thereafter at the discretion of the Board of Selectmen at a duly advertised public meeting.

The permit holder recognizes that the Board of Selectmen desire the project to be completed in a shorter time frame or eighteen months (18) if possible.

3. Hours of operation are limited from Monday through Friday 7:30 A.M. to 4:30 P.M. Earth removal equipment motors, including trucks hauling material to and from the site, are not to be started or run until before 7:30 A.M and after 4:30 pm.

It is anticipated that up to thirty (30) loads a day may be removed until the 70,781 cubic yards of earth are removed from the site.

The permittee is allowed the opportunity to remove up to fifty (50) loads of gravel with twenty eight (28) yard trucks from time to time in order to finish the project in a timely manner. All earth removal shall be done on the days specified in this permit.

The Town's Agent shall be notified if the fifty (50) truck per day workload is to be started and provided with an anticipated time frame.

4. No operation at the site is allowed on Saturday, Sunday or Town Hall observed holidays, which are as follows:

New Year's Day	Labor Day
Martin Luther King Day	Columbus Day
Presidents Day	Veteran's Day
Patriots Day	Thanksgiving Day
Memorial Day	Christmas Day
Independence Day	

5. All excavated areas not part of the bogs will be topsoiled and planted per the specification on the approved plan or at the direction of the Town's Agent. All top and subsoil shall be stripped from the operation area and stockpiled for use in restoring the area after the removal operation has ceased. A minimum of four inches of topsoil must be put back in place.

6. The permit holder is not permitted to spot excavate to remove better material here and there on the site. The project will be excavated in phases, as provided on the approved plan. Phases shall be planted, prior to excavation of the next phase. The Town's agent may allow partial excavation into the next phase provided that planting is performed during the growing season.

7. Excessive erosion is to be controlled as determined by the Board of Selectmen's Agent - working with the Town's Conservation Commission's Agent. During non construction periods, stockpiled materials may be required to be covered to prevent erosion from the site

8. No refining or screening of material is allowed on the permitted property except the screening of sand and loam to be used for on-site cranberry bogs, gravel for on-site roadways and loam for final on-site grading and seeding.

Any utilized screening plant shall be no larger than 150 to 200 yards per hour.

The permit holder shall provide a written description, time frame and proposed volume of material to be screened for approval by the Town's Agent.

9. Existing tree lines, natural land topography and vegetative buffer zones shall be maintained - as outlined in the plan submitted with the application entitled: Cranberry Bog Expansion - Middleborough, MA, prepared for Robert Dow by Vautrinot Surveying inc. of Plympton, MA dated March 3, 2009. Any tree lines existing along the property lines shall be maintained as shown on the aforementioned plan.

b. Standard Conditions and Site Requirements

1. Standard highway signs warning of heavy trucks entering the street shall be erected as directed by the Town's Agent and be in place prior to commencement of removal operations.

2. The Board of Selectmen, Conservation Commission, Town Manager or their Agents shall be free to inspect the premises at any time during normal working hours with or without prior notice to the permit holder.

3. The permit holder shall adhere to all State laws pertaining to covering loads and weight loads.

4. Any spillage on public ways or private property shall be cleaned up immediately by the permit holder or its agent.

5. The Board of Selectmen may, following a public hearing, revoke the permit, modify or revise the conditions of the permit and/or impose a fine if they find that the permittee, or any agent of the permittee violates any condition of this permit.

6. The Town Manager or designee is authorized to act as the Board of Selectmen's Agent in the administration and enforcement of this permit.

7. All loaded vehicles must be covered to prevent dust and contents from spilling or blowing from the property.

8. The haul road and loading area must be watered regularly to keep dust from blowing from the property. Gravel may be required to be added to the haul road by the Town's Agent to assist in dust control.

There shall be paving placed on the driveway for a minimum of fifty (50) feet from the roadway surface down the access roadway.

9. This permit is not transferable, except by vote of the Board of Selectmen. Notice of a pending sale or transfer must be provided to the Board of Selectmen. The Board of Selectmen will hold a public hearing to consider the transfer of this permit to the prospective buyer of the property.

10. During operations, where the excavation working face will have a depth of more than 15 feet with a slope in excess of 1:1, a fence at least three (3) feet high shall be erected to limit access to that excavation.

11. No area shall be excavated so as to cause accumulation of freestanding water, except in conjunction with a storage pond for cranberry bogs as shown on the plans. Permanent drainage shall be provided as needed in accordance with good conservation practices. Drainage shall not lead directly into or from streams or ponds, except as specifically approved by the Town's Agents and as allowed by state statute or regulation..

12. No excavation shall be closer than 200 feet to an existing public way unless specifically permitted by the Board of Selectmen at a publicly scheduled hearing. Natural vegetation shall be left and maintained on the undisturbed land for screening and noise reduction purposes.

13. Bog pumps will be powered electrically, or in the alternative, mufflers will be installed on pumps to reduce noise.

14. Gates will be installed on the haul road to prevent unauthorized access to the property.

15. Two by Three foot signs will be erected every 500' along the property line. The signs will display the permit number, the name and phone number of the permit holder's agent and the name and phone number of the Town's Agent, together with the words "NO TRESPASSING-EARTH REMOVAL IN PROGRESS".

16. All trucks hauling from the site must display a sign on the rear of the truck in an area that will be unobstructed and clearly in view displaying the words "TOWN OF MIDDLEBOROUGH **PERMIT No. 2009 - 03.**

17. A copy of this Earth Removal Order of Conditions shall be filed with the Registry of Deeds by the Permit holder as a notice to all that these conditions restrict work on the lot under the permit.

18. A Certificate of Compliance will be issued by the Board of Selectmen when the project is completed. The Certificate of Compliance will operate to release the lot from the conditions of the permit and terminate the permit. The Certificate of Compliance must also be filed with the Registry of Deeds by the permit holder.

19. The approved plan shall be modified to include the general location (no survey required) of any monitoring wells on the site.

20.. No standing trees are to be cut, trimmed or removed from the site, except for those areas shown on the approved plan. Violation shall result in a fine being imposed, in accordance with Earth Removal Bylaw §6, and/or revocation of this Permit.

If any tree needs to be trimmed, cut or removed, prior approval shall be provided by the Town's Agent.

21. No rock crushing is authorized. Any proposed rock crushing may be authorized by the Board of Selectmen following a public hearing on a request for an Earth Removal Permit modification.

22. Excessive noise levels, as determined by the Town's Agent, shall result in onsite equipment modification within one (1) week of notification.

23. De-watering operation plans shall be provided through a modification to the submitted Project Plan for review and acceptance by the Town's Agent.. De-watering may be limited during the Summer months. Siltation barriers will be provided as required by the Town's Agent.

c. Special Conditions

1. Blasting on the site is not approved. Special permission may be provided by the Board of Selectmen after a public hearing - prior to application of a blasting permit to the Town Fire Department.

2. A dewatering system, if required will be outlined in a modified Project Plan, for review and approval by the Town's Agent..

3. Monitoring wells may be required to determine groundwater levels that could impact adjacent residential overburden and bedrock wells.

   If neighboring overburden wells are determined to be potentially affected by the dewatering operation, work will cease, monitoring wells shall be installed, and an evaluation made from a qualified hydrologist on the dewatering operation, prior to commencement of work. The Town's Agent shall determine if work will continue at the site - after consultation with the Board of Selectmen during a public meeting.

4. Monitoring well(s) for water levels, if required, are to be measured every seven (7) days, and the results kept in a daily log.

5. An Order of Conditions from the Middleborough Conservation Commission described as DEP File Number 220 - 1098 valid until June 25, 2012 is made a part of these conditions.

6 A Project Plan that outlines the manner in which this project will be operated will be submitted to the Town's Agent for approval, within twenty one (21) days of Board of Selectmen's approval of this project and made a part of these conditions..

7. Trucks will not idle on Tispaquin Street at any time.

10. The permit holder will prepare a Farm Plan that meets standards set forth from the United States governments - Natural Resource Conservation District (NCRS) and the Massachusetts Department of Food and Agriculture and provide to the Town's Agent upon project completion.

11. The permit holder will be responsible for maintaining the roadway to no less than present conditions after consultation with the Town's Agent or designee every four (4) months or if conditions warrant, immediate action.

    The permit holder will be responsible for providing a video (cd) of existing conditions to the Highway Superintendent or designee of existing conditions for up to one hundred (100) feet from the egress in both directions.

    As noted in this permit, the driveway shall be paved a minimum of fifty (50) feet from Tispaquin Street onto the property.

12. Streets and driveway shall be swept regularly.

13. Signage as outlined under b. Standard Conditions (1) and (4), (15) and (16) shall be installed prior to start of work at the site.

d. Inspection Fees and Bonding

Inspection Fees

1. An initial review to confirm compliance with permit conditions and restrictions must be performed by the Board of Selectmen's Agent before the commencement of any earth removal activities.

The fee for this review is **$ 400.00, due** and payable at the time the permit holder notifies the Board of Selectmen's Agent that all requirements of the permit which must be done prior to commencement of work have been accomplished, and the permit holder is ready for the Agent to perform the initial review.

2. Quarterly reviews must be performed by the Board of Selectmen's Agent every three months following commencement of earth removal work. These reviews will include a field review and plan review to determine on-going compliance with the permit.

a. The fee for each such review is **$ 400.00, due** and payable to the Town three months after the commencement of earth removal on the lot and every three months thereafter for the duration of the permitted project.

b. This report, along with **the Project Plan** will be made available to the public at the Town Manager's Office, upon request.

c. The Board's Agent will include with the quarterly review a written assessment and update of actual activities and goals that were

provided under **the Project Plan.**

d. The Boards' Agent will determine **if the Project Plan** is meeting the proposed activities and goals. If **the Project Plan** activities and goals are not met for three (3) consecutive quarters, the project permit shall be suspended and a hearing with the Board of Selectmen shall be held to determine if the permit shall be reissued.

Bond Requirements

1. A bond, or acceptable alternative surety, in the amount of **$50,000.00 will** be required to indemnify the Town for damage to private or Town property and for use by the Town for site closure in the event of abandonment of the project.

_____

Patrick E. Rogers, Chairman
BOARD OF SELECTMEN

_____
Date

Commonwealth of Massachusetts
County of Plymouth

On this _____ day of _____, 2009, before me the undersigned Notary Public, personally appeared _____, proved to me through satisfactory evidence of identification which was/were _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose(s).

(Seal)
My commission expires _____

_____
Signature of Notary

EARTH REMOAL
PROJECT PLAN
FRED GREEN REALTY TRUST
TISPAQUIN STREET

PROJECT PURPOSE

Fred Green Realty Trust will be undertaking a construction project that will begin in late 2009 with an anticipated completion date late fall 2011. This project will include construction of two cranberry bogs plus enlarging an existing reservoir. By necessity this project will require the removal of 70,581 cubic yards of earth to provide the appropriate site hydrology to support both the proposed cranberry bogs and reservoir.

This project has been designed as a single phase project with construction of two cranberry beds occurring concurrently with the expansion of the existing reservoir/tailwater recovery pond. Initial work will begin with upgrading and paving the entrance to the site followed by placement of appropriate signage. The following is a tentative schedule for construction.

- **Late 2009**

  The site entrance will be paved and required signage will be posted along Tispaquin Street. Following site preparation, excavation will begin on cranberry beds and continue as long as weather and the market for material permits.

- **Winter 2010**

  Construction will continue on cranberry beds as long as weather permits.

- **Spring 2010**

  Construction will resume on the cranberry beds concurrently with expansion of the reservoir.

- **Summer 2010**

  Construction continues on all phases of the project.

- **Fall 2010**

  Construction continues on all phases of the project with specific focus on final grading of the cranberry beds anticipating planting in the spring 2011.

- **Winter 2010-2011**

  Construction continues on all phase of the project weather permitting.

- **Spring 2011**

  Construction continues on all phases of the project with specific focus on completion of cranberry bed construction with an anticipated late spring planting.

- **Summer 2011**

  Construction continues on all phases of the project.

- **Fall 2011**

  Complete reservoir construction, slope all banks and loam and seed all exposed work areas.

The existing cranberry bogs will remain in operation throughout construction activities. Expansion of reservoir will not require any dewatering activities with all construction being self-contained. All work will be conducted in accordance with the Earth Removal Permit of record issued by the Selectmen and the Order of Conditions issued by the Conservation Commission.