

**OLD BUSINESS**

**4-27-09**

 **DRAFT**

**TOWN OF MIDDLEBOROUGH  
EARTH REMOVAL PERMIT  
DRAFT ORDER OF CONDITIONS**

**FULLER STREET CRANBERRY BOG PROJECT**

**APRIL 22, 2009**

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**BOARD OF SELECTMEN**

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**TOWN OF MIDDLEBOROUGH**  
**EARTH REMOVAL APPLICATION**  
**and renewal form**

Name of Applicant: FULLER ST DEVELOPMENT LLC

Address of Applicant: 10 OWL DRIVE

Town or City: SHARROW, MA 02067

Owner of Property: (SAME AS APPLICANT)

Location of Property: FULLER Street

Property Assessor's Parcel and Map Numbers	Map <u>24</u>	Parcel <u>5555</u>
	Map _____	Parcel _____
	Map _____	Parcel _____

New Application or Renewal: NEW

Existing Permit Number: N/A

Parcel(s) Acreage: 51.6 AC

Estimated Number of Cubic Yards to be Removed: 1,000,000 C.Y.

Requested Time Frame of Operation (Maximum 3 years) 3 YR.

Is there proposed rock crushing? NO

Is there proposed screening equipment? NO

Is there proposed dewatering operations? NO

Is there additional equipment requested for the site? NO

if so what \_\_\_\_\_

Project Description and Reasons for Request:

CONSTRUCTION OF 11.0 AC. CRAWBERRY BOG

Preferred Traffic Route:

FULLER ST. TO PLYMPTON ST. TO RTE 44

Has a plan and Notice of Applicability (NOA) or Intent (NOI) been submitted to the Town of Middleborough's Conservation Commission? NO

Has Order of Conditions by Conservation Commission been issued: If so what is project number and date of conditions : NOT APPLICABLE

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? NO

Permit No. \_\_\_\_\_ Registration No. \_\_\_\_\_

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

Expected Date of Project Completion: 2013

Engineering Firm Name: FIELD ENGINEERING

Engineer's Contact/Name : KEN MOTTA

Street: 110 INDUSTRIAL DRIVE

Town/City MATTAPANSETT, MA 02739

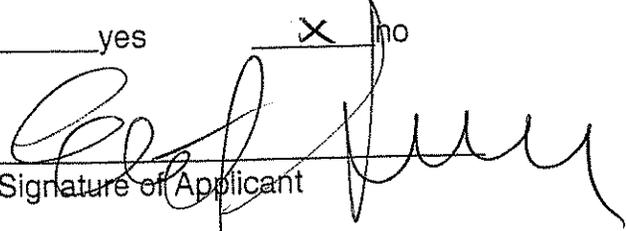
Phone Number: (509) 758-2749

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

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  no

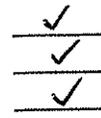
  
Signature of Applicant

Phone Number: 508-889-1218



**C. Civil Drawing Sheet Number 2 (as applicable)**

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



**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

## ORDER OF CONDITIONS

### BOARD OF SELECTMEN

#### General Information

The time line and proposed work for the Fuller 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 outline can be found in Appendix A of the Earth Removal Application Package.

The Project Plan outlines the proposed construction sequence and time lines for the project. The project plan shall be updated annually for approval by the Board of Selectmen or their designated 'Agent' (Town's Agent).

The Earth Removal Permit holder shall submit to the Town's Agent for review and approval - a **Project Plan** that will outline the planned activities and goals for each quarter of the phased construction work for each year of the permit. 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** - or - for a lesser time approved by the Board of Selectmen at the time of application and hearing - and may be renewed for up to one (1) year thereafter at the discretion of the Board of Selectmen.

3. Hours of operation are limited from 7:30 A.M. to 4:30 P.M. Operation is allowed Monday through Friday. Motors of earth removal equipment, 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.

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, a minimum of one hundred feet (100 ft.) from all property lines. In the absence of tree lines on the property, then the natural vegetated buffer shall be maintained for the same distances and trees planted in order to screen the site.

**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.
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. 09-1".

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 discouraged. 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. A copy of Bayside Agricultural inc. agreement to allow exit or entry access to the site is made a part of these conditions.
6. Conditions from the Middleborough Conservation Commission and Army Corp of Engineers is made a part of these conditions.
7. The site shall be evaluated for storm water drainage, and discharges, if permitted shall be to the \_\_\_\_\_ Brook or other site if approved by the Town's Agent.
8. Responses to field issues raised during the public hearing for the project as outlined in correspondence dated February 24, 2009 from Field Engineering Co., Inc. shall be made a part of these conditions.
9. If flooding along Fuller Street should occur, the permit holder will evaluate the site and provide corrective action, upon consultation with the Town's Agent and Town Roadway Superintendent,
10. Trucks will not idle on Fuller Street at any time.
11. 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.
12. The permit holder will be responsible for maintaining the roadway to no less than present conditions after consultation with Highway Superintendent 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 on the plans, the driveway shall be paved a minimum of fifty (50) feet from Fuller Street onto the property.

**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 **\$ 600.00, 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 **\$ 600.00, 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.