

HEARINGS, MEETINGS, LICENSES
9-9-09

(Town Seal)

A hearing will be held in the Selectmen's Meeting Room at the Town Hall, 10 Nickerson Avenue, Middleborough, MA on Wednesday, September 9, 2009 at 8:00 PM, for the purpose of discussing an application filed by Gilmore Consultants on behalf of Fred Green Realty Trust for an Earth Removal Permit for property located at Tispaquin Street, Middleborough, Assessors Map 067, Lot 249. The reason for this request is for the construction of a 2.8 acre cranberry bog and expansion of existing reservoir. Anyone desiring to be heard on this matter should appear at the time and place designated.

Patrick E. Rogers, Chairman
Muriel C. Duphily
Marsha L. Brunelle
Stephen J. McKinnon
Alfred P. Rullo
BOARD OF SELECTMEN

Publish: August 20, 2009

Payment is forthcoming - Advertiser # 300074

GILMORE CONSULTANTS
P.O. BOX 67
SOUTH CARVER, MA. 02366
Telephone (508) 866-3900 Fax (508) 866-2970
Email crancol@comcast.net

July 14, 2008

Board of Selectmen
Town Hall
Middleboro, MA 02346

Re: Earth Removal Application
Fred Green Realty Trust

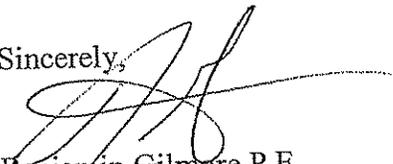
Members of the Board,

Please find enclosed the Project Plan accompanying the Earth Removal Application of Fred Green Realty Trust associated with construction of cranberry bogs and a reservoir. This project requires an Earth Removal Permit, and Order of Conditions from the Conservation Commission. This cranberry bog system does not require a water withdrawal permit from the Massachusetts Department of Environmental Protection.

An Order of Conditions has been issued by the Conservation Commission and is enclosed as part of the Earth Removal permit application. No additional state permits are required for the work proposed.

If any additional information is required please contact me at (508) 866-3900.

Sincerely,



Benjamin Gilmore P.E.

Cc: Robert Dow Tr.

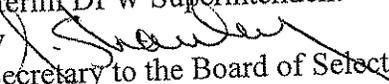


Town of Middleborough
Massachusetts

BOARD OF SELECTMEN
Patrick E. Rogers
Muriel C. Duphily
Marsha L. Brunelle
Alfred P. Rullo, Jr.
Stephen J. McKinnon

MEMORANDUM

TO: R. Geoffroy, Town Planner
P. Cassady, Conservation Commission Agent
D. Blanton, Interim DPW Superintendent

FROM: Jackie Shanley 
Confidential Secretary to the Board of Selectmen

DATE: July 22, 2009

SUBJECT: **Earth Removal Application**

Attached is an Earth Removal application filed by Gilmore Consultants on behalf of Fred Green Realty Trust for property located at Tispaquin Street, Middleborough, Assessors Map 067, Lot 249. The reason for this request is for earth removal as part of the site plan dated 3-3-09

The Selectmen will conduct a hearing on this application on Wednesday, **September 9, 2009** at 8:00 PM.

Further information and a copy of the plan are attached.

All remarks or concerns regarding the request must be returned to the Selectmen's Office no later than **Wednesday, September 2, 2009 by 12 Noon.**

Even if you have no comments to make regarding the plan, please indicate so in writing.

Please contact the Selectmen's Office if you have any further questions.

Attachments

cc: Board of Selectmen
Town Manager

Jacqueline Shanley

From: Andy Bagas
Sent: Friday, September 04, 2009 8:47 AM
To: Jacqueline Shanley
Subject: Earth Removal Permit - Fred Green Realty Trust and Robert Dow

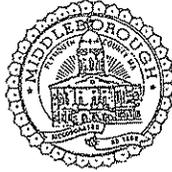
To: Board of Selectmen

RE: Earth Removal Permit - Fred Green Realty Trust and Robert Dow

I have reviewed the Earth Removal Application for Fred Green Realty Trust prepared by Gilmore Consultants and shown on a plan prepared for Robert Dow dated March 3, 2009.

I find no adverse effects provided that the applicant abides by the Mass DEP Order of Conditions and other Terms and Conditions as set forth by the Board of Selectmen.

Andrew Bagas
DPW Director



Town of Middleborough

CONSERVATION COMMISSION

MEMORANDUM

TO: Board of Selectmen
Ruth Geoffroy, Planning Director
Andy Bagas, DPW Superintendent

FROM: Patricia J. Cassady, Conservation Agent *PJC*

RE: Earth Removal – Tispaquin Street (Map 67, Lot 249) – Gilmore
Consultants for Fred Green Realty Trust

DATE: August 26, 2009

This memorandum is in response to the earth removal permit that the above-mentioned applicant has submitted to the Board of Selectmen.

The applicant has a current Order of Conditions with the Conservation Commission under DEP file number 220-1098 that was issued on June 25, 2009 and is valid till June 25, 2012.

Prior to any construction the applicant is required to notify the Conservation Commission for an inspection of all erosion controls. The applicant should also have a sign with the DEP file # at the entrance to the site.

If you have any further questions, don't hesitate to contact the Conservation Office at 508-946-2406.

Thank you

pjc

**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

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

FRED GREEN REALTY TRUST
EARTH REMOVAL APPLICATION

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

**EARTH REMOVAL 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 GREEN REALTY TRUST
ROBERT DOW TR.

Address of Applicant: 15 NELSON GORNE ROAD.

Town or City: HAILEVILLE, MD. 02347

Owner of Property: ROBERT DOW TR.

Location of Property: TISPAGUIN Street

Property Assessor's Parcel and Map Numbers

Map	<u>67</u>	Parcel	<u>249</u>
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 YD³

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 CERAMIC BOG, AND EXPAND
EXISTING RESERVOIR

Preferred Traffic Route:

TISPAQUIN 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: Gilmora Consultants

Engineer's Contact/Name : BEN GILMORA

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

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

C. Civil Drawing Sheet Number 2 (as applicable)

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

✓
✓
✓

BS
BS
BS

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

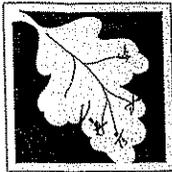
GILMORE CONSULTANTS

P.O. Box 67
South Carver, MA

FRED GREEN REALTY TRUST

CONSERVATION COMMISSION ORDER OF CONDITIONS

Ben Gilmore



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

MassDEP File Number:

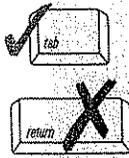
WPA Form 5 – Order of Conditions

220-1098

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

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 70-49.744'W
e. Latitude 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
b. Prepared By Engiener
6/25/2009 1"= 60'
d. Final Revision Date e. Scale

f. Additional Plan or Document Title g. Date



WPA Form 5 – Order of Conditions

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

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)

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input type="checkbox"/> Bank	a. linear feet	b. linear feet	c. linear feet	d. linear feet
5. <input type="checkbox"/> Bordering Vegetated Wetland	a. square feet	b. square feet	c. square feet	d. square feet
6. <input type="checkbox"/> 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		



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

B. Findings (cont.)

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
7. <input type="checkbox"/> 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. <input type="checkbox"/> 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. <input type="checkbox"/> 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. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below			
11. <input type="checkbox"/> Land Under the Ocean	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
12. <input type="checkbox"/> Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. <input type="checkbox"/> Coastal Beaches	a. square feet	b. square feet	c. c/y nourishmt.	d. c/y nourishmt.
14. <input type="checkbox"/> Coastal Dunes	a. square feet	b. square feet	c. c/y nourishmt.	d. c/y nourishmt.
15. <input type="checkbox"/> Coastal Banks	a. linear feet	b. linear feet		
16. <input type="checkbox"/> Rocky Intertidal Shores	a. square feet	b. square feet		
17. <input type="checkbox"/> Salt Marshes	a. square feet	b. square feet	c. square feet	d. square feet
18. <input type="checkbox"/> Land Under Salt Ponds	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
19. <input type="checkbox"/> Land Containing Shellfish	a. square feet	b. square feet	c. square feet	d. square feet
20. <input type="checkbox"/> 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. <input type="checkbox"/> Land Subject to Coastal Storm Flowage	a. square feet	b. square feet		



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

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 than 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"



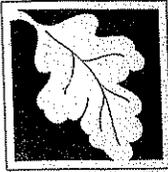
Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

MassDEP File Number:

220-1098

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.



WPA Form 5 – Order of Conditions

220-1098

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

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.



WPA Form 5 – Order of Conditions

220-1098

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

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):
 - 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.

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.

June 25, 2009
 1. Date of Issuance
Five
 2. Number of Signers

Signatures:

[Signature]
[Signature]
[Signature]

Edward H. Hume

Notary Acknowledgement

Commonwealth of Massachusetts County of

Plymouth

On this 25th of

June 2009
 Month 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 Conservation Commission
 City/Town

[Signature]
 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 by certified mail, return receipt requested, on

Date

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.

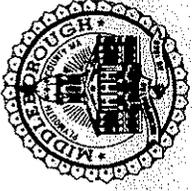
Section G, Recording Information is available on the following page.

GILMORE CONSULTANTS

P.O. Box 67
South Carver, MA

FRED GREEN REALTY TRUST

**CERTIFIED LIST
OF
ABUTTERS**



Middleborough Assessors Office
10 Nickerson Avenue
Middleborough, MA 02346

ABUTTER'S LIST CERTIFICATION PAGE*

Date: 4/11/2009

BOARD OF SELECTMEN

Board name for certification

This is a certified abutter's list for 300 feet in every direction including
across the street of

MAP 067 LOT 249


Lori Rutherford, Clerk
Middleborough Board of Assessors

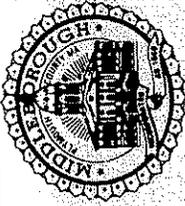
(This list consists of 2 pages with 22 abutter's lots)

*Please note there is no additional charge for this page and it is intended to certify the information on the preceding or attached document (s)

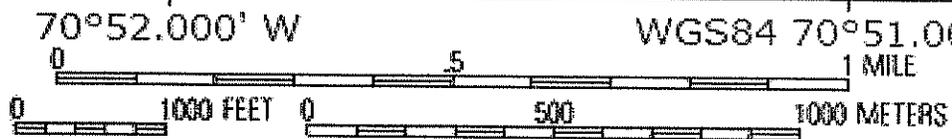
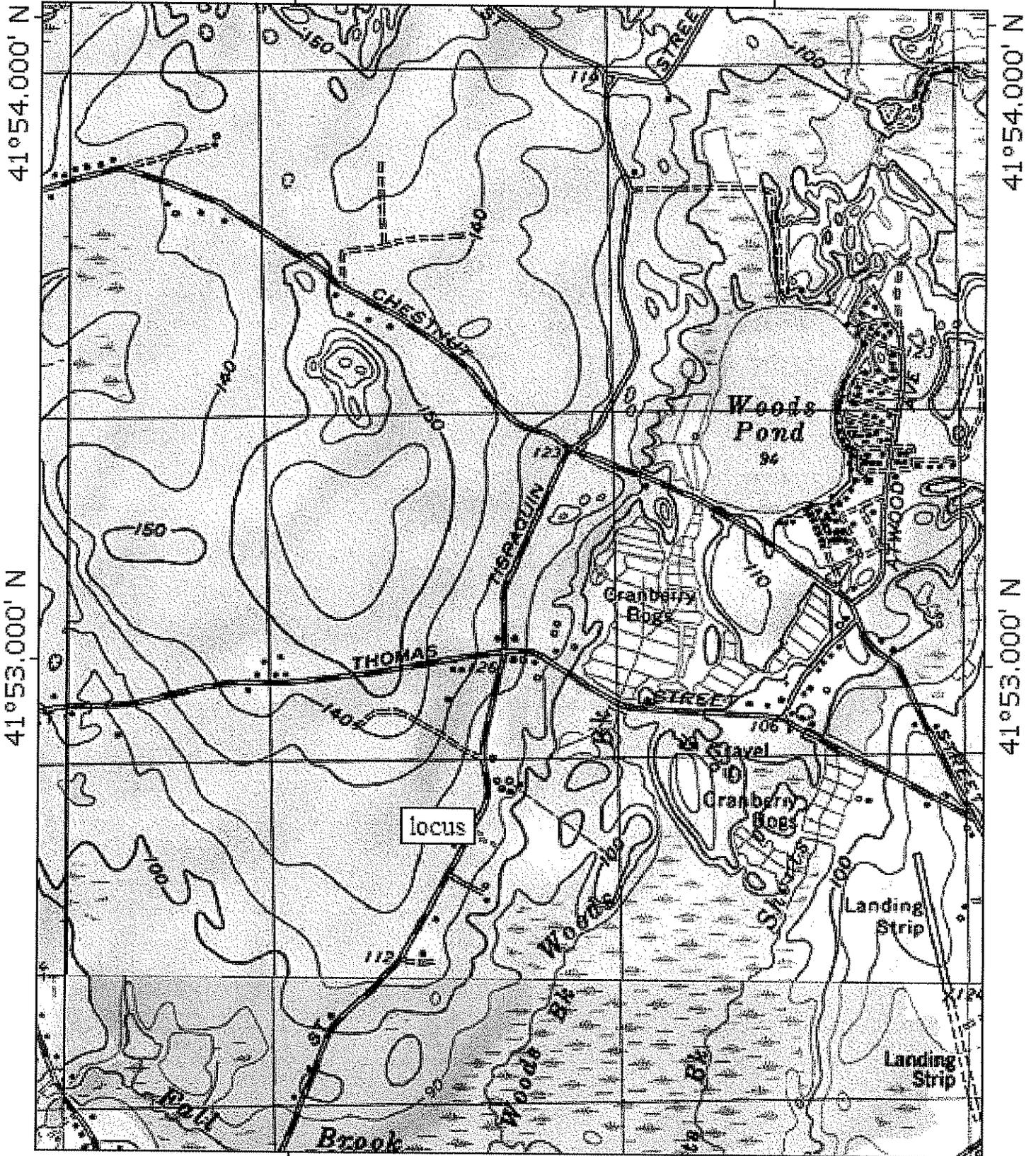
LOCUS	LOCATION	OWNER NAME	APPLICANT NAME	CONTACT #	PAGE	DATE
					1052	4/11/2009
MAP LOT UNIT	99 TISPAQUIN STREET	ROBERT DOW JR	SAME	508-866-3900		
67 249	REASON FOR PROJECT	EARTH REMOVAL	NAME OF BOARD	BOARD OF SELECTMEN		
MAP LOT UNIT	OWNER NAME	C/O OWNERS NAME	MAILING ADDRESS	CITY	ST	ZIP
67 957	PERRY, STEVEN B & CHRISTINE L		88 TISPAQUIN ST,	MIDDLEBORO	MA	02346
67 1762	MARSHALL, ERIKA S		81 TISPAQUIN ST,	MIDDLEBORO	MA	02346
67 2842	LAWTON, RUSSELL M TRUSTEE		P O BOX 10,	MIDDLEBORO	MA	02346
67 1885	MARSHALL, ERIKA S		81 TISPAQUIN STREET,	MIDDLEBORO	MA	02346
67 2796	LAWTON, RUSSELL M TRUSTEE		P O BOX 10,	MIDDLEBORO	MA	02346
61 5772	DOW, ROBERT TRS		15 NELSON GROVE RD,	LAKEVILLE	MA	02347
67 165	DOW, ROBERT TRS		15 NELSONS GROVE RD,	LAKEVILLE	MA	02347
67 249	DOW, ROBERT TRS		15 NELSONS GROVE RD,	LAKEVILLE	MA	02347
67 166	STANDISH, MARY A		97 TISPAQUIN STREET,	MIDDLEBORO	MA	02346
61 5799	JOHNSON, LINDA ANN		29 WINTER ST,	MIDDLEBORO	MA	02346
67 575	ROSADA LIMITED PARTNERSHIP		87 OLDE CORDWOOD PA	DUXBURY	MA	02332



LOCUS	LOCATION	OWNER NAME	APPLICANT NAME	CONTACT #	PAGE	DATE
					2 of 2	4/11/2009
MAP LOT UNIT	99 TISPAQUIN STREET	ROBERT DOW JR	SAME	508-866-3900		
67 249	REASON FOR PROJECT	EARTH REMOVAL	NAME OF BOARD	BOARD OF SELECTMEN		
MAP LOT UNIT	OWNER NAME	C/O OWNERS NAME	MAILING ADDRESS	CITY	ST	ZIP
61 5093	LEGENDRE, CHRISTINA A		153 THOMAS ST,	MIDDLEBORO	MA	02346
67 928	DOLAN, JAMES		92 TISPAQUIN ST,	MIDDLEBORO	MA	02346
67 2057	CAPARROTTA, ERNESTO V		195 LIBBEY PKY UNIT 2,	WEYMOUTH	MA	02189
67 249 A	DOW, ROBERT TRS		15 NELSONS GROVE RD,	LAKEVILLE	MA	02347
66 854	TRINGALE, CHARLES P ETAL	C/O JAY GALVIN	P O BOX 7214,	QUINCY	MA	02269
67 1733	HATCH, G ROBERT & KRISTEN		83 TISPAQUIN STREET,	MIDDLEBORO	MA	02346
61 5845	CARDIN, WILLIAM B JR & CHRISTINE M		107 TISPAQUIN ST,	MIDDLEBORO	MA	02346
61 5755	WHITE, MITCHELL A & KIMBERLY A		104 TISPAQUIN ST,	MIDDLEBORO	MA	02346
67 2667	PEIRCE, THOMAS S TRUSTEES		P O BOX 332,	MIDDLEBORO	MA	02346
61 5726	LINCOLN, ALFRED A III		106 TISPAQUIN ST,	MIDDLEBORO	MA	02346
67 977	BAGOCIUS-BERRY, MAUREEN & BERRY, KEITH		84 TISPAQUIN ST,	MIDDLEBORO	MA	02346



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70°52.000' W WGS84 70°51.000' W



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