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FORM 5

COMMONWEALTH OF MASSACHUSETTS

Bylaw File No. 75-156

D.E.Q.E. File No. 85-237

Location 61 Powder Mill Road

City/Town Acton

Filing Date October 12, 1987

Applicant Powder Ridge Realty

Order of Conditions
Massachusetts Wetlands Protection Act, G.L. c. 131, s40
Town of Acton Wetlands Protection Bylaw

From Acton Conservation Commission

To Powder Ridge Realty Leo Bertolami, Trustee (of Powder Ridge Realty)
(Name of Applicant) (Name of property owner)

This Order is issued and delivered as follows:

- by hand delivery to applicant, signature of applicant on original Order
- by certified mail, return receipt requested,
Certified Mail # Leo Bertolami, Trustee

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2012131 20/20/20 130

This project is located at 61 Powder Mill Road, Acton

The property is recorded at the Registry of Deeds South Middlesex

Book 14503 Page 511, 512, 513

Certificate (if registered) _____

The Notice of Intent for this project was filed on October 12, 1987
(date)

The public hearing was closed on DECEMBER 2, 1987 (date)

FINDINGS

The Acton Conservation Commission has reviewed the above-referenced Notice of Intent and plans and has held a public hearing on the project. Based on the information available to the Conservation Commission at this time, the Commission has determined that the area on which the proposed work is to be done is significant to the following interests in accordance with the Presumptions of Significance set forth in the regulations for each Area Subject to Protection Under the Act (check as appropriate):

- | | |
|---|---|
| <input type="checkbox"/> Public water supply | <input checked="" type="checkbox"/> Storm damage prevention |
| <input type="checkbox"/> Private water supply | <input checked="" type="checkbox"/> Prevention of pollution |
| <input checked="" type="checkbox"/> Ground water supply | <input type="checkbox"/> Wildlife |
| <input checked="" type="checkbox"/> Flood control | <input type="checkbox"/> Fisheries |

MARGINAL REFERENCE REQUESTED
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Therefore, the Acton Conservation Commission hereby finds that the following conditions are necessary, in accordance with the Performance Standards set forth in the regulations, to protect those interests checked above. The Acton Conservation Commission orders that all work shall be performed in accordance with said conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications or other proposals submitted with the Notice of Intent, the conditions shall control.

General Conditions

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. This Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state or local statutes, ordinances, by-laws or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
 - (a) the work is a maintenance dredging project as provided for in the Bylaw; or
 - (b) the time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance and both that date and the special circumstances warranting the extended time period are set forth in this Order.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order.
6. Any fill used in connection with this project shall be clean fill, containing no trash, refuse, rubbish or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles or parts or parts of any of the foregoing.

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7. No work shall be undertaken until all administrative appeal periods from this Order have elapsed or, if such appeal has been filed, until all proceedings before the Court have been completed.
8. No work shall be undertaken until the Final Order has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is to be done. The recording information shall be submitted to the Acton Conservation Commission on the form at the end of this Order prior to commencement of the work.
9. No work shall be undertaken until the Final Order has been reviewed and signed by the Contractor or his agent. Using the form provided at the end of this Order, the acknowledgement shall be submitted to the Acton Conservation Commission 10 days prior to commencement of work.
10. Where the Department of Environmental Quality Engineering is requested to make a determination and to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before the Department.
11. 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, "Mass DEQE , File Number 85- 237".
12. Upon completion of the work described herein, the applicant shall forthwith request in writing that a Certificate of Compliance be issued stating that the work has been satisfactorily completed.
13. The work shall conform to the following plans and special conditions:

Plans:

 - A. Site Plan showing vehicle carrier unloading area 6/10/87 (Sheets 1 & 2)
 - B. Volume Calculations
 - C. Run-off Calculations

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14. This Order of Conditions shall apply to any successor in interest or successor in control.
15. Members and agents of the Conservation Commission shall have the right to enter and inspect the premises to evaluate compliance with this Order and to require the submittal of any data deemed necessary by the Commission for that evaluation.
16. All drainage facilities and related structures and equipment shall be continually operated and maintained so as to comply with this Order of Conditions. The operation and maintenance of the facilities and structures shall be on-going and will not expire at the end of one year or with the issuance of the Certificate of Compliance.
17. Any change made, or intended to be made, in the plans shall require the applicant to file a new Notice of Intent, or to inquire of the Commission, in writing, whether the change is substantial enough to require a new filing.
18. The Conservation Commission shall have the right to file this Order of Conditions in the Registry of Deeds should the applicant fail to do so within 60 days.
19. Accepted engineering and construction standards and procedures shall be followed in the completion of this project.
20. The Commission shall be notified in writing 10 days prior to commencement of any site work. Failure to so notify the Commission shall result in the issuance of an Enforcement Order.
21. The Petitioner is advised that this Order in no way absolves him of responsibility to other property owners upon whose land he discharges water directly or indirectly.
22. Erosion control measures shall be installed during the first phase of construction and the Commission shall be notified of their placement and no work shall begin before inspection by the Commission.
23. Any materials collected by the erosion control measures shall be removed and properly disposed of.
24. All work shall be completed as quickly as possible to minimize the duration of exposure of disturbed areas. If work is suspended for a significant period of time (i.e. as during winter months), then temporary stabilization methods must be employed and maintained during the period of inactivity.
25. Minimal salt and deicers shall be used only as a mixture within the sand to be applied to the road. Only amounts of salt and deicers to prevent the freezing of the sand shall be used.

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26. This Order applies only to the work described in the Notice of Intent and shown on the plans referenced in Condition 13. A Determination of Applicability Form must be filed for any additional work on site in areas governed by the Town of Acton Wetlands Protection Bylaw.
27. All disturbed areas shall be topsoiled six inches and seeded.
28. Violation of any condition of this Order may result in the issuance of an Enforcement Order. Such Enforcement Order, if issued, will require the immediate cessation of all work until a hearing is held; such hearing will be held not more than 10 days from the issuance of the Enforcement Order.
29. The work authorized hereunder by the Acton Wetlands Protection Bylaw shall be completed within one year from the date of this Order unless the Order is renewed prior to expiration.
30. As agreed to by the applicant at the public hearing, a guardrail will be placed around the entire length of paved area that is within the 100' wetland buffer zone.
31. As agreed to by the applicant at the public hearing, shrubs and vegetation cover will be planted adjacent to the reconstructed water way and the guardrail.
32. Snow removal from the proposed parking area may not be stock piled within the 100' wetland buffer zone.
33. Storage of waste products will not occur within the 100' wetland buffer zone including garbage dumpsters.
34. As agreed to by the applicant at the public hearing, only new cars will be stored on this site.

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Issued by Acton Conservation Commission

Signatures:

Robert L. Jones
Carol M. Phee
Janet B. Walden
Julie McCarthy

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

On this 17th day of December, 19 87, before me personally appeared Carol M. Phee, to me known to be the person described in, and who executed, the foregoing instrument, and acknowledged that he/she executed the same as his/her free act and deed.

David J. Hodley
Notary Public My Commission Expires January 18, 1988

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land upon which the proposed work is to be done, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the Department of Environmental Quality Engineering to issue a Superseding Order, providing the request is made by certified mail or hand delivery to the Department within ten 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 the applicant. The above mentioned persons are also notified of their right to appeal, under the Bylaw, according to the provisions of the Massachusetts General Laws. A copy of the appeal shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and the applicant.

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Submit to the Acton Conservation Commission prior to commencement of work.
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To Acton Conservation Commission Issuing Authority

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

61 Powder Mill Road, Acton File Number 85-237

has been recorded at the Registry of Deeds South Middlesex and has been noted in the chain of title of the affected property in accordance with General Condition 8 on _____, 19____

If recorded land, the instrumental number which identifies this transaction is Book _____ Page _____

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

Signature _____ Applicant

Submit to the Acton Conservation Commission 10 days prior to commencement of work.
.....

To: Acton Conservation Commission Issuing Authority

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

61 Powder Mill Road, Acton File number 85-237

has been read by the Contractor.

Signature _____ Contractor

Address _____ Date _____