

Return Box 11
R. HANES ES9

2002061800054 Bk:18828 Pg:506
06/18/2002 09:01:00 OTHER Pg 1/5

DECLARATION OF PROTECTIVE COVENANTS AND RESTRICTIONS

Whereas, James H. Lyons, Trustee of the Dennysville-Lyons Realty Trust u/d/t dated June 4, 1998 and recorded with the Essex South District Registry of Deeds in Book 14872 Page 8, with a usual place of business at 261 Hyatt Avenue, Haverhill, MA, is the owner of certain tracts or parcels of land situated in Haverhill, County of Essex, Commonwealth of Massachusetts, shown as LOT 1 through LOT 33 inclusive on a Plan of land entitled "Definitive Subdivision Plan 'Lyons Farms' located in Haverhill, Mass., Applicant and Record Owner Dennysville-Lyons Realty Trust, 261 Hyatt Avenue, Haverhill, MA 01830" dated January 8, 2001 and revised April 19, 2001, recorded with the Essex South District Registry of Deeds in Plan Book 357 Plan 50, the following protective restrictions and covenants are hereby adopted and made applicable to said LOTS 1 through 33 inclusive, said restrictions and covenants being for the benefit of all owners of said Lots.

1. **LAND USE AND BUILDING TYPE.** No lot shall be used except for residential purposes. No building shall be erected, altered, placed or permitted to remain on any lot other than a detached single-family dwelling, not to exceed two and one-half stories in height, and a garage for not more than three cars. A single story dwelling shall consist of not less than 1800 square feet of living space exclusive of garage, basement, breeze way and open porches. A two-story dwelling shall consist of not less than 2,200 square feet of living space exclusive of garage, basement, breeze way and open porches. All houses are to have an attached garage or garages under allowing for a minimum of two cars.

2. **RIGHT OF APPROVAL.** No building or other structure shall be erected, placed, or altered on any lot nor sight preparation commenced on said lot until the construction plans and specifications, which shall include but not be limited to a list of materials and external colors to be used, and a plan showing the location of the structure, septic system, well and utilities has been submitted to and approved in writing by James H. Lyons, Trustee of Dennysville-Lyons Realty Trust, or his designee as to quality of workmanship and materials, harmony of external design and colors with existing structures, and as to location with respect to topography and finish grade elevation. No dwelling shall be constructed on any lot which is in the nature of a log, split level, contemporary or modular type homes.

3. **LANDSCAPING.** All lots shall be graded, loomed and seeded within six months of construction completion.

4. **ZONING.** The dwelling to be erected on the premises shall be in accordance with the City of Haverhill Zoning Laws.

5. **Nuisances.** No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

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6. **TEMPORARY STRUCTURES.** No structures of a temporary character, trailer, tent, shack, garage, barn, or other outbuilding shall be used on any lot at any time as a residence either temporarily or permanently.

All construction of any building shall be fully completed within one year from commencement of construction. Commencement of construction being defined to mean the date upon which any site works, excavation, or preparation of the site for construction begins. All disturbed areas are to be raked and seeded and the exterior of the buildings painted and/or stained within this time period. The exterior of such structure shall be kept in a proper state of repair and maintenance. Notwithstanding the one-year provision set forth herein, this paragraph shall not apply to the interior of the dwelling so long as the interior is completed to the extent necessary to obtain an occupancy permit from the City of Haverhill. The exterior of such structure shall be kept in a proper state of repair and maintenance.

7. **LIVESTOCK.** No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any lot, except that dogs, cats, or other household pets may be kept provided they are not kept, bred, or maintained for any commercial purpose.

8. **GARAGE AND REFUSE DISPOSAL.** No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage, or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage of disposal of such material shall be kept in a clean and sanitary condition and in an enclosed area.

9. **CLEARING OF TREES.** All stumps and trees which have been cut shall be completely removed from the lots and no stumps or tree limbs shall be buried on any lot.

10. **VEHICLES AND STRUCTURES.** No unregistered motor vehicles, boats, or trailers are to be stored outdoors on any lot. No above ground pools shall be erected on any lot. No in ground pools shall be placed on any lot except in the rear yard. No construction vehicles shall be stored in the rear yard. No construction vehicles shall be stored on any lot after construction is complete. No metal utility buildings or outside clotheslines shall be allowed on any lot.

11. **SIGHT OBSTRUCTIONS.** No fence, wall, hedge or planting except shade trees or single plants or bushes, shall be or allowed to become more than five (5) feet in height anywhere on the premises except where required by City ordinances. No solid fence, including but not limited to chainlink or stockade fences, shall be constructed past the front line of the house of any lot, or within three (3) feet of the side line of any lot, or within five (5) feet of the rear line of any lot.

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12. EASEMENTS. Easements if any, for the installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plan. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of the flow of drainage channels in the easements or which may obstruct or retard flow of water through the drainage channels in the easements. The easement area of each lot and all improvements shall be maintained continuously by the lot owners through the Lyons Farms Association, with each lot owner being a member thereof, in accordance with the Declaration recorded herewith., except for those improvements for which a public authority or utility company is responsible. The City of Haverhill shall not be responsible for the maintenance of said utility and drainage easements.

13. TERM. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of thirty (30) years from the date these covenants are recorded. After the thirty-year period, the covenants can be extended for an additional twenty year period if an instrument signed by a majority of the owners of said lots agreeing to extend said covenants is recorded with the Essex South District Registry of Deeds before the expiration of the initial thirty year period. So long as James H. Lyons, Trustee of Dennysville-Lyons Realty Trust, is the owner of record of one or more of said lots, these covenants and restrictions shall be enforceable only by said James H. Lyons, Trustee of Dennysville-Lyons Realty Trust, and may be waived or released by an instrument in writing by said James H. Lyons, Trustee of Dennysville-Lyons Realty Trust, which instrument shall be recorded with the applicable Registry of Deeds. From and after the date on which James H. Lyons, Trustee of Dennysville-Lyons Realty Trust, ceases to own any of said lots of record, these covenants and restrictions shall be enforceable by the "Lyons Farm Association " established by the Declaration of Restrictions and Easements and Formation of Association recorded herewith.

Notwithstanding anything herein contained to the contrary, James H. Lyons, Trustee of Dennysville-Lyons Realty Trust, reserves the right and power to record a special amendment to these covenants at any time and from time to time which amends these covenants to correct clerical or typographical errors in these covenants or any amendment thereto. Each deed, mortgage or other instrument effecting the lots in question and acceptance of such shall be deemed a consent to the reservation of this power by James H. Lyons, Trustee of Dennysville-Lyons Realty Trust, to make, execute and record such special amendments. The right of James H. Lyons, Trustee of Dennysville-Lyons Realty Trust, to act pursuant to the rights reserved and granted under this provision shall terminate such time as James H. Lyons, Trustee of Dennysville-Lyons Realty Trust, no longer holds title to one of said lots.

14. ENFORCEMENT. Enforcement shall be proceedings at law or equity against any person or persons violating or attempting to violate any covenant either to restrain violation or to recover damages. In the event that an injunction is obtained, or damages recovered against an owner for violation of these covenants, said violating owner shall pay to the entity, person or persons instituting such action all costs of suit including but not limited to attorney's fees. These

Protective Covenants are imposed for the benefit of James H. Lyons, Trustee of Dennysville-Lyons Realty Trust, and his successors and assigns to the property owned by James H. Lyons, Trustee of Dennysville-Lyons Realty Trust, shown on said Plans referred to herein as LOTS 1 through 33 inclusive.


15. SEVERABILITY. Invalidation of any one of these covenants judgment or court shall not affect any of the other provisions which will remain in full force and effect.

16. DEEDS. Deeds of said lots shown on the above-referred-to plans shall have inserted therein the following language or language substantially similar thereto: "Said Lot is conveyed together with the benefit of and subject to the provisions of an instrument entitled "Declaration of Protective Covenants and Restrictions", dated June 17, 2002, and recorded in the Essex South District Registry of Deeds."

17. In addition to any other relief and/or damages which may be recovered against any owner for violation of said covenants, any owner (grantee) in violation of said covenants for a period of thirty (30) days shall pay a fine to James H. Lyons, Trustee of Dennysville-Lyons Realty Trust, or the Lyons Farms Association if the said James H. Lyons, Trustee as aforesaid, ceases to own any of said lots of record, demanding enforcement of said covenants, as set forth in Article 14 herein, in the amount of two hundred fifty (\$250.00) dollars per month beginning immediately at the end of said thirty (30) day violation period, until such covenants and restrictions are adhered to. Said fine will be payable immediately without the necessity of a formal demand.

I hereby certify that I have been duly authorized by all of the beneficiaries of said Trust to execute and record this Declaration, and that said Trust is in full force and effect and has not been amended or revoked.

Witness my hand and seal this 17th day of June, 2002.



James H. Lyons, Trustee of Dennysville-Lyons Realty Trust

Robert Ottavio
witness

COMMONWEALTH OF MASSACHUSETTS

Essex, ss

June 17, 2002

Then personally appeared the above named James H. Lyons, Trustee as aforesaid, and acknowledged the foregoing instrument to be his free act and deed, before me,



Robert D. Harb -- Notary Public
My Commission Expires: 12/22/06

Lyonsc3-dsk

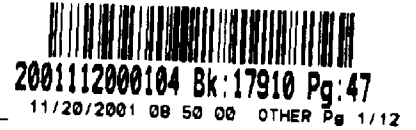




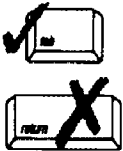
Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

DEP File Number:
 #33-1002
 Provided by DEP

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.



From:

Haverhill
Conservation Commission

This issuance is for (check one):

- Order of Conditions
- Amended Order of Conditions

To: Applicant:

Dennysville-Lyons Realty Trust
 Name
261 Hyatt Avenue
 Mailing Address
Haverhill MA 01835
 City/Town State Zip Code

Property Owner (if different from applicant):

 Name

 Mailing Address

 City/Town State Zip Code

1. Project Location:

<u>Chadwick Road and Hyatt Avenue</u> Street Address	<u>Haverhill</u> City/Town
<u>Map 774, Block 797</u> Assessors Map/Plat Number	<u>Lots 27, 28 and 29</u> Parcel/Lot Number

2. Property recorded at the Registry of Deeds for:

<u>Essex South</u> County	<u>14872</u> Book	<u>14</u> Page
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Certificate (if registered land)

3. Dates:

<u>February 13, 2001</u> Date Notice of Intent Filed	<u>July 19, 2001</u> Date Public Hearing Closed	<u>July 20, 2001</u> Date of Issuance
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4. Final Approved Plans and Other Documents (attach additional plan references as needed):

See Attachment "A", State and Municipal Conditions, incorporated herein and made part of this Order of Conditions. _____ Date

5. Final Plans and Documents Signed and Stamped by:

See Attachment "A", State and Municipal Conditions, incorporated Name herein and made part of this Order of Conditions.

6. Total Fee:

\$2687.50
 (from Appendix B: Wetland Fee Transmittal Form)



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

DEP File Number:

#33-1002
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B. Findings

2001112000104 Bk:17910 Pg:48
 11/20/2001 08:50 00 OTHER Pg 2/12

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:

- | | | |
|--|---|--|
| <input checked="" type="checkbox"/> Public Water Supply | <input checked="" type="checkbox"/> Land Containing Shellfish | <input checked="" type="checkbox"/> Prevention of Pollution |
| <input checked="" type="checkbox"/> Private Water Supply | <input checked="" type="checkbox"/> Fisheries | <input checked="" type="checkbox"/> Protection of Wildlife Habitat |
| <input checked="" type="checkbox"/> Groundwater Supply | <input checked="" type="checkbox"/> Storm Damage Prevention | <input checked="" type="checkbox"/> Flood Control |

Furthermore, this Commission hereby finds the project, as proposed, is: (check one of the following boxes)

Approved subject to:

- the following conditions which are necessary, in accordance with the performance standards set forth in the wetlands regulations, to protect those interests checked above. 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:

- the proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations to protect those interests checked above. 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.
- 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).

General Conditions (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.



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

DEP File Number:

#33-1002

2001112000104 Bk:17910 Pg:49
11/20/2001 08:50 00 OTHER Pg 3/12

B. Findings (cont.)

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, "MA DEP"]
"File Number #33-1002"
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 DEP.
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.



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

DEP File Number:
 #33-1002
 Provided by DEP

B. Findings (cont.)

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.

Special Conditions (use additional paper, if necessary):

See Attachment "A", State and Municipal Conditions, incorporated herein and made part of this Order of Conditions.

2001112000104 Bk:17910 Pg:50
 11/20/2001 08:50:00 OTHER Pg 4/12

Findings as to municipal bylaw or ordinance

Furthermore, the Haverhill hereby finds (check one that applies):
 Conservation Commission

that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw specifically:

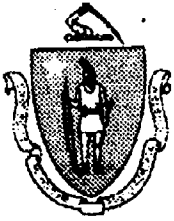
Name _____ Municipal Ordinance or Bylaw

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.

that the following additional conditions are necessary to comply with a municipal ordinance or bylaw, specifically:

An Ordinance to Protect the Wetlands, Related Water Chapter 253
 Resources and adjoining land areas. Municipal Ordinance or Bylaw

The Commission orders that all work shall be performed in accordance with the said additional 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.



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

DEP File Number:

#33-1002
 Provided by DEP

B. Findings (cont.)

2001112000104 Bk:17910 Pg:51
 11/20/2001 08:50:00 OTHER Pg 5/12

Additional conditions relating to municipal ordinance or bylaw:

See Attachment "A", State and Municipal Conditions, incorporated herein and made part of this Order of Conditions.

This Order is valid for three years, unless otherwise specified as a special condition pursuant to General Conditions #4, from the date of issuance.

July 20, 2004
 Date

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 (see Appendix A) and the property owner (if different from applicant).

Signatures:

Curt Beardi
Ken Chapel
A. Zinn

Shannon Henry

On 19th
 Day

Of July 2001
 Month and Year

before me personally appeared

the above members

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.

Sherry L. Sabara
 Notary Public

November 15, 2007
 My Commission Expires

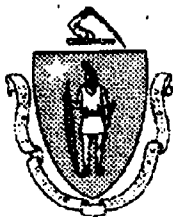
This Order is issued to the applicant as follows:

by hand delivery on

by certified mail, return receipt requested, on

Date

July 20, 2001
 Date



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

DEP File Number:

#33-1002

Provided by DEP

C. 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 DEP 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 Appendix E: 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.

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.

D. 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 Page 7 of Form 5 shall be submitted to the Conservation Commission listed below.

Haverhill

Conservation Commission

2001112000104 Bk:17910 Pg:52

11/20/2001 08 50 00 OTHER Pg 6/12

ATTACHMENT "A"
STATE AND MUNICIPAL CONDITIONS
DEP FILE #33-1002
DENNYSVILLE-LYONS REALTY TRUST
CHADWICK ROAD AND HYATT AVENUE
LYONS FARMS
MAP 774, BLOCK 797, LOTS 27, 28, AND 29

1. GENERAL CONSTRUCTION:

- 1.1. Work on this project site shall be performed according to the following listed plans and documents. Should any conflicts be found to exist between these plans and documents and the conditions of this Order, the Haverhill Conservation Commission (HCC) shall be contacted for a clarification.
- a) "Notice of Intent Construction in the Buffer Zone for Lyons Farms" (5 Sheets), site plan prepared by Christiansen & Sergi, Inc. (160 Summer Street, Haverhill, MA 01830), dated revised May 24, 2001, and on file with the HCC (Room 205, City Hall, 4 Summer Street, Haverhill, MA 01830).
 - b) "Definitive Subdivision Plan 'Lyons Farms'" (Sheets 10 through 14 of 17), site plan prepared by Christiansen & Sergi, Inc. (160 Summer Street, Haverhill, MA 01830), dated revised April 19, 2001, and on file with the HCC (Room 205, City Hall, 4 Summer Street, Haverhill, MA 01830).
 - c) "Stormwater Management Operation/Maintenance Plan" (three pages), document prepared by Christiansen & Sergi, Inc., dated revised May 24, 2001, and on file with the HCC.
 - d) "Construction Criteria for Detention/Infiltration Area #1" (two pages), document prepared by Christiansen & Sergi, Inc., dated May 24, 2001, and on file with the HCC.
 - e) "Evaluation of Conservation Easement on Lot 1" (one page), document prepared by Christiansen & Sergi, Inc., dated May 24, 2001, and on file with the HCC.
- 1.2. While all activities regulated by this Order are being performed and during the construction phase of this project, an on-site foreman, directing engineer, or designated construction manager, shall have a copy of this permit and its associated plans and documents at the site, familiarize himself or herself with the conditions of this permit, and adhere to such conditions. This Order of Conditions shall be made part of all construction-related documents for this project. All contractors working at the site shall be made aware of the provisions contained within this Order of Conditions and adhere to them.
- 1.3. Prior to the commencement of construction, a pre-construction meeting shall be conducted with the site contractor, the applicant, the applicant's engineers/consultants, the Conservation Commission, and all other affected City Officials. The purpose of the pre-construction meeting is to review this Order of Conditions and resolve any outstanding issues at that time.
- 1.4. The applicant shall secure an Environmental Monitor for this project. This Monitor shall be, at a minimum, a professional with experiences in wetland replication/restoration, erosion and siltation control practices, and wildlife habitat evaluation. This Monitor shall have, at a minimum, a working knowledge of botany, hydrology, and general construction practices.
- a) On the Monday of every week during the life of this project, the Environmental Monitor shall provide the HCC with a status report of the project. This report shall indicate the activities completed the previous week and those planned for the current week. The report

shall also mention any deviations from the previous week's report and any environmental mitigation measures that have been undertaken. The Commission reserves the right to alter the frequency of reporting upon discussion with the applicant.

- b) In addition to this reporting, the Environmental Monitor shall be responsible for all inspections and reporting as outlined in this Order and the referenced plans and documents pertaining to wetland activities, erosion and siltation controls, and wildlife habitat protection. The Monitor shall be on site as necessary to ensure proper implementation of the conditions of this Order and the work outlined in the referenced plans and documents.

1.5. This Order of Conditions regulates the infrastructure work proposed on the referenced site plans. No house construction is approved under this Order for areas within the Commission's jurisdiction. For lots where any work associated with the construction of a house within the Commission's jurisdiction is proposed, a new application must be filed with the Commission to obtain its approval.

2. NOTIFICATION TO OTHER PARTIES:

- 2.1. The applicant shall notify the Haverhill Conservation Commission, in writing, at least 48 hours before any activity commences on site. At this time the applicant shall also supply the HCC with a list of names, addresses, and emergency phone numbers for those parties responsible for compliance with this Order on the site, including the Environmental Monitor.
- 2.2. During the life of this Order, should any modifications to the wetland delineations be found to be necessary by the HCC, the applicant shall submit a modified plan reflecting these modifications.
- 2.3. The sign required under General Condition #9 of this Order shall not be attached to a live tree.
- 2.4. Any changes proposed under General Condition #13 of this Order might require the applicant to file a Request for a Modification to the Order of Conditions with the Commission.
- 2.5. Prior to commencement of work under this Order of Conditions, the applicant shall submit a recorded copy of the Conservation Easement proposed by him for subdivision lot 1. Final wording of the easement's covenants shall be subject to the approval of a Conservation Department Official.

3. LIMITS OF PROJECT:

- 3.1. All wetland resource areas shall be visibly staked every 25 feet along the resource area boundaries in order to assure that no intrusion into these areas occur.
- 3.2. Flagging and staking used to identify wetland resource areas shall be of a color different from any others used on the site. The existing flagging and required staking shall be maintained until the work is complete.
- 3.3. Refueling of equipment shall not be done within 100' of a wetland resource area. No fuel, oil, or other potential pollutants shall be stored within 100' of a wetland resource area.
- 3.4. Equipment shall not be staged overnight within 100' of a wetland resource area.

- 3.5. The rows of erosion control devices, as shown on the aforementioned plan, shall also act as a limit of site activity.
- 3.6. All vegetation clearing associated with this project shall be subject to the prior review and approval of an HCC official.
- 3.7. In accordance with Haverhill Municipal Ordinance Chapter 253, there shall be no activities allowed within 25' of the delineated wetland resource areas and no building construction within 50' of these same areas except as shown on the approved site plans.
- 3.8. No waste products, grubbed stumps, slash, construction materials, etc. shall be deposited or accumulated within 100' of a wetland resource area. Dumpsters shall be maintained on site for appropriate materials.
- 3.9. No storage of debris, fill, or excavated material or the stockpiling of topsoil shall be conducted within 100' of a wetland resource area unless approved in advance by an HCC Official.

4. EROSION AND SILTATION CONTROLS:

- 4.1. No activity other than the installation of the erosion and siltation control devices shall take place until an HCC official inspects and approves their installation. At a minimum, a row of filter fabric fencing, embedded in the ground six inches and backed by one row of staked haybales placed end to end, shall be placed upgradient of all resource areas. Such rows shall be installed along the limit of activity between all disturbed areas and the wetland. Only incidental clearing and grubbing shall be allowed for their installation. All erosion and siltation controls shall be maintained in a state of good repair until all disturbed areas have been stabilized, or until a determination by the HCC stating that control measures are no longer necessary.
- 4.2. All erosion and siltation control devices shall be offset at least 25' from the delineated wetland resource areas except as shown on the approved site plans. The applicant's engineer, prior to their installation, shall stake out the locations of these devices on the site.
- 4.3. The areas of construction shall remain in a stable condition at the close of each construction day. Erosion controls should be inspected at this time, and maintained or reinforced if necessary.
- 4.4. The Environmental Monitor shall oversee any emergency placement of controls and regular inspection or replacement of erosion and sedimentation control devices. The name and phone number of the Monitor must be provided to the HCC in the event that this person has to be contacted, due to an emergency at the site, during any 24-hour period, including weekends. This person shall be given authority to stop construction for erosion control purposes. The Environmental Monitor will be required to inspect all such devices and oversee cleaning and the proper disposal of waste products. The Monitor shall immediately correct any erosion problems that may occur on the site.
- 4.5. An adequate stockpile of erosion control materials shall be on site at all times for emergency or routine replacement and shall include materials to repair silt fences, hay bales, stone-riprap, filter dikes or any other devices planned for use during construction.

- 4.6. Upon completion of the project all disturbed areas shall be permanently stabilized with rapidly growing cover with sufficient topsoil to assure long term stabilization of disturbed areas.
- 4.7. Erosion control devices may be modified based on experience at the site. Approval of the HCC must be obtained prior to any non-emergency modification of the approved erosion and sediment control measures. All such devices shall be inspected, cleaned, or replaced during construction and shall remain in place until such time as the site is stabilized with vegetative cover.
- 4.8. Subsequent to seeding, disturbed areas are to be covered with hay mulch or jute netting in order to provide a suitable surface cover until seed germination.
- 4.9. During all phases of construction, all disturbed or exposed soil surfaces shall be brought to final finished grade and either a) covered with loam and seeded in accordance with USDA Soil Conservation Services Guidelines for permanent stabilization or b) stabilized in another way approved by the HCC. Bare ground that cannot be permanently stabilized within 30 days shall be stabilized with mulch or any other protective covering and/or method approved by the USDA Soil Conservation Service.
- 4.10. The HCC reserves the right to impose additional conditions on portions of this project to mitigate any impacts which could result from site erosion or any noticeable degradation of surface water quality discharging from the site.
- 4.11. Immediately upon installation of any catch basin, appropriate sediment controls shall be implemented to prevent/restrict construction sediments from entering the drainage system. The applicant shall consult with the Environmental Monitor to determine the appropriate controls that may be necessary at each individual basin.
- 4.12. All dewatering activities shall be controlled by implementing Best Management Practices (BMP's). Dewatered fluids shall be prevented from flowing directly into resource areas. Discharge structures, such as detention basins, retention basins, or other BMP's will be configured to maximize ground infiltration. If discharge towards resource areas cannot be avoided, it shall be via 100 to 200 feet of overland upland sheet flow unless an HCC Official approves an alternative in advance. The Environmental Monitor shall review and approve all dewatering methods prior to implementation.

5. STORMWATER:

- 5.1. All roof runoff from the proposed structures shall be collected and directed to the proposed roof drain drywells to provide groundwater recharge. Each downspout shall be equipped with an overflow pipe for protection during periods of heavy rainfall or basin saturation. The drywells used shall meet the design criteria outlined in the DEP/MCZM Stormwater Technical Handbook.
- 5.2. There shall be a minimum of a 2' separation between the seasonal high groundwater elevation and the bottoms of the proposed drywells.
- 5.3. Prior to the placement of any impervious materials on the site, all affected drainage systems shall be properly installed and functional. During construction, all drainage systems shall be

maintained as outlined in the "Stormwater Management Operation/Maintenance Plan" prepared by Christiansen & Sergi, Inc.

- 5.4. Catch basins shall be fitted with deep sumps and oil/gas traps (with specifications approved by the City Engineer), which shall be maintained and cleaned as outlined in the "Stormwater Management Operation/Maintenance Plan" prepared by Christiansen & Sergi, Inc.
- 5.5. As-built plans of the detention ponds, including piping, forebays and swales, shall be submitted for review and approval to the HCC to define the geometry of each. Such plans shall contain at least 1 cross section, showing all structures details, and be drawn at a scale equal to that of the proposed site plans. The plans shall be accompanied by as-built volumetric calculations (at one-foot increments) with a comparison to design volumetric calculations to show that these systems meet or exceed their design requirements. These plans shall be submitted and receive approval prior to the issuance of building permits for the project.
- 5.6. The riprap aprons proposed at the flared ends of the drainage systems flowing into ponds "D" and "E" shall be a minimum of 21' long, 16' wide, and constructed of 9" minimum diameter stone as proposed by the applicant.

6. CONSTRUCTION SEQUENCING:

- 6.1. This project shall follow this general construction sequencing:
 - a) Install sub-base, culverts, and retaining walls where applicable. Retaining wall details shall be supplied by the applicant and reviewed by the Building Inspector.
 - b) The storm drainage systems shall be constructed and functioning as part of the initial project phase.
 - c) Secure necessary permits to complete associated site grading as shown on the site plans.
 - d) Complete fills and cuts and install remaining utilities. Roadway fills shall be to sub-grade only.
 - e) Complete as-built grading plans showing drainage systems, retaining walls, and other associated improvements. All building demolition materials, stumps, and slash shall be removed from the associated buffer zone areas at this time.
 - g) The as-built grading plan shall be reviewed for approval by the City Engineer and HCC to ensure compliance with this Order and its referenced plans and documents.
 - h) Upon approval of the as-built grading plan, building permits may be issued.
 - i) Complete remaining roadwork, headwalls, riprapping and all associated side slope grading. All side slopes and disturbed areas are then to be loamed, seeded and effectively stabilized by appropriate methods.
 - j) Continuation of any on-site work will be contingent upon the effectiveness of the siltation control and erosion stabilization devices.

7. OTHER CONDITIONS:

- 7.1. Prior to the issuance of occupancy permits for the proposed houses the applicant shall effectively stabilize the site to the approval of the HCC. Also prior to the issuance of occupancy permits for the proposed houses, the roof drain drywells shall be left safely exposed for an inspection by an Official from the City Engineering Department and/or Conservation Department.

- 7.2. If any unforeseen problem occurs during construction, which affects any of the eight statutory interests of the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, upon discovery, the applicant shall notify the HCC and an immediate meeting shall be held between the Commission, the applicant, the engineer, contractor, and other concerned parties to determine the corrective measures to be employed. The applicant shall then act to correct the problems using the corrective measures agreed upon.
- 7.3. Upon completion of the project, the applicant shall request a Certificate of Compliance from the Commission and shall submit the following information with the request:
- a) A written statement by a professional engineer or land surveyor registered in the Commonwealth of Massachusetts certifying compliance with the approved plans referenced above and this Order of Conditions and setting forth deviations, if any exist;
 - b) One set of as-built site plans prepared by a registered land surveyor or registered professional engineer showing grades, utilities, building footprint and landscaping. These plans shall include the date(s) of fieldwork.
 - c) One recorded copy of the legal agreement that establishes the Homeowners Association proposed by the applicant.
- 7.4. Certain conditions are ongoing and do not expire upon the completion of the project or the issuance of a Certificate of Compliance. These conditions shall be recorded as such on the Certificate of Compliance. These conditions are:
- a) The drainage culverts shall be maintained to insure serviceability during operation as designed and as required in the "Stormwater Management Operation/Maintenance Plan" prepared by Christiansen & Sergi, Inc. In addition to the monitoring requirements of the OMP incorporated therein, the applicant's and/or property owner's professional engineer on a monthly basis shall inspect the Stormceptor System for its first 12 months of post-construction usage. At the end of this first year, the engineer shall report to the Commission his findings regarding maintenance frequency needs so that the OMP may be properly amended.
 - b) The maintenance or repair of the drainage systems shall be the responsibility of the applicant, Homeowners Association, and/or City of Haverhill as outlined in the "Stormwater Management Operation/Maintenance Plan" prepared by Christiansen & Sergi, Inc. The design capacity and structural integrity of these facilities must be maintained as required in this document.
 - c) Condition #1 of the Stormwater section of this Order pertaining to roof runoff recharge shall continue in perpetuity.
 - d) The "Stormwater Management Operation/Maintenance Plan" prepared by Christiansen & Sergi, Inc., dated revised May 24, 2001 and referenced in condition #1 of the General Construction section of this Order, shall be recorded with the Certificate of Compliance issued for this project.
 - e) Pesticides, herbicides, and fungicides shall not be used within 100' of any wetland resource area or within any Riverfront Area for the purpose of lawn maintenance.
 - f) Fertilizers utilized for landscaping and lawn care in the 100' Buffer Zone shall be slow-release, low-nitrogen types and shall not be used within 30' of any wetland resource area.