

Return Box 11
R. HANES ES9

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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 Ottaviano
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

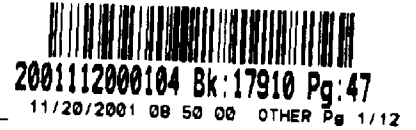




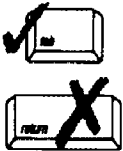
Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

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:

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B. Findings

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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
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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.



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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.

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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.

