



RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

235 Promenade Street, Providence, RI 02908-5767

TDD 401-222-4462

January 5, 2010

CERTIFIED MAIL

Berkeley Realty Company
Thomas E. McNulty, V.P.
573 Mendon Road, Suite #1
Cumberland, RI 02864

Re: Application No. 07-0049 in reference to the location below:

Approximately 35 feet northwest of Sunset Avenue, by utility pole no. 3, approximately 80 feet northwest of the intersection of Stoney Brook Court and Sunset Avenue, Assessor's Plat 15, Lots 7 and 8, Cumberland, Rhode Island.

"Appendix A"

PERMIT TO ALTER FRESHWATER WETLANDS

Dear Mr. McNulty:

The Department of Environmental Management's ("DEM") Freshwater Wetlands Program ("Program") has reevaluated your Application to Alter a Freshwater Wetland regarding the project proposed at the above referenced property ("subject property"/"site"). This reevaluation is in response to settlement negotiations involving the original decision issued by this Office on September 24, 2008 for Application No. 07-0049 and has been accomplished in accordance with Rule 9.06 of the Rules and Regulations Governing the Administration and Enforcement of the Freshwater Wetlands Act ("Rules"). That decision was contested by you in your appeal to the DEM Administrative Adjudication Division for Environmental Matters ("AAD"). As a result of your appeal, settlement negotiations were entered to seek resolution of the contested issues and a Consent Agreement has been entered between you and the DEM. This Consent Agreement was executed by you on December 17, 2009 and is enclosed herein as a matter of record.

As a result of settlement negotiations, the Program has reviewed and evaluated a revised project proposed by you and as described by revised site plans received by the Program on October 21, 2009. The revised site plans are noted as Appendix B in the above mentioned Consent Agreement. The Program has determined that the revised project does not represent a random, unnecessary, or undesirable alteration of freshwater wetlands. Therefore, the Program, in response to our reevaluation and the fully executed Consent Agreement, hereby issues this Permit to Alter Freshwater Wetlands, subject to all controlling Rules and the Terms and Conditions set forth herein.



Permit Terms and Conditions for Application No. 07-0049:

1. This letter is the DEM's permit for the project associated with Application No. 07-0049 (the "project") under the R.I. Fresh Water Wetlands Act, Rhode Island General Laws (RIGL) § 2-1-18 et seq.
2. This permit is specifically limited to the project, site alterations and limits of disturbance as detailed on the site plan submitted with your application and received by the DEM on October 21, 2009. A copy of the site plan and Permit Detail stamped approved by the DEM are enclosed. Changes or revisions to the project that would alter freshwater wetlands are not authorized without a permit from the DEM.
3. Where the terms and conditions of the permit conflict with the approved site plan or Permit Detail, these terms and conditions shall be deemed to supersede the site plan.
4. You must notify this Program in writing immediately prior to the commencement of site alterations and upon completion of the project.
5. A copy of the stamped approved site plans, Permit Detail, and a copy of this permit must be kept at the site at all times during site preparation, construction, and final stabilization. Copies of this permit and the stamped approved plans and cross-section detail must be made available for review by any DEM representative upon request.
6. Within ten (10) days of the receipt of this permit, you must record this permit in the land evidence records of the Town of Cumberland, and supply this Program with written documentation obtained from the Towns showing this permit was recorded.
7. The effective date of this permit is the date this letter was issued. **Be advised this permit expires one (1) year from the effective date unless renewed pursuant to Rule 9.07 of the Rules.**
8. Any material utilized in this project must be clean and free of matter which could pollute any freshwater wetland.
9. Prior to commencement of site alterations, you shall erect or post a sign resistant to the weather and at least twelve (12) inches wide and eighteen (18) inches long, which boldly identifies the initials "DEM" and the application number of this permit. This sign must be maintained at the site in a conspicuous location until such time that the project is complete or the DEM issues a Notice of Completion of Work for the project.
10. Temporary erosion and sediment controls detailed or described on the approved site plans shall be properly installed at the site prior to or commensurate with site alterations. Such controls shall be properly maintained, replaced, supplemented, or modified as necessary throughout the life of this project to minimize soil erosion and to prevent sediment from being deposited in any wetlands not subject to disturbance under this permit.

11. Upon permanent stabilization of all disturbed soils, temporary erosion and/or sediment controls consisting of staked hay bales or silt fence must be removed.
12. All plantings of shrubs, trees or other forms of vegetation as shown or detailed on the approved plans, or detailed in this permit, must be installed as soon as possible after completion of final grading; weather and season permitting. Any plantings which fail to survive one full growing season shall be replaced. Replacement plantings shall be similarly guaranteed for one full growing season. **You must notify this Program in writing upon completion of the required plantings for a compliance inspection by a Program representative.**
13. Buffer zone plantings of trees and/or shrubs proposed between the project and any adjacent freshwater wetland areas, except for necessary replacement, must be allowed to develop naturally without being subjected to mowing or manicuring.

This permit is valid for the applicant and is automatically transferred upon the sale of the property to the new owner in accordance with Rule 11.04.

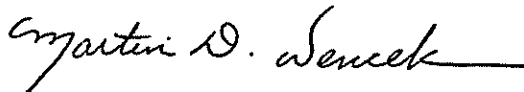
You are required to comply with the terms and conditions of this permit and to carry out this project in compliance with the Rules at all times. Failure to do so may result in an enforcement action against you by the DEM.

In permitting the proposed alterations, the DEM assumes no responsibility for damages resulting from faulty design or construction.

This permit does not remove your obligation to obtain any local, state, or federal approvals or permits required by ordinance or law and does not relieve you from any duties owed to adjacent landowners with specific reference to any changes in drainage.

If you have any questions regarding this matter, you may contact me or Daniel Kowal of my staff at this Office (telephone: 401-222-6820).

Sincerely,



Martin D. Wenczek, Permitting Supervisor
Office of Water Resources/Permitting Section
Freshwater Wetlands Program

MDW/mdw

Enclosures: Approved Site Plans (Appendix B)
Consent Agreement

Application No. 07-0049

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xc: David Kerins, Chief, Administrative Adjudication Division
Marisa Desautel, Legal Counsel, DEM
Mary B. Shekarchi, Legal Counsel, Applicant
Mark Favreau, Cumberland Building Official
Steven Thompson, John P. Caito Corp., Inc.
George H. Gifford, The Gifford Design Group, Inc.