



RHODE ISLAND  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

235 Promenade Street, Providence, RI 02908-5767

TDD 401-222-4462

**CERTIFIED MAIL**

July 25, 2008

Phenix Commons, LLC  
Dan Rocco Baldelli, Manager  
100 Bernon Street  
Woonsocket, RI 02895

**PERMIT TO ALTER FRESHWATER WETLANDS**

**RE:** Application No. 07-0256 in reference to the property and proposed project located:

Approximately 100 feet south of Main Street and approximately 220 feet east-southeast of its intersection with Fairview Avenue, Assessor's Plat 2, Lot 25, West Warwick, RI.

Dear Mr. Baldelli:

The Department of Environmental Management's ("DEM") Freshwater Wetlands Program ("Program") has completed its review of your **Application to Alter a Freshwater Wetland** regarding the proposed filling of the existing raceway, retaining wall installation and repairs, canoe portage access and walkway, grading and landscaping at the above referenced property ("subject property"/"site"). The proposed project is as described and detailed in the material and information submitted in support of your application and on site plans received by the DEM on April 9, 2008.

These site plans describing the project were made available for public comment as part of the forty-five (45) day public notice period required in accordance with the Freshwater Wetlands Act (R.I. General Laws (R.I.G.L.) Section 2-1-18 *et seq.*) and the procedures set forth in Rule 9.05 of the Rules and Regulations Governing the Administration and Enforcement of the Freshwater Wetlands Act (Rules).

This Program received one letter relating to your application, which was submitted during the public notice period. This Program reviewed this letter. The Program has determined that the comments contained within this letter do not constitute an objection of a substantive nature as defined in Rule 5.53. Therefore, a public hearing pursuant to R.I.G.L. Section 2-1-22 is not required.

Pursuant to the Program's review and evaluation of your application including all supporting information and material, as well as the record to date, the Program has determined that this project does not represent a random, unnecessary or undesirable alteration of freshwater wetlands. Therefore, this Program 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. 07-0256:

1. This letter is the DEM's permit for this project under the R.I. Fresh Water Wetlands Act, Rhode Island General Laws (RIGL) Section 2-1-18 *et seq.*

2. This permit is specifically limited only to the project, site alterations and limits of disturbance as detailed on the site plans submitted with your application and received by the DEM on April 9, 2008. A copy of the site plans stamped approved by the DEM is enclosed. Changes or revisions to the project, which 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 plans, these terms and conditions shall be deemed to supersede the site plans.
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 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 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 West Warwick and supply this Program with written documentation obtained from the Town showing this permit was recorded.
7. The effective date of this permit is the date this letter was issued. This permit expires one (1) year from the effective date unless renewed pursuant to 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 and 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 silt fence must be removed.
12. You are obligated to install, utilize and follow all best management practices detailed or described on the approved site plans in the construction of the project to minimize or prevent adverse impacts to any adjacent freshwater wetlands and the functions and values provided by such wetlands.
13. All construction activities involving soil disturbances within watercourse must be limited to the low flow period (i.e., the period from July 1 to October 31 of any calendar year), at least until water flow is permanently stopped within the raceway. Soil disturbance in these watercourses must never occur in the event of an abnormally high streamwater runoff event during the low flow period.

14. 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.
15. 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.
16. The applicant should properly document the existing raceway through survey and photographs prior to filling activities for historical preservation purposes, in accordance with correspondence from the Rhode Island Historical Preservation and Heritage Commission.
17. All proposed grading must be properly completed and suitably stabilized so as to not interfere with the proper function of the existing adjacent water quality basin associated with the existing parking area.

Pursuant to the provisions in Rule 7.09 and Rule 11.04 of the current Rules, as applicable, any properly recorded and valid permit is automatically transferred to the new owner upon sale of the property.

**This Permit also constitutes your authorization from the U.S. Army Corps of Engineers ("Corps") under Section 404 of the Clean Water Act for the work proposed. Your project qualifies as a Category 2 activity under the Rhode Island Programmatic General Permit (General Permit No. NAE-2006-2711). You are, therefore, not required to file a separate application with the Corps.**

Please note that the General Conditions within the enclosed RI Programmatic General Permit apply to all activities authorized under the RI PGP. Please review them carefully to thoroughly familiarize yourself with their contents. You may wish to discuss all permit conditions with your contractor to ensure that the work can be accomplished in a manner that conforms to all requirements.

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 by this Department and/or subject you to the enforcement provisions of the Corps' regulations.

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 and/or subject you to the enforcement provisions of the Corps' regulations.

In permitting the proposed alterations, the Program 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 are aggrieved by this decision, you may, within ten (10) days of the receipt of this letter, request an adjudicatory hearing in writing. This request must be sent directly to the DEM Administrative Adjudication Division ("AAD"), 235 Promenade Street, Providence, RI 02908. A copy of the request must also be forwarded to this Program at the same address. Your written request for an adjudicatory hearing must be timely filed and should conform to the requirements of Rule 7.00(b) of the "Administrative Rules of Practice and Procedure for the Department of Environmental Management Administrative Adjudication Division for Environmental Matters", (AAD Rules).

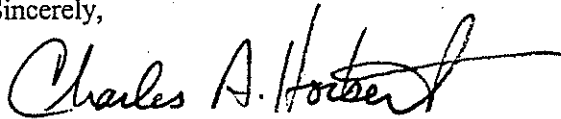
AAD Rule 7.00(b) provides:

"The request for hearing shall state clearly and concisely the specific issues which are in dispute and the facts in support thereof, the relief sought if any, the license or permit sought or involved and any additional information required by applicable statutes and regulations."

The written request must be accompanied by an adjudicatory hearing fee of two thousand dollars (\$2,000.00); in the form of a certified bank check or money order made payable to the Rhode Island General Treasurer; however, in the event that the cost of the hearing exceeds the fee paid, the Program through the AAD will require an additional fee which the applicant must submit prior to the DEM's issuance of any final decision regarding this application. The adjudicatory hearing will be held before a Hearing Officer from the AAD. Such hearing will be held in compliance with the AAD Rules, Chapter 42-35-1 et seq. of the R.I.G.L., and other governing laws, rules, and regulations adopted by the DEM. Please note that you have the right to be represented by legal counsel in any proceeding that may be held in this matter.

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

Sincerely,



Charles A. Horbert, Permitting Supervisor  
Freshwater Wetlands Program  
Office of Water Resources  
CAH/NLF/nlf

Enclosure: Approved Site Plans

xc: David Kerins, Esq., Act'g Chief, Administrative Adjudication Division  
Russell Chateaufneuf, P.E., Chief of Groundwater & Wetlands Protection  
Neal Personeus, DEM Water Quality Certification Program  
Mary Kay, Act'g Chief Legal Counsel, DEM Office of Legal Services  
Michael Elliott, U.S. Army Corps of Engineers, New England Division  
Edward F. Sanderson, Rhode Island Historical Preservation & Heritage Commission  
Robert Malavich, West Warwick Town Planner  
Stephen Murray, West Warwick Building Official  
Brian P. Thalmann, P.E., Thalmann Engineering Co., Inc.