



RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

235 Promenade Street, Providence, RI 02908-5767

TDD 401-222-4462

CERTIFIED MAIL

June 28, 2011

Westbay Partnership, LLC
c/o Ann Marie DaSilva, Member
PO Box 610
East Greenwich, RI 02818

"Appendix A"

PERMIT TO ALTER FRESHWATER WETLANDS

Re: Application No. 08-0387 in reference to the property and proposed project located:

Approximately 500 feet west of South County Trail (RI Route 2) and approximately 1000 feet southwest of its intersection with Division Street near Utility Pole No. 21 and 24, Assessor's Plat 12A, Lot 97, East Greenwich, RI.

Dear Ms. DaSilva:

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 December 17, 2010 for Application No. 08-0387 and has been accomplished in accordance with Rule 10.10 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 into to seek resolution of the contested issues and a Consent Agreement has been executed between you and the DEM. This Consent Agreement was executed on June 20, 2011 and was returned to you. A copy 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 May 2, 2011. 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 evaluation 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. 08-0387:

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 to the project, site alterations and limits of disturbance as detailed on the most recently revised site plans received by the DEM on May 2, 2011. 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 or Town 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 East Greenwich 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. Pursuant to R.I. Gen. Laws § 42-17.1- 2.5 this permit is subject to tolling and shall be valid until July 1, 2012 unless renewed pursuant to the Rules.
8. Any material utilized in this project must be clean and free of matter that 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 silt fence must be removed.
12. You are responsible for the proper installation, operation, maintenance and stability of any mitigative features, stormwater treatment facilities, and systems of treatment and control which are installed or used in compliance with this permit to prevent harm to adjacent wetlands until such time that you document that this responsibility has been assumed by another person or organization.

13. 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.
14. All construction activities involving soil disturbances within freshwater wetlands must be temporarily cease in the event of any abnormally high stormwater runoff event.
15. 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.
16. 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.
17. Artificial lighting along the roadway where it crosses freshwater wetlands is not authorized in this permit.
18. Artificial lighting installed in adjacent upland areas must be directed away from all vegetated wetland areas. Where this is not possible, the use of deflectors to concentrate lighting away from vegetated wetlands must be employed.
19. You must provide written certification from a registered land surveyor or registered professional engineer that the stormwater drainage system including any and all basins, piping systems, catch basins, culverts, swales and any other stormwater management control features have been constructed/installed in accordance with the site plans approved by this permit. This written certification must be submitted to this Program within twenty (20) days of its request or upon completion of the project.

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

Kindly be advised that this permit is not equivalent to a determination of the type or extent of freshwater wetlands on the subject property. Should you wish to obtain such verification, you may submit an application in accordance with the Rules.

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 1 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 all General Conditions in the RI PGP 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, which conforms to all requirements.

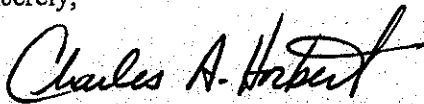
You are required to comply with the terms and conditions of this permit and to carry out this project in compliance with the Rules at all times. Failure to do so may result in an enforcement action against you by the DEM and/or subject you to the enforcement provisions of the Corps' regulations.

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.

You are reminded that pursuant to Rule 7.11(I)(3), in order to receive any reimbursement of the adjudicatory hearing fee you submitted with your appeal of the original decision you must submit a written request to DEM's Administrative Adjudication Division ("AAD") within 30 days of this decision.

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
Office of Water Resources
Freshwater Wetlands Program

Enclosure: Approved Site Plans
 Consent Agreement (copy)
 RI Programmatic General Permit

xc: Bonnie Stewart, Administrative Adjudication Division
 Russell Chateauf, Chief of Groundwater & Wetlands Protection
 Harold K. Ellis, Enforcement Supervisor, Office of Compliance & Inspection
 Mary Kay, Acting Executive Counsel, DEM Office of Legal Services
 Joseph LoBianco, Esq., DEM Office of Legal Services
 Michael Elliot, U.S. Army Corps of Engineers, New England District
 Michael A. Kelly, Esq.
 Wayne R. Pimental, East Greenwich Building Official
 Lisa Bourbonnaise, East Greenwich Town Planner
 Scott P. Rabideau, Natural Resource Services, Inc.
 Leonard R. Bradley, Jr., P.E., DiPrete Engineering