

DEQE File No. 51-85
(To be provided by DEQE)Commonwealth
of MassachusettsCity/Town NewburyportApplicant: Francis Vitale

**Order of Conditions
Massachusetts Wetlands Protection Act
G.L. c. 131, §40**

From Newburyport Conservation CommissionTo Francis Vitale Ribot Realty Trust
(Name of Applicant) (Name of property owner)Address 7 Winter Street, Beverly, Ma. Address 54 Corning Street, Beverly, Ma.

This Order is issued and delivered as follows:

- ☐ by hand delivery to applicant or representative on March 28, 1986 (date)
- ☐ by certified mail, return receipt requested on _____ (date)

This project is located at 63 Ferry Road, NewburyportThe property is recorded at the Registry of EssexBook 5625 Page 226

Certificate (if registered) _____

The Notice of Intent for this project was filed on September 13, 1985 (date)The public hearing was closed on March 25, 1986 (date)**Findings**

The Newburyport Conservation Commission has reviewed the above-referenced Notice of Intent and plans and has held a public hearing on the project. Based on the information available to the Newburyport Conservation Commission at this time, the Conservation Commission has determined that the area on which the proposed work is to be done is significant to the following interests in accordance with the Presumptions of Significance set forth in the regulations for each Area Subject to Protection Under the Act (check as appropriate):

- | | |
|---|---|
| <input checked="" type="checkbox"/> Public water supply | <input checked="" type="checkbox"/> Storm damage prevention |
| <input type="checkbox"/> Private water supply | <input checked="" type="checkbox"/> Prevention of pollution |
| <input checked="" type="checkbox"/> Ground water supply | <input type="checkbox"/> Land containing shellfish |
| <input checked="" type="checkbox"/> Flood control | <input type="checkbox"/> Fisheries |

1986 APR -3 A 9 21 # 045

Newburyport

Therefore, the Conservation Commission hereby finds that the following conditions are necessary, in accordance with the Performance Standards set forth in the regulations, to protect those interests checked above. The _____ orders that all work shall be performed in accordance with said 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.

General Conditions

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. This 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, by-laws or regulations.
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 and both that date and the special circumstances warranting the extended time period are set forth 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, containing 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. No work shall be undertaken until all administrative appeal periods from this Order have elapsed or, if such an appeal has been filed, until all proceedings before the Department have been completed.
8. No work shall be undertaken until the Final Order 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 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 to be done. The recording information shall be submitted to the Conservation Commission on the form at the end of this Order prior to commencement of the 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 Quality Engineering, File Number 51-85".
10. Where the Department of Environmental Quality Engineering is requested to make a determination and to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before the Department.
11. Upon completion of the work described herein, the applicant shall forthwith request in writing that a Certificate of Compliance be issued stating that the work has been satisfactorily completed.
12. The work shall conform to the following plans and special conditions:

Plans:

Title

Dated

Signed and Stamped by:

On File with:

Special Conditions (Use additional paper if necessary)

13. That any change made or intended to be made in the plans shall require the applicant to file a new Notice of Intent or to inquire of the Commission in writing whether the change is substantial enough to require a new filing.
14. That members and their agents of the Newburyport Conservation Commission shall have the right to enter and inspect the premises to evaluate compliance with the Order of Conditions and to require the submittal of any data deemed necessary by the Commission for that evaluation.
15. That this Order of Conditions shall apply to any successor in interest or successor in control.

(Leave Space Blank)

The following restrictions on pesticide - fertilizer shall be adhered to:

1. Avoid herbicides like dicamba and 2,4-D because of the existing low organic sandy soils and relatively high mobility of these substances.
2. Avoid fungicides containing mercury, cadmium (such as calomel or cadminate) or PCNB (Penta-chloronitrobenzene) which have long term persistence in the environment.
3. Avoid Proxol which has low adsorption and high water solubility.
4. Avoid highly toxic pesticides which can be identified by the word "Danger".
5. Avoid fertilizers that have a synthetic inorganic carrier (like urea or ammonium nitrate).
6. Avoid pesticides application prior to heavy rainfall.
7. Avoid pesticides and fertilizer application during periods of non growth.
8. Avoid soil fumigation.

Any change in designated pesticide applicator shall be submitted to the Newburyport Conservation Commission.

Present applicator is Consolidated Ecology Services, Inc. 1186

RECOMMENDED CONDITIONS OF
SITE DEVELOPMENT

- 1) All areas where pesticides, insecticides, fertilizer and herbicides are to be used shall be lined with an impervious clay type liner, a one (1) foot depth of highly organic loam, or shall be at least four (4) feet above maximum groundwater. Maximum groundwater to be determined for the seasonal high groundwater period.
- 2) All areas within the proposed golf course within the potential recharge area of the City Well No. 2 shall be overlaid with sufficient depth of organic loam and top soil to support adequate vegetation to uptake or adsorb the application of pesticides, insecticides, fertilizer and herbicides. A minimum depth of 12-inches is recommended.
- 3) All areas within the potential recharge area of Well No. 2 shall be sloped to drain away from the Well and into the lined retention pond areas. A minimum one (1%) percent slope shall be provided and a more desirable two (2%) percent slope shall be provided wherever possible.
- 4) All retention pond areas shall be made impervious by use of a clay liner or other impervious material. Total retention of the lined pond areas shall be provided for a ten (10) year storm interval. Total retention area within both lined and unlined ponds shall be provided for a twenty-five (25) year storm capacity. These ponds shall be used as monitoring and control systems to maintain acceptable water quality.
- 5) Pond retention areas shall be designed and detail construction drawings shall be submitted for review and approval. (Subdivision plans indicate depth of pond to elevation 48.0 while golf course plan shows pond at elevation 52.0.)
- 6) All drainage calculations shall be submitted to demonstrate the adequacy of the proposed ponds to hold and maintain the design storm frequency.

- 7) All greens, fairways and tees shall be surrounded with a buffer zone of specially selected vegetation and density to decrease the penetration of pesticides and fertilizers. No chemical treatment shall be provided in these areas.
- 8) The location of the pesticide, fertilizer, insecticide and herbicide storage and mixing areas shall be as remote as possible from Well No. 2. Full safety control and spill prevention shall be included in the design of this facility to insure against possible contamination of the groundwater.
- 9) Rinsate from the chemical storage and container areas shall not be disposed of on site. Off site location shall be established for this disposal.
- 10) A certified superintendent shall be responsible for handling and applying all fertilizers, insecticides, pesticides and herbicides. This licensed person must maintain the necessary license renewal and conform to state and federal regulations applicable to this purpose.
- 11) Monitoring wells shall be installed and maintained to evaluate groundwater quality within the recharge area of Well No. 2. At least three (3) wells shall be installed, and if necessary, a fourth (4) well in the vicinity of the chemical storage area shall be provided. The following sampling schedule shall be followed:

Initial sampling - first
year of operation one/3 months

First five (5) years of
operation after first year. one/6 months

Continuous sampling if no
evidence of contamination
exists one/year

All samples shall be taken in conjunction with the City of Newburyport and analyzed at a certified laboratory at the Owner's expense.

- 12) The Owner will take all necessary steps to preserve and protect the quality of groundwater and potability of water that flows from the site toward the City's Municipal Well.
- 13) All catch basins within the proposed subdivision and any other on site catch basins shall be provided with standard gas and oil separators to prevent overflow of oil, grease and gasoline into the retention ponds.
- 14) All catch basins shall be provided with oversized sumps, four (4) feet depth, to collect sand and salt from the street drainage.
- 15) The Owner/Developer shall maintain by cleaning twice per year, spring and fall, each catch basin and properly dispose of its contents off site.
- 16) All building lots within the subdivision will be adequately serviced by wastewater collection and transfer to the City sewer system. Fail safe operation and standby power for electrical equipment shall be provided to prevent accidental disposal of sewerage within the project area.
- 17) Continuous monitoring of existing wells shall be provided with data supplied to the City and used to refine golf course design as determined to be necessary and desirable.
- 18) A minimum of two (2) feet above the maximum groundwater level shall be maintained for areas of fertilizer, insecticide, pesticide and herbicide application, with a minimum one (1) foot depth of organic loam, clay and topsoil.
- 19) The City of Newburyport shall be informed of all pesticides purchased by type and quantity. Any change in the type and quality of material used shall be noted.
- 20) Grading of all subdivision lots shall be away from the well and directed by the proposed drainage system to the retention pond as designed.
- 21) Adequate design, installation and maintenance of the drainage retention ponds shall be provided by the Owner.

22) Turf maintenance program to reduce potential groundwater contamination (As suggested by Swier and Roberts.)

- a) All pesticides should be selected with short persistence in soil after application.
- b) Insecticides such as Dursban and Oftand, or other low solubility strongly adsorbed products should be used.
- c) Fertilizer should be applied in more frequent, lighter amounts to maximize fertilizer efficiency (fertilizer rate should not exceed 0.5 lbs of nitrogen per 1000 feet, not less than every fourteen (14) days).
- d) Use low maintenance fertilizer and pesticide program

<u>Location</u> <u>Lbs.</u>	<u>Fertilizer</u> <u>Lb. a.i.</u>	<u>Insecticide</u> <u>Lb. a.i.</u>	<u>Fungicide</u> <u>Lb. a.i.</u>	<u>Herbicide</u> <u>Lb. a.i.</u>
Greens-aprons	180	0.3	24.6	4.9
Tees	90	0.1	none	none
Fairways	1,741	6.8	none	none
Total	2,001	7.2	24.6	4.9

Based on 871,000 S.F. - Fairway

22,000 S.F. - Green

35,000 S.F. - Apron

- e) Insecticides - Greens and aprons will need to be sprayed twice per year using Dursban EC (liquid) at a rate of 1.5 oz. active ingredient (a.i.) per 1000 ft. Tees do not have to be sprayed if some damage is accepted. For grub control, fairway will need to be sprayed. Use Oftanol 2E (22% a.i.) at .7 oz. a.i./1000 sq. ft.² on half the fairways, once every three (3) years.

- f) **Herbicides** - For grassy weed control on greens-aprons only, use Betasan at 10 lbs. a.i./ac every other year.
 - g) **Fungicides** - For green-aprons only, use Tersan SP WP (65% a.i.) at 5.2 oz. a.i./1000 ft.² and Daconil 2787 WP (75% a.i.) at 6 oz. a.i./1000 ft.².
 - h) **Fertilizers** - Use fertilizer formulations containing a d/1/2 (N, P₂O₅, K₂O formulation) applied at 3, 2 and 1 lb. (a) actual nitrogen/1000 ft.² annually to the greens, apron, tees and fairways respectively.
- 23. Approximately 2.4 acres of compensatory wetlands shall be provided to compensate for the alteration of 1.8 acres of existing wetland.
 - 24. No activity shall occur on the development of the housing lots pending substantial (90%) completion of the golf course.
 - 25. All slopes shall be graded to a maximum 3 to 1 slope, except that the slope by the St. Mary's Cemetery shall be stepped down, only 200 feet.
 - 26. Retention Basin #II shall be constructed with an impervious liner.

Issued By NEWINGTON Cons. Comm.

Conservation Commission

Signature(s)

Frederick Tall 4/1/86 Thomas D. Dwyer 4-2-86
Raymond M. Auger 4/31
Howard J. Day 4/31
John W. Buzza 4/31

This Order must be signed by a majority of the Conservation Commission.

On this 1st day of April, 19 86, before me
 personally appeared the above named to me known to be the
 person described in and who executed the foregoing instrument and acknowledged that he/she executed
 the same for the free act and deed.

Paul H. Kendrick
 Notary Public

Aug. 28, 1988
 My commission expires

Notwithstanding to whom any person aggrieved by this Order, any owner of land abutting the land upon which the proposed work is to be done, or any residents of the city or town in which such land is located are hereby notified of their right to request the Department of Environmental Quality Engineering to issue a Superceding Order, providing the request is made by certified mail or hand delivery to the Department within ten 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 the applicant.