



TOWN OF WEST TISBURY
Order of Conditions
The West Tisbury Wetlands Protection Bylaw and Regulations

PROVIDED BY WTCC
WTCC 2016-01
WTCC File#
WEST TISBURY
City/Town

A. General Information

1. From: WEST TISBURY
Conservation Commission

2. This issuance is for (check one):
a. Order of Conditions b. Amended Order of Conditions

3. To: Applicant:

MICHAEL SMITH
a. First Name b. Last Name
C/o Vineyard Land Surveying & Engineering, Inc.
c. Organization
P.O. Box 421
d. Mailing Address
West Tisbury MA 02575
e. City/Town f. State g. Zip Code

4. Property Owner (if different from applicant):

SAME AS ABOVE
a. First Name b. Last Name

c. Organization

d. Mailing Address

e. City/Town f. State g. Zip Code

5. Project Location:

52 Longview Road West Tisbury
a. Street Address b. City/Town
7 69
c. Assessors Map/Plat Number d. Parcel/Lot Number

Latitude and Longitude, if known: d m s d m s
d. Latitude e. Longitude



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A. General Information (cont.)

6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):

Dukes

a. County

672

c. Book

b. Certificate Number (if registered land)

769

d. Page

7. Dates:
- | | | |
|--------------------------------|-------------------------------|---------------------|
| <u>April 4, 2016</u> | <u>May 10, 2016</u> | <u>May 27, 2016</u> |
| a. Date Notice of Intent Filed | b. Date Public Hearing Closed | c. Date of Issuance |

8. Final Approved Plans and Other Documents (attach additional plan or document references as needed):

Proposed Septic System on Land in West Tisbury, Mass.

a. Plan Title

Vineyard Land Surveying & Engineering

b. Prepared By

5/24/16

d. Final Revision Date

unsigned, not stamped

c. Signed and Stamped by

1"=20'

e. Scale

f. Additional Plan or Document Title

g. Date

B. Findings

1. Findings pursuant to the West Tisbury Wetlands Protection Bylaw and Regulations (Bylaw Protection Bylaw:

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 Bylaw.

Check all that apply:

- | | | |
|---|---|---|
| a. <input type="checkbox"/> Public Water Supply | b. <input type="checkbox"/> Land Containing Shellfish | c. <input checked="" type="checkbox"/> Prevention of Pollution |
| d. <input checked="" type="checkbox"/> Private Water Supply | e. <input type="checkbox"/> Fisheries | f. <input checked="" type="checkbox"/> Protection of Wildlife Habitat |
| g. <input checked="" type="checkbox"/> Groundwater Supply | h. <input type="checkbox"/> Storm Damage Prevention | i. <input type="checkbox"/> Flood Control |

2. This Commission hereby finds the project, as proposed, is: (check one of the following boxes)

Approved subject to:

- a. the following conditions which are necessary in accordance with the performance standards set forth in the wetlands regulations. 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.



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B. Findings (cont.)

Denied because:

- b. the proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations. 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 the interests of the Bylaw, and a final Order of Conditions is issued. **A description of the performance standards which the proposed work cannot meet is attached to this Order.**
- c. 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 West Tisbury Wetlands Protection Bylaw. 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 Bylaw'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.**
- 3. Buffer Zone : Shortest distance between limit of project disturbance and the wetland resource area specified in Section IV. 33
a. linear feet

Inland Resource Area: Check all that apply below. (For Approvals Only)

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input type="checkbox"/> Bank	a. linear feet	b. linear feet	c. linear feet	d. linear feet
5. <input type="checkbox"/> Bordering Vegetated Wetland	a. square feet	b. square feet	c. square feet	d. square feet
6. <input type="checkbox"/> Land Under Waterbodies and Waterways	a. square feet e. c/y dredged	b. square feet f. c/y dredged	c. square feet	d. square feet
7. <input type="checkbox"/> Bordering Land Subject to Flooding	a. square feet	b. square feet	c. square feet	d. square feet
Cubic Feet Flood Storage	e. cubic feet	f. cubic feet	g. cubic feet	h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding	a. square feet	b. square feet		
Cubic Feet Flood Storage	c. cubic feet	d. cubic feet	e. cubic feet	f. cubic feet
9. <input type="checkbox"/> Riverfront Area	a. total sq. feet	b. total sq. feet		
Sq ft within 100 ft	c. square feet	d. square feet	e. square feet	f. square feet
Sq ft between 100-200 ft	g. square feet	h. square feet	i. square feet	j. square feet



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B. Findings (cont.)

Coastal Resource Area Check all that apply below. (For Approvals Only)

- | | Proposed Alteration | Permitted Alteration | Proposed Replacement | Permitted Replacement |
|--|---|----------------------|----------------------|-----------------------|
| 10. <input type="checkbox"/> Designated Port Areas | Indicate size under Land Under the Ocean, below | | | |
| 11. <input type="checkbox"/> Land Under the Ocean | _____ | _____ | | |
| | a. square feet | b. square feet | | |
| | _____ | _____ | | |
| | c. c/y dredged | d. c/y dredged | | |
| 12. <input type="checkbox"/> Barrier Beaches | Indicate size under Coastal Beaches and/or Coastal Dunes below | | | |
| 13. <input type="checkbox"/> Coastal Beaches | _____ | _____ | _____ cu yd | _____ cu yd |
| | a. square feet | b. square feet | c. nourishment | d. nourishment |
| 14. <input type="checkbox"/> Coastal Dunes | _____ | _____ | _____ cu yd | _____ cu yd |
| | a. square feet | b. square feet | c. nourishment | d. nourishment |
| 15. <input type="checkbox"/> Coastal Banks | _____ | _____ | | |
| | a. linear feet | b. linear feet | | |
| 16. <input type="checkbox"/> Rocky Intertidal Shores | _____ | _____ | | |
| | a. square feet | b. square feet | | |
| 17. <input type="checkbox"/> Salt Marshes | _____ | _____ | _____ | _____ |
| | a. square feet | b. square feet | c. square feet | d. square feet |
| 18. <input type="checkbox"/> Land Under Salt Ponds | _____ | _____ | | |
| | a. square feet | b. square feet | | |
| | _____ | _____ | | |
| | c. c/y dredged | d. c/y dredged | | |
| 19. <input type="checkbox"/> Land Containing Shellfish | _____ | _____ | _____ | _____ |
| | a. square feet | b. square feet | c. square feet | d. square feet |
| 20. <input type="checkbox"/> Fish Runs | Indicate size under Coastal Banks, Inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above | | | |
| | _____ | _____ | | |
| | a. c/y dredged | b. c/y dredged | | |
| 21. <input type="checkbox"/> Land Subject to Coastal Storm Flowage | _____ | _____ | | |
| | a. square feet | b. square feet | | |



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B. Findings (cont.)

* #22. If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.5.c (BVW) or B.17.c (Salt Marsh) above, please enter the additional amount here.

- 22. Restoration/Enhancement *:

a. square feet of BVW	b. square feet of salt marsh
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- 23. Stream Crossing(s):

a. number of new stream crossings	b. number of replacement stream crossings
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C. General Conditions Under the West Tisbury Wetlands Protection Bylaw and Regulations

The following conditions are 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.
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 Bylaw; 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. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not extend the issuance date of the original Final Order of Conditions and the Order will expire on _____ unless extended in writing by the Conservation Commission.
7. 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.
8. 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 Conservation Commission have been completed.



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C. General Conditions Under the Bylaw (cont.)

9. 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 the 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.
10. 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,

West Tisbury Conservation Commission [or WTCC]
 "File Number WTCC 2016-001 "
11. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (BYLAW 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 #13 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 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 for that evaluation.
15. 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.
16. 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.



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D. Findings Under Municipal Wetlands Bylaw or Ordinance

The West Tisbury Conservation Commission hereby finds that (check on that applies):

1 a. that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw, specifically:

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.

2. Citation

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.

b. that the following additional conditions are necessary to comply with a municipal ordinance or bylaw:

WEST TISBURY WETLANDS PROTECTION BYLAW AND REGULATIONS

2 The Commission orders that all work shall be performed in accordance with the following 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. The special conditions relating to municipal ordinance or bylaw are as follows (if you need more space for additional conditions, attach a text

Sec IV & XVIII
2. Citation

SEE EXHIBIT A ATTACHED HERETO AND INCORPORATED HEREIN BY THIS REFERENCE.



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E. Signatures

5/27/14
1. Date of Issuance
5
2. Number of Signers

The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant and the property owner, if different from applicant.

The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate Conservation Commission, and the property owner, if different from applicant.

Signatures:

Michael Turnell Rudene Goul
Binnie Rantel Peter Rodenut
WATT GELSWOLD

by hand delivery on

by certified mail, return receipt requested, on

Date

Date

5/27/14

F. Appeals

To the extent that the Order is based on a municipal ordinance or bylaw, and not on the Massachusetts Wetlands Protection Bylaw or regulations, the Conservation Commission has no appellate jurisdiction. Appeals of this Order under the West Tisbury Wetlands Protection Bylaw and Regulations may be made to the Dukes County Superior Court in accordance with M.G.L. Ch. 249 Sec.4.

EXHIBIT A

**Special Conditions
Map 7 Lot 69
52 Longview Road
WTCC 2016-001**

Project Description and Jurisdiction:

On April 4, 2016 Vineyard Land Surveying & Engineering, Inc. filed a Notice of Intent (NOI) on behalf Michael Smith (the “Applicant”), for property located at 52 Longview Road.

The project consists of the construction of a gravel driveway within 33 feet of an isolated wetland and performance of associated site work including the installation of a leach field with reserve area, and trenching within the driveway for utilities. The driveway will serve a single family dwelling located outside the Commission’s jurisdiction.

The project was reviewed for compliance with Section II of the West Tisbury Wetlands Protection Bylaw.

A public hearing was held on May 10, 2016.

Findings

The Commission finds that this project appears to meet the state-listed species performance standard for the issuance of an Order of Conditions, and further that this project as currently proposed, will not adversely affect the actual Resource Area Habitat of state-projected rare wildlife species as determined by NHESP in its letter dated May 6, 2016.

The Commission finds that the proposed activities, including mitigation measures, allow the project to be conditioned to protect the resource values identified in the West Tisbury Wetlands Protection Bylaw. The project is approved. The following special conditions are required to meet the performance standards set forth in Section IV of the Bylaw regulations.

Special Conditions

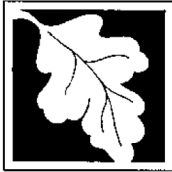
- 1) The applicant and the applicant’s agent(s) shall adhere to General Conditions 1 through 17 of this Order.
- 2) The term “Applicant” as used in this Order of Conditions shall refer to the owner, any successor in interest or successor in control of the property referenced in the Notice of Intent, supporting documents and this Order of Conditions. The Commission shall be notified in writing within 30 days of all transfers of title of any portion of property that take place prior to issuance of the Certificate of Compliance.
- 3) The form provided at the end of this Order shall be completed and stamped at the Dukes County Registry of Deeds, after the expiration of the 10-day appeal period under the Bylaw and if no request of appeal has been filed with the Dukes County Superior Court. This form should be returned to the Commission in accordance with General Condition 8, and prior to the commencement of work.
- 4) The Commission has approved this project in accordance with the locations and specifications shown on a plan entitled, “Plan of Land in West Tisbury, Mass. prepared for Proposed Septic System on Land in West Tisbury, Prepared by Vineyard Land Surveying & Engineering, Inc. dated February 12, 2016 as revised to 5/24/16” (Project Plan).
- 5) General conditions No. 13 and No. 14 regarding changes in the Project Plan shall be complied with. To the extent the following conditions modify or differ from the plans, specifications or other proposals submitted with the Notice of Intent, the conditions shall apply.

EXHIBIT A

- 6) It is the responsibility of the applicant, owner and /or successor (s) to ensure that all conditions of this Order are complied with. A copy of this Order of Conditions including the special conditions and construction plans shall be included in all construction contracts, subcontracts and specifications and shall be available on-site upon commencement and during the performance of any and all construction activities regulated by this Order. All site contractors shall review and adhere to these conditions of approval in performing the approved activities.
- 7) In accordance with construction best management practices, construction of the driveway shall occur during a period of time when there is a favorable five day forecast.
- 8) **Prior to the start of any excavation or construction, there shall be a pre-construction meeting on the site involving the contractor conducting the work, the site engineer, the applicant or its representative, and a member or agent of the Commission to ensure that all parties understand the requirements of this Order.** The applicant or its representative shall notify the Commission in writing of the names, addresses and business telephone numbers of the project supervisor or contractor who shall be responsible for ensuring compliance with the conditions in this Order and shall notify the Commission by telephone or in writing at least 72 hours prior to the pre-construction site visit.
- 9) Prior to the pre-construction site visit and commencement of construction, grading or disturbance on the site or any other work activity related to this project, adequate erosion and sedimentation control barriers consisting of silt fencing firmly staked end to end and backed by wooden snow fencing stapled together to mark the limit of work zone will be placed as shown on the Project Plan.
- 10) The erosion control barrier/ limit of work fence shall be maintained in good repair and in place for the duration of the project until all disturbed areas have been fully stabilized with vegetation or other means. During construction, the applicant or their designee will inspect the erosion controls on a daily basis and will remove accumulated sediments as needed. All erosion control measures shall be properly maintained and left in place until a Certificate of Compliance is issued.
- 11) Construction and maintenance of the driveway shall be completed in a manner that does not restrict the flow of water over the driveway at any time of the year. The driveway shall not be paved with any impervious material. This is an ongoing condition that does not expire with the issuance of a Certificate of Compliance.
- 12) Immediately upon completion of the driveway all temporarily disturbed areas shall be returned to their pre-existing condition.
- 13) De-icing chemicals (e.g. sodium, potassium, and calcium chloride) are prohibited on the driveway. This condition shall survive the expiration of the Order, and shall be included as a continuing condition on the Certificate of Compliance.
- 14) Upon completion of this work there shall be no sedimentation entering the resource area from surface runoff.
- 15) No landscaping within the Buffer Zone was proposed or approved for this project. The applicant may submit a plan for landscaping within the No-Build Zone and Outer buffer zone (as defined in the Bylaw) for review and approval by the Commission prior to implementation in the field. **No landscaping will be permitted within the first 25 feet of the Buffer Zone.**
- 16) Any adverse impact to the Buffer Zone caused by vehicles, equipment or workers shall be mitigated immediately by the applicant in consultation with the Commission.
- 17) All debris, fill, excavated materials and building materials on site shall be stockpiled outside the Buffer Zone and shall be stabilized to prevent erosion and sedimentation into wetland resource areas.

EXHIBIT A

- 18) Upon completion of construction of the driveway and leach field, the applicant shall submit the following to the Conservation Commission to request a Certificate of Compliance (COC):
 1. A Completed Request for a Certificate of Compliance form
 2. A series of color, dated post-construction photographs of the, work areas, access and project locus immediately after completion.
 3. A final as-built plan of the driveway and leach field signed and stamped by a Registered Professional Engineer or Land Surveyor certifying compliance of the property with this Order of Conditions, and detailing any deviations that exist and their potential effect on the project. A statement that the work is in "substantial compliance" with no detailing of the deviations shall not be accepted. The plan shall show distances from any structures constructed under this Order to wetland resource areas. Structures include, but are not limited to all buildings, septic system components, wells, utility lines, retaining walls and road/driveways.
- 19) The Commission reserves the right to impose additional conditions on portions of this project or this site to mitigate any actual or potential impacts resulting from the work herein permitted.
- 20) The Commission reserves the right to amend this Order of Conditions after a legally advertised public hearing if plans or circumstances are changed or if new conditions or information so warrant.
- 21) In case of emergencies, problems or the need to discuss site conditions with the Commission, the contact person is the Board Administrator at 508-696-6404.



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G. Recording Information

Prior to commencement of work, this Order of Conditions must be 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 subject to the Order. In the case of registered land, this Order shall also be noted on the Land Court Certificate of Title of the owner of the land subject to the Order of Conditions. The recording information on this page

Detach on dotted line, have stamped by the Registry of Deeds and submit to the Conservation Commission.

To:

WEST TISBURY
Conservation Commission

Please be advised that the Order of Conditions for the Project at:

Project Location

Has been recorded at the Registry of Deeds of: WTCC 2016-01
File Number

Dukes
County

for: _____
Book Page

and Michael Smith
has Property Owner

Book

In accordance with the Order of Conditions issued on: _____
Page

Date

If recorded land, the instrument number identifying this transBylawion is: _____

Instrument Number

If registered land, the document number identifying this transBylawion is: _____

Document Number

Signature of Applicant _____

Attest:

Deanne E. Powers Register