



Order of Conditions

The West Tisbury Wetlands Protection Bylaw and Regulations

Provided by MassDEP:
Bylaw Only

WTCC2023-1

WEST TISBURY
City/Town

A. General Information

Please note:
this form has
been modified
with added
space to
accommodate
the Registry
of Deeds
Requirements

Important:
When filling
out forms on
the
computer,
use only the
tab key to
move your
cursor - do
not use the
return key.



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:
Jeffrey and Carolyn Carney
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
a. First Name b. Last Name

c. Organization

d. Mailing Address

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

5. Project Location:
80 Plum Bush Point Road West Tisbury
a. Street Address b. City/Town

35 6.7
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 1190 b. Certificate Number (if registered land) 1010
 c. Book 1190 d. Page 1010
7. Dates: January 11, 2023 February 14, 2023 March 2, 2023
 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):
Site Plan in West Tisbury, Mass. Prepared for Jeffrey & Carolyn Carney
 a. Plan Title Vineyard Land Surveying & Engineering b. Signed and Stamped by Unsigned, not stamped
 c. Prepared By February 14, 2023 d. Final Revision Date February 14, 2023 e. Scale 1"=40'
 f. Additional Plan or Document Title _____ g. Date _____

B. Findings

1. Findings pursuant to the West Tisbury Wetlands Protection Bylaw and Regulations:
 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 West Tisbury Wetlands Protection Bylaw (the Bylaw). Check all that apply:
- a. Public Water Supply b. Land Containing Shellfish c. Prevention of Pollution
 d. Private Water Supply e. Fisheries f. Protection of Wildlife Habitat
 g. Groundwater Supply h. Storm Damage Prevention i. 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.)

Coastal Resource Area Impacts: 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	<u> </u> a. square feet	<u> </u> b. square feet		
	<u> </u> c. c/y dredged	<u> </u> 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	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. nourishment	<u> </u> d. nourishment
14. <input type="checkbox"/> Coastal Dunes	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. nourishment	<u> </u> d. nourishment
15. <input type="checkbox"/> Coastal Banks	<u> </u> a. linear feet	<u> </u> b. linear feet		
16. <input type="checkbox"/> Rocky Intertidal Shores	<u> </u> a. square feet	<u> </u> b. square feet		
17. <input type="checkbox"/> Salt Marshes	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. square feet	<u> </u> d. square feet
18. <input type="checkbox"/> Land Under Salt Ponds	<u> </u> a. square feet	<u> </u> b. square feet		
	<u> </u> c. c/y dredged	<u> </u> d. c/y dredged		
19. <input type="checkbox"/> Land Containing Shellfish	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. square feet	<u> </u> 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			
	<u> </u> a. c/y dredged	<u> </u> b. c/y dredged		
21. <input type="checkbox"/> Land Subject to Coastal Storm Flowage	<u> </u> a. square feet	<u> </u> b. square feet		



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C. General Conditions Under West Tisbury Wetlands Protection 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,

"File Number WTCC2023-1"

~~11. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before MassDEP.~~

12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (Form 8A) to the Conservation Commission.

13. The work shall conform to the plans and special conditions referenced in this order.

14. 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.

15. 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.

16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.

17. 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.



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C. General Conditions Under West Tisbury Wetlands Protection Bylaw (cont.)

c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 18(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMP Operation and Maintenance Plan ("O&M Plan") and certifying the following: *i.*) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and *ii.*) the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.

d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Multi-Sector General Permit.

e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 18(f) through 18(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 18(f) through 18(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.

f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.



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D. Findings Under Municipal Wetlands Bylaw

1. Is a municipal wetlands bylaw or ordinance applicable? Yes No
2. The WEST TISBURY hereby finds (check one that applies):
Conservation Commission
- a. that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw, specifically:
West Tisbury Wetlands Protection Bylaw
- | | |
|---------------------------------|-------------|
| 1. Municipal Ordinance or Bylaw | 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
- | | |
|---------------------------------|-------------|
| 1. Municipal Ordinance or Bylaw | 2. Citation |
|---------------------------------|-------------|

3. 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 document):
See Exhibit A attached hereto and incorporated herein by this reference.

EXHIBIT A

SPECIAL CONDITIONS

**Carney
80 Plum Bush Point Road
Map 35 Lot 6.7
WTCC2023-1**

Project Description and Jurisdiction:

On January 11, 2023, Vineyard Land Surveying & Engineering, Inc., filed a Notice of Intent (the "NOI") on behalf of Jeffrey and Carolyn Carney, (the "Applicant"), for a project to replace and expand an existing inground pool by 5 ft, add a spa, replace the patio area, relocate the pool equipment shed and perform associated site work at 80 Plum Bush Point Road. The pool was constructed prior to the effective date of the West Tisbury Wetlands Protection Bylaw and Regulations (the "Bylaw"). The existing pool falls within the Buffer Zone to Land Subject to Coastal Storm Flowage ("LSCSF").

Under Section II of the West Tisbury Wetlands Protection Bylaw, the Buffer Zone is considered to be a Resource Area. This project was reviewed for compliance with Section IV (Buffer Zone) of the Bylaw Regulations.

The Conservation Commission ("Commission") has conducted an on-site inspection, reviewed the NOI, and submitted information. Based on this review, the Commission has determined that the area where the work is proposed is significant to the values of the Bylaw. A public hearing was held on February 14, 2023, at which time the public hearing was closed. There was no public comment.

Findings under the Bylaw:

In making a decision on this project, the Commission has considered the magnitude of alteration, the environmental significance of the site, reasonable alternatives, and the minimization of impact and the extent of mitigation measures.

The Commission finds that each parcel of land and proposed project thereon has its own unique characteristics and impacts, therefore, every project brought before the Commission for approval will be considered on a site-specific basis. And, because of this site specificity, each project will stand-alone and shall not set a precedent in the decisions to be made on subsequent projects. Due to the project location and project design, the proposed project, as conditioned, is allowed but the approval does not set any sort of precedent as each property and project are determined on their own merits.

The Commission finds that the limit of work will contain temporary impacts to the Buffer Zone and LSCSF during construction and that the proposed work can be conditioned to protect the interests of the Act and the Bylaw.

The Commission approves the proposed project subject to the following special conditions.

Special Conditions under the Bylaw

- 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.**

EXHIBIT A

- 13) The footprint of the existing pool equipment shed shall be restored with native plantings. The new pool equipment shed shall be placed outside the Buffer Zone in the location shown on the Project Plan.
- 14) The pool shall use a saltwater chlorine generator or UV disinfection system which has less of an impact than chemical chlorine-based disinfection systems. Water to be used in the pool shall be obtained from a source approved by the Board of Health. **This condition shall be recorded on the Certificate of Compliance as an ongoing condition.**
- 15) Whenever water is removed from the pool, the water shall be pumped and taken off the property, not drained into any wetland Resource Area or associate buffer zones. Alternatively, excess water in the pool from summer rainfall or winter drawdown shall be discharged away from the wetlands and stream. **This is an ongoing condition that does not expire with the issuance of a Certificate of Compliance.**
- 16) All fill brought on site must be clean, debris-free and devoid of invasive plants or their parts or seeds.
- 17) Upon completion of the project the Applicant shall submit the following to the Commission to request a Certificate of Compliance:
 - A Completed Request for a Certificate of Compliance
 - A final as-built Project Plan 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, pools, septic system components, wells, utility lines, retaining walls, and road/driveways.
 - A set of post-construction photographs of the work areas, access and project locus immediately after completion.
- 18) In case of emergencies, problems or the need to discuss site conditions with the Commission, call the Board Administrator at 508-696-6404.

ATTEST: Paulo C. DeOliveira, Register
Dukes County Registry of Deeds