



RHODE ISLAND

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

235 Promenade Street, Providence, RI 02908-5767

TDD 401-222-4462

November 30, 2004

Commerce Park Realty, LLC; Commerce Park Commons, LLC;  
 Commerce Park Properties, LLC; Commerce Park Associates 8, LLC  
 c/o Roney A. Malafronte, Manager  
 207 Quaker Lane, Suite 300  
 West Warwick, RI 02893

DEC 14 2004

**Insignificant Alteration - Permit**

Re: Application No. 04-0516 in reference to the location below:

Approximately 2800 feet northeast of the intersection of Centre of New England Boulevard and Hopkins Hill Road, Assessor's Plat 5, Lots 8, 12, and 21.1; Assessor's Plat 6, lot 2, Assessor's Plat 13, Lots 14, 22 and 26, Assessor's Plat 21, Lot 102, Coventry, RI

Dear Mr. Malafronte:

Kindly be advised that the Department of Environmental Management's ("DEM") Freshwater Wetlands Program ("Program") has completed its review of your **Request for Preliminary Determination** application. This review included a site inspection of the above referenced property ("subject property") and an evaluation of the proposed 311-unit condominium community development with associated roads, drainage system, utilities and landscaping as illustrated and detailed on site plans submitted with your application. These site plans were received on October 13, 2004.

Our observations of the subject property, review of the site plans and evaluation of the proposed project reveals that alterations of freshwater wetlands are proposed. However, pursuant to Rule 9.03 of the Rules and Regulations Governing the Administration and Enforcement of the Fresh Water Wetlands Act (Rules), this project may be permitted as an **insignificant alteration** to freshwater wetlands under the following terms and conditions:

Terms and Conditions for Application No. 04-0516:

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 site plans submitted with your application and received by the on October 13, 2004. 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 Coventry 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 four (4) years from the date of issue.
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.
10. Temporary erosion and sediment controls detailed or described on the approved site plans or as otherwise determined to be necessary to control erosion and prevent sediment transport into regulated freshwater wetlands shall be properly installed at the site prior to and commensurate with construction activities on this site. Such controls, including haybales and/or silt fence, check dams, temporary sediment basins, and temporary diversion berms must be properly and diligently 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. You are encouraged to place temporary sediment settling basins in the locations of the proposed detention basins and direct storm flow to these basins during construction, provided that the detention basins are completed as approved prior to pavement of any areas draining to them.
11. Upon permanent stabilization of all disturbed soils, temporary erosion and/or sediment controls consisting of Haybales and/or siltfence must be removed.
12. You are responsible for the proper installation, operation, maintenance and stability of any mitigative features, 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 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.



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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. 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.

This permit is valid for the original applicant only and is not transferable to another person unless the new owner completes and submits an **Application for Permit Transfer** in accordance with Rule 9.08.

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 a verification, you may submit an application in accordance with Rule 9.02.

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. You are advised that the issuance of this permit does not in any way represent resolution of any current or pending enforcement actions that other offices of DEM may be involved in.

Furthermore, with respect to the extension of Center of New England Boulevard, issuance of this permit is not to be construed as any indication that DEM expects to permit any further extension or connection of this roadway across wetlands to the west to connect to other phases, with specific reference to the phase approved under Application No. 04-0324. At this time, DEM strongly recommends that alternatives to any wetlands crossings be thoroughly examined and considered before proceeding further. You are put on notice that alternatives appear available that would avoid or further minimize anticipated impacts to wetland resources, but that would dictate substantial revisions to what appears to be planned in the future. DEM is available upon written request to discuss options with you.

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.

Please contact Andrew Charpentier of this office (telephone: 401-222-6820, ext. 7414) should you have any questions regarding this letter.

Sincerely,



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

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Enclosure: Approved site plans

xc: David Chopy, Office of Compliance & Inspection  
Russell Chateauf, Office of Water Resources  
Harold K. Ellis, Office of Compliance & Inspection  
Eric Beck, DEM RIPDES Program  
Bruce Zaloudek, Coventry Building Official  
Brent Narkawicz, Coventry Town Planner  
John P. Caito, P.E., John P. Caito Corporation  
Joseph P. McCue, Natural Resources Services, Inc.

TOWN OF COVENTRY  
2004 DEC -8 AM 10:13

04-12579

*Robert H. Johnson*  
TOWN CLERK

**STATE OF RHODE ISLAND  
KENT, SC.**

**SUPERIOR COURT**

**D2 HOMES, INC.; and  
MATTHEW J. MCGOWAN, as and only as  
Receiver for COMMERCE PARK REALTY, LLC;  
COMMERCE PARK PROPERTIES, LLC;  
COMMERCE PARK COMMONS, LLC;  
COMMERCE PARK ASSOCIATES 4, LLC;  
CATAPULT REALTY, LLC; and COMMERCE  
PARK MANAGEMENT, LLC in P.M. No. 13-0350  
and P.B. No. 13-5001,  
Plaintiffs**

**v.**

**TERRENCE GRAY, in his capacity as  
Director of the STATE OF RHODE ISLAND  
DEPARTMENT OF ENVIRONMENTAL  
MANAGEMENT,  
Defendant.**

**C.A. No. KC-2024-0766**

**CONSENT ORDER**

Pursuant to the agreement of the Parties in the above-captioned matter and upon the approval of the Court, the following is hereby:

**ORDERED, ADJUDGED AND DECREED**

1. There are no jurisdictional wetlands located on that portion of land located in Coventry, Rhode Island known as Assessor's Plat 13, Lot 22, comprising sub-phases 1-G, 1-H, 1-I, 1-J, 1-M, and 1-N on the approved master plan with the Town of Coventry,<sup>1</sup> and otherwise described in the Purchase and Sale Agreement between the Receiver and D2 Homes approved by the Court via a March 19, 2024 Order in the Receivership Proceedings<sup>2</sup> ("Property"). Therefore,

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<sup>1</sup> The subject Property is part of a residential development within the Centre of New England known as the "Highlands at Hopkins Hill" condominium development ("Highlands").

<sup>2</sup> *Nicholas E. Cambio, Trustee, The Nicholas E. Cambio, Roney A. Malafronte and Vincent Cambio Trust v. Commerce Park Realty, LLC, Commerce Park Property, LLC, Commerce Park Commons, LLC, Commerce Park Associates 4, LLC and Catapult Realty, LLC*, P.M. No. 13-0350 and *Matthew J. McGowan, as Receiver v.*

no wetlands permitting is required for the Property and the construction of 52-66 condominium units at the Property (“Project”).

2. The Project requires only a Rhode Island Pollutant Discharge Elimination System Construction General Permit (“RIPDES Permit”) from the Rhode Island Department of Environmental Management (“RIDEM”), as well as any other permits required from other local and state agencies, as applicable. The parties further agree that:

a. In the application for a RIPDES Permit, the applicant will demonstrate that the watersheds and impervious area for the Project generally matches the watersheds and impervious areas from the 2007-0381 application for the Property, submitted to RIDEM, as previously reviewed by RIDEM.

b. In the application for a RIPDES Permit, the RIDEM will agree that the existing detention ponds in place at the Property and in close off-site proximity will be considered as the existing conditions and considered adequate for runoff control and no further analysis, design or construction will be required by RIDEM to satisfy the requirement for peak runoff control for the RIPDES application or permit. The requirements to do a pre- and post-analysis and to meet the recharge standards set forth in the RIDEM’s Stormwater Management, Design and Installation Rules (“Rules”) are waived for the Project.

c. The parties recognize that the existing ponds were not reviewed nor approved for water quality purposes and the applicant for the Project will analyze, design and construct the site to meet current water quality standards through potential modifications to the ponds or outlets, and/or installing water quality devices, roof

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*Commerce Park Management, LLC*, C.A. No. PB 13-5001, each pending before this Court as Providence County-docketed matters (the “Receivership Proceedings”),

runoff infiltration, and/or other methods to achieve this under the Rules,

Minimum Standard 3.

3. The applicant will agree that the dwelling units in the Project will obtain potable water from the Kent County Water Authority.
4. The Parties agree and acknowledge that the next steps shall be:
  - a. The applicant will cut the brush and vegetation on the Property to allow the existing infrastructure to be easily accessed;
  - b. The applicant will field-survey the elevations and existing infrastructure in place at the Property;
  - c. The applicant will conduct soils testing throughout the Property to determine the appropriateness of runoff infiltration and to assess the re-grading that occurred previously;
  - d. The applicant will prepare a stormwater plan and supporting data and information for a RIPDES application submission;
  - e. The applicant and RIDEM staff will meet prior to the submission of the RIPDES Application; and
  - f. The applicant will submit a complete RIPDES application to RIDEM, and the RIDEM will review the same within two (2) months of submission.

ENTER:

BY ORDER:

  
Richard Licht

JUDGE **Richard Licht**

Associate Justice

Dated: September 23, 2024

  
Michael C. Rampone

CLERK **Michael C. Rampone**

Deputy Clerk I



D2 HOMES, INC.,  
By and through its Attorney,

/s/ Joelle C. Rocha  
Joelle C. Rocha, Esq.  
RI Bar No. 7590  
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[jrocha@duffysweeney.com](mailto:jrocha@duffysweeney.com)

And

COMMERCE PARK REALTY, LLC  
COMMERCE PARK PROPERTIES, LLC,  
COMMERCE PARK COMMONS, LLC,  
COMMERCE PARK ASSOCIATES 4, LLC,  
CATAPULT REALTY, LLC, and  
COMMERCE PARK MANAGEMENT, LLC  
in P.M. No. 13-0350 and P.B. No. 13-5001

TERRENCE GRAY, in his capacity as  
Director of the STATE OF RHODE  
ISLAND DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT,

By and through its Attorney,

/s/Johann Donall  
Johann Donall, Esq.  
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/s/ Matthew J. McGowan  
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Tel: (401)-600-0140  
[mmcgowan@sklawri.com](mailto:mmcgowan@sklawri.com)

#### **CERTIFICATE OF SERVICE**

I hereby certify that on this 10th day of September, 2024, a copy of the foregoing document was filed and served through the Rhode Island ECF system and will be sent electronically to the counsel who are registered participants identified on the Notice of Electronic Filing

The document electronically filed and served is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.

/s/ Joan Durand