



TOWN OF MONTEREY
Conservation Commission
Scenic Mountain Act Order of Conditions

Massachusetts Scenic Mountain Act MGL c.131, § 39a
435 Main Rd. P.O. Box 308
Monterey, MA 01245

Date: 8/11/08

SMA File Number: SMANOI08-03

To be used only for projects with activities that take place in areas above 457.2 meters (1,500 feet) in elevation; all activities that take place in areas below 457.2 meters (1,500 feet) in elevations; and where any portion of the project is located on a steep slope, as delineated on the map and text as adopted by the Town of Monterey, and as may be amended.

This issuance is for an Order of Conditions

General Information

Applicant

Name: Applicant
Mailing Address:
City, State Zip:
Phone:
Fax:
Email:

Property Owner (If Different from Applicant)

Name:
Mailing Address:
City, State Zip:
Phone:
Fax:
Email:

1. Project Location:

2. Assessors Map #: 999

Assessors Lot #: 999

3. Southern Berkshire Registry of Deeds Book: 999

Page: 999

Certificate (if registered land):

4. Date Notice of Intent Filed: 7/24/08

Date Public Hearing Closed: 11/10/08

Date of Issuance: 11/18/08

5. Final approved plans and other documents (attach additional plan or document references as needed): Notice of Intent Plan Rev#3 9/10/08

6. Project Description: further develop the site while maintaining the existing single family residential use of the site.

Findings

1. Findings pursuant to the Berkshire Scenic Mountain Act:

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



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XX Approved subject to the following conditions which are necessary in accordance with the performance standards set forth in the Scenic Mountain Act 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 the 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.

Denied because:

The proposed work can not be conditioned to meet the performance standard set forth in the Scenic Mountain Act Regulations. Therefore, work on this project may **not** go forward unless, and until a new Notice of Intent is submitted that provides measures that are adequate to protect these interests, and a final Order of Conditions is issued. **A description of the performance standards that the proposed work can not meet is attached to this Order.**

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 Scenic Mountain Act. Therefore, work on this project may not go forward unless, and until a revised Notice of Intent is submitted that provides sufficient information and includes measures that are adequate to protect the Act's interests, and a final Order of Conditions is issued. A description of the specific information that is lacking and why it is necessary is attached to this Order.

Resource Area Impacts (for approvals only):

Quantify the following:

| | |
|---------------------------------|-------|
| Dwelling Footpring SF | N/A |
| Accessory Building Footprint SF | 144SF |
| Driveway SF | N/A |
| Soil Absorption System SF | N/A |
| Cleared Land SF | N/A |
| First Floor Elevation | N/A |

General Conditions Under the Berkshire Scenic Mountain Act (only applicable to approved projects):

1. These Order of Conditions shall be posted at the job site in a conspicuous location throughout construction, and until such time as the Conservation Commission's Project Manager deems it appropriate to remove.
2. Failure to comply with all conditions sated herein, and with all related statutes and other regulatory measures shall be deemed cause to revoke or modify this Order.
3. 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.
4. 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.
5. The work authorized hereunder shall be completed with three years from the date of this Order.
6. This Order may be extended by the issuing authority for one or more periods of up to two years upon application to the issuing authority at least 30 days prior to the expiration date of this Order.



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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 Department of Conservation and Recreation have been completed.
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 this 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. Any Order not recorded by the applicant before work commences may be recorded by the Commission at the applicant's expense.
10. Where the Department of Conservation and Recreation is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before DCR.
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. A Partial Certificate of Compliance will be issued, noting Orders of Conditions that shall remain in perpetuity.
12. The work shall conform to the plans and special conditions referenced in this Order.
13. Any change to the plans identified in Condition #11 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 and DCR 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 or DCR for that evaluation.
15. 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.
16. Prior to the commencement of work, the limit of work in the vicinity of the work area shall be marked by wooden stakes, flagging, or silt fencing. Once in place, the limit of work shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.
17. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. 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.
18. Prior to the commencement of any activity on this site other than the marking of locations for erosion controls, there shall be a pre-construction meeting between the design engineer, the contractor responsible for the work, and a member of the Conservation Commission or its Agent to ensure that the requirements of the Order of Conditions are understood. All trees to be saved are to be flagged and protected from damage, and the staked erosion control/work limit lines shall be in place, and adjusted if necessary, during the pre-construction meeting. Please contact the Conservation Commission office at 413-528-1443 at least seventy-two (72) hours prior to any activity to arrange for the pre-construction meeting.

Special Conditions: See attached sheet for additional conditions.

This Order must be signed by a majority of the Conservation Commission. This Order must be mailed by certified mail, return receipt requested or hand delivered to the applicant. A copy must also be mailed or hand delivered at the same time to the appropriate DCR Regional Office and the property owner (if different from the owner).

On 10th of 11/08
 day month & year

Before me personally appeared Richard Andrus, Chair and the Monterey Conservation Commission members to me, known to be the persons described in and who executed the foregoing instrument and acknowledged that they executed the same as their free act and deed.

My Commission Expires: August 24, 2012

Notary Public

This order was issued to the applicant as follows:

by hand delivery on _____ x by certified mail, return receipt requested on _____

Recording Information

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

To: Monterey Conservation Commission

Date: _____

Please be advised that the SMA Order of Conditions for Project # SMANOI08-03 located at ____ street ____.
Has been recorded at the Registry of Deeds of Southern Berkshire County in Book____, Page____
for __ applicant _____, and has been noted in the chain of Title of the affected property in
Book_____, Page_____ in accordance with the SMA Order of Conditions
issued by the Monterey Conservation Commission on _____.

If recorded land, the instrument number identifying this transaction is _____.

If registered land, the document number identifying this transaction is _____.

Signature of Applicant Date_____