



MIDDLETOWN
Rhode Island

PLANNING DEPARTMENT

TOWN OF MIDDLETOWN

350 East Main Road, Middletown, RI 02842
(401) 849-4027 | MiddletownRI.com

To: Paul A. Croce, Chairman
Planning Board members

From: Ron Wolanski, Town Planner

Date: April 3, 2023

Re: **Public Hearing** - Application of Sisyphus Holdings LLC for Development Plan Review for construction of a warehouse/office with storage, including parking, utilities, and associated site work, and including requests for waivers from certain design requirements of Section 521 of the Middletown Rules and Regulations Regarding the Subdivision and Development of Land. Property located at 165 Oliphant Lane, Tax Assessors Plat 111, Lot 61A.

This matter was continued to the April 12th Planning Board meeting in order for the applicant to address RIDEM wetlands permitting requirements which were discovered after the application was submitted. The applicant has now provided the required wetlands permit (attached).

The applicant is proposing construction of a new 17,235+/- square foot warehouse/office building with outdoor storage on 165 Oliphant Lane, located in the Light Industrial (LI) zoning district. Access to the site will be served by two curb cuts on Oliphant Lane. Applicable permits from the RIDEM have been filed.

Site plans, building elevations and renderings, development impact statements and other documents were previously provided for your review. These documents can also be viewed online at: <https://middletownri.com/504/Planning-Board-Meeting-Packets>

Request for comments and plans were provided to the DPW director, Town Engineer, Building Official, Fire Department, Roads & Utilities Committee, and Tree Commission. The Tree Commission's comments are attached. Since no zoning relief is needed, the Planning Board's review will result in a final decision on the DPR application.

TRC Review:

The Technical Review Committee (TRC) reviewed the application during its meeting on January 25th. Site design, utilities, stormwater management, and other aspects of the plan were discussed. Following its review, the committee voted unanimously to forward a positive recommendation to the Planning Board subject to the following recommended conditions of approval.

Recommended conditions of approval:

1. Prior to permitting, the applicant shall address all comments contained in the review memo from Crossman Engineering dated January 18, 2023, subject to the satisfaction of the Town Engineer, with the exception of items 1.f. and 6.

2. The Town Engineer will consult with Crossman Engineering regarding comments 1.f. and 6 contained in the review memo from Crossman Engineering dated January 18, 2023. Prior to permitting, the applicant will address these comments as determined necessary by the Town Engineer.

Requested waivers:

Based on the latest plan set it appears that the applicant will require the following waivers from the commercial development design standards of section 521 of the Regulations, or must provide confirmation that the project is in compliance. Per section 908 of the Regulations the *“Planning Board shall have the power to grant such waivers and/or modifications from the requirements for land development and subdivision approval, as may be reasonable, and within the general purposes and intents of the provisions for local regulations. The only grounds for such waivers and/or modifications shall be where the literal enforcement of one (1) or more provisions of the regulations is impracticable and will exact undue hardship, because of the peculiar conditions pertaining to the land in question, or where such waiver and/or modification is in the best interest of good planning practice and/or design, as evidenced by consistency with the municipality’s comprehensive plan and Zoning Ordinance.”*

1. **Section 521.1.A** - Buildings should be located so as to create a safe, pleasant walking environment and efficient pedestrian circulation pattern. Building placement, orientation and massing should be planned to promote more active pedestrian-scaled commercial design, with ample opportunities for walking and bicycling, as well as private motor vehicles and to promote the use of public transportation; and **Section 521.1.B.3** - Circulation shall be designed to provide safe and efficient access for pedestrians, automobiles, and emergency vehicles into and throughout the site, including designated pedestrian walkways and crosswalks. Pedestrian access to the site from the public way and neighboring properties shall be provided. **Pedestrian access from the public right-of-way to interior of site, including sidewalks and crosswalks, is not provided.**
2. **Section 521.2.C** – Building exteriors and roofs shall be constructed of, or resemble, traditional materials such as wooden clapboards, shingles, patterned shingles, brick, or stone. **Building exteriors include metal siding and other synthetic materials.**
3. **Section 521.2.D.2** – Gradient from level of any sloped roof at least 4:12. **Proposed design does not comply.**
4. **Section 521.3.B** – Planted landscaping occupies a minimum of 25% of the project area. **Applicant is proposing 21% of landscaping.**
5. **Section 521.3.D.3** – A landscaped buffer at least 10’ wide and a minimum 5’ planting strip is provided between buildings and parking lots/driveways. **5’ planting strip is not provided between building and parking lot. Buffer does not meet 10’ wide requirement at westerly, southerly, and easterly building elevations.**
6. **Section 521.3.F.1** – Deciduous street trees, minimum 4” caliper required. **Proposed trees along the street frontage do not meet this requirement.**

Required findings:

In accordance with section 309 of the Middletown Zoning Ordinance, prior to granting any development plan review approval, or issuing a recommendation in favor of approval to the Zoning Board of Review, the Planning Board shall find that:

- (1) The granting of approval will not result in conditions inimical to the public health, safety and welfare;

- (2) The granting of such approval will not substantially or permanently injure the appropriate use of the property in the surrounding area or zoning district;
- (3) The plans for such project comply with all the requirements of this chapter and the Regulations, or that necessary waivers from the requirements of the Regulations have been granted;
- (4) The plans for such project are consistent with the Comprehensive Plan; and
- (5) Any conditions or restrictions that are necessary to ensure that these guidelines have been met have been incorporated into the written approval or recommendation.

Cc: Applicant



RHODE ISLAND DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
OFFICE OF WATER RESOURCES
235 Promenade Street
Providence, Rhode Island 02908

March 24, 2023

Sisyphus Holdings, LLC
Dennis Dougherty
36 Mt. Vernon Street, Unit 1
Newport, RI 02840

Freshwater Wetlands Permit

Re: Application No. **23-0045** for the property and project located:

At 165 Oliphant Lane, approximately 500 feet southeast of Oliphant Lane and its intersection with Oak Forest Drive, and approximately 200 feet southwest of Oliphant Lane and its intersection with Barton Lane, near Utility Pole No. 51, Assessor's Plat 111, Lot 61A, Middletown, RI.

Dear Mr. Dougherty:

Kindly be advised that the Department of Environmental Management's ("DEM") Freshwater Wetlands Program ("Program") has completed its review of your **Application for a Freshwater Wetlands Permit** as described in Rule 3.11 of the Rules and Regulations Governing the Administration and Enforcement of the Fresh Water Wetlands Act, 250-RICR-150-15-3 ("Rules"). This review included a site inspection of the above referenced property ("subject property") and an evaluation of the proposed construction of a new 17,235 SF commercial office and storage building, crushed stone outdoor storage area, paved parking lot and paved access along with public utilities including sewer and water, with clearing, grading, drainage, landscaping and associated site alterations as illustrated and detailed on site plans submitted with your application. These site plans were received by the DEM on February 23, 2023.

Please be aware the DEM Stormwater Program completed a separate review **under WQC/STW File No. 22-139 and RIPDES File No. RIR102404**. Refer to that permit file for all required conditions. This permit (Application No. 23-0045) applies only to the Freshwater Wetlands portion of the overall project review.

Our observations of the subject property, review of the site plans and evaluation of the proposed project reveals that alterations of jurisdictional areas are proposed. However, pursuant to Rule 3.7.3A of the Rules, this project meets the General Variance Criteria and a **Freshwater Wetlands Permit** may be issued under the following terms and conditions:

Terms and Conditions for Wetlands Application No. 23-0045:

1. This letter is the DEM's permit for this project under the R.I. Fresh Water Wetlands Act, R.I. Gen. Laws § 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 DEM on February 23, 2023. A copy of the site plans stamped approved by the DEM is enclosed. Changes or revisions to the project that would alter jurisdictional areas 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 of the anticipated start date, and of your contractor's contact information, by submitting the Notice of Start of Construction Form prior to commencement of any permitted site alterations or construction activity. You must also notify this Program in writing upon completion of the project. The Start of Construction Form can be found on the webpage: dem.ri.gov/stormwaterconstruction.
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 or town 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 Middletown 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 five (5) years from the date of this letter unless renewed pursuant to the Rules.
8. Any material utilized in this project must be clean and free of matter that could pollute any jurisdictional area.
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 shall be properly installed at the site prior to or commensurate with site alterations. Such controls shall be properly 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 freshwater wetland, buffer, floodplain, area subject to storm flowage, or area subject to flooding or other jurisdictional areas not subject to disturbance under this permit.
11. Upon permanent stabilization of all disturbed soils, temporary erosion and/or sediment controls must be removed.
12. You are obligated to install, utilize, follow and maintain 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 wetland, or other jurisdictional areas and the functions and values provided by such freshwater wetlands and buffers.
13. You are responsible for the proper installation, operation, maintenance and stability of any mitigative features, stormwater treatment facilities, and systems of treatment and control that are installed or used in compliance with this permit to prevent harm to adjacent freshwater wetland, buffer or floodplain, area subject to storm flowage, or area subject to flooding or other jurisdictional areas until documentation is provided that this responsibility has been assigned to another entity.

14. All conditions required under WQC/STW File No. 22-139/RIPDES File No. RIR102404 must be followed.
15. Artificial lighting must be directed away from all offsite vegetated wetland and buffer areas. Where this is not possible, the use of deflectors to concentrate lighting away from vegetated wetlands and buffers must be employed.
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. This written certification must be submitted to this Program within twenty (20) days of its request or upon completion of the project.

Pursuant to the provisions in 250-RICR-150-15-3.8.13 and 250-RICR-150-15-3.14.4(A), as applicable, any properly recorded and valid Freshwater Wetlands Permit is automatically transferred to the new owner upon sale of the property.

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.

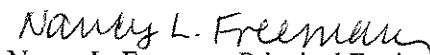
In permitting the proposed alterations, the DEM assumes no responsibility for damages resulting from faulty design or construction.

Kindly be advised that this permit is not equivalent to a verification of the type or extent of freshwater wetlands or jurisdictional areas on site. Should you wish to have the types and extent of freshwater wetlands verified, you may submit the appropriate application in accordance with 250-RICR-150-15-3.9.3.

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 Sam Dufresne of this office (telephone: 401-222-6820, ext. 2777275) should you have any questions regarding this letter.

Sincerely,


Nancy L. Freeman, Principal Environmental Scientist
Office of Water Resources
Freshwater Wetlands Program

NLF/SGD/sgd

Enclosure: Approved site plans

cc: Nicholas A. Pisani, PE, Environmental Engineer IV, RIDEM
Jeremy Rosa, PE, Senior Civil Engineer, Northeast Engineers & Consultants
Chris Costa, Building Official, Middletown RI
Neal Personeus, DEM Stormwater Program



RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
OFFICE OF WATER RESOURCES
235 Promenade Street, Providence, Rhode Island 02908



December 21, 2022

Dennis Dougherty
Sisyphus Holdings, LLC
36 Mt. Vernon Street, Unit 1
Newport, RI 02840

RE: WQC/STW File No. 22-139; RIPDES File No. RIR102404
165 Oliphant Warehouse
Oliphant Lane
Assessor's Plat 111, Lot 61 A
Middletown, RI

Dear Mr. Dougherty:

The Rhode Island Department of Environmental Management Office of Water Resources (RIDEM OWR) has reviewed the above-referenced project for compliance with the Rhode Island Pollutant Discharge Elimination System Construction General Permit (CGP). The purpose of the project is to remove and dispose existing pavement and small building /trailers and to construct and maintain a 17,235 square foot commercial (warehouse) building with adjacent paved parking area, stormwater infrastructure, and associated utilities including connections to public water and public sewers. The proposed stormwater management system will include a proposed variable thickness crushed stone infiltration bed with variable thickness underlying sand filter layer, set on existing grade and confined on three downgradient sides by a proposed vertical concrete retaining wall. This practice will receive overland flow mostly via paved waterways from the proposed parking area. The infiltration practice will allow surface discharge by both low flow and high flow outlet structures that will allow higher, non-infiltrated flows to discharge through the proposed wall to downgradient overland areas. The proposed design will include two peastone sediment collection cells as pretreatment. The design will allow use of the surface of the stone bed for storage (for boat show display floats). The work is as further described in your application and detailed on site plans consisting of 7 sheets as prepared by Jeremy J. Rosa, P.E., of Northeast Engineers and Consultants, 6 Valley Road, Middletown, RI 02842, dated received by RIDEM OWR on 11/25/2022.

This letter serves as your permit/authorization to discharge for the above-referenced project, provided that you comply with the application materials, the CGP and the following conditions:

- 1) You must submit the Notice of Start of Construction Form prior to commencement of any permitted site alterations or construction activity. The Start of Construction Form can be found on the Stormwater Construction Permitting website.
- 2) Prior to construction, you must erect or post a sign resistant to the weather and at least twelve (12) inches wide and eighteen (18) inches long, which identifies the initials "DEM" and the application number(s) assigned to this permit. The sign must be posted in a conspicuous location near the site access and maintained until the project is complete.

- 3) A copy of this permit, any inspection records, and a signed and updated SESC Plan, must be kept at the site at all times until the project is complete. Copies of this permit must be made available for review by any RIDEM or City/Town representative upon request. Electronic versions of required documents that are readily accessible from the construction site are acceptable.
- 4) All fill material shall be clean and free of matter that could cause pollution of the waters of the State.
- 5) The stormwater collection and treatment system approved herein is for the discharge of stormwater only. Any other discharge is prohibited.
- 6) Any alterations, additions or modifications to the stormwater system from that approved herein, including permanent closure, must be reviewed and approved by RIDEM OWR prior to implementation.
- 7) You must submit the Notice of Termination Form upon completion of the project and final site stabilization. The Notice of Termination Form can be found on the Stormwater Construction Permitting website.
- 8) You are responsible for the long-term inspection, cleaning and maintenance of the stormwater collection and treatment system to ensure proper performance of all components until documentation is provided to indicate that this responsibility has been assumed by another entity. Long-term operation and maintenance is to be as described in the Post-Construction Operation and Maintenance Plan entitled "Stormwater System Operations and Maintenance Plan, "165 Oliphant Warehouse", Assessor's Map 111, Lot 61A, 165 Oliphant Lane, Middletown, RI; Prepared For Sisyphus Holdings, LLC, 36 Mount Vernon St., Unit 1, Newport, RI 02840", dated Rev. November 2022, dated received 11/25/2022.

This permit is not transferable to any person except after written notice to the Director, in the form of a Permit Transfer Form available on the RIDEM Stormwater Construction Permitting website.

RIDEM's Rules and Regulations Governing the Establishment of Various Fees require that RIPDES CGP permit holders pay an Annual Fee of \$100.00. An invoice will be sent to the owner on record in May/June of each year if the construction was still active as of December 31st of the previous year. The owner will be responsible for the Annual Fee until the construction activity has been completed, the site has been properly stabilized, and a completed Notice of Termination (NOT) has been received.

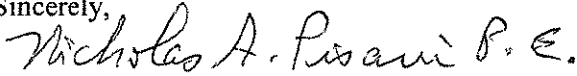
Your authorization to discharge **expires at midnight, on September 25, 2025**. If construction has not been completed by that date, there will be measures in place for you to reauthorize.

You are required to adhere to all above terms and conditions and carry out this project in compliance with the CGP at all times. Issuance of this permit does not bar RIDEM, nor any of its various Divisions, from initiating any investigation and/or enforcement actions that it may deem necessary for violations of this permit or of any and all applicable statutes, regulations and/or permits.

This permit has the full force and effect of a permit issued by the Director. This permit does not relieve your obligation to obtain any other applicable local, state and federal permits prior to commencing construction and does not relieve you of any duties owed to adjacent landowners with respect to changes in drainage. RIDEM assumes no responsibilities for damages resulting from faulty design or construction.

If you have any questions regarding the contents of the permit, you may contact me at nicholas.pisani@dem.ri.gov or (401) 222-4700, extension 2777423.

Sincerely,



Nicholas A. Pisani, Environmental Engineer IV
Stormwater Engineering and 401 Permitting
Office of Water Resources
Rhode Island Department of Environmental Management

cc: Jeremy Rosa, P.E., Northeast Engineers & Consultants, Inc.

From: [Karen Day](#)
To: [Ronald Wolanski](#); [Paul Croce](#)
Cc: [Karen Day](#); [Bill Di Marco](#); [Bob Johnson](#); [Alan Kirby](#); [Karen Barbera](#); [BJ Northup-Owen](#); [Chuck DiTucci](#)
Subject: 165 Oliphant Lane
Date: Saturday, January 28, 2023 1:24:59 PM

Hello gentlemen,

The Tree Commission met to review the landscape plan for 165 Oliphant Lane. We have a concern about the use of the 2 species of Thuja plicata under the canopy of the acer rubrums on the side borders of the property. Both of these species will grow to a significant height and will eventually begin to interfere with the canopy of the acer rubrum. If they are trimmed as they grow, they will become very woody and less green. We might suggest an evergreen that is shorter as a border and screen. The plantings along the back are not a concern, as there are no other tree plantings in the area.

We look forward to hearing the thoughts of the landscape architect.

Karen Day
Middletown Tree Commission