

**INLAND WETLANDS COMMISSION
REGULAR MEETING
MINUTES**

August 24, 2022 @ 7:30 p.m.

Council Chambers, Newtown Municipal Center
3 Primrose Street, Newtown CT

These Minutes are subject to approval by the Inland Wetland Commission

Present: Craig Ferris, Mike McCabe, Suzanne Guidera, Scott Jackson, Stephanie Kurose

Staff Present: Steve Maguire, Senior Land Use Enforcement Officer, Kiana Maisonet, Land Use Enforcement Officer, Dawn Fried, Clerk

Mr. Ferris opened the meeting at 7:30 p.m.

PUBLIC HEARING

IW Application #22-14 by Farrell Building Company, property located at 90 Mt. Pleasant Road, to construct 11 Garden Apartment buildings, one clubhouse, and associated site improvements including driveways, parking and stormwater management.

Mr. McCabe read the legal notice for the record.

Mr. Ferris gave an overview of the Public Hearing process.

The Commission had a discussion regarding the process of accepting an Intervenor Petition. Mr. Ferris explained that he was unaware of the process at the last IWC meeting. Ms. Guidera stated there are no specific factual allegations that lead her to believe that the standards are met under the CT General Statutes. Mr. McCabe stated perhaps he would have voted differently at the last meeting had he been more aware of the process. The Commission agreed to vote after the applicant gives their presentation.

Attorney Robert Hall, 43 Main Street, Newtown, represented the applicant. Atty. Hall introduced the following: Paul Dumont, Design Manager, JMC LLC, Armonk, NY, Rick Bohlander, P.E., Senior Designer, JMC LLC, James McManus, CPSS, JMM Wetland Consulting Services, LLC, Newtown, CT, Anthony Nester, Associate Principal, JMC LLC, Greg Pancost, Senior Project Manager, Farrell Building Company, Newburgh, NY.

Atty. Hall appreciated the Commissioners giving consideration to the acceptance of the Intervenors. Atty. Hall discussed a letter he submitted for the record. The letter served as a brief outline of the law. See attached document.

Mr. Dumont stated they made revisions to the plan based on comments from members of the public and the Commission. Please see attached documents titled, "Responses to Comments received during

the July 27th Hearing”, dated August 19, 2022 and “Newtown Commons Stormwater Facilities Maintenance Program”, dated received August 19, 2022.

Mr. Ferris asked what percentage of flow will go to the detention basin. Mr. Bohlander clarified it was an infiltration basin and stated approximately 50% of flow from the site will go through the infiltration basin.

Mr. Ferris asked if the applicant was comfortable with the infiltration of the existing soils. Mr. Dumont stated they performed tests on the site and were able to determine the soil types were suitable for infiltration.

Mr. McCabe questioned whether the rate of water coming onto the site has changed since the first proposal. Mr. Bohlander stated they installed conveyance systems to maintain the best peak rates and volumes.

Mr. McCabe asked how the discharge between the buildings is being treated. Mr. Bohlander responded off-site drainage goes through a swale, then through a riparian buffer, which treats the water, then continues to the catch basin which flows back into the wetland.

Ms. Guidera noted the public had raised concerns that the water being discharged into the wetlands could be contaminated by oil runoff. Mr. Guidera asked whether contaminants will discharge directly into the wetlands. Mr. Dumont responded: each area will be treated, the bio detention systems and the water quality treatment will follow CT state standards, and the infiltration basins and the hydrodynamic separator will collect the hydra-carbons and floatables.

Ms. Guidera noted the applicant submitted a stormwater maintenance program. Ms. Guidera asked if the program will be in effect indefinitely and will it be adopted by future owners. Mr. Dumont stated it will be regulated with the Town and CT DEEP. Mr. Hall stated the Commission can also add a “continued maintenance plan” as a condition to the approval.

Mr. Hall introduced Mr. Pancost , representative of Farrell Building Company. Mr. Pancost stated Farrell has a lot of experience with multi-family developments, most recently Riverwalk in Sandy Hook. Mr. Pancost explained that Farrell is the owner, “end-user” and property manager for all of their properties. The property management team operates the facilities and runs the properties. Mr. Pancost also stated that Farrell is very experienced in the stormwater treatment facilities, long term stormwater maintenance, and the sediment and erosion control phase, which will be maintained throughout construction.

Mr. Ferris asked Mr. MacManus if he was comfortable with the stormwater plan and the effects the stormwater impact will have downstream. Mr. McManus stated he has no concerns and is comfortable with the stormwater plan. Mr. Ferris noted the regulations refer to offsite impacts and asked Mr. McManus again if he was comfortable with the protection of this wetland. Mr. McManus responded “yes”.

Mr. Hall pointed out a contradiction in Mr. Klein’s report regarding the critical habitat

Ms. Kurose asked whether an invasive management plan will be in place to remove the invasives and improve the area. Mr. Dumont stated yes they did consider. Mr. McManus stated the old pasture is choked with invasives.

Mr. Maguire was happy to see improved revisions from the 2018 plans. He stated there is better connectivity between the basins and wetlands.

PUBLIC

Patrick Napolitano, Intervenor, 13 Whipoorwill Hill Road – Please see attached letter.

Mr. Napolitano asked the following questions:

Do the new maps include the small wetland area? Response: Yes

How much of the facility will not be covered by the ground water systems. Response: The entire site will be covered.

Will the porous pavement cover 100% of the complex? Response: Only specific areas.

What will ensure the maintenance plan be followed?

Mr. Napolitano read the report titled “Newtown Commons Stormwater Control Facilities Maintenance Program” attached. Mr. Napolitano doubts the maintenance schedule will be followed and pointed out that there are no regulations to enforce the maintenance plan.

Mr. Ferris asked Mr. Maguire if there are procedures in place in case wetlands are destroyed.

Mr. Maguire responded we can condition the plan and we can regulate the wetlands but the long term maintenance is on the property owner.

Mark D’Amico, 7 Tory Lane – Please see attached letter.

Mr. Jackson asked what the history of maintaining the properties was. Mr. Pancost stated they “carry out” all storm water management plans on the properties and the properties are clean and very well kept. Mr. Jackson asked if there are any outstanding violations on any of the Farrell properties. Mr. Pacost stated no.

Ms. Guidera asked Mr. McManus to give an overview of his background.

Ms. Guidera outlined Inland Wetland Regulations 10.2, Considerations for Decision, Criteria for Decision. See attached.

- a. Environmental impact. Mr. McManus read the conclusion of his report (see attached). Mr. McManus stated no adverse impacts to the wetlands.
- b. Applicant’s alternatives. Mr. McManus made reference to the 2018 application which had more disturbed wetlands.
- c. Relationship to short term and long term impacts. Mr. McManus stated he “just went through the indirect impact discussion”.

- d. Irreversible and irretrievable loss of wetlands. Ms. Guidera pointed out this subject matter was Mr. Napolitano's chief concern. Mr. McManus confirmed no irreversible or irretrievable loss of wetlands.
- e. The character of the property threatened by regulated activity. Mr. McManus stated you should be able to enjoy the property and enjoy the neighboring properties.
- f. Impacts of wetland activity outside the regulated area. Mr. McManus stated he "touched on that subject earlier".

Mr. Hall stated he located a section in the Inland Wetland Regulations under Enforcement which reads that fines and consequences can be issued for not complying with agreed terms and conditions.

Ms. Guidera requested a proposal in writing regarding the removal of the invasives. Mr. Guidera believes it will improve the functionality of the wetland. Mr. Hall asked the Commission whether the plan could be a condition of approval. The Commission was agreeable to the plan being a condition which Staff will approve.

Mr. Ferris noted that Mark D'Amico's Intervenor Petition did not meet set requirements. Mr. Hall read Section 22a-19 et seq., Subsection A2, of the CT General Statutes. Mr. McCabe moved to deny Mark D'Amico as an Intervenor. Ms. Guidera seconded. All in favor. The motion passed 5 to 0 in favor of denying Mark D'Amico as an Intervenor.

Ms. Guidera moved to close the Public Hearing. Ms. Kurose seconded. All in favor. The Public Hearing is CLOSED for IW Application #22-14 by Farrell Building Company.

IW Application #22-14 by Farrell Building Company will be CONTINUED to the next scheduled IWC Meeting on September 14, 2022 at 7:30 pm in the Municipal Center, Council Chambers, 3 Primrose Street, Newtown, CT.

APPROVAL OF MINUTES

Regular Meeting of July 27, 2022

Page 4, Paragraph 10, add "pocket" in front of "wetland". Mr. McCabe moved to accept the amended minutes from July 27, 2022. Mr. Jackson seconded. All in favor. Ms. Kurose abstained. The minutes from July 27, 2022 were approved.

OTHER BUSINESS

Mr. Maguire introduced Kiana Maisonet, the newly hired Enforcement Officer in the Land Use Agency. The Commissioners welcomed Ms. Maisonet.

ADJOURNMENT

With no additional business, Mr. Jackson moved to adjourn. Ms. Guidera seconded. All in favor. The Regular IWC Meeting of August 24, 2022 was adjourned at 9:05 pm.

Respectfully Submitted, Dawn Fried

LAW OFFICES
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IWC mtg
8/24/22
DH

ROBERT H. HALL

EMAIL ADDRESS
roberthallpc@yahoo.com

August 24, 2022

HAND DELIVERED

Newtown Inland Wetlands Commission
3 Primrose Street
Newtown, CT 0-6470

Re: Application of Farrell Building Company for Wetlands Permit

Dear Commission Members:

I am submitting this letter as a brief outline of the law, which you already know, for the record.

1. The most obvious point is that activities in the wetlands or watercourses and within the 100 foot setback constitute regulated activities. However, the environmental impact with which you are concerned is to the wetlands and watercourses themselves, not to the regulated area only. AvalonBay Communities, Inc. V. Inland Wetlands Commission, 266 Conn. 150, 161 (2003) and cases cited therein.

In the case of Farrell there is no activity taking place within the wetlands or watercourses; near but not within.

2. Section 22a-41(a) of the Connecticut General Statutes, which is mirrored in Section 10.2 of your regulations, allows you to consider many factors. However, all the factors focus on the impact of the activity on the wetlands and watercourses. If there is no adverse environmental impact to the wetlands or watercourses then alternatives do not need to be considered.

Farrell, however, has proposed an alternative to its original application which contains a significant reduction in the disturbance. Disturbance in the 100 foot setback buffer is reduced by .54 acres, or 26% of the original 1.91 Acres. It has reduced the disturbance to the rest of the site, outside the regulated area, by 1.08 acres, or 5.35 % of the original.

What Farrell has done is to show a better way of accomplishing its project.

ROBERT H. HALL, P.C.

Newtown Inland Wetlands Commission

August 24, 2022

Page 2

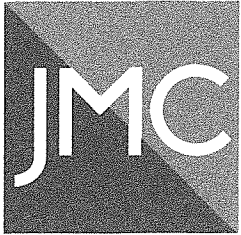
3. In dealing with "feasible and prudent" alternatives it is not enough to allege them or speculate on what might be done, like reducing the size of a project, with no showing that it would affect or reduce an impact on the wetlands or watercourses themselves. Substantial evidence would be needed. Three Level Corp. v. Conservation Commission, 148 Conn. App. 91, 108-109 (2014), citing River Bend Associates, Inc. v. Conservation & Inland Wetlands Commission, 269 Conn. 57, 69-70 (2004). That evidence needs to be supplied by live testimony from persons who are experts in the field. Id.

Farrell has supplied that expert testimony; as of this writing, the opponents have not.

Very truly yours,

A handwritten signature in cursive script that reads "Robert H. Hall". The signature is written in dark ink and is positioned above a horizontal line.

Robert H. Hall



Site Planning	Environmental Studies
Civil Engineering	Entitlements
Landscape Architecture	Construction Services
Land Surveying	3D Visualization
Transportation Engineering	Laser Scanning

August 19, 2022

Ms. Sharon Salling, Chair, and Members
of the Inland Wetlands Commission
Town of Newtown
3 Primrose Street
Newtown, CT 06470

INLAND WETLANDS COMMISSION
ORIGINAL DOCUMENT

Received Date: 8-19-22

Received By: 97

RE: JMC Project 21047
Multi-Family Development
90 Mount Pleasant Road (CT Route 6 & 25)
Town of Newtown, CT

Responses to Comments received during the July 27th Hearing

Dear Chairperson Salling and Members of the Inland Wetlands Commission:

On behalf of the applicant, Farrell Building Company, we are pleased to provide the following materials for your continued review of the Wetland Permit being sought for the proposed development at 90 Mount Pleasant Road:

1. JMC, PLLC Drawings:

<u>Dwg. No.</u>	<u>Title</u>	<u>Rev. #/Date</u>
WQ-1	"Water Quality Treatment Plan"	08/19/2022
C-200	"Overall Grading Plan"	08/19/2022
C-210	"Grading Plan"	08/19/2022
C-220	"Grading Plan"	08/19/2022
C-230	"Grading Plan"	08/19/2022
C-240	"Grading Plan"	08/19/2022
C-300	"Overall Utilities Plan"	08/19/2022
C-310	"Utilities Plan"	08/19/2022
C-320	"Utilities Plan"	08/19/2022
C-330	"Utilities Plan"	08/19/2022
C-340	"Utilities Plan"	08/19/2022

2. Newtown Commons Stormwater Management Facilities Maintenance Program, prepared by JMC, dated 08/19/2022.

Stormwater Management Revisions

Since the last meeting, we have revised the stormwater design based on your comments as well as the comments received from members of the public. In an effort to provide additional water quality treatment and reduce land disturbance adjacent to the wetlands on the northern side of the property, we have eliminated the northern basin and have increased the number and variety of stormwater practices on this side of the site. Impervious areas on the northern side of the site will now be treated with a bioretention area, stormwater planters, water quality swales, as well as areas of porous pavement as shown on the enclosed plans. These practices have been designed in accordance with the requirements outlined within the Connecticut Department of Energy and Environmental Protection (DEEP) Stormwater Quality Manual.

The revised design provides additional opportunities for enhanced water quality treatment while reducing the grading proximate to the wetland and wetland buffers. Similarly, the shape and grading of the southern pond was revised and elongated to increase water quality treatment and reduce the land disturbance along the steeper wetland buffer areas.

Maintaining Wetland Hydrology

In addition to the above revisions, we have also made several revisions to the plan which will better maintain the hydrology of the existing wetland system. The property contains several wetland 'fingers' as discussed during the last hearing. A concern was expressed that the hydrology of these wetland areas will be affected under proposed conditions, as the previously designed infiltration basins discharges were not directed to these areas.

To maintain flow to all of the existing wetland areas, we have added several outlets which will convey uphill stormwater runoff to multiple discharge points along the wetlands. In addition, the revised southern pond outlet has been relocated to better maintain the wetland hydrology as analyzed. The revised discharge points have been designed to maintain the amount of stormwater runoff which reaches these points under existing conditions.

Water Quality Treatment

The revised stormwater design provides multiple water quality treatment practices and will effectively treat the runoff from all impervious areas in accordance with the requirements of the Connecticut Department of Energy and Environmental Protection. The northern side of the site will feature porous pavement, stormwater planters, water quality swales, and a bioretention area. The below summary describes the processes by which each practice treats stormwater runoff from impervious surfaces:

- *Water Quality Swales (Filtering Practice):*

Water quality swales are vegetated open channels designed to treat and attenuate the water quality volume and convey excess stormwater runoff. Water quality swales provide significantly higher pollutant removal than traditional grass swales which are designed for conveyance rather than water quality treatment. Dry swales are designed to temporarily hold the water quality volume of a storm in a pool or series of pools created by permanent check dams at culverts or driveway crossings. The soil bed consists of native soils or highly permeable fill material, underlain by an underdrain system. Pollutants are removed through sedimentation, adsorption, nutrient uptake, and infiltration.

- *Stormwater Planter (Filtering Practice):*

Stormwater planters are small landscaped stormwater treatment devices that can be designed as infiltration or filtering practices. Stormwater planters use soil infiltration and biogeochemical processes to decrease stormwater quantity and improve water quality. These practices filter stormwater through layers of mulch, soil and plant root systems, where pollutants such as bacteria, nitrogen, phosphorus, heavy metals, oil and grease are retained, degraded and absorbed. Treated stormwater is then infiltrated into the ground as groundwater or, if infiltration is not appropriate, discharged into a traditional stormwater drainage system.

- *Bioretention Area (Filtering Practice):*

Bioretention systems are shallow landscaped depressions designed to manage and treat stormwater runoff. Bioretention systems are a variation of a surface sand filter, where the sand filtration media is replaced with a planted soil bed designed to remove pollutants through physical and biological processes (EPA, 2002). Stormwater flows into the bioretention area, ponds on the surface, and gradually infiltrates into the soil bed. Treated water is allowed to infiltrate into the surrounding soils or is collected by an underdrain system and discharged to the storm sewer system or receiving waters.

- *Porous Pavement (Infiltration Practice):*

Permeable paving is a broadly defined group of pervious types of pavements used for roads, parking, sidewalks, and plaza surfaces. Permeable paving provides an alternative to conventional asphalt and concrete surfaces and are designed to convey rainfall through the surface into an underlying reservoir where it can infiltrate, thereby reducing stormwater runoff from a site. In addition, permeable paving reduces impacts of impervious cover by providing for the recharge of groundwater through infiltration, and providing for pollutant uptake in the underlying soils. Porous pavement provides effective pollutant treatment for solids, metals, nutrients, and hydrocarbons.

The impervious areas proposed on the southern side of the site will be treated with an infiltration basin and a hydrodynamic separator for pretreatment. The below summary describes the processes by which each practice treats stormwater runoff from impervious surfaces:

- *Infiltration Basins (Infiltration Practice):*

Infiltration practices reduce runoff volume, remove fine sediment and associated pollutants, recharge groundwater, and provide partial attenuation of peak flows for storm events equal to or less than the design storm. Infiltration basins are stormwater impoundments designed to capture and infiltrate the water quality volume over several days, but do not retain a permanent pool. Infiltration basins can be designed as off-line devices to infiltrate the water quality volume and bypass larger flows to downstream flood control facilities or as combined infiltration/flood control facilities by providing detention above the infiltration zone. This section describes off-line basins designed for groundwater recharge and stormwater quality control, rather than for flood control. The bottom of an infiltration basin typically contains vegetation to increase the infiltration capacity of the basin, allow for vegetative uptake, and reduce soil erosion and scouring of the basin.

The stormwater runoff entering the infiltration basins will be pre-treated with hydrodynamic separators as described below.

- *Hydrodynamic (Pre-treatment Practice):*

This group of stormwater treatment technologies includes a wide variety of proprietary devices that have been developed in recent years. These devices, also known as swirl concentrators, are modifications of traditional oil/particle separators that commonly rely on vortex-enhanced sedimentation for pollutant removal. They are designed to remove coarse solids and large oil droplets (hydrocarbons) and consist primarily of cylindrical-shaped devices that are designed to fit in or adjacent to existing stormwater drainage systems (Washington, 2000). In these structures, stormwater enters as tangential inlet flow into the cylindrical structure. As the stormwater spirals through the chamber, the swirling motion causes the sediments to settle by gravity, removing them from the stormwater (EPA, 2002). Some devices also have compartments or chambers to trap oil and other floatables / pollutants.

The proposed hydrodynamic structures shown on the plan will be utilized to provide pre-treatment of stormwater runoff prior to entering the infiltration basin.

Long-Term Maintenance of Stormwater Facilities

Maintenance of the stormwater management facilities, both immediately after construction and in the years following construction, is critical to ensure that the facilities continue to work as designed. We have developed the enclosed stormwater management facility maintenance program which will be implemented by Farrell to ensure the long-term maintenance of the stormwater facilities. This maintenance protocol will ensure that the level of water quality treatment provided by the stormwater management system is maintained throughout the life of the system, and provides the operator with various milestones and checks to clearly outline required maintenance activities.

Overall, we feel that the revised stormwater management design enhances the water quality treatment of stormwater runoff on-site and better maintains the wetland hydrology as discussed with the Commission. We trust that the provided information is sufficient for you to continue your review of this application and look forward to discussing the project with you further. Thank you for your consideration.

Sincerely,

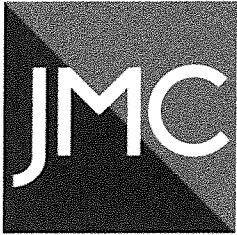
JMC Planning Engineering Landscape Architecture & Land Surveying, PLLC



Anthony P. Nester, RLA
Associate Principal



Paul J. Dumont, PE
Design Manager



INLAND WETLANDS COMMISSION
ORIGINAL DOCUMENT

Site Planning
Civil Engineering
Landscape Architecture
Land Surveying
Transportation Engineering

Environmental Studies
Entitlements
Construction Services
3D Visualization
Laser Scanning

Received Date: 8-19-22

Received By: [Signature]

Newtown Commons
Stormwater Control Facilities
Maintenance Program

This program addresses the operation and maintenance of the stormwater management facilities proposed as part of the Newtown Commons project located at 90 Mt. Pleasant Road, Newtown, CT. Once construction of the community has been completed and all disturbed areas have been stabilized in accordance with CT DEEP requirements, the on-site stormwater management system shall be maintained to ensure proper functionality of installed practices.

All stormwater management infrastructure, including infiltration basins, stormwater planters, bio-retention areas, water quality swales, porous pavement, hydrodynamic separators, and storm drainage conveyance system (pipes, drain inlets, manholes, end section, rip rap) require continuous inspection / maintenance to ensure that the installed systems are operating to control and manage stormwater runoff, as intended. This continual inspection and maintenance program is vital to maintaining the water quality treating function of the stormwater management facilities as designed.

These inspections/observations vary depending on the specific practice and this program has been developed to aid in the daily, monthly, and yearly maintenance of the on-site stormwater management facilities. All structures shall be maintained in a clean condition, free of silt and debris. Inspections shall be conducted after each significant rainstorm, and all required maintenance shall be immediate. Farrell Communities At Newtown LLC shall be responsible for maintenance for the property. Records will be kept by Farrell Communities At Newtown LLC.

Permanent Stormwater Management Practice
Inspection and Maintenance Checklist

Stormwater Management Practice	Inspection & Maintenance Intervals	Inspection/Maintenance Requirements
Drain Inlets	Monthly	<ul style="list-style-type: none">• Check for blockage and/or erosion at top of each inlet. Repair/remove as necessary.• Check for sediment and debris collected within sumps and clean out as necessary.
Conduit Level Spreaders (Rip-rap Aprons)	Annually + After Major Storms	<ul style="list-style-type: none">• Check for evidence of flows going around the structure.• Check for evidence at downstream toe and repair as needed.• Clean sediment and install additional aggregate as necessary.

Stormwater Management Practice	Inspection & Maintenance Intervals	Inspection/Maintenance Requirements
Stormwater Management Basin (Infiltration Basin)	Annually + After Major Storms	<ul style="list-style-type: none"> • Check adequacy of vegetation and ground cover; for evidence of embankment erosion, animal burrows, unauthorized plantings and cracking, bulging or sliding of dam, clear/properly functioning drains, seeps/leaks on downstream face, failure of slope protection or riprap. Repair/remove as necessary. • Confirm emergency spillway is clear of obstructions and debris. • Confirm all inlets and outlet structures/pipes are operating properly.
Water Quality Swales (Vegetated Swales)	Monthly	<ul style="list-style-type: none"> • Check that contributing area is clean of debris. • Confirm vegetation is adequately maintained (mowing, fertilizer, etc.) • Check for rilling/erosion and repair as needed. • Confirm dewatering occurs between storms.
	Annually + After Major Storms	<ul style="list-style-type: none"> • Clean sediment and re-vegetate as necessary. • Check condition of outlet and repair as necessary
Hydrodynamic Separator (Water Quality Structure)	Quarterly	<ul style="list-style-type: none"> • Open access cover for visual inspection and measure the distance from the standing water surface to the sediment pile with a measuring stick or tape. If less than 4 feet, insert hose from vacuum truck into the sump and screen through both access covers to clean out the standing water, layer of oil, sediment, trash, etc. • The screen must be powerwashed to ensure it is free of trash and debris.
Porous Pavement	Monthly and As Needed	<ul style="list-style-type: none"> • Ensure that paving area is clean of debris • Ensure that paving dewaterers between storms • Ensure that the area is clean of sediments • Mow upland and adjacent areas, and seed bare areas
	Quarterly	<ul style="list-style-type: none"> • Vacuum sweep frequently to keep surface free of sediments
	Annually	<ul style="list-style-type: none"> • Inspect the surface for deterioration or spalling

Stormwater Management Practice	Inspection & Maintenance Intervals	Inspection/Maintenance Requirements
Bioretention Areas / Stormwater Planters	Routine and As Needed	<ul style="list-style-type: none"> • Mowing-Frequency depends upon location and desired aesthetic appeal. • Watering-If droughty, watering after the initial year may be required. • Miscellaneous Upkeep-Tasks include trash collection, spot weeding, and removing mulch from overflow device.
	Semi-Annually	<ul style="list-style-type: none"> • Pruning -Nutrients in runoff often cause bioretention vegetation to flourish. • Mulching -Remulch bare areas with fresh mulch
	Annually	<ul style="list-style-type: none"> • Mulch Removal-Mulch accumulation reduces available water storage volume. Removal of mulch also increases surface infiltration rate of fill soil. • Remove and Replace Dead Plants-Within the first year, 10 percent of plants may die. Survival rates increase with time.

IWC mtg.
8/24/22
27.

From: Patrick Napolitano

8/24/22 Wetlands meeting

I will be making some statements and asking some questions of the developers.

1. The size of this development is far greater than the proposed medical facility in 2018. Here we have 11 buildings equaling 20 families per building, a tennis court, a pool, a club house and insufficient parking spaces. Usage = 400-500 people 24/7 X 365 days. Cars will be forced to park on the fringes of the wetlands and some will not be well maintained, thus oil grease and even gas will leak into the wetlands.

The medical facility had only 3 buildings and many parking spaces. The traffic projected for that facility was far less with cars in and out 9-5, 5 days a week. COST

2. At this time, based on all the variables, it would be appropriate to have a new Wetlands study. It has been at least 5 years since the last study and this project will be putting a much greater strain on the resources fed by the wetlands.

* NOTE * DO NEW MAPS INCLUDE THE SMALL WETLANDS AREA NOT PREVIOUSLY SHOWN

3. I question the Storm Water Control facilities and the overwhelming maintenance programs you have put forth.
a. How much of this facility will not be covered by these systems?

b. Will the porous pavement cover be 100% of the complex and will all the runoff be piped out of the area? Will some of it seep into the ground?

c. Looking over this maintenance of this Strom Water drainage system it appears that there is nothing but grass, mulch and possibly dirt to filter the grease, oil and a myriad of spray products and contaminants that will be on the ground.

d. Review of this maintenance schedule raises so many questions. Are there laws or regulations that can be applied here if these schedules are not followed? What are the consequences if none of this is done, and I

IT IS ~~BUILT - FREE WATER~~ would suggest this may very well fall by the way-side? ^{once}
The cost to maintain these complex systems will also be a detriment to their being kept up. The consequences for the lack of maintenance to these filtering systems would result in a poisoned water source and the end of water, live trout and a living wetlands. It will be gone forever.

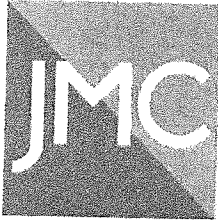
e. The only alternative left if this comes to pass would be to follow the lead in the movie, Erin Brockovich.

We were fortunate to have a wetlands expert look at these changes and determine that they were not adequate by any means. The problem the general public has is that we cannot afford the cost of an expert to give us a reasonable review of the wetlands issues. We, the public rely on this commission to help us in gaining a reasonable outcome via the expertise you might employee in this situation.

employ

From: Patrick Napolitano

IWC mtg.
8/24/22
27



Site Planning
Civil Engineering
Landscape Architecture
Land Surveying
Transportation Engineering
Environmental Studies
Entitlements
Construction Services
3D Visualization
Laser Scanning

Newtown Commons Stormwater Control Facilities Maintenance Program

This program addresses the operation and maintenance of the stormwater management facilities proposed as part of the Newtown Commons project located at 90 Mt. Pleasant Road, Newtown, CT. Once construction of the community has been completed and all disturbed areas have been stabilized in accordance with CT DEEP requirements, the on-site stormwater management system shall be maintained to ensure proper functionality of installed practices.

All stormwater management infrastructure, including infiltration basins, stormwater planters, bio-retention areas, water quality swales, porous pavement, hydrodynamic separators, and storm drainage conveyance system (pipes, drain inlets, manholes, end section, rip rap) require continuous inspection / maintenance to ensure that the installed systems are operating to control and manage stormwater runoff, as intended. This continual inspection and maintenance program is vital to maintaining the water quality treating function of the stormwater management facilities as designed.

These inspections/observations vary depending on the specific practice and this program has been developed to aid in the daily, monthly, and yearly maintenance of the on-site stormwater management facilities. All structures shall be maintained in a clean condition, free of silt and debris. Inspections shall be conducted after each significant rainstorm, and all required maintenance shall be immediate. Farrell Communities At Newtown LLC shall be responsible for maintenance for the property. Records will be kept by Farrell Communities At Newtown LLC.

Permanent Stormwater Management Practice Inspection and Maintenance Checklist

Stormwater Management Practice	Inspection & Maintenance Intervals	Inspection/Maintenance Requirements
Drain Inlets	Monthly	<ul style="list-style-type: none">• Check for blockage and/or erosion at top of each inlet. Repair/remove as necessary.• Check for sediment and debris collected within sumps and clean out as necessary.
Conduit Level Spreaders (Rip-rap Aprons)	Annually + After Major Storms	<ul style="list-style-type: none">• Check for evidence of flows going around the structure.• Check for evidence at downstream toe and repair as needed.• Clean sediment and install additional aggregate as necessary.

Stormwater Management Practice	Inspection & Maintenance Intervals	Inspection/Maintenance Requirements
Stormwater Management Basin (Infiltration Basin)	Annually + After Major Storms	<ul style="list-style-type: none"> • Check adequacy of vegetation and ground cover; for evidence of embankment erosion, animal burrows, unauthorized plantings and cracking, bulging or sliding of dam, clear/properly functioning drains, seeps/leaks on downstream face, failure of slope protection or riprap. Repair/remove as necessary. • Confirm emergency spillway is clear of obstructions and debris. • Confirm all inlets and outlet structures/pipes are operating properly.
Water Quality Swales (Vegetated Swales)	Monthly	<ul style="list-style-type: none"> • Check that contributing area is clean of debris. • Confirm vegetation is adequately maintained (mowing, fertilizer, etc.) • Check for rilling/erosion and repair as needed. • Confirm dewatering occurs between storms.
	Annually + After Major Storms	<ul style="list-style-type: none"> • Clean sediment and re-vegetate as necessary. • Check condition of outlet and repair as necessary
Hydrodynamic Separator (Water Quality Structure)	Quarterly	<ul style="list-style-type: none"> • Open access cover for visual inspection and measure the distance from the standing water surface to the sediment pile with a measuring stick or tape. If less than 4 feet, insert hose from vacuum truck into the sump and screen through both access covers to clean out the standing water, layer of oil, sediment, trash, etc. • The screen must be powerwashed to ensure it is free of trash and debris.
Porous Pavement	Monthly and As Needed	<ul style="list-style-type: none"> • Ensure that paving area is clean of debris • Ensure that paving dewateres between storms • Ensure that the area is clean of sediments • Mow upland and adjacent areas, and seed bare areas
	Quarterly	<ul style="list-style-type: none"> • Vacuum sweep frequently to keep surface free of sediments
	Annually	<ul style="list-style-type: none"> • Inspect the surface for deterioration or spalling

Stormwater Management Practice	Inspection & Maintenance Intervals	Inspection/Maintenance Requirements
Bioretention Areas / Stormwater Planters	Routine and As Needed	<ul style="list-style-type: none"> • Mowing-Frequency depends upon location and desired aesthetic appeal. • Watering-If droughty, watering after the initial year may be required. • Miscellaneous Upkeep-Tasks include trash collection, spot weeding, and removing mulch from overflow device.
	Semi-Annually	<ul style="list-style-type: none"> • Pruning -Nutrients in runoff often cause bioretention vegetation to flourish. • Mulching -Remulch bare areas with fresh mulch
	Annually	<ul style="list-style-type: none"> • Mulch Removal-Mulch accumulation reduces available water storage volume. Removal of mulch also increases surface infiltration rate of fill soil. • Remove and Replace Dead Plants-Within the first year, 10 percent of plants may die. Survival rates increase with time.

Dated: 8/24/2022

Prepared and submitted by:

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To the Inland Wetlands Commission:

As a resident of Newtown for over 18 years, and a neighbor to the property for which this application has been submitted, I have a keen interest in the appropriate regulation of activities/use of the subject property. I recognize and welcome the fact that any property owner in town has the right to develop their property. However, it's important that the above statement is qualified in that the development must be done in accordance with regulations. It is this Commission's responsibility to ensure the inland wetlands and watercourses regulations are adhered to, and the applicant has submitted a complete application by which the Commission can make their decision upon. In researching the responsibilities of the Commission, the applicant, and other parties involved in an application review process, I learned that the Connecticut Department of Energy and Environmental Protection (DEEP) has prepared a course, which at least one member of the Commission is strongly recommended to have completed and passed. This course is free and available to the public. To help educate myself on the subject of Inland Wetlands and Watercourses, I have completed and passed the DEEP Municipal Inland Wetlands Agency Comprehensive Training course, with a grade of 96.

The initial wetlands study found a small portion of wetlands, which was not indicated on any of the maps initially submitted with this application. By the applicant's own admission during their initial presentation at the initial Inland Wetlands meeting for the application, the applicant didn't feel it was necessary to include the wetlands. It is not at the discretion of the application to arbitrarily exclude wetlands from an application. The applicant provided new stormwater retention and filtration plans which indicated the small wetlands portion mentioned and excluded maps in the initial meeting; however, the maps only indicate "revised per town comments" and were provided by JMC, but do not indicate that a new survey was completed. If the initial survey subsequent to the wetlands identification in the field did not locate the wetlands, a new survey would need to be completed to accurately identify the wetlands. The trouble here is that the survey uses flags placed by the soil scientist to identify wetlands. These flags were all placed over seven years ago and the specific location of the flags were not documented through geolocation by the soil scientist. Since the wetlands study, there have been many years and numerous parties walking the lot along with opportunity for unauthorized and authorized access which could have resulted in moving or removing these flags. As such, a new thorough wetlands study must be conducted to ensure wetlands are properly identified and accurately reflected in the maps. Until such time that the applicant provides complete and comprehensive drawings depicting ALL wetlands identified, with current wetlands study and survey data, it seems clear that the application is incomplete and therefore the commission must either deny the application, or delay voting on it until such time that the applicant provides complete and comprehensive drawings.

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Given that all wetlands are downhill from the proposed activity on the parcel, and the soil types of nearly all uphill area are well drained and moderately well drained soils, the uphill area acts as a natural filter for and supplier of groundwater runoff to the wetlands on the property. As such, there is great importance to the upland review areas and the wetlands buffer area. The current proposed activity proposes a significant impact to the wetland buffer and upland review area. As mentioned previously, other Connecticut towns have established an increase to the wetland buffer in circumstances where the wetlands are located on a hillside of at least a specified grade (as recommended in model III of the Connecticut DEEP guidelines on the upland review area regulations). It is reasonable to assume that any Inland Wetlands Commission should take the topography into consideration when determining the upland review areas. In fact, within our current regulations, the last paragraph of the definition of a "Regulated Activity" read: "The Agency may rule that any other activity located within such upland review area or any other non-wetland or non-watercourse area that is likely to impact or affect wetlands or watercourses and is a regulated activity." Considering the slope of the land and the location of the wetlands relative to the slope and proposed activity, it is prudent that this commission consider the Upland Review Area greater than that of the Wetland Buffer. Our own regulations define the "Upland Review Area" as "Any area where an activity is likely to have an adverse impact on adjacent wetland or watercourse." Notice that there is no reference to the Upland Review Area being synonymous with "Wetland Buffer" in our definitions. That is because it is impossible to set a specific distance from a wetland as the only areas to be included in an Upland Review Area. To date, the Upland Review Area has yet to be identified, or even suggested in conversation. Until such time that the Upland Review Area is considered, there are not enough facts to drive an informed decision for approval.

Section 7.5.f) of the regulations state: "All applications shall include the following information in writing or on maps or drawings:" "f) Alternatives which would cause less or no environmental impact to wetlands or watercourses and why the alternative set forth in the application was chosen. All alternatives shall be diagrammed on a site plan or drawing." The applicant has not provided such alternatives. Despite the assertion that the mention of a previous application which included the subject parcel was approved in the past should suffice as the proposed alternative, this in fact does not constitute an alternative. The previous application mentioned was for a development on the combination of the subject parcel as well as a much larger adjacent parcel. The regulated activity for which the application was approved is very different than that of this application. Additionally, the applicant for this application is not the same applicant for the prior mentioned application. Considering all the aforementioned, the application has not met this requirement, therefore the application is incomplete.

When considering whether there is a potential for a significant impact to wetlands, the good part here is that our regulations also define "Significant Impact Activity". Without reciting the entire definition, it is worth highlighting that the proposed activity meets multiple criteria to be defined as a Significant Impact Activity. Some, but not all, examples of the criteria met include: "3) Any activity which substantially diminishes the natural capacity of an inland wetland or watercourse to: support desirable fisheries, wildlife, or other biological life; prevent flooding; supply water; assimilate waste, facilitate drainage; provide recreation or open space; or perform other functions." and "6) Any activity which is likely to cause or has the potential to cause pollution of a wetland or watercourse." The two criteria mentioned above are clearly met by the proposed activity. Calling attention to the qualification that 6) states "likely to cause or has the potential to cause", the application does

not have to indicate a definitive impact, but rather the potential to cause a significant impact. This application absolutely has the potential to cause a significant impact. Therefore, by definition in the regulation, this application should be considered a Significant Impact Activity.

Given that the proposed activity is a Significant Impact Activity, all requirements defined in Section 7.6 of our Regulations are applicable in this application. Among the many requirements of 7.6, two are worth highlighting, including: 7.6.d) "A description of the ecological communities and functions of the wetlands or watercourses involved with the application and the effects of the proposed activities on these communities and wetland functions;" and 7.6.e) A description of how the applicant will change, diminish, or enhance the ecological communities and functions of the wetlands or watercourses involved in the application and each alternative which would cause less or no environmental impact to the wetlands or watercourses, and a description of why each alternative considered was deemed neither feasible or prudent;" .

7.6.3) is especially important, considering the proposed activity is clearly an effort to develop such a significant portion of the land on the property. The property previously comprised a single residential building which had no measured impact on the wetlands or watercourses. The applicant surely has the ability to submit a substantially smaller development which would have little to no adverse impact on the wetlands or watercourses. Considering it has been established that the activity proposed is a significant impact activity, the applicant is required to provide at a minimum, all of the information detailed in 7.6. The applicant has not done so; therefore, unless the applicant is willing to and will be afforded the time to do so, this application must be denied.

To the topic of wildlife and plant biology in the area, and the presence or absence of any protected or endangered species, careful consideration must be exercised. The soil scientist has stated that there are no "hits" on the DEEP Natural Diversity Data Base (NDDB) maps. This is expected, as there has never been a comprehensive study of the subject property, including the wetlands, to determine if there are any such species on the property. These "hits" are defined on the NDDB maps as "blobs". If no species of concern are identified, there are no "blobs" on the map in that area. Likewise, if no study has been performed, there would be no "blob" or "hit" indicated on the map. Until a comprehensive study is conducted and no species of concern are identified, no one, including the applicant, can assume that there are no species of concern.

In summary, the application before the commission in its current state is inaccurate and misleading (in that the applicant has knowingly omitted wetlands identified in a wetlands survey), and woefully incomplete.

Considering all the aforementioned, it seems appropriate that application before the commission must be denied.

The Commission has the obligation and responsibility to make an informed decision based upon complete information, not limited to the information provided solely by the applicant. Especially in cases where there is the potential for significant impact, section 8.9 of the regulations clearly state that the Commission can ask the applicant to fund an independent technical assessment of the activity. The public has requested in writing and in person that the Commission require an independent technical assessment. Additionally, the preliminary review performed by a professional independent third-party and funded by members of the public identified reason for an additional technical review.

If the Commission votes to approve the application in its current state, it is knowingly approving an incomplete application, which is inconsistent with the responsibilities by which all Commission members are required to adhere to. Unless the Commission requests the applicant to perform such an independent technical assessment, it seems appropriate that this application must be denied.

Additional information for the consideration of the commission include the following excerpts taken directly from the 2004 Connecticut Stormwater Quality Manual by The Connecticut Department of Environmental Protection. While the excerpts below only begin to address the potential impacts of changes to stormwater quality through development, the manual also details the efficacy of certain types of treatment, containment, etc.

“Urban stormwater runoff can be considered both a point source and a nonpoint source of pollution. Stormwater runoff that flows into a conveyance system and is discharged through a pipe, ditch, channel, or other structure is considered a point source discharge under EPA’s National Pollutant Discharge Elimination System (NPDES) permit program, as administered by DEP. Stormwater runoff that flows over the land surface and is not concentrated in a defined channel is considered nonpoint source pollution. In most cases stormwater runoff begins as a nonpoint source and becomes a point source discharge (MADEP, 1997). Both point and nonpoint sources of urban stormwater runoff have been shown to be significant causes of water quality impairment (EPA, 2000).” [Ref: Page 25 (Chapter 2-2)]

“Research has shown that when impervious cover in a watershed reaches between 10 and 25 percent, ecological stress becomes clearly apparent. Beyond 25 percent, stream stability is reduced, habitat is lost, water quality becomes degraded, and biological diversity decreases (NRDC, May 1999).” [Ref: Page 25 (Chapter 2-2)]

“However, in developed watersheds with significant residential, commercial, and industrial development, overall watershed imperviousness often exceeds the ecological stress thresholds.” [Ref: Page 29 (Chapter 2-6)]

Table 2-5 Effects of Urbanization on Other Receiving Environments

Receiving Environment	Impacts
Wetlands	<ul style="list-style-type: none"> ○ Changes in hydrology and hydrogeology ○ Increased nutrient and other contaminant loads ○ Compaction and destruction of wetland soil ○ Changes in wetland vegetation ○ Changes in or loss of habitat ○ Changes in the community diversity and mass and abundance of organisms ○ Loss of particular biota ○ Permanent loss of wetlands

[Ref: Page 35 (Chapter 2-12)]

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- b) For an application for which a public hearing is held, which may include public comments, evidence and testimony;
- c) Reports from other agencies and commissions including but not limited to the Town of Newtown:
 - 1. Conservation Commission and/or its agent(s)
 - 2. Planning and Zoning Commission and/or its agent(s)
 - 3. Building Official
 - 4. Health Officer
 - 5. Town Engineer
 - 6. First Selectman and/or his/her agent(s)
- d) The Agency may also consider comments on any application from the Northwestern Soil and Water Conservation District, the Housatonic Council of Elected Officials and other regional organization agencies, agencies in adjacent municipalities which may be affected by the proposed activity, or other technical agencies or organizations which may undertake additional studies or investigations;
- e) Non-receipt of comments from agencies and commissions listed in sub-sections 10.1(c) and (d) above within the prescribed time shall neither delay nor prejudice the decision of the Agency.

10.2 **Criteria for Decision.** In carrying out the purposes and policies of sections 22a-36 to 22a-45 of the Connecticut General Statutes, including matters relating to regulating, licensing and enforcing the provisions thereof, the Agency shall take into consideration all relevant facts and circumstances, including but not limited to:

- a) The environmental impact of the proposed regulated activity on wetlands or watercourses;
- b) The applicant's purpose for, and any feasible and prudent alternatives to, the proposed regulated activity which alternatives would cause less or no environmental impact to wetlands or watercourses;
- c) The relationship between the short-term and long-term impacts of the proposed regulated activity on wetlands or watercourses and the maintenance and enhancement of long-term productivity of such wetlands or watercourses;
- d) Irreversible and irretrievable loss of wetland or watercourse resources which would be caused by the proposed regulated activity, including the extent to which such activity would foreclose a future ability to protect, enhance or restore such resources, and any mitigation measures which may be considered as a condition of issuing a permit for such activity including, but not limited to, measures to (1) prevent or minimize pollution or other environmental damage, (2) maintain or enhance existing environmental quality, or (3) in the following order or priority: restore, enhance and create productive wetland or watercourse resources;
- e) The character and degree of injury to, or interference with, safety, health or the reasonable use of property which is caused or threatened by the proposed regulated activity; and
- f) Impacts of the proposed regulated activity on wetlands or watercourses outside the area for