

**INLAND WETLANDS COMMISSION  
SPECIAL MEETING  
MINUTES**

February 1, 2023 @ 2:00 p.m.  
Meeting Room #3, Newtown Municipal Center  
3 Primrose Street, Newtown CT

These Minutes are subject to approval by the Inland Wetland Commission

**Present:** Sharon Salling, Mike McCabe, Scott Jackson, Kendall Horch, Suzanne Guidera, Stephanie Kurose

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

Ms. Salling opened the meeting at 2:00 p.m.

**OTHER BUSINESS**

**Permit #20-27 by Negreiro & Sons Construction LLC**, property located at 203 & 211 Berkshire Road, for a permit revocation hearing.

Ms. Salling asked Mr. Maguire to give background information on the site and to apprise the Commission on what they need to accomplish at this hearing.

Mr. Maguire gave a brief history of the property. He stated in April 2022, the Commission held a Revocation hearing to revoke the original wetlands subdivision permit. The concerns are the sediment basins being bypassed, siltation running into wetlands, other noncompliance issues and failure to maintain erosion controls.

At the 2022 hearing, Jason Edwards, Engineer, J. Edwards & Associates LLC, Easton, CT, submitted mitigation plans which included creating an upper diversion swale, abandoning the trenches, installing the main stormwater basin and repairing the erosion controls. Mr. Maguire stated only part of the plans were executed, which was the stabilization and vegetation along the roadside.

Mr. Maguire's main concerns have not been addressed, which are the abandonment of the trenches and the implementation of the sediment and erosion controls. Mr. Maguire stated he emailed the owner and contractor several times to make them aware of these issues but nothing was done to prevent the extensive sediment discharge. The sediment discharge runs from Lot 13 into the Newtown Forest Association property.

Mr. Maguire stated "here we are again". The "track record" proves the developer is not capable of maintaining the site. There have been two major impacts to the wetlands. Mr. Maguire

recommended that the Commission revoke the wetland permit. He would like the issues be readdressed and resubmitted with better plans in place. Mr. Maguire stated obviously the original plans are not working.

Mr. Edwards gave an overview of the property. Mr. Edwards stated they were monitoring the property twice a month during the summer of 2022. At that time everything looked good. He stated they have not been on the site in a couple of months. Mr. Edwards stated a drone flew over the property a couple of day ago. Mr. Edwards passed out an inspection report and aerial photos from the drone (see attached). He stated Lots 3 & 12 are the main concerns.

Mr. Maguire stated Lots 3, 11 & 12 are the main concerns regarding direct impacts to wetlands. Other lots of concern were Lots 2, 4, 5, & 13 which are associated with the trenches and are in the general vicinity of wetlands.

Mr. Edwards stated the main cause of water overflow was due to the contractor using hay bales in lieu of the proposed riprap pad. The hay bales froze and created a dam which caused the water to spill over and continue down into the wetlands.

Mr. Edwards stated Lot 3 is stabilized at this point with silt fencing. Mr. Maguire stated the trenches on Lot 3 have not been abandoned and the sediment is still running into the wetlands.

Mr. Maguire also pointed out that the plans included a vegetative swale that was never implemented. A large berm was created in place of the swale. Mr. Maguire's concern is the berm wouldn't be sufficient and the silt would still get around. Mr. Maguire stated "they are chasing their tails". Mr. Edwards agreed and stated the swales should have been created.

Gary Nash, Nash Construction, Shelton CT, stated the berm is diverting the water away from the stream and the water is running clean. Mr. Maguire agreed the water was clean but also noted the water coming from the sediment basin was silted. Mr. Maguire asked whether there was a maintenance schedule for the basins to be cleaned out. Mr. Edwards stated yes it's on the plan. Mr. Negreiro, Contractor, stated the basins are cleaned periodically and were cleaned after the rain event.

Mr. Maguire asked whether the temporary main basins have been cleaned. The answer was no. Mr. Maguire stated the underdrains were discussed at the last hearing and were supposed to be installed but have not. Mr. Edwards will look in to it.

Mr. Edwards stated Mr. Steven Danzer, an environmental consultant, will go to the site this weekend and provide an assessment and remediation plan.

Ms. Salling stated the monitoring plan is not being followed and it's clear there are issues. What isn't clear is the mitigation plan being put into place in a timely fashion. The Commission is looking for a practical plan; taking steps to remediate, a set schedule and a real commitment to implement those steps. Ms. Salling stated she does not want to have another hearing.

Ms. Salling asked Mr. Maguire what needs to be done. Mr. Maguire stated a combination of things. The priority is to have a clean site.

Mr. Nash gave a brief history of the property. Mr. Nash described how the previous farmer created water diversions which makes the property hard to manage during rain events as well as the property having a high water table. Ms. Salling appreciated the situation but stated even more reasons why there needs to be an appropriate vigilant plan. Mr. Maguire agreed.

Mr. Negreiro described the preventive measures he has taken including silt fences and berms. He stated the areas were protected and the water was running clean but agreed the frozen hay bales caused the water to go around and create the sediment runoff.

Ms. Salling appreciated the comments but stated what's important is remediation and a resolution.

Ms. Horch stated she had been at the site in the morning and described the lower lot (12) as being completely exposed. She couldn't understand why the lot did not have enough silt fencing or protection, especially since it was next to the wetlands. People knew this lot was a red flag and yet nothing was done.

Ms. Horch also stated that the proposed swales approved by the Commission have not been constructed and the trenches have not been abandoned. Ms. Horch noted that berms were built instead of the swales and asked whether those berms were approved. Ms. Horch noted she has not seen berms used as a practice.

Mr. Nash described the contours of the land and where the water travels. Mr. Nash stated the berms are an upgrade to the silt fences. There was a discussion between Ms. Horch and Mr. Nash regarding the swales, trenches, diversion of water and the timing issues for implementation. Ms. Horch stated if the approved swales were built in April there wouldn't be a need for the berms.

Ms. Salling asked why the swales weren't constructed. Mr. Nash stated it was too wet, the lot became too vegetated and they didn't want to disturb the area until needed. Ms. Salling and Ms. Horch concurred the swales could have been constructed in the summer when it was beneficial.

Ms. Guidera stated there needs to be a mitigation/remediation plan in place and she is in favor of stopping construction until this is under control. Ms. Guidera stated she has seen enough evidence to revoke the permit at this time.

Mr. Maguire reiterated his recommendation to require wetlands mitigation with the focus on the site, not the construction of the houses. Then apply for a new wetlands permit and get a new plan together that will work.

Attorney Chris Russo, Russo and Rizio LLC, spoke on behalf of the applicant. Atty. Russo asked

Mr. Edwards to list possible resolutions. Mr. Maguire asked if the swales are still necessary. Mr. Edwards stated yes.

Ms. Salling stated the Commission owes you time for a plan and you shouldn't be hashing it out during this meeting.

Atty. Russo would like the opportunity to quickly prepare a plan to protect the site rather than revoke the permit which would stop everything on site.

Ms. Guidera asked if a cease and desist can be issued. Mr. Maguire stated a cease and desist has been issued, now he is recommending the permit be revoked.

Atty. Russo argued that if the permit is revoked the work would stop. He stated Mr. Edwards feels he can resolve the situation and Atty. Russo thinks he should have that chance.

Ms. Kurose stated you can understand our skepticism. Steve has been going out there for months and months and none of these things have been fixed. Atty. Russo understood.

Ms. Salling interrupted Atty. Russo. Ms. Salling reiterated we are here to determine one thing; if the permit needs to be revoked or not. Ms. Salling would like to give the time needed to submit the best plan possible but this meeting is not about the plans.

Mr. Edwards asked whether the residents currently residing there will be impacted by the revocation of the wetland permit. Atty. Russo asked whether the notification for this hearing was for the entire subdivision.

Ms. Horch asked whether there were individual permits for each lot. Mr. Maguire described the status of each lot. Mr. Maguire wants to revoke the permits on the lots that are impacted in the wetland and review areas. Those lots are 2, 3, 4, 5, 11, 12, 13.

Mr. McCabe interjected that the more he hears at this meeting the more it continues on and on about the issues that have been previously identified on the property. Perhaps this property is much harder to work with than the original mitigation plans allow. Mr. McCabe was in favor of revoking the permit, taking a pause, taking a look at the property and resolving the issues once and for all. Mr. McCabe stated he can't be at another meeting again having these sedimentation issues occur on wetland property.

Atty. Russo stated revoking the permit is an extreme measure. He recommended continuing the cease and desist and giving Mr. Edwards time to address the issues.

Atty. Russo and Mr. Maguire went back and forth on the "notice of hearing" procedures. Atty. Russo pointed out that specific addresses were not noticed. Mr. Maguire stated he's happy to contact the Town's attorney regarding the technicalities. Atty. Russo stated that's not what they are looking to do.

Atty. Russo reiterated that they are trying to prevent an extreme step by revoking the permit. The Commissioners disagreed this was an extreme step. Ms. Horch pointed out that Staff can revoke the wetland's permit without the Commission's permission. Ms. Horch stated the original wetland's approval was for the entire subdivision, not for the individual lots. She noted due to the way the property has been taken care, the Commission should have looked at each lot separately.

There was a lengthy discussion back and forth to either continue the cease and desist or revoke the permit. Atty. Russo stated if the cease and desist is continued Mr. Edwards can prepare a plan and the work can be completed in a certain time frame.

Ms. Guidera would be in favor of the cease and desist if there was an environmental report from an expert, if Mr. Edwards would be committed to monitoring the site on a weekly basis, and if a monitoring schedule is put in place.

Mr. Edwards suggested Mr. Maguire be part of the monitoring schedule. Mr. Maguire stated he does not want to babysit and that is why they are having this hearing. Mr. Maguire once again stated his recommendation is to revoke this permit and that the priorities on the site need to be shifted. The priority should be to fix the wetlands before finishing the houses. Ms. Horch pointed out that this conversation was discussed word for word in April. Ms. Horch would move to revoke the permit.

More discussion was needed so the Commission agreed to table the hearing to the next IWC meeting. Ms. Salling would like a full plan for remediation, a full plan for monitoring, a practical approach to completing the work and a sincere commitment. That would be three strikes. The third strike is irrevocable. We want everyone to succeed with their permits but these were egregious issues. You need to stand up and deliver.

Ms. Salling made a motion to table the hearing to the next IWC Regular IWC meeting on February 8, 2023. Ms. Horch so moved. Mr. McCabe seconded. The motion to table the hearing passed 5 to 1.

Ms. Salling – Aye  
Mr. McCabe – Aye  
Mr. Jackson – Aye  
Ms. Guidera – Aye  
Ms. Horch – Aye  
Ms. Kurose - Nay

## **ADJOURNMENT**

With no additional business, Ms. Horch moved to adjourn. Mr. McCabe seconded. All in favor. The Special IWC Meeting of February 1, 2023 was adjourned at 2:56 pm.

*Respectfully Submitted, Dawn Fried*



Date: January 28, 2023

To: Steve Maguire  
Town of Newtown  
Senior Land Use Enforcement Officer

From: Ian Eller, L.S.  
J. Edwards and Associates, LLC

Re: Holly Lane Subdivision  
Erosion Control Inspection on 01-28-2023

Steve

In response to the emails that had circulated between your office, our office and Jose Negreiro, I performed an inspection at about 11:30 AM on Saturday January 28, 2023, at Holly Lane. Based on the aforementioned emails, I focused my efforts on the lots under construction: Lot 3 and Lot 12. However, I also did a general broad inspection and examined the brook and crossing as well as the detention pond.

In general, the site was in decent condition. There was some tracking onto the roadway from driveways with insufficient anti-tracking pads. There was also some accumulation of silt in the road, likely due to the extremely high volume rain event Newtown experienced on Thursday night.



Lot 12 showed a significant amount of clearing, and what appears to have been sediment runoff beyond the limits of disturbance. The silt fence was in good shape and apparently newly installed, but looks as if it was installed after the rain even and major runoff.



Lot 3 was cleared and muddy but there was no major sediment runoff. Moreover it appeared that pains were taken to protect the adjacent brook from runoff and sedimentation.



I examined the brook and crossing and did not see any evidence of sediment release into either.



And while the water in the detention basin was cloudy, I did not see any indication that new sediment had been released there. However, the silt fence at the basin outlet may need repair until the project is complete, as an added level of safety.



I did note that the upper trench that had been dug to protect the road from runoff from the fields was full of water. It did not appear that this posed a sedimentation threat at this time because the portion of the trench near current construction is filled, but it is not optimal.

227 Stepney Road • Easton, CT • 06612 • Phone:203.268.4205 • Fax: 203.268.5604

[www.jedwardsassoc.com](http://www.jedwardsassoc.com) • [www.leassoc.com](http://www.leassoc.com)

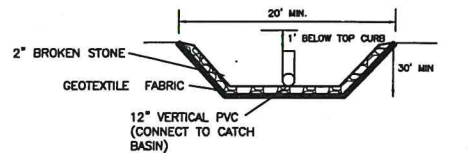
Engineering • Surveying • Site Planning



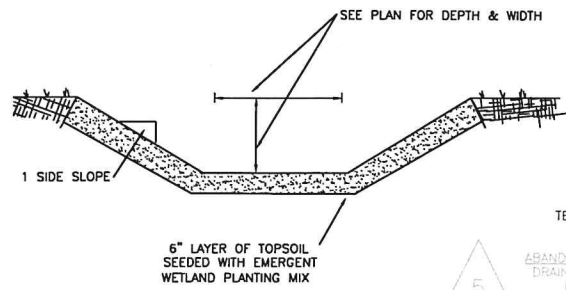


I recommend that the contractor repair and reinforce silt fence where necessary, including adding a second row of silt fence or hay bales to downhill areas on Lot 12. In addition, when a rain event is imminent, the contractor should check and where necessary repair and reinforce erosion controls prior to that event.

Thank you.

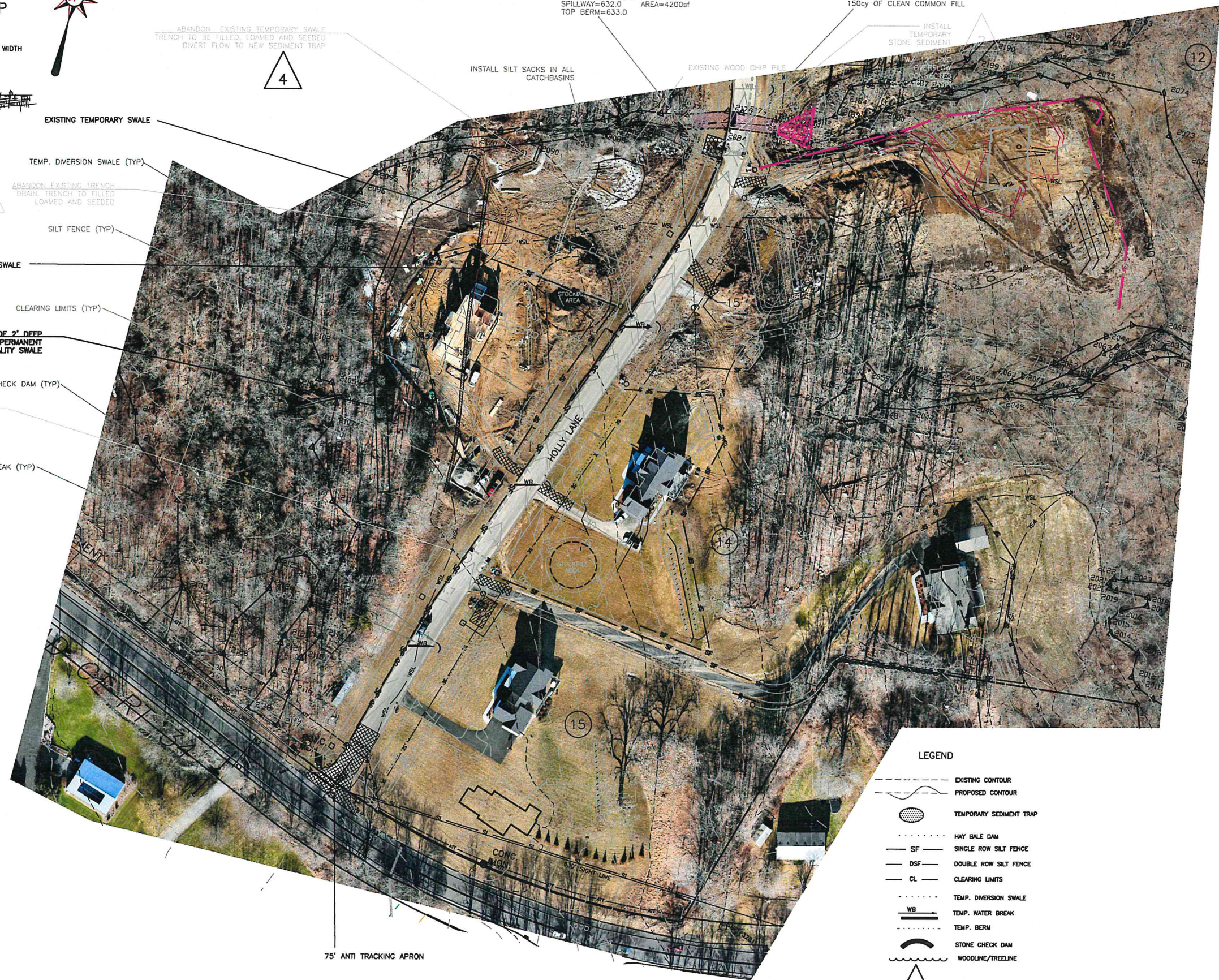


**TEMP. STONE SEDIMENT TRAP**  
NOT TO SCALE



**WATER QUALITY SWALE DETAIL**  
(NTS)

- 3 INSTALL 8' WIDE 2' DEEP PERMANENT WATER QUALITY SWALE
- 1 INSTALL WEDGE DAM (TYP.)
- EXISTING FARMERS SWALE
- CLEARING LIMITS (TYP.)
- STONE CHECK DAM (TYP.)
- WATER BREAK (TYP.)



SEDIMENT TRAP #1  
BOTTOM ELEV=627.0 AREA=2200sf  
BOTTOM DIKE=630.0 AREA=3200sf  
SPILLWAY=632.0 AREA=4200sf  
TOP BERM=633.0

AREA OF WETLAND DISTURBANCE  
AREA = 2000sf  
150cy OF CLEAN COMMON FILL

SEDIMENT TRAP #1  
AREA TO TRAP = 3.0 ACRES  
REQUIRED VOLUME = 3.0ac X 134cy/ac = 402cy (10,854cf)  
WET STORAGE = 0.85 X 3200 X 2 = 5440cf  
DRY STORAGE = (3200+4200)/2 X 2 = 7400  
TOTAL STORAGE = 12,840cf

**LEGEND**

- EXISTING CONTOUR
- - - - - PROPOSED CONTOUR
- TEMPORARY SEDIMENT TRAP
- SF --- SINGLE ROW SILT FENCE
- DSF --- DOUBLE ROW SILT FENCE
- CL --- CLEARING LIMITS
- TEMP. DIVERSION SWALE
- WB --- TEMP. WATER BREAK
- TEMP. BERM
- STONE CHECK DAM
- WOODLINE/TREELINE
- # SEQUENCE

**J. EDWARDS & ASSOCIATES LLC**  
ENGINEERING • SURVEYING • SITE PLANNING

227 Stepany Road Easton, CT 06612  
Phone: 203.268.4205 Fax: 203.268.5604  
www.jedwardsassoc.com

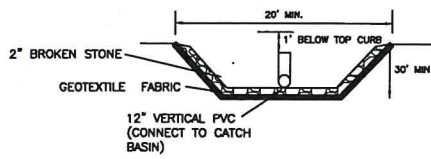
HOLLY ESTATES  
203 & 211 BERKSHIRE ROAD  
NEWTOWN CONNECTICUT

REVISIONS

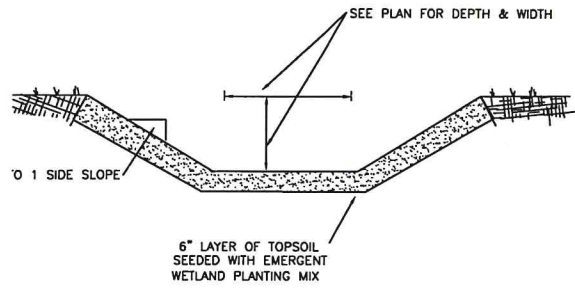
#	DATE	DESCRIPTION
1	11/18/20	P&Z SUBMISSION
2	12/16/20	MISC. COMMENTS
3	1/5/21	MISC. COMMENTS
4	1/18/21	MISC. COMMENTS
5	4/8/22	EROSION CONTROLS
6	12/3/23	EROSION CONTROLS

DATE: 09-30-20  
PROJECT #: 2759  
DRAWING FILE: SITE  
DRAWN BY: JE  
SCALE: 1"=50'

TITLE  
**EROSION CONTROL PLAN ROAD CONSTRUCTION**  
SHEET NUMBER



**TEMP. STONE SEDIMENT TRAP**  
NOT TO SCALE



**INSTALL 8" WIDE 2' DEEP PERMANENT WATER QUALITY SWALE**

- INSTALL SILT SACKS IN ALL CATCHBASINS
- STONE CHECK DAM (TYP)
- WATER BREAK (TYP)

- LEGEND**
- EXISTING CONTOUR
  - - - PROPOSED CONTOUR
  - TEMPORARY SEDIMENT TRAP
  - HAY BALE DAM
  - SF - SINGLE ROW SILT FENCE
  - DSF - DOUBLE ROW SILT FENCE
  - CL - CLEARING LIMITS
  - - - TEMP. DIVERSION SWALE
  - WB - TEMP. WATER BREAK
  - - - TEMP. BERM
  - STONE CHECK DAM
  - WOODLINE/TREELINE
  - △ # SEQUENCE

**J. EDWARDS & ASSOCIATES LLC**  
ENGINEERING • SURVEYING • SITE PLANNING

227 Stepany Road Easton, CT 06412  
Phone: 203.268.4205 Fax: 203.268.5604  
www.jedwardsassoc.com



INSTALL HAYBALE DAM (TYP.)

CLEARING LIMITS (TYP)

TEMP. DIVERSION SWALE (TYP)

OVER EXCAVATE GET BASIN TO ACT AS TEMPORARY BASIN. BOT. DEPTH= 200.0. (FINAL BASIN CONSTRUCTION TO BE COMPLETED AS SOON AS CONDITIONS ALLOW)

2' HIGH STONE BERM

INSTALL OUTLET CONTROL STRUCTURE 8" RCP PER APPROVED PLAN

DOUBLE ROW OF SILT FENCE

INSTALL 8" RCP OVERFLOW PER PLAN

INSTALL TEMPORARY STONE SEDIMENT TRAP W/ 12" PVC OVERFLOW CONNECTED TO CATCH BASIN

INSTALL TEMPORARY SEDIMENT TRAP LINE BOTTOM WITH 8" RCP BOT. EL. = 612.0 TOP BERM = 617.5

SEDIMENT TRAP #2  
BOTTOM ELEV=617.0 AREA=4,300sf  
BOTTOM DIKE=620.0 AREA=5,800sf  
SPILLWAY=622.0 AREA=7,200sf  
TOP BERM=623.0

ABANDON EXISTING TRENCH DRAIN. TRENCH TO FILLED LOAMED AND SEEDED

ABANDON EXISTING TRENCH DRAIN. TRENCH TO FILLED LOAMED AND SEEDED

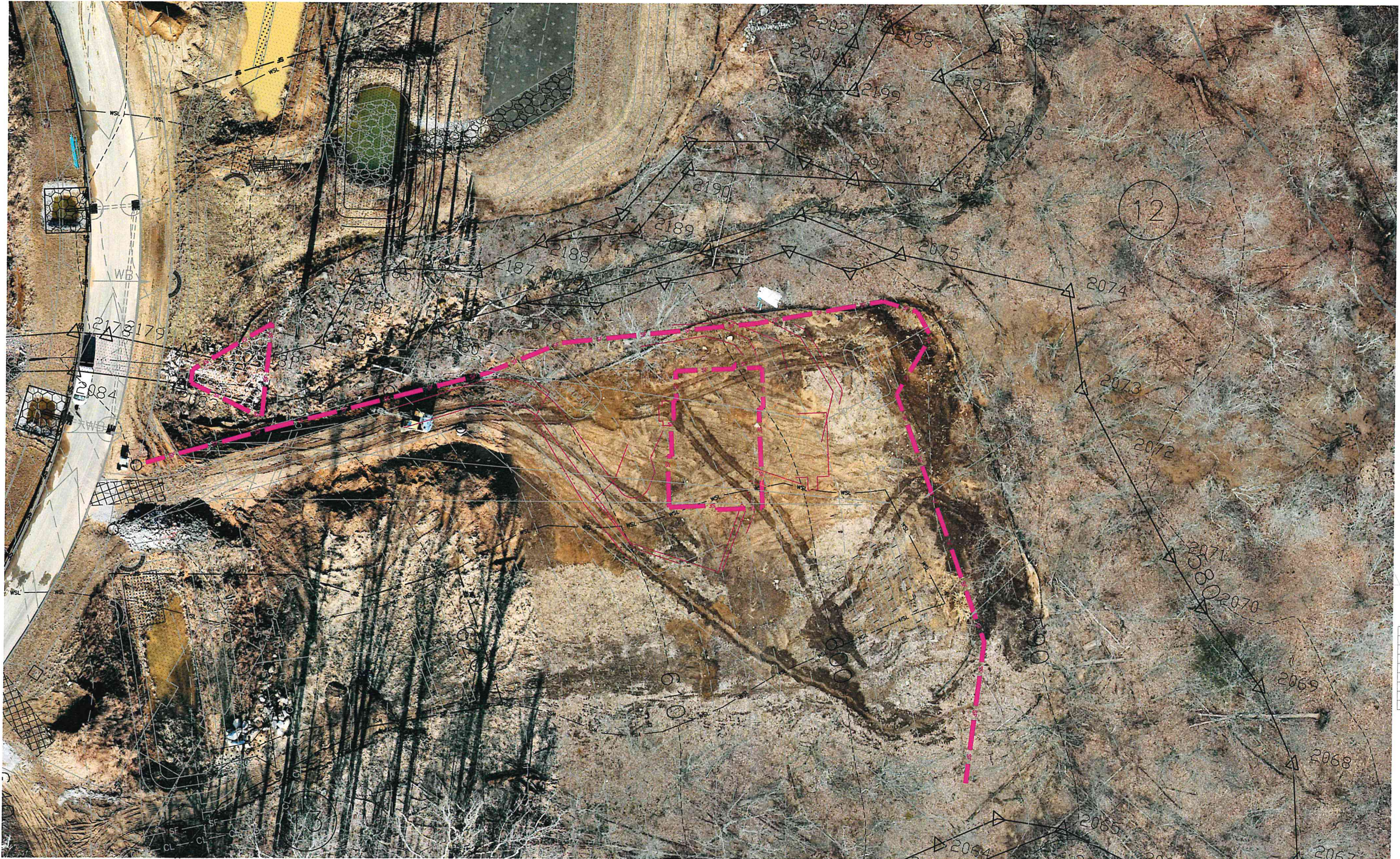
**REVISIONS**

#	DATE	DESCRIPTION
1	11/18/20	P&Z SUBMISSION
2	12/16/20	MISC. COMMENTS
3	1/5/21	MISC. COMMENTS
4	1/18/21	MISC. COMMENTS
5	4/8/22	EROSION CONTROLS
6	01/31/23	EROSION CONTROLS

DATE: 09-30-20  
PROJECT #: 2759  
DRAWING FILE: SITE  
DRAWN BY: IE  
SCALE: 1"=50'

TITLE  
**EROSION CONTROL PLAN ROAD CONSTRUCTION**  
SHEET NUMBER

**HOLLY ESTATES**  
**203 & 211 BERKSHIRE ROAD**  
**NEWTOWN CONNECTICUT**



**J. EDWARDS &  
ASSOCIATES LLC**  
ENGINEERING • SURVEYING • SITE PLANNING

227 Stepany Road Easton, CT 06612  
Phone: 203.268.4205 Fax: 203.268.5604  
www.jedwardsassoc.com

**HOLLY ESTATES  
203 & 211 BERKSHIRE ROAD  
NEWTOWN CONNECTICUT**

**REVISIONS**

#	DATE	DESCRIPTION
1	11/18/20	P&Z SUBMISSION
2	12/16/20	MISC. COMMENTS
3	1/5/21	MISC. COMMENTS
4	1/18/21	MISC. COMMENTS
5	4/8/22	EROSION CONTROLS
6	01/31/23	EROSION CONTROLS

DATE: 09-30-20  
PROJECT #: 2759  
DRAWING FILE: SITE  
DRAWN BY: IE  
SCALE: 1"=20'

TITLE  
**EROSION  
CONTROL  
PLAN  
ROAD  
CONSTRUCTION**

SHEET NUMBER



**J. EDWARDS & ASSOCIATES LLC**  
 ENGINEERING • SURVEYING • SITE PLANNING

227 Stepany Road Easton, CT 06612  
 Phone: 203.268.4205 Fax: 203.268.5604  
 www.jedwardsassoc.com

HOLLY ESTATES  
 203 & 211 BERKSHIRE ROAD  
 NEWTOWN CONNECTICUT

REVISIONS

#	DATE	DESCRIPTION
1	11/18/20	P&Z SUBMISSION
2	12/16/20	MISC. COMMENTS
3	1/5/21	MISC. COMMENTS
4	1/18/21	MISC. COMMENTS
5	4/8/22	EROSION CONTROLS
6	01/31/23	EROSION CONTROLS

DATE: 09-30-20  
 PROJECT #: 2759  
 DRAWING FILE: SITE  
 DRAWN BY: IE  
 SCALE: 1"=20'

TITLE  
 EROSION CONTROL PLAN  
 ROAD CONSTRUCTION

SHEET NUMBER

EC-4