

**CHESHIRE INLAND WETLANDS AND WATERCOURSES COMMISSION
REGULAR MEETING
TUESDAY, JUNE 6, 2017
TOWN HALL 84 SOUTH MAIN STREET
COUNCIL CHAMBERS 7:30 P.M.**

Members present: Robert de Jongh, Charles Dimmick, Dave Brzozowski, Earl Kurtz, Will McPhee, Kerrie Dunne (arriving at 7:33 pm), and Thom Norback.

Members Absent: None.

Staff: Suzanne Simone.

I. CALL TO ORDER

Chairman de Jongh called the meeting to order at 7:30 pm.

II. PLEDGE OF ALLEGIANCE

All present recited the pledge of allegiance.

III. ROLL CALL

Mr. Kurtz called the roll.

Members in attendance were Robert de Jongh, Charles Dimmick, Dave Brzozowski, Earl Kurtz, Will McPhee, Kerrie Dunne (arriving at 7:33 pm), and Thom Norback.

IV. DETERMINATION OF QUORUM

There were enough members present for a quorum.

V. APPROVAL OF MINUTES Regular Meeting – May 16, 2017

Motion: To approve the minutes of the Regular Meeting of May 16, 2017 with corrections: Pg. 3 L 48 change “see” to “she”; Pg. 9 L28 “certificated” to “certificate”; pg. 13 L35 “boarder” to “border”; pg. 15 L 17 “hearty” to “hardy”; Pg. 19 L37 change “couldn’t” to “didn’t”.

Moved by Mr. Kurtz. Seconded by Mr. Norback. Motion approved unanimously by Commission members present.

VI. COMMUNICATIONS

Ms. Simone reviewed the following communications:

- 1. E-mail from Stephen Mowers, 75 Orleton Court, Re: Cedar Crest Development on Strollo Court**

This communication was reviewed.

- 2. Notice of Violation, Cease & Desist, Bridget Bowman, 70 Strollo Court Map 26, Lot 159**

This communication was reviewed.

- 3. Notice of Violation, Cease & Desist, APEX Developers Cedar Crest LLC, Strollo Court, Map 26, Lot 168**

This communication was reviewed.

- 4. Staff Communication w/Attachments, Strollo Court, Map 26, Lots 159 & 168**

This communication was reviewed.

- 5. RWA Comments, IWWC 2017-006, Lot 3 Royal Crest Estates, Crestwood Drive**

This communication was reviewed.

- 6. Staff Communication w/Attachments, Lot 3 Royal Crest Estates**

This communication was reviewed. This item is on the agenda tonight.

- 7. Staff Communication w/Attachments, Re: Request for Determination for Lot 12 West Ridge Court – House**

This communication was reviewed. This item is on the agenda tonight.

- 8. Request for Determination, 185 West Johnson Avenue Pump Station Upgrade**

This communication was reviewed. This item is on the agenda tonight.

9. Staff Communication Re: Request for Determination #2017-007, Pump Station

This communication was reviewed. This item is on the agenda tonight.

VII. INSPECTION REPORTS

1. Written Inspections

Ms. Simone stated there was a notice of violation and cease and desist order sent to 70 Strollo Court and Apex Developer for Strollo Court.

2. Staff Inspections

- a. 195 Lanyon Drive

Ms. Simone stated there was an additional inspection of 195 Lanyon Drive which is on the agenda tonight under new business.

- b. Higgins Road

Ms. Simone stated the two properties on Higgins Road that received previous approval from the Commission.

- c. Strollo Court

Ms. Simone said there were inspections of Strollo Court.

VIII. ENFORCEMENT ACTIONS

1. Notice of Violation/Cease and Desist Order SC 12/06/16
House 2 Home Construction, c/o Mr. Edward Barnett
Unauthorized Activities in a Regulated Wetland Area
509 Mountain Road
Assessor's Map 62, Lot 4

Chairman de Jongh stated this item remains on our agenda for monitoring.

Ms. Simone explained that at the last meeting the Commission asked that sometime be received in writing from Mr. Barnett on how he was going to address the outstanding issues and how he was going to proceed.

Ms. Simone stated last week his engineer submitted an application requesting a change modification to the site plan to put in a retaining wall; this is not on the agenda tonight to be taken up tonight – the engineering department is reviewing it and staff is reviewing it and staff is reviewing it.

Ms. Simone said also later this afternoon she received an email communication from Ryan McEvoy – Ryan is here this evening to maybe he wants to address the Commission while she hands out copies of the email.

Ryan McEvoy, PE with Milone and MacBroom addressed the Commission.

Mr. McEvoy said in discussions with Mr. Barnett about the outstanding items noted in the email from Suzanne from May 17, 2017, we've provided a written response this afternoon; the first item is in regarding removing sediment that still remains in the upland review area – the response is much of the sediment has been removed and the remaining sediment beyond the hay bales will be removed prior to June 20th; this will be done by shoveling and wheel barrow and not with any heavy equipment.

Mr. McEvoy said he is relaying Mr. Barnett's statements regarding his intent to rectify this by June 20th; with regard to item b – the discussion about the as-built of the house – and that's something we can certainly provide if the Commission wanted it – he explained back in January when this was originally brought up we had noted as part the services we'd provide Mr. Barnett – after we staked out the house we provided pins in the footings at the perimeter of the house where the walls were going to be erected and using the pins and footings they based the wall locations on those pins so that is a fairly accurate way to ensure that the house is located in the right place so he would argue the pins at the footings would results in the house being within an inch or two of where it was proposed so again, he'll have to provide an as-built to get a CO as some point down the road; if the Commission wants an as-built we can provide that but he thought under the circumstances we're pretty confident the house is in the right spot.

Mr. McEvoy said in regard to item c for the slope – he has taken some measurements out in the field and he believed it exceeds 2:1 in some places so it would have to be regarding to achieve a 2:1 grade – he would note that we submitted an application and it was discussed informally with this Commission some time ago about putting a retaining wall in slightly upslope of the approved non-encroachment line – this could be discussed in later discussions as that application works itself out; pending the outcome of that application we would hope that any rectification of that slope would be deferred until perhaps that application runs its course.

Mr. McEvoy said lastly with regard to the landscaping Mr. Barnett is committed to planting the two trees we had proposed as a replacement to some of the trees that were cut in the non-encroachment area – he’s committed to do that by June 20th and regards to the shrubs that we proposed along what is not the current location of the sediment and erosion controls we would request that shrubs be installed at such time the sediment and erosion controls be removed and that area is stabilized.

Mr. McEvoy said so with regard to any sediment beyond the hay bales Mr. Barnett is committed to do that before the next meeting; similarly he’s committed to planting a couple of trees to replace those that we’re cut down prior to the next meeting; all this work can be done without heavy machinery and with regard to the as-built and the final grading of that slope we’re requesting that be deferred at this time.

Chairman de Jongh said since this is not going to be taken up until the next meeting because of the receipt of the information that was given to staff came in at appoint where she didn’t have time to properly review it and vet it – with that in mind he thought along with the narrative that he provided Suzanne and the email we need details as to the locations of the trees – where you are going to put them – what the steps/sequence that’s going to be followed – what he’s recommending is that any and all detail be provided partially in light of the activity that’s taken place on site up to this point; he suggested over educate the Commission as to under educate us so if he could prepare the presentation accordingly that would certainly speed things up.

Mr. McEvoy asked if there were any other questions about the other items he noted – the footings and pins in lieu of an as-built – an as-

built will be required ultimately but typically we don't provide one at this point.

Dr. Dimmick said he thought the pinning would be sufficient at this point; it's close enough to what we need.

Chairman de Jongh asked if the pinning was done by the people at Milone and MacBroom.

Mr. McEvoy stated that was correct – he said so what happens is the site contractor pours the footings based on the original stake out and the stake outs are usually placed 10' to 15' off the corners of the house and once the footing is cured – we're asked to come out (in some cases) – but it cases where a house is close to a setback or something along those lines - if the home builder asks we can provide pins which are really nails that we put in the footing in the exact location where the vertical wall is supposed to go up so if there's a problem with the footing location perhaps when we do our survey work we can let the contractor aware of that and they can rectify the location of the footing so the walls can be put at the edge of the footing or off the footing or something like that; it's essentially a level of belts and suspenders that we sometimes recommend and sometimes our clients take up when they are in area in close proximity to a setback.

Mr. Norback asked if the foundation was pinned - were the footings were pinned.

Mr. McEvoy replied the footings were pinned.

Mr. Norback asked if they were pinned in the hole or on the footing.

Mr. McEvoy replied on the footing pin – that represents the outer edge.

Mr. Norback said so it was on the footing that they pinned it – so it's almost inconceivable for it to be off then.

Chairman de Jongh asked if there were any other questions of Commission members or from staff.

There were no other questions asked.

2. **Notice of Violation/Cease and Desist Order** SC 5/16/17
Unauthorized Activities in Upland Review Area
Thomas and Karin Golden
1400 Waterbury Road
Assessor's Map 34, Lot 77

Ms. Simone stated at the close of the show cause hearing at the last meeting she did send a letter out to the property owners giving them 30 days to remove the stock pile of wood and other debris and their still in that compliance period so she'll have an update for the June 20th meeting.

3. **SHOW CAUSE** SC 5/16/17
Notice of Violation/Cease and Desist Order SC 6/06/17
Unauthorized Activities in Upland Review Area
Luis Revera and Joanna Kozak
1392 Cheshire Street
Assessor's Map 30, Lot 17

Ms. Simone said the show cause was held open from the last meeting to provide an opportunity to go to the property and inspect; she did get a couple of days ago a voice mail message from Mr. Revera providing a phone number to call him to setup a time – she said she has not been able to meet with him prior to tonight's meeting so she'll follow up on that.

4. **SHOW CAUSE** SC 6/06/17
Notice of Violation/Cease and Desist Order
Unauthorized Activities in Upland Review Area
Bridget Bowman
70 Strollo Court
Assessor's Map 26, Lot 159

Ryan McEvoy, PE with Milone and MacBroom was present on behalf of the applicant. Matt Bowman, of 422 Maple Avenue was also present on behalf of the applicant. Bridget Bowman was present in the audience.

Ms. Simone stated there are multiple properties involved in this and she's like to address the Commission and combine numbers 4 and 5.

Show Cause items #4 and #5 will be acted on together.

Ms. Simone explained information was provided to the Commission tonight – there's a handout of the subdivision map which was also sent to Commission members and a copy of a staff review that was completed today as well as copies of photographs taken by herself and the Chairman of the Commission visiting the site today.

Ms. Simone provided the Commission with a summary of this project – on April 21, 2015 the Commission issued a permit for the creation of a 15 lot subdivision; the subdivision did not propose any direct wetland impacts nor did it propose any upland review impacts; so because of that the Commission did not require an environmental assessment of inland wetlands since there was no activity to take place within the upland review area.

Ms. Simone explained that on the morning of May 22 she received an email as well as copied to several other people – receiving a detailed email from a neighbor regarding the site conditions on the rear of lot 9 and the surrounding area that goes on to private property.

Ms. Simone said in the afternoon of May 22 she received a request for a certificate of occupancy for the same lot – lot 9.

Ms. Simone said on May 24 she and another town staff member from the engineering department met with the developers and the developer's engineer on site.

Ms. Simone stated additionally town staff, herself and the engineering department staff went out on May 26 after about an inch of rain and saw the progression of the site.

Ms. Simone stated in summary there are two general problem areas – so starting from the east of the property there's lot #9 which is privately owned by Bridget Bowman – that's why there are two separate notices.

Ms. Simone said to the rear of lot 9 there was to be regarding behind the house and what was done in the field differs from the approved plan.

Ms. Simone explained in the field lot 9 as well as lot 8 – the rear of the lots are unsecured although this was at the time that she went out there on May 24 and May 26 – going out there today some matting has been put down.

Ms. Simone said the slope shows signs of serious migration of the soil from the top of the slope down to the toe of the slope and onto neighboring properties – at least two private properties – through wetlands and eventually into a watercourse which travels to the north.

Ms. Simone explained also to the rear of lot 9 roof leaders and footing drain pipes are installed to discharge directly out of the back of the rear of the slope which are unsecured and were not permitted as part of the plan – the subdivision plan for lot 9 specifies that the roof leader and footing drain outlet is to tie into the catch basin #12 which is in the street – it identifies where the catch basin is located.

Ms. Simone said the location for the leader for lot 8 going out to the rear of the property is absent from the plan which would indicate most likely that it was tied to the front or discharge directly down but in either case it was not reviewed or approved by the Commission to jut out to the rear of the slope.

Ms. Simone stated additionally there are impacts to the upland review area on property owned by Apex CedarCrest, LLC which will be deeded as open space and that soil has gone onto private property, into wetlands and a watercourse; to the west of the property the sewer easement – when that work was completed for the sewer easement there was some soil that was piled up around trees – since she's gone out to the site today much of that soil has been removed from the base of the trees and silt fences were in the process of being installed.

Ms. Simone stated there still needed to be some regarding and stabilization – the banks of the easement have been compromised with erosion.

Ms. Simone said in looking at the approved plan – the slope that is created out there – they have extended the rear of the slope basically to the clearing limits – that's what exists – what was shown was that there was supposed to be marginal grading to the rear of the property – really off to one side but the entire property has been graded to the rear of the slope.

Ms. Simone said if you look at the photos there is some terracing effect that goes on and there's a flattening of the rear of the property and a patio has been installed.

Ms. Simone stated Chairman de Jongh was out there and roughly measured the patio to be 25' – when she calculates off of the plans – originally the existing conditions deviate from the approved plans and the approved plans call for a portion of the slope to be regraded from the rear of the house and terminate at approximately 32' from the rear of the house.

Ms. Simone explained in the existing conditions the rear of the property has been graded to allow for a flat area and a patio has been constructed in the area of the previously approved regarding.

Ms. Simone said they basically pushed the rear of the grade out about 25' further than it was supposed to be and what was approved.

Ms. Simone said in looking though the photos there's erosion control matting that is down now but the site still is compromised.

Mr. Norback said so you're saying in pushing the flat part of the yard out increases the severity of the slope.

Ms. Simone stated yes and also that it pushed the slope out closer to the clearing limits – previously it was not to go out that far according to the approved plans.

Chairman de Jongh said what he thought what they'd do is allow staff to finish her testimony if you will – we'll give the applicant a chance to explain the variance of what was approved and what the current site conditions are.

Mr. Norback said ordinary he'd agree with him except he was losing clarity – and normally he's pretty good with this.

Ms. Simone said in looking at the approved plans the grading was to only to take place in the portion where it shows the compliance with the setback – the dashed line (on the plan).

Ms. Simone said looking at the site it looks as though the slope is quite steep – the terraces are maybe 7' to 8' tall and its pushed all the way out so its vertical but it's also much closer to the clearing limit then what was previously approved.

Mr. Norback thanked Ms. Simone (for the clarification).

Ms. Simone said additionally, the site conditions today showed that there is new erosion forming at the top of the slope to the east of the top of the slope which is shown in one of the last pictures; it shows there's new erosion forming in the grassed area and it is going underneath the matting and still continuing to compromise the slope,

Ms. Simone stated there are four layers of silt fence at the toe of the slope – two of which have been completely compromised and toppled over and sediment exists in between those layers so with every rain event that we get its picking up the sediment that's already been moved to the toe of the slope and pushing it out further into the wetlands.

Ms. Simone said so the picture taken today, although it does show an improvement as far as having some erosion control blankets down and some grass that does appear to be germinating on the slope – there is still the matter of erosion going into the wetlands and watercourse on the neighboring property and you can see in one of the photos that there is regulate soil that is just moving directly towards the wetland.

Ms. Simone said the picture also shows the pipes that come out of the back of the slope which were not permitted in the subdivision.

Ms. Simone stated the conditions in the sewer easement area are far approved over what's shown behind lot 9; you don't see the erosion to that extent – they erosion there is minimal and it's a greater distance away from the upland review area or a watercourse.

Chairman de Jongh stated he was going to start the conversation – with a couple of boundaries – he said he was going to put Ryan on the spot since we is the engineer involved in the project.

Chairman de Jongh said its clear to this Commission as to what was approved and having gone out to the site today – he was a gassed at what he saw – it was beyond the worst thing he's ever seen.

Chairman de Jongh said his question to you (Mr. McEvoy) is we know what we approved; he knows what he saw on site today – please explain what happened and why the work was undertaken without approval.

Mr. McEvoy addressed the Commission.

Mr. McEvoy explained he was made aware of the site conditions at a day or two before meeting with Suzanne and the town engineer.

Mr. McEvoy showed a copy of a plan that represents survey work that's been completed after that meeting; the as-built locate of the house is shown (in brown); driveway and patio (shown in gray).

Chairman de Jongh interrupted Mr. McEvoy and said he didn't want a presentation on the current site conditions – he wants to have a discussion right now on this is what we approved – this is what we see now with the patio and stuff that was never permitted; the backyard was never permitted.

Chairman de Jongh said as one of seven Commission members he needs to get a better understanding as to who decided to go ahead and make a flat backyard, install a patio, terrace the backyard without approval from this Commission.

Mr. McEvoy stated that decision was made by the owner; that was not something we were aware of.

Mr. McEvoy said before we get to that and he understood that was critical....

Matt Bowman of 422 Maple Avenue addressed the Commission. Mr. Bowman stated his daughter Bridget owns the property.

Mr. Bowman stated she (his daughter) is a little bit intimidated and is afraid to speak (unlike her father).

Mr. Bowman stated Bridget made the mistake – she didn't mean to – she didn't understand what she was doing – she didn't understand what she was doing – she was ordering the work.

Mr. Bowman stated the people doing the work should have known better – obviously they didn't but it falls back on her – she is responsible – and she understands she's responsible – and she is willing to rectify the situation without totally destroying her backyard.

Mr. Bowman said he got involved in this way too late – he said he sat on this Commission long enough to know what you saw you were a gassed because to be honest he was also.

Mr. Bowman said they have to rectify the situation right now; without tearing apart her patio without tearing apart her lawn that has already established itself but we do need to try to rectify it but the blame is not with Milone and MacBroom – it's was on Bridget's orders. He went on to say she did not understand the upland review area – she didn't understand the slope – we're going to have to rectify it - we will rectify it – it's our responsibility – we are taking responsibility – we are taking responsibility for it.

Mr. McPhee said with all due respect – she ordered the patio to be ordered and the grading of the lawn but that has nothing to do with the footing drains that were incorrectly installed.

Mr. Bowman said there's a drain in the front – it was installed too high – it's not her responsibility – the person that was doing the rain leader – it was not the original excavator – he ran them out to the back; he said he saw him out there – when he saw him out there he said – no; now Ryan is going to tell you how we're going to rectify at least that situation.

There was discussion about the presentation process to follow.

Chairman de Jongh said he knows what the applicant would like to have done – keep the backyard – keep the patio, etc. the way the site conditions currently exist is a violation - pure and simple.

Chairman de Jongh said the only way we are going to rectify this is to go back to the way that site was originally approved – the drainage has to be changed – it's got to be back the way we approved it; we have abutting property owners who are negatively impacted – not only of silt but from water and everything that's coming from that site.

Mr. Norback said we should allow Mr. McEvoy to make his presentation – whether he is starting at one end with the approvals or its current conditions; we should let them present it the way they want to present it.

Ms. Dunne commented that the applicant is here and she (Bridget Bowman) authorized her father (Matt Bowman) to speak for her.

Ms. Bowman, from the audience, nodded yes.

Ms. Dunne said just so the records clear that he (Mr. Bowman) wasn't someone in the audience who just got up and spoke.

Ms. Simone said if she could just offer to the Commission – because there are a lot of moving parts to this and there are a lot of properties involved – if the Commission could organize this in a more structured way – first take on the motion of whether or not there is a violation – and the cease and desist was issued properly – that's one matter.

Ms. Simone said once the problem is identified then the Commission could hear possible solutions for which she does have draft corrective orders but if we could just take this one step at a time.

Motion: That the Commission finds that the cease and desist was properly ordered by staff and the show cause hearing does show that a violation does exist.

Moved by Dr. Dimmick. Seconded by Mr. Norback.

There was a brief discussion regarding the steps to follow in this process – this is step one before step two.

Motion approved unanimously by Commission members present.

Mr. McEvoy explained this afternoon they submitted plans to your office – the first sheet being the most recent survey as-built of the conditions – the house location – the slope in the back – where sediment has travelled beyond the property line.

Mr. McEvoy showed on the plan the intermittent watercourse shown in blue as identified in the field as part of the original subdivision plan.

Mr. McEvoy stated the watercourse was highlighted – and is located off of the original property that was part of the subdivision; he believed it was property owned by Mr. Mowers (Stephen Mowers, 75 Orleton Court); whose letter you have in your packet.

Mr. McEvoy said he highlighted the 50' upland review area which is shown here in red.

Mr. McEvoy said the one thing that might not be entirely clear in what they wanted to do on this particular plan is to demonstrate the

relationship between the as-built contours and the pre-existing or pre-construction contours.

Mr. McEvoy said so what you see are two different sets of elevations – one representing the original town topographic data that was from 2012 and then our as-built.

Mr. McEvoy said what the as-built shows is there's areas of slopes that were installed in the rear of the property; there's a couple of terraces and in general much of the grading is at the grade of 2:1.

Mr. McEvoy stated additionally there was a roof drain outlet located on the south easterly portion of the site and a footing drain outlet to the northwest.

Mr. McEvoy explained the front leaders to the house are connected into the drain that was discussed earlier along the right of way; according to Mr. Bowman they had some trouble getting the rear two roof leaders back into there so the contractor just day lighted it out to grade which is not something that is part of the permit.

Ms. Simone asked who is the contractor that did the work.

Mr. McEvoy stated he didn't know.

Ms. Simone asked if the owner knew.

Mr. McEvoy said he'd imagine.

Mr. Bowman stated Wilson Brothers.

Mr. McEvoy said there is also a small section of sediment that came to the southeast.

Mr. McEvoy said the purpose of him going through this – is to describe the map that we sent to you and to describe the existing condition.

Mr. McEvoy said the sediment – in the upland review area what will become open space in favor of the homeowners association appears to be very shallow in depth – the contours generally match the original topography although when you are out there you can see there is sediment that covers the landscape.

Mr. McEvoy stated the watercourse – he said he believed the depth of the sediment there is approximately the maximum of 2' – 2.5' in depth and generally is contained to the area shown on the plan; he said he did walk the remainder of the watercourse out to Orleton Court with Suzanne and Don Nolte and we also inspected the outlet on the opposite side of Orleton Court and there didn't appear to be any accumulation of sediment beyond the area where it concentrated immediately behind the lot.

Mr. McEvoy said with respect to the plan for the subdivision that was reviewed and approved by this Commission – there was limited grading shown behind the proposed house – we indicated the footing drains and roof drains were to be directed to a common pipe along Strollo Court connected into the drainage system.

Mr. McEvoy said certainly he takes issue with the direct discharge of partially the roof drain discharge to the back of the property.

Mr. McEvoy stated the footing drain is not collecting any rain water or storm water – it is merely a requirement of the building code and the soils that we see out here – he didn't see any evidence that pipe has ever seen any water nor did he expect that it will see anything more than a trickle at best; but the pipe to the south is not what we intended with our design nor anticipating runoff, collected or concentrated soil runoff beginning discharged on that grade.

Mr. McEvoy said in terms of solutions – he thinks and he knows the applicant and the owner certainly want to clean this up as soon as possible and that's something they had every intention of doing immediately after meeting with staff as soon as the cease and desist came in so we're here before you to discuss ways to try to rectify this.

Mr. McEvoy said first and foremost the activity or the sediment that transported into the watercourse is on a neighboring property so going onto that property without permission to rectify and remove that sediment is something that the owners will have to take up with that particular property owner - he said he knew they reached out to them but didn't know if they had any success in meeting with them as of yet.

Mr. McEvoy said that will be something that is obviously critical to get that sediment out of the watercourse; to get the sediment out of the area and try to clean that up quickly.

Mr. McEvoy said any discussion tonight might get them closer to that point where they do have the authorization from both this Commission and the neighbor to try to get that material out of there and clean it up as soon as possible.

Mr. McEvoy said as part of the packet they submitted today, we included a couple of things – and are obviously up for discussion; first and foremost is that additional sediment and erosion controls need to be installed; erosion control blankets generally met the area of disturbance or area of grading – there are a few areas where need to be added; some vegetation is starting to come up fairly on the top of the slope and in places along the slope itself.

Mr. McEvoy explained what they are seeking approval for or consent to do is essentially bring in a mini excavator in – a very small machine – after erecting the erosion controls on the property owned by Apex Developers which will become future open space of course pending approval and the granting of approval from the neighbors – having the excavator come and very carefully and gently remove the sediment that's in the watercourse to the existing grade or existing elevation – it will be fairly easy to figure that out because there is a difference in coloration between the sediment that's been deposited and or course the natural bottom of that intermittent watercourse.

Mr. McEvoy said so by allowing for a mini excavator to get in there we don't believe there would be any vegetation or very limited disturbance of the existing vegetation – they should be able to work their way back there – gently removing the material placing it upslope of the silt fence that we are going to be up to allow it to dry out or wash out– and then getting the material out and then bringing it back into the development so they don't have this material just sitting where it is.

Mr. McEvoy said also we agreed that the slope that was constructed exceeds what we'd certainly recommend in terms of grading – it exceeds the dimension of what was shown on the original subdivision plan so we do have a plan in place where we'd soften that gradient and try to bring it back.

Mr. Norback asked about the proposed elevation of the basement floor on the approved plan versus the elevation of the basement floor as it exists – was that perhaps a contributing factor to the severity of the grade.

Mr. McEvoy stated no – he didn't believe so.

Mr. McEvoy said there are a couple of things to consider – this was a lot that we demonstrated a standard or feasible location of the house in grading this lot; as any lot does it requires a building or plot plan to go to construction; the elevations that we actually settled on for the house was a smidge lower then what was shown on the plans (within a foot).

Mr. McEvoy said it was maybe about a foot lower; everything here is so close to the road that there's not a (lot of room).

Mr. McEvoy said so ultimately - critical in his opinion as much as anything is again enhancement of the sediment and erosion controls onsite and disconnecting these roof leaders from surface discharge; he thought that was very important to get those in the ground.

Mr. McEvoy said he did sample the material that was still in the backyard – it appears to be consistent with the native sand and gravel that exists on the property in other areas and it does have a very high permeability rate.

Mr. McEvoy said he was of the opinion that in lieu of trying to reconstruct the pipe that exists in the road – that we can design and we can size these roof leaders infiltration so there's no runoff up to a 100 year storm; and that would certainly be the easiest, simplest way to rectify the drainage situation – with surface drainage discharge.

Mr. McEvoy said with respect to the footing drainage that he mentioned earlier; that doesn't generate any real flow – that's merely a means to prevent any buildup of ground water along the foundation and in this case there isn't ground water shield until you get 30' below the house and the wetland.

Mr. McEvoy said so the footing drain as he mentioned to the north shows no evidence of even a drop of water in it – all the concentration runoff comes from the southern pipe.

Mr. McEvoy said he understands there's concern about the exists of the pipe or the appears of a pipe but in this case this one doesn't see any water nor does the pipe or footing drain from lot 8 which is actually constructed on lot 9 unfortunately will have to be relocated at least to get off the particular property and that's the one you

notice in your photos that actually sits on top of the silt fence and obviously is in an unacceptable location for the outlet of that.

Mr. McEvoy said so with that he certainly would hope the Commission would consider scenarios where we could more quickly than not rectify what's going on back there.

Dr. Dimmick said among other things to do this you would need to file a permit medication for both the patio and regrading as at least a first step before we go any further.

Ms. Simone said she agreed with that – that as far as due process there really isn't an established ability for the Commission to undertake a revision like this under a show cause hearing.

Mr. Norback said this would almost seem like this would qualify as an emergency repair to get the materials out of the wetlands so they're not going to migrate.

Dr. Dimmick said that's no problem.

Ms. Simone stated she did have a draft (corrective order).

Mr. Norback said so we can do it in stages – we can allow them to do that because it seems like they're more than willing and they are showing some contrition and they are obviously trying to improve the situation with zeal and we should at least allow them to improve it.

Ms. Simone said she was handing out to Commission members now a corrective order much of what echoes Mr. McEvoy's presentation.

Ms. Simone explained its broken down into corrective order A and B because there are two properties – and two property owners associated with this; she said there are two options that the Commission can make – version one being that the Commission defines and directs the actions so for example lot 9 70 Strollo Court the version that the Commission would define and direct the actions; its states #1 by June 19, 2017 the drainage discharge pipe shall be removed by using equipment exclusively at the top of the slope of lot 9 and the installed to be connect with the catch basin in the road in accordance with approved plans; #2 by June 19, 2017 the rear slope shall be regraded and seeded and secured with erosion control matting by using equipment exclusively at the top of the slope of Lot

9 and established in accordance with subdivision plan; #3 the permittee's licensed professional engineer shall submit written verification by June 20, 2017 that the above mentioned items above are complete and conducted in accordance with this order.

Ms. Simone said now that just addresses the actual boundaries of lot 9.

Ms. Simone said version two for lot 9 allows the permittee to present a restoration plan to the Commission and the Commission can act on it where the permittee by June 14, 2017 would provide engineered plans detailing how the drainage would discharge pipes and rear slope will be established will be established in accordance with the approved plan.

Ms. Simone said then corrective order B addresses the remainder of the property again version one is directed by the Commission telling the permittee what to do again by the same date of June 19, 2017; #1 drainage discharge pipes removed from lot 8 which are similar to lot 9.

Mr. McEvoy stated that's not a drainage pipe on lot 8 it's a foundation drain; the roof leaders have not yet been tied into any formal drainage system on lot 8 and the intent with that is certainly to bring that collective pipe out to the road itself; that hasn't been done because the house is still under construction but the drain you see coming out to the back of the property just like the one he mentioned before here – is solely a foundation drain – it's doesn't have any outlets. He said he was out there today during the heaviest part of the downpour.

Ms. Simone said but it is a discharge pipe.

Mr. McEvoy said it's used for drainage – he wanted to make sure it's clear.

Ms. Simone stated but it's designed to drain.

Mr. McEvoy said yes – he wanted to clarify what that pipe is.

Dr. Dimmick said so what Ryan is saying is essentially the code requires that the foundation drain be in but because extreme sandy nature of the soil and the low position of the water table it doesn't really do anything.

Mr. McEvoy said that's exactly right; in fact a number of the houses down slope are not required to have a footing drain; in this particular case it's really belts and suspenders frankly because there's not a ground water table issue here but it is something required by building code.

Dr. Dimmick asked did he also say that your data showed the water table is about 30' down at that point.

Mr. McEvoy stated he didn't have ground water monitoring data out here but just by inspection and reviewing the test pit data that we had prior to construction – there's no evidence of ground water until you get down closer to the wetlands along the Ten Mile River; he said he imagined the ground water is present as you approach the watercourse to the north but it's some 20' to 30' elevation above that.

Dr. Dimmick said he did not have a problem with the actual footing drains if that's all that there under those particular circumstances; there are other places where he would not want a footing drainage going in.

Mr. McPhee said that would still have to come under a modification.

Dr. Dimmick agreed – it would still have to come under a modification.

Mr. McPhee said he understands what he is saying that it's not an active drain but it's still an illegal discharge point at this point in time.

Ms. Simone said #2 specifies that the sewer easement shall be graded and secured with erosion controls in accordance with the modified plan for the sewer easement; #3 the accumulated sediment within the Apex Development CedarCrest, LLC open space property shall be removed by hand and small tracked equipment from the toe of the slope; silt fences shall be reinstalled and reinforced with hay bales behind the silt fences; and all of this will be documented in writing by June 20, 2017 to the Commission.

Ms. Simone said another variation version #2 is allowing the permittee to present plans to the Commission and that the Commission can act on – certainly the Commission can pick and choose and change whatever her recommendation would be that

they be associated with whatever action the Commission is asking to see.

Ms. Simone proved Mr. McEvoy with a copy of the draft corrective orders.

Chairman de Jongh said speaking for himself he is somewhat uncomfortable with directing actions in a violation situation – he would rather have the applicant create their solutions and present it to us; we certainly have to have the sediment removed in the areas where it's been negatively impacting the wetlands; that has to be done but other than that he is not comfortable taking on the role of someone who knows the best way to rectify a problematic situation.

Dr. Dimmick stated he was in agreement with the Chairman in general.

Ms. Simone said if the Commission was interested the Commission could consider what's been presented tonight and could specify aspects that the Commission would like to see undertaken and again she would recommend there be certain dates that would associated with that.

Chairman de Jongh said again he can't get the imagine of what he saw today out of his mind when he looks at this map; because he sees gentle contours on the map - there's nothing gentle about that backyard.

Chairman de Jongh stated the height difference on the floor of one of the terraces to the top terrace down to the base was over his head and he is 6'2".

Ms. Simone said her suggestion or her comment was if the Commission was interested in focusing on removing that sediment that was laying at the toe of the slope that will continue to move into the wetland area to the north – that will happen whatever rainstorm we get next – just continuing to move; there are four levels of silt fence – the two that are closest to the slope as of today are holding and it does not appear as though sediment is getting past those – it's the area that was previously impacted where soil is now sitting and we see evidence that after every rain event that it just keeps moving further.

Mr. Norback said to Suzanne's point which was his point earlier is that we have to just let them mitigate the situation now the best they can to remove the soils out of the wetlands area so they don't migrate anymore – once they've done that – we can't expect the slope to be stabilized because of the severity of it but as long as the wetlands are protected then it will give them some time to come up with a realistic plan for the correction – it makes no sense in doing it like it's an emergency – emergency is to get the material away and then they can come up with whether it's a retaining wall or something that will be beneficial to the homeowner who obviously has shown remorse about it and she didn't have the expertise to make these decisions and so now she can confer with the engineer and come up with the best possible solution for the Commission, the homeowner and the environment.

Mr. McPhee said he was in agreement with the fact that he thinks this needs to be done expeditiously and waiting two weeks for a plan maybe a detriment to the continuation migration of the soil or silt but he is not comfortable as Bob said with leaving it up to them and their expertise – he said he didn't know if we could mandate that it is certified a professional engineer or soil scientist is monitoring this and signing off on this work so that things can be done the correct way and someone with a license or degree has something on the line can attest to that – that its being done the correct way- it that something we can stipulate in this version one (of the corrective order).

Ms. Simone stated yes it is.

Ms. Simone said it might be helpful if Ryan gave his presentation again relative to removing the soil from the toe of the slope and not mention how to repair the slope at this point.

Mr. McEvoy explained on the second sheet of their plans that they submitted we have a sequence of how sediment can be removed from this area.

Mr. McEvoy said he didn't run a detailed quantities but he would estimate it to be in the range of 30 to 50 cubic yards so it's not a tremendous amount of material certainly and it can be done fairly quickly but ultimately at we are suggesting is that this area be entered in by no more than a mini excavator; there are areas where they can get into this without disturbing the existing vegetation and existing trees – they won't cut down any trees.

Mr. McEvoy said he mentioned earlier it is on the neighbor's property so as much as he wants them to go clean it now – he does believe it's appropriate to get some consent from the owner.

Ms. Simone stated yes – the Commission is not in standing to order someone to go on someone else's property however this is a violation and so we encourage this property owner Apex to work with the property owner that have been impacted and offer to remove this.

Mr. McEvoy said presuming they receive that approval is forth coming; a mini excavator is coming in here – they are moving the material from east to west – they will encounter some water in that wetland area of the watercourse so the soil maybe saturated in some cases so installing a small section of silt fence down slope of this; any material that is wet can be deposited upslope side of it to allow to drain out; any stock pile of material in here would be done in a very short period – no long term duration piles.

Ms. Simone asked what he considered short term.

Mr. McEvoy stated days – he said he just did want there to be an understanding that there is a small pile of material as they are excavating it out.

Mr. Norback stated that is a common practice – set material in a protected area.

Mr. Bowman stated they will get this done this weekend and he would like to meet you sometime Monday at your convenience at the site to show you what we've accomplished over this weekend.

Ms. Simone asked if this is something the Commission, when we get to that part – the Commission can make that decision.

Mr. Bowman said you asked how fast it could be done – it will be done immediately.

Ms. Simone said to clarify – it will be going from east to west so the equipment will go down on the east.

Mr. McEvoy said at the end where the sediment is collected they would pull back towards the site so they are not going to be staging

an area where there is not any sediment that is not transported already.

Ms. Simone said so the hope would be to start in the watercourse and move west.

Mr. McEvoy said yes – he showed on the plan the direction he was talking about – he said you want to pull from this point back – so you are not creating a situation where you are going into areas that don't have disturbance as a result of the erosion issues already.

Ms. Simone asked what the plan would be in the event that the private property owners do not grant access.

Mr. McEvoy said he didn't know. He stated the equipment would come in from lot 8.

Dr. Dimmick said would you be putting in something like a silt curtain across the stream if the stream is running.

Mr. McEvoy said we could put a turbidity curtain across the stream.

Mr. McEvoy said this area is really more of a depression so there is not like there is an active flow heading to the north.

Dr. Dimmick asked about the mini excavator – he asked if it was like a bombardier with the rubber tires.

Mr. McEvoy said they are track running machines – about 5' to 6' wide – small bucket.

Dr. Dimmick said he was worried about the tracks if you have very soft soil.

Mr. McEvoy said a track running machine is more appropriate just because it disperses the weight a little bit more than the tire.

Ms. Dunne said if she understood correctly because the way the original plan we weren't going to get there – there is no environmental study done – there's nothing in this area.

Ms. Simone said correct – there's no impact proposed.

Ms. Dunne said she had a little concern with doing all this work and we don't have any sort of environmental review; but it's not a concern for other folks.

Mr. McEvoy stated we have to get the material out of there; and if there's a dry spell or a period of good weather – the sooner the better.

Mr. Norback asked if they were going to be taking it out of the watercourse as well – you aren't going to be in the watercourse (are you).

Ms. Simone stated it did get into the watercourse.

Mr. McEvoy said it did.

Chairman de Jongh stated it did get into the Ten Mile River.

Mr. Norback asked if it is physical on the watercourse bottom that you are going to try to remove it from the watercourse or are you just going to try to remove it up to the watercourse.

Mr. McEvoy stated they are going to try to restore what was there before; essentially what was deposited is very tan light colored complexation and the remainder of the watercourse as you go north east – he said it will be very easy to determine the native grade of that area.

Mr. McEvoy said it is about 2' at the max; he thought it would be fairly oblivious to establish preexisting grade.

Chairman de Jongh said there was evidence on the site today that there was actual flow or what seemed to be a channel where the sediment just kind of goes right down the slope; it was probably 2' to 3' wide and it was pretty steady – it was a mud slide if you will; it was on the easterly property looking down – the sediment was coming right down into the wetland area; and there was significant evidence – one of the pictures that we took today shows significant erosion on the edge of the property.

Chairman de Jongh said they noted – and one to the things we were very concerned about walking the property was the stability of that lawn that was created – it is very spongy; so the integrity of what is

underneath the grass (understanding the grass has not fully taken yet) but it looks like this is just crumbling apart and there are parts where the sediment is going underneath the blankets.

Mr. Bowman explained his daughter had the sprinkler system on and didn't realize that she needed to shut it off which she did today. He said she had the sprinkler on because it's a new lawn and needs continual water – she shut it off today; because it is established – that's why its spongy – she should not have had the water going.

Chairman de Jongh thanked him for the clarification.

Chairman de Jongh said he doubted the erosion on site was created from a single sprinkler system from going on the last few days; there are serious erosion issues there

Mr. McEvoy stated there is ongoing erosion that needs to be continued to be checked.

Mr. McEvoy said the point is they have done efforts to try to stabilize but that there is more effort (needed).

Mr. Stephen Mower asked to address the Commission.

Chairman de Jongh stated that this is not a public hearing (the public did not have the ability to speak); he noted Mr. Bowman was speaking on behalf of his daughter who is the property owner and they can recognize him on behalf of the property owner; he said he is not trying to minimize the input from the neighbors and after being out there today he feels their pain.

Chairman de Jongh said he just wanted to point out the stuff that they saw – as we start to get into what the restoration project is going to be like; we want to address these kinds of issues.

Mr. McEvoy said he agreed completely. He said he is pleased there is vegetation is really starting to take hold – that will certainly help as we proceed with cleaning this area up.

Mr. McEvoy said you are absolutely right – there's more that needs to happen out there from an S&E prospective.

Ms. Simone said when there was mention of a turbidity curtain put in the watercourse – is your opinion that would be put in first before work starts.

Mr. McEvoy said that could be put in first or hay bales; it's kind of a stagnate watercourse – even hay bales across there would assist.

Mr. McPhee said he felt it was important to say this so that the folks in the audience know that they will have their opportunity to speak at the modification of the permit; he wanted them to know they will be able to voice their opinion somehow.

Chairman de Jongh said if the application comes before us if this Commission deems it necessary such that we should hold a public hearing we can certainly do that and give the public the opportunity to speak.

Chairman de Jongh said the point that they are at right now is with regard to the removal of the sediment – we've talked about the two suggestions that staff has before us and this Commission needs to decide what motion we want to put forth and what variation they want to go with. He thinks they have spoken about their comfort level trying to design on behalf of the applicant.

Mr. Norback said maybe we should let the engineer tell us how he proposes to do it; instead of only giving him these two options.

Chairman de Jongh said he thought that was one of the suggestions that staff has.

Ms. Simone said her next comment was there could be a version three – which is to incorporate the testimony regarding the removal of the sediment at the toe of the slope; still supplying a compliance date and then following it up with the language that the permittee's licensed professional engineer shall submit written verification to the Commission by the next meeting the above mentioned items are complete and conducted in accordance with the order and the order could incorporate the sediment removal notes that are listed.

Mr. McEvoy said they could add the provision that hay bales put into the watercourse down grading of the limit of siltation.

Ms. Simone said so language by June 19, 2017.

Chairman de Jongh stated he wanted to have this done by the next meeting so we can address the work that's been done; the next meeting is on June 20, 2017.

Ms. Simone stated the work can be done sooner and written notification can be for the next meeting.

Dr. Dimmick stated this certainly doesn't preclude the emergency work from being done before hand so when we look at the final thing on the 20th we can look at what was already done for remediation as part of it.

Ms. Simone reviewed the proposed language for the corrective order – the work would be completed by June 19, 2017 or whatever date the Commission finds reasonable; she talked about the type of equipment they should use.

Mr. Norback made a suggestion that the Commission should direct the type of equipment to use; he felt based on what he heard tonight the applicant is going to do the work responsible.

Chairman de Jongh said he agreed – but he has a problem with the terminology because obviously they don't understand.

Mr. Norback stated the biggest equipment they could use is a mini excavator; he would direct them to just use that or anything else.

Chairman de Jongh said while this is being undertaken the cease and desist order still exists; and therefor the only activity that can be permitted on this site is the removal of that sediment – no other activity on this site can take place until we have a presentation as to what was done; from start to finish what they have in mind.

Mr. Norback asked if there was a CO already issued on this.

Ms. Simone stated no – it's been requested.

Mr. Norback said so the construction has been done other than stabilizing this.

Mr. Bowman said you have to stabilize it but you want to take care of the gutters because that's just going to contribute to further erosion so we want to rectify the gutter situation at the same time as removing everything or it's just going to wash back in.

Dr. Dimmick said he took a look at the plans on their proposed recharger and this similar to something he has requested on previous projects himself so this does work on sandy soils – it works very well for putting water in the ground well before it gets to a wetland area; he said he would recommend that; he said they have to cut off the roof leaders and put them somewhere.

Ms. Simone said to clarify – are you suggesting that this happen all at the same time; previously it was stated that they need a permit to make a modification.

Dr. Dimmick said they have to do something with the roof leaders right aware.

Mr. McPhee said they can just disconnect them and put in some flexible pipe to the front of the house.

Commission members talked about using flexible piping to allow flow to the front of the house; then later if they want to do something else they have to come before the Commission for a permit not a modification; they can deal with this is the second phase of the presentation.

Ms. Simone read portions of the corrective order into the record: #1 by June 19, 2017 the drainage discharge pipes shall be disconnected by using equipment exclusively at the top of the slope (of lot #9).

Ms. Simone said then to address the removal of the sediment at the toe of the slope – that falls under Apex; Apex would be the sewer easement – she reviewed the language for the sewer – by June 19 the sewer easement shall be graded and secured with erosion controls which they have already started to do so there's just a little bit more work that needs to done.

Ms. Simone said and by June 19 the accumulated sediment within the Apex Developers CedarCrest, LLC open space property shall be removed (in accordance with the sediment removal notes on plans dated June 6, 2017) and testimony of Ryan McEvoy on June 6, 2017; additionally a turbidity curtain shall be in place prior to the site work and use of equipment at the maximum allowing a mini excavator.

Ms. Dunne asked what happens if they don't have consent; what happens if they don't have consent.

Ms. Simone stated this is under open space property; this is what Apex owns; to go on to private property they need to get their approval – that's not anything the Commission can order that a private property owner allow access.

Mr. McEvoy stated he wanted to clarify – the discussion about the turbidly curtain or hay bales – the watercourse is on the neighboring property; they can certainly get in there and pull back to the upland review area of the open space.

Mr. Kurtz said for a practical matter can we maybe facilitate this – we have Mr. Mowers here – maybe he has a question he needs to satisfy himself that everything is going to be alright and good is going to be accomplished and requires his permission.

Chairman de Jongh said he'll have that opportunity if this commission suggests that we need a public hearing – he'll certainly have that opportunity at that point.

Mr. Kurtz said he's 100% right in the procedure; he is just saying as a practical matter since we are all here and the Commission and the property owner is critical to doing the first phase of the cleanup.

Chairman de Jongh said if that's the Commission members' pleasure.

Mr. Kurtz said he is not bringing up the rule of order; he know he is out of order – but it's a practical matter.

Mr. Norback said he has been running this through his head for the last 25 minutes and thinks it's worth considering.

Dr. Dimmick said the only think he would worry about is that we do this in such a fashion that we do not jeopardize the legal status or the show cause hearing which does not provide for input expect for owners and advisors to the owners.

Ms. Simone stated there is another way to look at this – which is that this is technically a violation on someone else's property so if we look at it from that perspective then Mr. Mowers can be involved in the discussion.

Ms. Simone stated he (Mr. Mowers) is directly related understanding that he is not issued a cease and desist order and he is not brought before this Commission under a show cause hearing but technically there was filling that took place on his property.

Dr. Dimmick said okay as the record clearly shows that is the reason for allowing (him to speak).

Ms. Simone stated it was no fault of his own.

Chairman de Jongh said he applaud staff's intelligence and ability to approach that. He invited Mr. Mowers to address the concerns he had keeping the integrity of the cease and desist order.

Stephen Mowers, 75 Orleton Court addressed the Commission.

Mr. Mowers said obviously he has been watching this property for two years and it certainly has deteriorated the last couple of months – the back area.

Mr. Mowers stated he would like to have the property cleaned up – that watercourse.

Mr. Mowers stated his position on that is it's a couple of feet deep; if they are going to clean up the open space – the Apex open space manually with shovels and stuff – can't you just get in there and in a couple of hours you'll have that dug out.

Mr. Mowers explained his property is wet most of the time; he has to wait until late afternoon or early evening to mow his lawn; he said he has a sprinkler system on the back and front lawn – he said he was concerned about that being impacted; possibly from a construction standpoint.

Mr. McEvoy explained this reply is in regard to Mr. Mowers question about his property; the limit of activity that we would need to get the sediment out would be entirely directed from the Apex open space property just into the area of the watercourse on his property; they don't need to go anywhere else on his lawn; there's no need to go anywhere else.

Chairman de Jongh stated let the record show that the applicant has received oral permission from the property owner - Mr. Mowers to remove the sediment from their property.

Chairman de Jongh said they appreciate Mr. Mowers' permission.

Mr. Norback thanked Mr. Mowers and Mr. Kurtz.

Ms. Simone reviewed the draft corrective order.

Ms. Simone supplied the recording secretary the final corrective order for the final minutes.

**Motion: CORRECTIVE ORDER CORRECTIVE ORDER #CO-6.6.17-A;
BRIDGET BOWMAN, ASSESSOR'S MAP 26, LOT 159**

That the Cheshire Inland Wetlands and Watercourses Commission, having considered the factors pursuant to Section 10 of the Inland Wetlands and Watercourses Regulations of the Town of Cheshire, Commissioners' knowledge of the area, site visitations, and after review of written information provided by the applicant on this application and during the course of public meetings, finds the following:

1. That inland wetlands and watercourses of the State of Connecticut and the Town of Cheshire are an indispensable and irreplaceable but fragile natural resource with which the citizens of the State have been endowed.
2. That the wetlands and watercourses are an interrelated web of nature essential to an adequate supply of surface and underground water; to hydrological stability and control of flooding and erosion; to the recharging and purification of groundwater; and the existence of many forms of animal, aquatic and plant life.
3. That the Cheshire Inland Wetlands and Watercourses Regulations, in effect since June 2, 1974, are enforced by the Cheshire Inland Wetlands and Watercourses Commission, per town ordinance.
4. That the slope grade, roof and footing drain outlets and erosion controls were established in the 2015 subdivision permit.
5. That according to neighbor complaint, site visits and documentation provided by the permittees engineer the slope

grades were not created in accordance with the approved subdivision permit #2015-001.

6. That on May 30, 2017 a Notice of Violation/Cease and Desist Order was issued to Bridget Bowman, property owner, for the violation of IWWC permit #2015-001, which was not conducted in concert, support or authority of the Cheshire Inland Wetlands and Watercourses Commission.
7. That on June 6, 2017 a Show Cause hearing was opened. The record of the June 6, 2017 is incorporated into the record of the findings of this corrective order.
8. That Section 13.5 of the Cheshire Inland Wetlands and Watercourses Regulations authorizes the Commission to issue a corrective order for the removal of fill deposited in an inland wetland.

Therefore, the Cheshire Inland Wetland and Watercourses Commission under jurisdiction prescribed in Section 13.5 of the Cheshire Inland Wetlands and Watercourses Commission issues the following Corrective Order:

1. By June 19, 2017 the drainage discharge pipes shall be disconnect by using equipment exclusively at the top of the slope of lot #9.
2. The permittee's licensed professional engineer shall submit written verification by June 20, 2017 that the above mentioned items above are complete and conducted in accordance with this order.

And:

Motion: CORRECTIVE ORDER #CO-6.6.17-B, APEX DEVELOPERS CEDARCREST LLC, STROLLO COURT, VIOLATION OF IWWC PERMIT #2015-001, PERMIT #2015-001-A, FILLING OF UPLAND REVIEW AREA AND WETLANDS AND WATERCOURSE

That the Cheshire Inland Wetlands and Watercourses Commission, having considered the factors pursuant to Section 10 of the Inland Wetlands and Watercourses Regulations of the Town of Cheshire, Commissioners' knowledge of the area, site visitations, and after review of written information provided by the applicant on this

application and during the course of public meetings, finds the following:

- 1. That inland wetlands and watercourses of the State of Connecticut and the Town of Cheshire are an indispensable and irreplaceable but fragile natural resource with which the citizens of the State have been endowed.**
- 2. That the wetlands and watercourses are an interrelated web of nature essential to an adequate supply of surface and underground water; to hydrological stability and control of flooding and erosion; to the recharging and purification of groundwater; and the existence of many forms of animal, aquatic and plant life.**
- 3. That the Cheshire Inland Wetlands and Watercourses Regulations, in effect since June 2, 1974, are enforced by the Cheshire Inland Wetlands and Watercourses Commission, per town ordinance.**
- 4. That the slope grade, roof and footing drain outlets for all lots and erosion controls were established in the 2015 subdivision permit, the grading and erosion control of the sewer easement was established in permit #2015-001-A, granted July 21, 2015.**
- 5. That according to neighbor complaint, site visits and documentation provided by the permittee's engineer the slope grades were not created in accordance with the approved subdivision permit #2015-001.**
- 6. That on May 30, 2017 a Notice of Violation/Cease and Desist Order was issued to APEX Developers Cedar Crest LLC, property owner of lot #8 and open space, for the violation of IWWC permit #2015-001, filling of upland review area and allowing the filling wetlands and watercourse on neighboring private property, which was not conducted in concert, support or authority of the Cheshire Inland Wetlands and Watercourses Commission.**
- 7. That on June 6, 2017 a Show Cause hearing was opened. The record of the June 6, 2017 is incorporated into the record of the findings of this corrective order.**
- 8. That Section 13.5 of the Cheshire Inland Wetlands and Watercourses Regulations authorizes the Commission to issue a**

corrective order for the removal of fill deposited in an inland wetland.

Therefore, the Cheshire Inland Wetland and Watercourses Commission under jurisdiction prescribed in Section 13.5 of the Cheshire Inland Wetlands and Watercourses Commission issues the following Corrective Order:

1. By June 19, 2017 the drainage discharge pipes shall be removed by using equipment exclusively at the top of the slope of lot #8.
2. By June 19, 2017 the accumulated sediment within the Apex Developers Cedar Crest LLC open space property shall be removed by hand and small tracked equipment from the toe of the slope of lot #9 and surrounding property, if access is granted by private property owner(s). The removal of sediment shall be in accordance with the Sediment Removal Notes on the plan entitled "Proposed Site Plan, Lot #9 dated June 6, 2017 and the testimony of Ryan McEvoy at the IWWC June 6, 2017 meeting. Turbidity curtain shall be in place prior to commencement of the site work and use of equipment (at a maximum, mini excavator shall be used). Silt fences shall be reinstalled and reinforced with hay bales located behind the silt fence.
3. The permittee's licensed professional engineer shall submit written verification by June 20, 2017 that the above mentioned items above are complete and conducted in accordance with this order.

Moved by Dr. Dimmick. Seconded by Mr. Norback. Motion approved unanimously by Commission members present.

Chairman de Jongh said he'd reiterate that we have satisfied the disconnection of those drainage things so there is no activity that will take place on this site other than the removal of the sediment and the erosion material.

Mr. McEvoy stated that ongoing S&E controls would take place.

Chairman de Jongh stated that correct – but other than that there is to be no other activity on that and there will be another presentation by you at our next meeting.

Ms. Simone said so the show cause will remain open for both items #4 and #5.

Chairman de Jongh stated yes it will.

5. **SHOW CAUSE** SC 6/06/17
Notice of Violation/Cease and Desist Order
Unauthorized Activities in Upland Review Area
APEX Developers Cedar Crest LLC
Strollo Court
Assessor's Map 26, Lot 168

Discussed under show cause item #4.

IX. UNFINISHED BUSINESS

1. Permit Application APP 2017-006
Royal Crest Estates, LLC DOR 5/16/17
Crestwood Drive, Lot 3
Site Plan – House MAD 7/20/17

Kevin Nguyen, EIT with Milone and MacBroom was present on behalf of the applicant.

Mr. Nguyen addressed the Commission.

Mr. Nguyen explained he had the certificate for the RWA and also has plans for Commission members.

Mr. Nguyen said this lot is lot 3 – it is just south of Crestwood Drive which is on the southeast side of Cheshire High School.

Mr. Nguyen stated lot 3 is 4.26 acres and currently there is a pretty steep sloping topography going towards wetlands on both the north and east side of the property.

Mr. Nguyen said there is approximately a little bit over 1.8 acres of wetlands within the property.

Mr. Nguyen said currently as they are proposing we have a driveway and we have a building tucked in the upper north east corner of the property just up of the 40' setback.

Mr. Nguyen said they are also proposing a septic system which is also within the 50' setback of the wetland however we have a fill system so we have to grade down into the 50' setback.

Mr. Nguyen stated currently there is also an intermittent watercourse that has road drainage from Crestwood Drive and this intermittent watercourse - it discharges a 12" RCP pipe from Crestwood Drive all the way down to the wetland.

Mr. Nguyen explained under proposed conditions we have an 18" HTP pipe that will convey this watercourse down to the wetland and then a scour hole or a rip rap splash pad with calculations will be provided to slow down the velocity and mitigate any erosion issues.

Mr. Nguyen said when the storm water is exactly the same as previously approved a while back – where the house was actually located in the western corner of the property so we have not touched any of that.

Mr. Nguyen asked if Commission members had any questions.

Dr. Dimmick said he noticed that our engineering department has looked at this and one of their major concerns is also one of his major concerns in the area of the proposed septic there is an awful lot of relatively shallow bedrock there and whether or not the system actually works as far as Chesprocott is concerned our problem has been in the past that when we have shallow bedrock then is a tendency for leachy to get to the bedrock border and then move down slope into the nearby wetlands and have inadequate travel time for proper remediation so we end up with a certain amount of population in the wetlands.

Dr. Dimmick said he is a little worried about the specific plans.

Mr. Nguyen explained their septic plan actually follows Chesprocott health code which is 18" above the restrictive layer and so we have designed it within the test pits; we have a test pit scheduled for June 9 which is down grading of the septic system so Chesprocott is going to go there – take test pits and take perks and then we are

going to get the results; we'll reanalysis the situation and see if we need to redesign or see if we need to make any modifications.

Dr. Dimmick said it could meet Chesprocott's standards and still not meet our problem in terms of too short a travel distance from leachy into the wetlands if it is following that restrictive layer down slope which is obviously the wetlands are lower then the restrictive layer there so you have a slope of bedrock going down towards the wetlands; he said he would want to see something that would show ample time for remediation following that shortest path so they would not end up with leachy getting into the wetlands before it has been properly remediated.

Dr. Dimmick stated there is a way of determining travel times under those circumstances but you will need a second test pit so you can get an idea of where that restrictive layer is and some idea of the timing it would take for that.

Mr. Norback asked if there is a test or something that could be done to determine travel time.

Dr. Dimmick said yes – the easiest way is the dye test; he described how the dye test is done; he said there are any number of different methods can determine that and then there are stated health standards in terms of the minimal time necessary for remediation.

Dr. Dimmick said normally we haven't had this as a concern but in this particular case – because of the very large wetland there.

Mr. Norback said at one time he didn't realize there was a test to determine that- he said he was surprised that once it meets Chesprocott standards that we have (say).

Dr. Dimmick said Chesprocott just wants to make sure the septic system works as far as being able to handle the affluent going into it; if it's just going into the ground it is outside our purview; if it's going into the ground and immediately coming back out into an adjacent wetland then it is our (concern).

Ms. Simone said she did have questions regarding her staff review and the engineering department review; she asked if they modified the plans.

Mr. Nguyen stated they are currently working on formally addressing those comments but did take a look at it and saw that they should put reinforced hay bales along the silt fence.

Mr. Nguyen stated they are still working on that and will get back to you.

Chairman de Jongh said he would suggest then that there are some issues that are still outstanding and they will leave this item open on our agenda and hopefully those can be addressed at the next meeting.

X. NEW BUSINESS

1. Request for Determination Re: RFD 2017-008
Diversified Cook Hill, LLC DOR 5/16/17
Lot 12, West Ridge Court (Plank Rd.)
Site Plan – House

Ms. Simone explained this property came before the Commission previously in 2014 and at that time it was determined that an application was not needed.

Ms. Simone stated the request for determination requires that work be completed within a year of the Commission making its determination and the work has not yet started so they are bring the request for determination back to this Commission and they represent there are no changes in the plans.

Dr. Dimmick stated they did review this at one time and the same plans we are looking at now; he said he thought there was a problem with the proposed drainage outlet within 12' of the wetland line.

Ms. Simone said yes – and stated the slope is relatively flat.

Dr. Dimmick said he thought that was why we made the determination at the time – there didn't seem to be an obvious (issue).

Ms. Simone stated there is a rip rap pad that is proposed as well.

Chairman de Jongh said so everything is basically the same way it was (before).

Ms. Simone stated it was the same plan – the time has expired.

Chairman de Jongh and Dr. Dimmick stated they didn't see an issue.

Motion: That the Commission has determined given the facts presented an additional permit is not necessary to complete the development.

Moved by Dr. Dimmick. Seconded by Mr. Brzozwski. Motion approved unanimously by Commission members present.

2. Request for Determination RFD 2017-007
Walter Gancarz, P.E. Town Engineer
West Johnson Avenue
Pump Station Upgrade

Walter Gancarz, P.E. Town Engineer was present on behalf of the applicant.

Dr. Dimmick stated this came in front of us in either 1978 or 1979; staff could not find any records of this; he said he thought the station was built in 1980.

Mr. Gancarz addressed the Commission.

Mr. Gancarz explained that the station was built in 1980; the upgrade was subject of a referendum last fall so now we have so we now have final plans and specifications.

Mr. Gancarz said its actually out to bid right now with bids to July 11, 2017.

Mr. Gancarz said the good news is, although we border the wetlands – shown on the plans – there is very limited work that would be done in the wetlands.

Mr. Gancarz explained the only real work done in the wetlands is the existing chain link fence – shown on the plans – there are about 3 fence posts in there – he said they will actually be removing that and moving the yellow fence back to area shown on the plans in green where there will be a new fence; so they will actually be removing the only thing that is currently in the wetlands.

Mr. Gancarz said as far as the work that would be done in the upland regulated area – the red line shows (on the plans) the regulated area.

Mr. Gancarz said the existing building is not being expanded at all – so all of the work that's done in that building as far as upgrading the pumps – the controls – the placement of the new emergency generator – that's all done within the existing four walls of the building so there wouldn't be any outside activities.

Mr. Gancarz said pretty much what would be done is site work – shown in the shaded area (on the plan) is the new driveway – it's a little wider than the other one – a little less steep – there is a guardrail put on the ends of it because – it kind of dips down – so under icy conditions its probably good to have something there.

Mr. Gancarz said the fence is being moved back.

Mr. Gancarz explained there are new utilities brought to the site but actually public water and public gas will be actually brought in to the building outside of the regulated area so those trenches really wouldn't be affected.

Mr. Gancarz said there would be a new upgrade of electrical feed that would be placed under the proposed driveway and enter the building.

Mr. Gancarz said there is one drain – it's a really minor drain – it's really just kind of a low area between two sets of steps – it's a yard drain so it's not a catch basin – we are talking minimal flow.

Mr. Gancarz said he did ask that they just put in a 3' by 3' stone area where is can just dissipate – its probably over kill for the amount of what we are going to do but since it was just upstream of the wetlands perhaps they (the Commission) would want to see that.

Mr. Gancarz stated there would be erosion silt fence put around the entire site adjacent to the existing fence at the start of it – and remain throughout the work.

Mr. Gancarz stated the entire project is anticipated to take about 12 months but most of that work is inside the building.

Mr. Gancarz said as long as long term benefits – you do have a 37 year old generator in there – 37 year old pumps – so the fact that

those are being upgraded – a new emergency generator so that we don't have issues with a power outage – it's being fed by natural gas so we don't have the problem as far as diesel and during a prolonged storm of getting diesel fill-ups.

Mr. Gancarz stated there are flood doors being installed so that although this is 1.5' higher than the 100 year flood the addition of flood doors would also prevent water from entering the building in a catastrophic flood.

Dr. Dimmick said he did see the water go over West Johnson Avenue in that area once in the last 45 years.

Mr. McPhee said he (Mr. Gancarz) said two things he wanted to be clear about; first the existing driveway is staying is staying the same size and you are just repaving.

Mr. Gancarz replied its being widened and it's a bigger footprint then it was before.

Dr. Dimmick commented that the grade change is towards West Johnson.

Mr. Gancarz said it's going to meet the existing at West Johnson – it's just going to come down a little further then it had previously – it's a little less and a little wider.

Dr. Dimmick asked if this was anything that would require silt fence – because you are regarding it.

Mr. Gancarz said yes – we are going to remove the existing driveway – all of the existing asphalt would be taken off site so we would have a bare (area).

Mr. McPhee said the drainage is not there currently – it's something that you have to install.

Mr. Gancarz said it's a yard drain – and correct (it's not there currently).

Chairman de Jongh asked if the posts that are taken out of the fence – how are you going to pull it out – manually.

Mr. Gancarz said he suspects they will just need some smaller equipment; you won't need a great big piece of equipment; the fabric would come off manually and that would just get rolled up but for the posts – you need a small backhoe or something to get them out.

Chairman de Jongh said he didn't think this requires any kind of application.

Mr. McPhee stated he begged to differ – he's putting in drain and he is doing site work that expanding the footprint of the existing asphalt – and without a permit we have no way of controlling the proper erosion and sediment – he stated he has no problem with the project – but based on what we have done for other individuals who have come in for an application he did believe this requires a permit.

Mr. Kurtz stated 'well said' (in regard to Mr. McPhee's comments).

Motion: That Commission has determined that a permit is needed for the proposed work.

Moved by Dr. Dimmick. Seconded by Mr. McPhee. Motion approved unanimously by Commission members present.

3.	Permit Modification	APP	2014-007B
	Ed Barnett, House 2 Home Builders	DOR	6/06/17
	Mountain Road Retaining Wall	MAD	8/10/17

Chairman de Jongh stated this item would be deferred to the next meeting.

4. Cease & Desist Release
Shahreen Rahman and Shorab Hossain
195 Lanyon Drive

Ms. Simone stated the Commission may recall these new property owners and they started to cut some trees – she sent a cease and desist letter – first she sent a letter asking to have a conversation – they didn't respond to that so she followed with a cease and desist asking them to contact her – and they did and we have gotten into conversation with them of what they are interested in doing.

Ms. Simone said in talking with the chair and the vice-chair they are looking to reestablish the cleared area that was allowed in their permit originally and they are planning to plan some fruit trees.

Ms. Simone said as far as there being any issues with the wetland or uplands – they are not going into that area – it’s just a matter of trying to enter into a dialog before any damage was done and so she has a draft motion to release the cease and desist.

Motion:

That the Cheshire Inland Wetlands and Watercourses Commission, having considered the factors relevant to the issuance and release of the subject Notice of Violation, Commissioners’ knowledge of the area, and after review of written information provided by the applicant on this matter, finds the following:

1. That the Cheshire Inland Wetlands and Watercourses Commission issued a permit grant on August 7, 1990, with stipulations, for establishment of the non-encroachment line on the wetland boundary and site plan for house construction.
2. That on May 11, 2017, a Notice of Violation/Cease and Desist Order was issued to Shahreen Rahman and Shorab Hossain for the cutting of trees. This Notice/Order was issued as a means to have a conversation about their plans and allow opportunity to review the record regarding the approved non-encroachment line. The Notice/Order was not recorded on the land records.
3. That Staff visited the site and learned of the property owners goals to re-establish the clearing limits, as approved in the 1990 IWWC permit.
4. That the Commission Chairman and Vice Chair indicated that the clearing up to the already established non-encroachment line was in keeping with the permit.

Therefore, the Cheshire Inland Wetlands and Watercourses Commission does hereby determine that all issues in the Notice of Violation/Cease and Desist Order issued to Shahreen Rahman and Shorab Hossain dated May 11, 2017 have been addressed. Further,

**the Commission does hereby release and discharge the
aforementioned Notice of Violation/Cease and Desist Order.**

**Moved by Mr. McPhee. Seconded by Mr. Norback. Motion approved
unanimously by Commission members present.**

XI. ADJOURNMENT

**The meeting was adjourned at 9:14 pm by consensus of Commission
members present.**

Respectfully submitted:

**Carla Mills
Recording Secretary
Cheshire Inland Wetland and Watercourse Commission**