

**CHESHIRE INLAND WETLANDS AND WATERCOURSES COMMISSION
REGULAR MEETING
TUESDAY, JANUARY 21, 2020
TOWN HALL – 84 SOUTH MAIN STREET
COUNCIL CHAMBERS AT 7:30 P. M.
Immediately Following the Public Hearing**

I. CALL TO ORDER

The meeting was called to order at 7:31 pm.

II. PLEDGE OF ALLEGIANCE

The pledge of allegiance was recited at the public hearing.

III. ROLL CALL

The roll was called at the public hearing. Members present at the public hearing were still present for the regular meeting.

IV. DETERMINATION OF QUORUM

Chairman de Jongh determined there were enough members present for a quorum.

**V. APPROVAL OF MINUTES – Public Hearing – January 7, 2020
Regular Meeting – January 7, 2020
Site Walk – January 16, 2020**

Motion: To approve the minutes from the Public Hearing – January 7, 2020, Regular Meeting – January 7, 2020 and Site Walk – January 16, 2020 with corrections.

Motion: To approve the minutes from the Public Hearing – January 7, 2020, Regular Meeting – January 7, 2020 and Site Walk – January 16, 2020 with corrections.

Public Hearing: Pg. 2 L12 “reviewed” to “received”, L29 should read “agreed that they.”

Regular Meeting: Pg. 2 L25 add “The nominees were declared to be elected.”; pg. 7 L6 “at” to “for”; pg. 8 L49 “would” to “would not”, L52 “he” to “the”; Pg. 9 L43 “that” to “that is”; Pg. 13 L14 “a have into” to “have had”; pg. 14 L6 “regarding” to “regrading”; pg. 17 L18 “in” to “is”; pg. 21 L48 “agreed” to “agreement”, L54 “just in” to “just in case”; pg. 22 L25

“funs” to “funds”; pg. 25 L5 “way” to “why”, L12 “more” to “move”, L23 “compiled” to “complied”; pg. 26 L18 “determinantal” to “detrimental”; pg. 27 L8 “discussion” to “decision.”

Site Walk – no corrections.

Moved by Ms. Dunne. Seconded by Mr. McPhee. Motion approved unanimously by Commission members present.

VI. COMMUNICATIONS

Ms. Simone reviewed the following communications:

1. Request to Modify IWWC Permits #2019-026, Marion Road & #2019-030, Coleman Road
2. Staff Communication w/Attachments Re: IWWC Permit #2019-026, Marion Road and Permit #2019-030, Coleman Road

VII. INSPECTION REPORTS

1. Written Inspections – N/A
2. Staff Inspections – N/A

VIII. ENFORCEMENT ACTIONS

1. Notice of Violation/Cease and Desist Order SC 3/19/19
Violation of IWWC Permit #2019-001
Ed Barnett
569 Cornwall Avenue
Assessor’s Map 63, Lot 66

Chairman de Jongh noted this item remained on the agenda for continued monitoring; and there were no changes in conditions.

Ms Simone reported they are still submitting inspection reports as required.

2. Notice of Violation/Cease and Desist Order
Violation of IWWC Permit #2019-006
Ricci Construction Group
Fenn Road
Assessor’s Map No. 91, Lot No. 132

Ms. Simone noted there has been no further activity on this item.

3. **SHOW CAUSE HEARING**

Notice of Violation	SC	11/07/19
Unauthorized Activities in the Wetland & Upland Review Area		
Daniel Czyzewski (Flip It LLC)	SC	11/19/19
2085 Plank Road	SC	12/03/19
Map 32, Lot 32	SC	1/07/20
	SC	1/21/20

Ms. Simone made a recommendation that if the Commission was done with their discussions; the show cause hearing could be closed, and they could entertain the corrective order.

Motion: That the Commission closed the show cause hearing.

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

Dr. Dimmick said he reviewed the correction order and suggested the language be changed to add more details posts along the established non-encroachment line as shown on the restoration plan map; quantity and location to be determined by Commission Staff.

Corrective Order:

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 on November 1, 2019 a Cease and Desist Order/Show Cause Hearing Notice was issued for the unauthorized clearing activities within the wetland and upland review area.**
- 5. That on November 7, 2019 a Show Cause hearing was opened. The property owner provided testimony and the Commission requested additional information.**
- 6. That the Show Cause Hearing was continued to November 19, 2019, December 3, 2019, January 7, 2020 and January 21, 2020.**
- 7. That the property owner hired a soil scientist to delineate the extent of wetlands and a biologist/wetland scientist to create a restoration plan.**
- 8. That Section 13.5 of the Cheshire Inland Wetlands and Watercourses Regulations authorizes the Commission to issue a corrective order for the restoration of the wetland/upland area.**

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. The restoration plan detailed in the January 7, 2020 report shall be adhered to. The planting is to begin in spring 2020 as soon as weather/soil conditions permit. The planting plan shall be completed by June 1, 2020.**
- 2. The property owners shall hire a biologist/wetland scientist to conduct a site inspection upon completion of the restoration plantings installation. The biologist/wetland scientist shall provide the Commission with a written report within 7 days of inspection, identifying whether the planting installation is in**

compliance with the January 7, 2020 report/restoration plan.

3. The property owner shall install non-encroachment markers on posts along the established non-encroachment line as shown on the restoration plan map. Quantity and location to be determined by Commission Staff.
4. The property owner is responsible to maintain, monitor and ensure the survival of the restoration plantings and removal of invasive species emerging in the restoration and buffer area for three years. Any dead/dying plants shall be replaced with the same species.
5. The restoration area shall be monitored by a biologist/wetland scientist annually for three years, and the biologist/wetland scientist shall provide the Commission with a written report within 7 days of inspection, identifying whether the plantings are successful, and that the ongoing removal of invasive plant species has been complied with.

Failure to cooperate with Cheshire Inland Wetland and Watercourses Commission and Town of Cheshire regulations may lead to further enforcement action, including, but not limited to, transferring this matter to the Town Attorney to pursue injunctive relief and to collect all applicable penalties and fees as prescribed under state statutes. A copy of this notice has been recorded on the land records for this property and will remain so until released by the Cheshire Inland Wetlands and Watercourses Commission. The November 1, 2019 Cease and Desist Order shall remain on the land records until the restoration planting is complete and deemed successful over a period of three years and will only be released upon satisfaction of the restoration project as complete by the Commission.

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

IX. UNFINISHED BUSINESS

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|-----------|--|------------|-----------------|
| 1. | Permit Application | APP | 2019-027 |
| | FIP Construction, Inc. | DOR | 11/07/19 |
| | West Johnson Avenue | PH | 1/07/19 |
| | Site Plan – Medical Office Building | PH | 1/21/20 |
| | | MAD | 2/25/20 |

The public hearing on this item was postpone to the Tuesday, February 4, 2020 meeting.

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| 2. | Permit Application | APP | 2020-002 |
| | Timothy McMurray | DOR | 1/07/20 |
| | Jarvis Street | SW | 1/16/20 |
| | Site Plan – House | MAD | 3/12/20 |

Ms. Simone explained this site was visited by Commission members and herself – the observation was - they brought the site plan with them to try to look to figure out where the driveway entrance would be relative to the wetlands as well as the layout of the house.

Dr. Dimmick noted there were the lack of markers on the site relative to the driveway and wetlands, so it was extremely difficult to determine the activity and there was question about if the wetland line was accurate; he said there needs to be updated flagging on that and determination of the quality of the wetlands before they can go forward.

Chairman de Jongh said they can convey to the applicant that they need to refine the plan and have a licensed soil scientist clearly delineate where the wetland boundaries are and show the activities intended.

Ms. Simone said in addition to having a field delineation by a soil scientist would be to have an assessment of the wetlands; as well as the impacts; she would relay this information to the applicant.

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| 3. | Permit Application | APP | 2020-003 |
| | Derrick Moorer | DOR | 1/07/20 |
| | 40 Terrell Farm Place | | |
| | Solar Installation | MAD | 3/12/20 |

Dr. Dimmick said the field trip did not take placed because the applicant is changing the plans.

Ms. Simone said how it was left was the solar company indicated they are revising the plans; they will have them submitted soon; staff would follow up.

X. NEW BUSINESS

1. **Request to Modify Permit #2019-026
A.M. Napolitano LLC
Marion Road
Resubdivision, Individual Lots & Wetland Crossing**

Andy Napolitano was present.

Chairman de Jongh explained they received communications from Mr. Napolitano regarding a revised stipulation number 6.

Ms. Simone said the request is to modify application #2019-026 for Marion Road.

Mr. Napolitano said he was not aware of the stipulation until after receiving the permit; he thought the stipulation was not warranted on the site regarding the need for a weekly report from an engineer; he said lots 7, 8 and 10 areas have had previous activities taking place on the lots so he thought the stipulation was excessive – he said he thinks the inspection is something he could do or the site contractor could do on a regular basis but to hire an engineer is a lot of money and effort and he was not sure if was needed to see if the silt fence and erosion controls were in place.

Chairman de Jongh said the reason behind that stipulation was because the Commission has been burned so many times; so, they have made it a standard condition; he said he thought in this case they have not had any issue with (Mr. Napolitano); so, as an alternative he could submit the reports to the Commission and have then notarized – to make sure the work is done the way it should be done.

Mr. Napolitano said that he offered a suggestion for revised wording.

Mr. McPhee said he agreed the stipulation was put in there because of some of the problems they have had – it should not be used to penalized law abiding contractors – but he did not think the notary only verified the signature so maybe providing a picture would be better; having something notarized is just verifying the signature and not the contents of the letter where a picture has to do with the content.

Dr. Dimmick talked about why they wanted to have an engineer provide their signature; but having the report notarized shows the person has come before an official of some sort and what's being submitted is valid.

Ms. Simone said looking at the previous minutes, Mr. Napolitano agreed to be trained by a herpetologist to train to conduct the step for species of concern; so, in doing that it's somewhat in keeping with looking at the erosion controls because he would be looking along that area for species of concern in that area; he indicated he would be doing that and in the area of concern.

Commission members talked about the legality of having a letter notarized.

Chairman de Jongh commented on the reasons why they ask for reports from a licensed engineer but in the case, it might not be needed but he wanted to have the reports notarized; and gives a little bit more consistency.

Mr. Napolitano said that was fine.

Ms. Simone asked about how often the reports needed to be notarized, or weekly and after every storm event of ½ inch of rain.

Dr. Dimmick said the weekly reports should be notarized.

Ms. Simone said the Commission is able to make a modification of the language; based on the provision of 11.4a of the regulations.

There was discussion regarding the language regarding the weekly erosion control reports and reports after ½ inch or more of rain; and the language proposed for the modification.

Ms. Simone stated the request for the reports is to provide reports every other week.

Commission members were in agreement with every other week reports notarized; and reports submitted after storm events of ½ inch or more of rain.

Dr. Dimmick agreed to move the language modification of stipulation number 6; as noted in the motion.

Motion:

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, previous site visitations, and after review of written information provided by the applicant on this application, finds the following:

- 1. That the current application is for subdivision of a 27 acre parcel into 15 residential lots. This application is for both subdivision and the individual site plans for the undeveloped lots.**
- 2. That the applicant's soil scientist field located inland wetlands both on the site and bordering the subject property with non-encroachment markers proposed for lots 1, 2, 7, 8, 10, 11 and rear lot accessway.**
- 3. That the Commission declared this application significant and a public hearing commenced and concluded on December 3, 2019.**
- 4. That the individual site plans for lots 1, 2, 7, 8, 10 and 11 are included in the review of this application.**
- 5. That the Engineering Department has reviewed the subdivision and site plan proposal and is satisfied with the applicant's design and calculations.**

Based upon the foregoing findings, the Cheshire Inland Wetland and Watercourses Commission conditionally grants CIWWC Permit Application #2019-026, the permit application of A.M. NAPOLITANO as presented in the Construction Sequence and on the plans entitled:

**"Re-Subdivision Plans
West Farms Terrace
Prepared for A.M. Napolitano, LLC
1675 Marion Road, Cheshire CT
Dated October 21, 2019; Revised November 14, 2019
By Berkshire Engineering and Surveying, LLC, Bantam,
CT".**

The permit is granted on the following conditions and stipulations, each of which the Commission finds to be necessary to protect the wetlands and watercourses of the State and the Town of Cheshire:

- 1. Any lack of compliance with any condition or stipulation of this permit shall constitute a violation of the Cheshire Inland Wetlands and Watercourses Regulations, and an enforcement order shall be both issued and recorded on the Town of Cheshire Land Records.**
- 2. No changes or modifications may be made to the plans as presented without subsequent review and approval the Cheshire Inland Wetlands and Watercourses Commission.**
- 3. Prior to the commencement of clearing, grading or any construction activities covered under this permit the applicant shall provide adequate (48 hour) notification to Staff, so that Staff may verify that the following items have been completed by a qualified party:**
 - a. The accurate staking or flagging of all clearing limits conducted by a qualified individual. Staff may insist on additional staking or flagging if warranted by field conditions.**
 - b. The proper installation of all sediment and erosion controls indicated on the above referenced plans. Staff may insist on additional controls if warranted by field conditions.**
 - c. The proper and permanent installation of non-encroachment markers along the wetland boundary as determined by Commission Staff.**
- 4. All disturbed areas on the site not directly required for construction activities shall be temporarily seeded and hayed until the site is permanently stabilized.**
- 5. All recommendations from the Connecticut Department of Energy and Environmental Protection regarding protective**

measures for the protection of Natural Diversity Database species shall be stringently adhered to.

- 6. An initial inspection of the installation of the sedimentation and erosion controls on lots 7, 8 and 10 shall be made by a licensed professional engineer before earthwork begins to verify the correct location and adequacy of installation. The licensed engineer shall submit a written letter verifying acceptable conditions to the Commission Staff in order to commence construction. Subsequently and once earthwork has commenced, an inspection of the condition, integrity, and adequacy of the sedimentation and erosion controls on lots 7, 8 and 10 shall be made by the owner of record, or designated contractor responsible for the earthwork, either bi-weekly or after every significant rainfall of 1/2" or greater, whichever is sooner, until all disturbed areas are stabilized. Reports shall be notarized. Any identified breeches or deficiencies shall be corrected before the next rain event. The responsibility of said inspections to be borne by the owner of record. All reports shall be submitted to Commission Staff within three days of each inspection and can be sent electronically directly to the IWWC office.**
- 7. The applicant's engineer shall be present during the culvert replacement and provide a written report to the Commission within 7 days of the replacement, identifying the measures undertaken to ensure the protection of natural resources. The engineer has the responsibility to stop the site work if the conditions are found to be in violation of this permit and shall contact Commission Staff immediately.**
- 8. Throughout the course of conducting construction activities covered by this permit grant, and per Section 11.2K of the Cheshire Inland Wetlands and Watercourses Regulations, the applicant shall be responsible for ensuring that all maintenance and refueling of equipment and vehicles is performed as far as practical from all wetlands and watercourses, at least 100' if possible. All oil, gasoline, and chemicals needed at the site shall be stored in secondary containment to prevent contamination of any wetlands or watercourses from possible leaks.**

9. This permit grant shall expire January 7, 2025.

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

2. Request to Modify Permit #2019-030
Napolitano Dietrich, LLC
678 Coleman Road
Resubdivision & Individual Lots

Commission members agreed to entertain the motion with the language change under stipulation number 5.

Motion:

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, previous site visitations, and after review of written information provided by the applicant on this application, finds the following:

1. That the current application is for resubdivision of one 5.74 acre parcel into 2 residential lots. This application is for both subdivision and the individual site plans for the undeveloped lots.
2. That the applicant's soil scientist field located inland wetlands both proposed lots.
3. That the Engineering Department has reviewed the resubdivision and site plan proposal and is satisfied with the applicant's design and calculations.

Based upon the foregoing findings, the Cheshire Inland Wetland and Watercourses Commission conditionally grants CIWWC Permit Application #2019-030, the permit application of NAPOLITANO DIETRICH LLC as presented on the plans entitled:

**"Re-Subdivision Plans
Lot 1 – Coleman Farm Subdivision
Prepared for Napolitano Dietrich, LLC**

**678 Coleman Road, Cheshire CT
Dated June 28, 2019; Revised January 3, 2020
By Berkshire Engineering and Surveying, LLC, Bantam,
CT”.**

The permit is granted on the following conditions and stipulations, each of which the Commission finds to be necessary to protect the wetlands and watercourses of the State and the Town of Cheshire:

- 1. Any lack of compliance with any condition or stipulation of this permit shall constitute a violation of the Cheshire Inland Wetlands and Watercourses Regulations, and an enforcement order shall be both issued and recorded on the Town of Cheshire Land Records.**
- 2. No changes or modifications may be made to the plans as presented without subsequent review and approval the Cheshire Inland Wetlands and Watercourses Commission.**
- 3. Prior to the commencement of clearing, grading or any construction activities covered under this permit the applicant shall provide adequate (48 hour) notification to Staff, so that Staff may verify that the following items have been completed by a qualified party:**
 - a. The accurate staking or flagging of all clearing limits conducted by a qualified individual. Staff may insist on additional staking or flagging if warranted by field conditions.**
 - b. The proper installation of all sediment and erosion controls indicated on the above referenced plans. Staff may insist on additional controls if warranted by field conditions.**
 - c. The proper and permanent installation of non-encroachment markers along the wetland boundary as determined by Commission Staff.**
- 4. All disturbed areas on the site not directly required for construction activities shall be temporarily seeded and hayed until the site is permanently stabilized.**

- 5. An initial inspection of the installation of the sedimentation and erosion controls on lot 1B shall be made by a licensed professional engineer before earthwork begins to verify the correct location and adequacy of installation. The licensed engineer shall submit a written letter verifying acceptable conditions to the Commission Staff in order to commence construction. Subsequently and once earthwork has commenced, an inspection of the condition, integrity, and adequacy of the sedimentation and erosion controls on lot 1B shall be made by the owner of record, or designated contractor responsible for the earthwork, either bi-weekly or after every significant rainfall of ½" or greater, whichever is sooner, until all disturbed areas are stabilized. Reports shall be notarized. Any identified breeches or deficiencies shall be corrected before the next rain event. The responsibility of said inspections to be borne by the owner of record. All reports shall be submitted to Commission Staff within three days of each inspection and can be sent electronically directly to the IWWC office.**
- 6. Per Section 12 of the Cheshire Inland Wetlands and Watercourses Regulations, a bond covering the costs of the sediment and erosion controls on lot 1B, as shown on the above-referenced plans, shall be filed with the Town Planner's Office prior to the commencement of construction activities. The amount of the bond shall be determined by the Cheshire Planning Office.**
- 7. Throughout the course of conducting construction activities covered by this permit grant, and per Section 11.2K of the Cheshire Inland Wetlands and Watercourses Regulations, the applicant shall be responsible for ensuring that all maintenance and refueling of equipment and vehicles is performed as far as practical from all wetlands and watercourses, at least 100' if possible. All oil, gasoline, and chemicals needed at the site shall be stored in secondary containment to prevent contamination of any wetlands or watercourses from possible leaks.**
- 8. This permit grant shall expire January 7, 2025.**

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

XI. ADJOURNMENT

The meeting was adjourned at 7:58 pm by consensus of Commission members present.

Respectfully submitted:

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