September 17, 2021

Ms. Suzanne Simone
Environmental Planner
Town of Cheshire
Planning and Development
84 South Main Street
Cheshire, CT 06410

Re: Man-made Stormwater Basin – Jurisdictional Determination
Old Towne Commons
Kensett Square Parcel and 29 Wallingford Road
Cheshire, Connecticut
SLR #141.16794.00001.0220

Dear Ms. Simone:

At the last Inland Wetlands and Watercourse Commission (IWWC) meeting, the subject development was presented to the commission. The IWWC requested clarification regarding the jurisdictional wetland and/or watercourse status of an existing man-made stormwater basin located along the eastern portion of the property. When determining the jurisdictional status of features on a landscape, it is important to review federal and state regulations, historical land uses, and former wetland delineation resource maps/reports when available. William Root, a registered soil scientist with Milone & MacBroom, Inc. now SLR International Corporation, completed a wetland delineation on the subject site in 2016. During his investigations, the only regulated resource feature delineated on site was an intermittent watercourse/seep located north of the area that now supports a man-made stormwater basin. The rest of the site contained upland areas consisting of buildings, paved parking lots, and vegetated medians and islands. The underlying soils within much of the site were classified as Udorthents – man-made or highly disturbed soils. The area that currently supports the man-made stormwater basin was a former upland area that served as a paved overflow parking lot for the businesses located along Route 10 (see 2016 Historic Aerial Figure 1).

In 2016 as part of a commercial building and parking lot improvement plan on this site, the town's IWWC approved the construction of a stormwater basin within the former upland parking lot located along the eastern property line. Subsequently, the property owner completed the approved site improvements by removing a portion of the former parking lot and excavating the stormwater basin into the underlying upland soils on the site.

On September 14, 2021, I completed a site inspection of the stormwater basin to review its current condition and to determine its regulatory jurisdictional status. The stormwater basin is surrounded by uplands with vegetated areas north, east, and west and the remaining paved parking area to its south. One of the old parking lot lamp posts is still located within the northern upland area located between the intermittent watercourse and the stormwater basin. The stormwater basin is approximately 1 to 2 feet deep and does have standing water present for much of the year. Broad-leaved cattail and duckweed were present within the basin. The steep side slopes are vegetated with a combination of grasses and weedy species. A few adult green frogs – opportunistic colonizers – were observed using the basin. The observed standing water may be a result of compacted soils within the basin, siltation of the pore spaces within the underlying basin soils, and/or a lack of a low-flow orifice or subsurface drainage system. There is a concrete outlet structure with weir controls located along the northern portion of the basin, and during storms it discharges excess stormwater into the intermittent watercourse to the north. No surface water was observed flowing into or out of the basin.

As a professional wetland scientist and registered soil scientist, I do not delineate and/or represent man-made stormwater basins within uplands as a watercourse, wetland, and/or waterbody even if they support wetland vegetation or have saturated soils or standing water present during the year. My stance is further supported by the United States Army Corps of Engineers (USACE), in which Section 404 of the federal Clean Water Act categorically excludes stormwater basins constructed within upland areas from being designated/identified as federal wetlands/watercourses. On past projects, the Connecticut Department of Energy & Environmental Protection (CTDEEP) has made similar confirmations that man-made stormwater basins within uplands should not be regulated as a watercourse/wetland. I have found that some local wetlands and watercourse commissions/agencies have a differing opinion from me, the USACE, and CTDEEP, and they elect to regulate stormwater basins under their local regulations and/or bylaws. Finally, I reviewed the town's IWWC regulations, and the regulations are silent on the matter of man-made stormwater basins within uplands as being regulated by the IWWC as a wetland or watercourse resource.

Based on my site investigations, review of the historic land use, former wetland delineation mapping and reports, and the local regulations, it is my professional opinion that the existing man-made stormwater basin should not be regulated as a watercourse, wetland, and/or waterbody. Furthermore, the stormwater basin was purposely constructed in 2016 within an upland to provide stormwater detention and water quality renovation from the proposed site improvements completed. It was not intended to serve, nor was it represented to the IWWC that the stormwater basin would serve, as a future regulated wetland, watercourse, and/or waterbody on this site.

If you have any questions regarding this letter, please do not hesitate to call me at (203) 271-1773 or email me at msanford@slrconsulting.com.

Sincerely,

SLR International Corporation

Matthew J. Sanford, MS, PWS, Registered Soil Scientist
US Manager of Ecology

Enclosure: Figure 1

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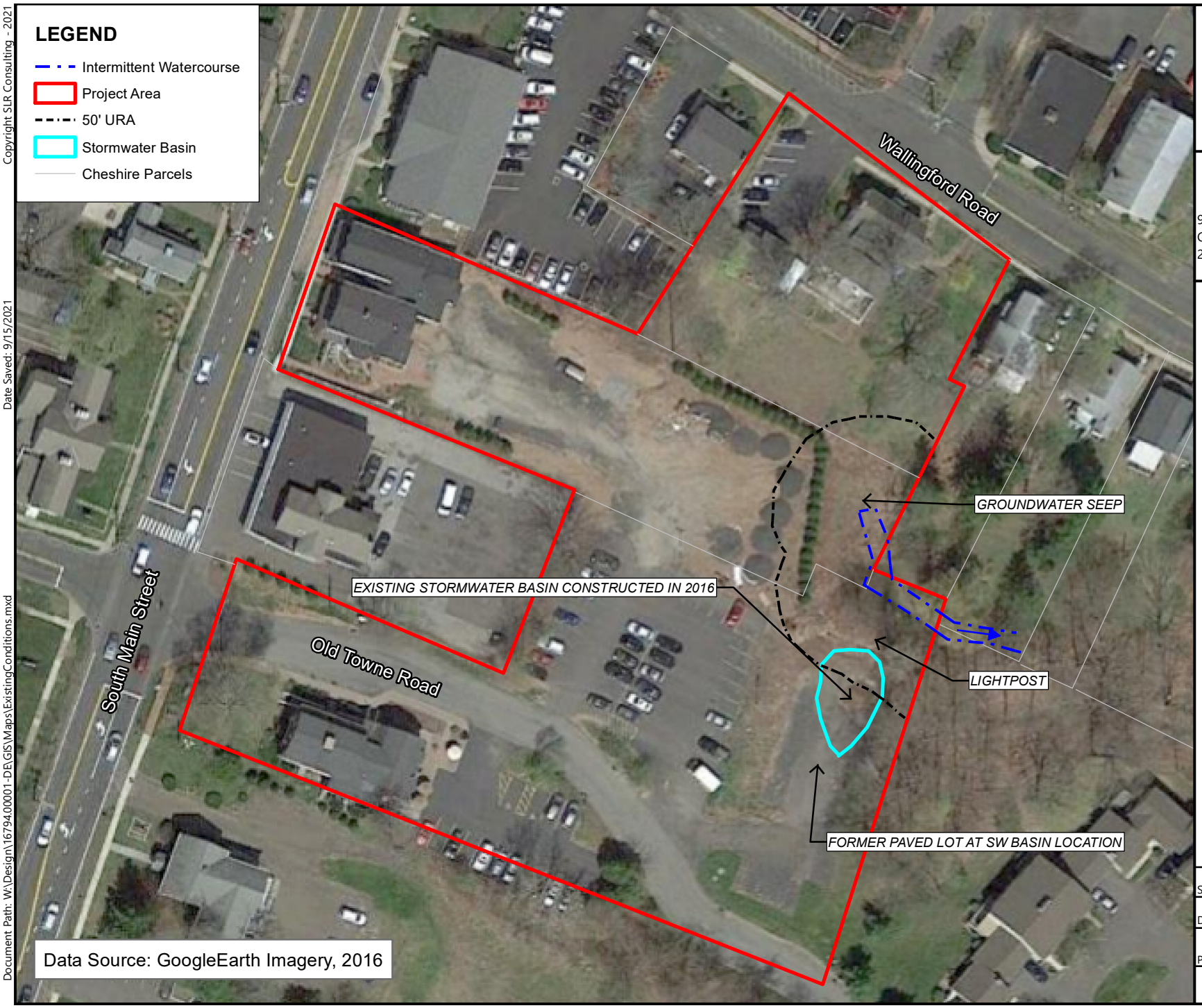

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99 REALTY DRIVE
CHESHIRE, CT 06410
203.271.1773

2016 HISTORIC AERIAL

OLD TOWNE COMMONS
KENSETT SQUARE, LLC
200 OLD TOWNE ROAD, 168 SOUTH MAIN STREETt, 29 WALLINGFORD ROAD
CHESHIRE, CONNECTICUT

SCALE 1 " = 75 '

DATE 9/15/2021

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FIG. 1