

Beacon Falls Inland Wetland and Water Course Commission
Findings and Conditions of Approval

I, Commissioner Knapik, on this date December 11, 2019, make a motion to approve the application for **Hopp Brook Estates** located on **Oakwood Drive** in Beacon Falls, Connecticut, **Wetlands application #A-2019-315 and Storm Water application #-SW-2019-017** consisting of approximately 135 acres and 109 units.

FINDINGS

The public hearing before the Inland Wetland and Watercourse Commission of the Town of Beacon Falls (hereinafter "IWWC" or "Commission") on this application began on October 9, 2019 and was continued to November 13, 2019. At the public hearing, the IWWC received and considered evidence from the applicant, the public, interested and affected parties, commission members, commission staff, and others. After consideration of all of the evidence submitted, and with the professional guidance of Commission staff on technical issues, and relying also upon the individual expertise of Commission members, the Commission finds that:

- A. There are no prudent and feasible alternatives to those presented in the application, which are likely to cause less disruption to inland wetlands and watercourses
- B. The proposed activity will have minimal environmental impact, both in the short-term and the long-term, on the wetlands and watercourses
- C. There will be no irreversible and irretrievable loss of wetlands or watercourses due to implementation of the project
- D. The impacts of the project on wetlands and watercourses outside of its borders will be minimal or non-existent; providing that the plans are implemented as approved herein.

CONDITIONS OF APPROVAL

Therefore, this permit is granted subject to the following conditions. Due to the sensitivity of the site, and the presence of extensive wetlands and watercourses off-site, which could potentially be affected by activities on the site, any violation of any of these conditions shall be cause for an immediate revocation of the permit in its entirety.

- 1) All construction and other activity shall be in accordance with approved plans and documents.
- 2) The construction sequence outlined on the above plans shall be strictly followed. **However, efforts should be made to limit site disturbance.** If at any time the Town should determine that an excessive amount of land disturbance is present without sufficient erosion controls then, the developer may be required to cease construction activities until suitable erosion controls are put in place or exposed areas are stabilized.
- 3) No changes to or additions to the above-identified approved plans and documents, including field changes, shall be permitted except in accordance with this paragraph. All proposed changes and revisions to the documents identified in **Condition 1)** above, including changes alleged to be required by field conditions, shall be submitted in advance to the Town Engineer and/or the Commission's Enforcement Officer. The proposed changes shall be reviewed as soon as practicable by a committee consisting of the Commission's Enforcement Officer and/or the Town Engineer, along with two (2) officers of the Commission. If, in the judgment of the committee, the proposed changes are minor in nature, and are not likely to cause additional impact on wetlands or watercourses on or off the project, then the committee may approve the proposed changes.

However, if the proposed changes are considered to be potentially substantial by the committee, or if the proposed changes may have a significant impact on wetlands or watercourses on or off the project site, the proposed changes must be submitted to the entire Commission for appropriate action. Changes, which are deemed in this manner to be substantial in nature, will require

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submission to and review by the entire Commission. The Commission shall in its discretion take appropriate action regarding the proposed changes, including the holding of a public hearing, if in the judgment of the Commission, a public hearing regarding the proposed changes is merited. Any increase from the approved plans identified in Condition 1 above in the extent of regrading, development, disturbance, or impacts within or to the wetlands or watercourses, or in the regulated areas around the wetlands or watercourses, i.e., the one-hundred (100) foot setback areas, are hereby deemed to be substantial in nature, and will require prior submission to and review by the entire Commission.

- 4) Recording requirements: A copy of this permit and conditions of approval shall be kept on the job site, and a copy shall also be filed in the Beacon Falls Land Records concurrently by the Applicant with the Record Map. The Record Map shall have a Signature Block for approval by the Commission, and must be signed by the Chairman of the Commission.
- 5) This permit is not transferable to any person, entity, successor in interest, heir, or assign of the permittee, including the Declarant or the Condominium Association, without the prior written consent of the IWWC which consent shall not be unreasonably withheld. Proposed transferees must appear at a meeting of the Commission to seek consent of the Commission for transfer of this permit and must acknowledge in writing to the Commission that they have reviewed this permit in its entirety and that they agree to abide by its conditions. If the Commission approves the transfer, the terms and conditions of this permit shall bind all successors in interest, heirs and assigns of the Applicant.
- 6) In the event the zoning regulation is modified, revoked, or declared null and void, by judicial or by any other action, this permit shall be suspended pending resolution of all appeals and negotiations. The Commission reserves the right to suspend or revoke the permit for due cause and in accordance with the procedures of the Connecticut General Statutes, Section 22a B 42a (d).
- 7) A copy of the State of Connecticut Department of Environmental Protection Stormwater Management Plan is to be provided to the Town prior to the start of any work on the site, and a copy of the Plan shall be kept on the site at all times during construction of the project. The Plan must include a funding formula that shows that operation and maintenance of the storm water management system is properly funded. A copy of all inspection reports required by the Stormwater Management Plan shall be forwarded monthly to the IWWC.
- 8) All wetlands and watercourse areas shall be designated by markers provided by the Commission to the Applicant for three dollars (\$3.00) each, to be placed and secured to appropriate trees or posts prior to commencement of any work activity. The Applicant will provide a marked print indicating the location of the markers. A copy of the print will be delivered to the Commission prior to commencement of construction.
- 10) The Record Map shall designate the wetlands and watercourses as well as the one-hundred (100) foot regulated buffer. The record map shall show the entire property limits to A-2 Standards. A note is to be added to the Record Map indicating that no activity is to be conducted in the buffer area without a permit from the IWWC. All deeds conveying title to the Declarant, the Condominium Association and to individual owners shall contain a provision that no activity is to be conducted in the buffer areas, or in the wetlands and watercourses, without permission from the IWWC.
- 11) The Record Map shall have a note indicating that no underground fuel storage tanks are permitted, and all deeds by which the Applicant or its successors in interest convey title to condominium owners shall contain a provision that no underground fuel storage tanks are permitted.

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- 12) This project is to be developed in seven (7) phases for purposes of this permit. The phases are described in the project sequence of construction. Other conceptual phases referred to in the plans will require separate subsequent permit(s) from the Commission.
- 13) A single sediment and erosion control performance bond, secured by a letter of credit and/or cash in the amount of **Fifty Thousand Dollars (\$50,000.00)** must be submitted to Town Counsel for Beacon Falls for approval prior to any disturbance or excavation work being performed in connection with this permit. The surety shall be in a form that is immediately accessible to the Town upon the failure of the developer to properly install or maintain appropriate and necessary sediment and erosion controls. Said performance bond shall be applied to each individual phase. Should more than one (1) phase be active at one time, an additional soil erosion and sediment control bond must be provided for each phase. If the Commission is forced to use any or all of the letter of credit and/or cash amount for erosion and sediment control measures or to correct problems on or off site caused by the failure of the applicant, this permit shall be suspended and may not be reactivated until after a hearing is conducted by the Commission and the full line of credit and/or cash amount is restored and the developer clearly demonstrates to the Commission's satisfaction that all sediment and erosion control measures can and will be properly maintained in the future. During this time, the only work that will be allowed to take place on the project is restoration and remediation work to protect wetlands and watercourses on and off the site. This permit cannot be transferred without delivery by the transferee of a new letter of credit or a cash security naming said transferee to secure the obligations of this paragraph
- 14) A separate and distinct performance bond secured by a letter of credit and/or cash in an amount of **Seventy-Five Thousand Dollars (\$75,000.00)** must be submitted to Town Counsel for Beacon Falls prior to any disturbance or excavation work taking place in connection with this project for the construction of the detention areas. These funds will not be released to the Applicant, or to its successors or assigns, until completion of all Phases. This permit cannot be transferred without delivery by the transferee of a new letter of credit or cash naming said transferee to secure the obligations of this paragraph **15)** All performance bond letter of credit or cash securities required pursuant to this permit may be used by the Town to achieve site stabilization and restoration of all or any portion of the site and/or to correct damage to wetlands and/or watercourses on or off site, should the permittee fail to do so.
- 16) During the construction of the roads, water channels, drainage system and utilities, written reports from the permittee or developer shall be submitted to the IWWC each month. The reports must be received at or prior to the regularly scheduled meeting on the second Wednesday of each month. The reports shall be detailed and shall review all work undertaken at the site including, but not limited to:
 - Types and amounts of materials moved on and/or removed from site
 - Types of materials brought to the site
 - Sources and content of material brought to the site
 - Extent and locations of grading, filling, excavation and other changes to the site
 - Seeding, planting, transplanting and other efforts to create and/or restore vegetative cover
 - Sediment/erosion/siltation and other control measures used on site, how effectively those controls are functioning, and what controls can or will be installed within the next thirty (30) days to control activities and conditions at anticipated work areas;
 - Such other and further information as the Commission may require.
- 17) The permittee is responsible for obtaining any and all additional permits and approvals necessary to complete the project. This permit from the IWWC concerns only the work adjacent to regulated areas and the storm water detention system, and the sediment and erosion control plan necessary

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for the implementation of the project. The IWWC advises the Applicant that approval must be obtained from other local departments and commissions and a Stormwater Pollution Prevention/Discharge Permit might be necessary from the Connecticut Department of Environmental Protection. The Applicant shall provide to the IWWC a copy of such permits, or written confirmation that such permits are not necessary, and shall verify to the IWWC that no revisions are necessary to this permit, and that copies of all required state and federal permits, including Stormwater Pollution Prevention Plans, have been submitted to the Connecticut Department of Environmental Protection in support of a Stormwater Discharge Permit for construction activities.

- 18) The permittee or its successors in interest shall notify the Town Engineer and also shall notify the IWWC Enforcement Officer and/or the Chairperson of the IWWC in writing no less than ten (10) days prior to the commencement of tree cutting construction and/or excavation and/or other disturbance activities at the site. IWWC staff will inspect the erosion controls to make sure that they are sufficient and as per the plans. All sediment and erosion control measures must be maintained until all disturbed areas are stabilized and re-vegetated.
- 19) To deal with the on-site conditions and to prevent degradation of/and negative impact to wetlands and/or watercourses, the permittee shall use the sediment and erosion controls and environmental protection measures shown on the plans, in the application, and per the Standards as set forth in "2002 Connecticut Guidelines for Soil Erosion and Sedimentation Control" handbook. The permittee shall also use any additional controls and/or the IWWC Enforcement Officer, the Town Engineer, or any other appointee of the Commission may require measures as.
- 20) Temporary sediment traps shall be installed and maintained as required by the Town during construction.
- 21) The permittee, the developer, and all relevant sub-contractors shall submit to the IWWC a copy of a Spill Prevention Plan for the project for its approval prior to the start of any construction activity.
- 22) A pre-construction meeting must be held prior to any site activity between the permittee, or its successors and assigns, and the general contractor, the sub-contractors, the Town Engineer, the IWWC enforcement officer, and one officer and another member of the Commission.
- 23) No work other than maintenance of sediment and erosion control devices shall be performed during significant rainfall events of one inch or more in a twenty-four (24) hour period.
- 24) No equipment or material, including without limitation, fill, construction materials, debris, or other items shall be deposited, placed or stored in any wetland or watercourse and/or within the one-hundred (100) foot regulated area around the wetlands and watercourses on or off site unless specifically authorized by this permit.
- 25) Extra sediment and erosion controls (fencing, stone, etc.) shall be stored on site in immediately accessible areas to deal with unforeseen circumstances and emergencies.
- 26) During inclement weather and at the end of each day, or when work is discontinued for any other reason, the site must be secured and safe. All necessary and appropriate sediment and erosion controls are to be in place and functional at the end of each day.
- 27) Adequate precautions and safeguards shall be undertaken by the Applicant whenever heavy rains or high water flow are predicted. These precautions and safeguards include, but are not limited to:
 - Securing and reinforcing all sediment/erosion/siltation control measures;
 - Properly protecting or removing from harm's way any stockpiled material that may erode
 - Removing machinery from low areas subject to flooding; and
 - Any other measures as may be deemed necessary by the Commission.

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- 28) Road salts used within the project site shall be limited to calcium chloride, and this limitation shall be specified in all deeds by which the subject property and individual condominium units are conveyed in the future.
- 29) A detailed Pest Management Plan must be approved by the IWWC prior to the start of any work on the site.
- 30) This permit is being authorized for a period of five (5) years and shall expire on **December 11, 2024**. It is understood that the project may take longer to complete, depending on market conditions. If the project is proceeding in accordance with the approved plans and applicable stipulations and conditions; and problems, difficulties and unforeseen circumstances have been promptly corrected and addressed by the permittee then the Commission may extend the permit in increments of one (1) year to a maximum total of five (5) years (not to exceed **December 11, 2029**.) pursuant to Section 22a -42a (d) of the Connecticut General Statutes.
- 31) All conditions of this permit must be met before the performance bonds secured by letters of credit or cash securities required under this permit can be released. The IWWC may consider requests for reductions in the amounts of said letters of credit or cash securities.
- 32) The IWWC has relied on information provided by the Applicant and if such information subsequently proves to be false, deceptive, misleading, incomplete or inaccurate, this permit may be modified, superseded or revoked.
- 33) All walls 4 feet in height or greater shall be designed by a Registered Professional engineer licensed in the State of Connecticut. Said design shall be reviewed and approved by the Town Engineer prior to start of construction. Any walls to be constructed with poured in place concrete shall be reviewed and approved by the Commission.
- 34) The Commission recognizes that the septic systems indicated on the approved plans are conceptual. Final design on the septic systems must be approved by the local health department. The applicant must secure approval from the commission should any of the final designed septic systems be located closer to the one-hundred (100) foot upland review limit than indicated on the approved plans.
- 35) The applicant has indicated that in an emergency, residents of the development would be able to access/egress the site through the adjacent landfill site, but no formal agreement or easement has been submitted. It is likely that some form of additional emergency access/ egress roadway will be needed in case the single planned access from Oakwood Drive is obstructed. If such an emergency access/egress roadway is provided or required or needed, the applicant will need to return to the BFIWWC with detailed plans of its location and how it will be installed in a manner that does not impact wetlands and does adequately addresses storm water runoff and avoids impacts to nearby environments and neighboring properties.

The motion was seconded by Commissioner Swan and approved by the majority of the members of the Inland Wetlands and Watercourses Commission on December 11, 2019.