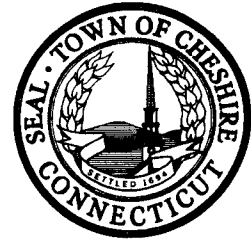


TOWN OF CHESHIRE

Inland Wetlands and Watercourses Commission
84 South Main Street
Cheshire, Connecticut 06410
203-271-6670 • Fax 203-271-6688



CERTIFIED MAIL
7005 1160 0002 9290 9342

January 8, 2008

Cheshire Route 10 LLC
c/o Anthony J. Fazzone, Esquire
Fazzone & Ryan, LLC
One Town Center
Cheshire, CT 06410

RE: PERMIT APPLICATION - #2007-030
Cheshire Route 10 LLC
1953 & 2037 Highland Avenue
I-691 & Dickerman Road
Interchange Special Development Project

Dear Attorney Fazzone:

The permit application of Cheshire Route 10 LLC, c/o Anthony J. Fazzone, Esquire, Fazzone & Ryan, LLC, One Town Center, Cheshire, CT 06410, for a Site Plan – Interchange Special Development Project, property located at 1953 and 2037 Highland Avenue, I-691 and Dickerman Road, Cheshire, CT 06410, as generally shown on Assessor's Map No. 3, Lot No. 51, Map No. 4, Lot No. 6, and Map No. 4, Lot No. 13, in an I-C zone, was approved with stipulations, as referenced from the meeting of January 2, 2008.

It is the responsibility of all parties involved with this application to **review the enclosed approval and adhere to the stipulations. All work must be completed in the sequence, manner and timeframe detailed in the approval.** Any changes or modifications made to the approved plans without the prior notification to staff and/or authorization from the Cheshire Inland Wetlands and Watercourses Commission may result in the issuance of a notice of violation, cease and desist order or permit revocation.

Very truly yours,

Robert G. Berner, Secretary
CHESHIRE INLAND WETLANDS AND
WATERCOURSES COMMISSION

cc: Robert deJongh, Chairman, CIWWC
Dr. Charles Dimmick, Vice Chairman
Lisa J. Murphy, Assistant Town Planner
Tri-Star Development, LLC, c/o Lawrence J. Greenberg, Esquire, Owner



Motion:

That the Cheshire Inland Wetlands and Watercourses Commission, having considered the factors set forth in Section 10 of the Inland Wetlands and Watercourses Regulations of the Town of Cheshire, information gained from site visitations and the Commissioners' knowledge of the area, and information provided by the applicant and others on this application during the course of the public hearing and the pre-hearing proceedings, finds the following:

1. That this site has been the subject of previous Cheshire Inland Wetlands and Watercourses Commission permit grants, with stipulations, including, but not necessarily limited to a permit grant, with stipulations, to John Errichetti Associates for Site Plan for shopping mall on October 15, 1985, subsequently modified on December 13, 1990.
2. That the site is located in an interchange zone adopted into planning and zoning regulations on May 25, 1985 and that said interchange zone is part of the plan of development for the Town of Cheshire. Planning and zoning regulations adopted on July 13, 2007 permit residential, retail and office uses on the subject property.
3. That the Cheshire Inland Wetlands and Watercourses Commission heard testimony regarding this application during six (6) nights of public hearing held on September 4, 2007, September 18, 2007, October 2, 2007, October 16, 2007, November 6, 2007, and November 20, 2007 and conducted a site inspection on August 18, 2007.
4. That the wetlands and watercourses on site have been identified in accordance with Connecticut statutory and Cheshire Inland Wetlands and Watercourses regulations.
5. That this property lies within the watershed of the Ten Mile River, and the Ten Mile River flows north, bisecting the property from the southwest to the northeast portion of the site.
6. That the applicant submitted documentation regarding the history of human impact on the subject property. The uses included the construction of the Farmington canal aquaduct, the filling and regrading associated with the 'Great Fill', the construction of the 18-foot stone arch named the Ten Mile River culvert, extensive agricultural practices that essentially denuded the site of vegetation apart from a vegetated wetland area in the southwestern portion of the site, excavation practices associated with agricultural use, the extensive use of recreational vehicles, and the dumping of agricultural material, equipment, appliances and motor vehicles.

7. That a direct impact to the wetlands and watercourses has been determined. These regulated activities equal approximately 8,485 square feet and 170 linear feet comprising of: 4,065 square feet of proposed mitigation/restoration of the east bank of the deep pool; 20 square feet for pile installation for the proposed vehicle bridge on the west and east banks of the Ten Mile River; 2,800 square feet for direct wetland filling for the construction of a proposed retaining wall and road; 1,600 square feet for reconstruction of the headwall and endwall of the existing historical culvert; 170 linear feet for the repair/replacement of the existing historic culvert.
8. That an indirect impact to the wetlands and watercourses has been determined. These regulated activities equal approximately 94,070 square feet comprising of: 33,920 square feet for a proposed mitigation/restoration of the upland review area of the east bank of the deep pool; 10,500 square feet for the construction of proposed retaining walls, roads and vehicle bridge on the west and east banks of the Ten Mile River; 26,300 square feet for the construction of proposed retaining walls, roads, buildings and grading to the east of the deep pool; 2,100 square feet for the construction of a storm drainage outlet channel; 1,000 square feet for construction of proposed retaining wall to the west of the Ten Mile River; 8,150 square feet for the construction of a proposed retaining wall and fitness center to the west of the Ten Mile River; and 2,100 square feet for construction of proposed retaining wall to the west of the tributary flowing into the Ten Mile River.
9. As proposed, public water will service the site. The applicant is currently seeking approval from the Water Pollution Control Authority to tie into the town public sewer system.
10. That, as required by regulation, on July 31, 2007 the Regional Water Authority supplied the Cheshire Inland Wetlands and Watercourses Commission with comments regarding this land use application and determined that 'based on the proposed site plan not involving any development within the Level A North Cheshire aquifer, we have no comment on the various applications regarding this development'.
11. That, per request of the Cheshire Inland Wetlands and Watercourses Commission, Julie Victoria, Wildlife Biologist, Franklin Wildlife Management Area, Department of Environmental Protection, reviewed and commented on the land use application. Ms. Victoria suggested that no vegetation be removed from the banks adjacent to freshwater mussel habitat, that no erosion or silt be discharged and that polluted runoff from chemical and fertilizers should not be discharged into the river. The applicant responded to these suggestions and indicated that vegetated banks will not be cleared, that no discharge of sediment into the watercourse will take place and that an organic lawn care maintenance plan, part of the Proposed Landscape Maintenance plan dated October 8, 2007, will be implemented.

12. That, per request of the Cheshire Inland Wetlands and Watercourses Commission, the Southwest Conservation District reviewed and commented on the land use application. Although those comments expressed concerns regarding certain aspects of the project, the Commission finds that those concerns may be adequately addressed by proper conditions of approval.
13. That the Town hired Beta Group as an independent reviewer of the stormwater management plan. The Cheshire Inland Wetlands and Watercourses Commission received the written reviews of Beta Group, which the record reflects.
14. That a state listed species of concern, the wood turtle, was identified and located by the applicant's herpetologist during field inventory surveys. The applicant submitted a mitigation plan (Environmental Assessment, Pages 27-30) to provide potential breeding habitat improvements to the site in areas currently compromised through unpermitted ATV use. The applicant indicated that prior to any clearing or construction, "turtle sweeps" will be conducted to safely relocate any turtles from development zones to protected zones. The applicant submitted the findings of the herpetological survey to the State of Connecticut Department of Environmental Protection Natural Diversity Database and agreed to comply with all recommendations regarding species and habitat protection.
15. That, according to the applicant's engineer, the proposed stormwater management system has been designed with pretreatment and infiltration measures that meet the recommendations of the 2004 Connecticut Department of Environmental Protection Stormwater Quality Manual. The applicant also stated that the proposed stormwater management designs will have the least impact on the wetlands and watercourses on or off the site compared to alternative stormwater management designs presented during the public hearings.
16. That the Commission finds that the applicant presented design alternatives, as required under regulation, and that none of the alternatives were the most prudent or feasible alternatives.
17. That after due consideration of the entire record, the Commission finds that the applicant's proposed regulated activities are not reasonably likely to have the effect of unreasonably polluting, impairing or destroying the public trust in the air, water or other natural resources of the state, including the inland wetlands and watercourses and the upland review areas that are the subject of the application. And that, as proposed, and with the following conditions of approval, the proposed site plan activities will not have a significant adverse effect on adjacent wetlands or watercourses.

Based upon the foregoing findings, the Cheshire Inland Wetland and Watercourses Commission conditionally grants CIWWC Permit Application #2007-030, the permit application of Cheshire Route 10, LLC. for approval of regulated activities associated with a proposed site plan, as presented on the plans entitled:

**"Environmental Assessment: The Shoppes at Cheshire,
Special Development Plan, Route 10 And Interstate 691, Cheshire CT
Dated: September 4, 2007
Prepared for: Cheshire Route 10, LLC c/o W/S Development Associates, LLC
1330 Boylston Street, Chestnut Hill, Massachusetts 02467.
Prepared by: Milone and MacBroom, Inc., 99 Realty Drive, Cheshire CT 06410".**

And

**"Water Quality Monitoring Program and Construction Sequence
Contained in document regarding: Inland Wetlands Application
The Shoppes at Cheshire, Cheshire Route 10 LLC, Applicant MMI #3016-01
Dated: October 10, 2007."**

And

**" Proposed Landscape Maintenance for The Shoppes at Cheshire
Prepared for: Cheshire Route 10, LLC
Dated: October 8, 2007
Contained in document regarding: Inland Wetlands Application
The Shoppes at Cheshire, Cheshire Route 10 LLC, Applicant MMI #3016-01
Dated: October 10, 2007."**

And

**"Site Plan- Layout & Landscaping
The Shoppes at Cheshire Special Development Plan
Highland Avenue (Route 10), Cheshire CT
Dated July 20, 2007; Revised November 20, 2007, Scale 1"=100'."**

And

**" Site Plan- Wetland Buffer
The Shoppes at Cheshire, Special Development Plan
Highland Avenue (Route 10), Cheshire, CT., Scale 1"=100'
No date, Received at the November 20, 2007 public hearing
Prepared by: Milone and MacBroom, Inc., 99 Realty Drive, Cheshire CT 06410."**

And

**"The Shoppes at Cheshire, Special Development Plan
Highland Avenue (Route 10), Cheshire, CT.,
Regulatory Submission
17 Sheets Dated July 20, 2007: Revision dates detail:
Sheet 1: Scale 1"=250', Revised October 10, 2007
Sheets 2 and 3: Scale 1"=150', Revised October 10, 2007**

Sheet 4: Not to Scale, Revised October 10, 2007
Sheets 5 and 6: Scale 1"=100', Revised October 10, 2007
Sheet 7: Scale 1"=100', Revised November 9, 2007
Sheet 8: Scale 1"=20' Dated October 10, 2007
Sheet 9: Scale As Noted, Revised November 9, 2007
Sheet 10: Scale 1"=100', Revised November 9, 2007
Sheets 11 and 12: Scale 1"=100', Revised November 9, 2007
Sheets 13, 14 and 15: Scale 1"=100', Revised October 10, 2007
Sheets 16 and 17: Scale As Noted, Revised October 10, 2007
Prepared by: Milone and MacBroom, Inc., 99 Realty Drive, Cheshire CT 06410."

The permit is granted on the following terms, conditions, stipulations and limitations (collectively referred to as the "Conditions") each of which the Commission finds to be necessary to protect the wetlands and watercourses of the State and the Town of Cheshire:

1. Lack of compliance with any Condition of this permit grant shall constitute a violation of the Cheshire Inland Wetlands and Watercourses Regulations, and a cease-and-desist order, or other appropriate enforcement, shall be both issued and recorded on the Town of Cheshire Land Records.
2. Any changes or modifications to the plans as presented will require subsequent Cheshire Inland Wetlands and Watercourses Commission review and approval.
3. The Commission makes no warranties or representations, either express or implied, that future regulated activities will be permitted on this site as a result of the present permit.
4. Prior to any clearing, grading, or other construction activities on the site, or the request for a Building Permit, the applicant shall:
 - a. arrange for and hold a pre-construction meeting with Commission Staff to review this permit grant's Conditions.
 - b. accurately stake and/or flag all clearing limits and permanently mark all non-encroachment lines. The location of non-encroachment lines shall be agreed upon by the applicant and Commission Staff. Work is to be completed by qualified personnel. The applicant shall notify Commission Staff so that Staff may inspect the site to verify all such areas have been properly marked. Staff may also insist on additional markings if field conditions warrant them.
 - c. provide a professional engineer's certification, in writing to the Commission, that all required erosion and sedimentation controls are in place and functioning as represented by applicant to ensure the prevention of erosion and sedimentation into adjacent wetlands

and watercourses. The cost of the professional engineer shall be borne by the applicant. A visual barrier such as orange plastic construction fence or equivalent shall be used to identify the location of haybales and silt fences on-site. The applicant shall also notify Commission Staff so that Staff may inspect the site to verify that all required controls are in place. Staff may also insist on additional controls if field conditions warrant them.

- d. post a bond covering the costs of the erosion and sedimentation controls, per Section 12 of the Cheshire Inland Wetlands and Watercourses Regulations. The bond shall be filed with the Town Planner's Office. The Cheshire Planning Office shall determine the amount of the bond.
 - e. submit contact information with a 24-hour phone number for the individual with the responsibility and authority to receive notices of any breaches or deficiencies of sedimentation and erosion controls on-site, and to effectuate repair of any such breaches or deficiencies within six (6) hours of such notice from the sediment and erosion control inspector, or other appropriate staff of the Town of Cheshire.
 - f. submit a copy of a completed DEP Registration Under a General Permit – Storm Water and Dewatering Wastewater From Construction Activities.
5. An inspection of the condition, integrity, and adequacy of the sedimentation and erosion controls shall be made by a qualified party on a regular basis, either weekly or after every significant rainfall of 1/2" or greater, whichever is sooner, until all disturbed areas are stabilized. Said party shall be independent of the contractor. All reports shall be submitted to the contractor and Commission Staff either within three days of inspection, or prior to the next storm event, whichever is sooner. All breaches or deficiencies shall be forwarded to a contact individual, as defined below, immediately after inspection. The costs of said inspections shall be borne by the applicant.
6. Copies of all inspection reports required under the site's DEP "Registration Under a General Permit – Storm Water and Dewatering Wastewater From Construction Activities" shall be submitted to Commission Staff either within three (3) days of inspection, or prior to the next storm event, whichever is sooner.
7. The applicant shall abide by the October 10, 2007 Construction Sequence prepared by Milone and MacBroom, Inc. and the management of turtle species detailed in the September 4, 2007 Environmental Assessment prepared by Milone and MacBroom, Inc.

8. The applicant shall perform supplemental subsurface exploration to ensure that the designed subsurface storage and infiltration systems are adequate for those subsurface site conditions which had not been tested during the public hearing portion of this application. The results of the subsurface exploration shall be forwarded to the Commission within ten (10) days of testing. Any proposed design changes to the subsurface system shall be submitted to the Commission for review, as detailed in the November 9, 2007 document prepared by Milone and MacBroom, Inc.
9. All disturbed areas on the site not directly required for construction activities shall be temporarily seeded and hayed until the site is permanently stabilized.
10. Any maintenance or refueling of equipment and vehicles shall be performed at least 100-feet from all wetlands and watercourses. 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. Any and all leaks or other discharges of oil, gasoline or chemicals onto the ground shall be reported immediately both to the Cheshire Planning Office and the Connecticut Department of Environmental Protection.
11. A biological/wildlife survey shall be conducted to verify applicant's previous claim that the proposed activities will have no discernible effects on adjacent habitats. The monitoring program will cover the review of areas addressed in the Environmental Assessment, detailed in the September 4, 2007 document prepared by Milone and MacBroom, Inc. Such monitoring shall be performed by qualified personnel (i.e., a professional biologist, ecologist or wildlife scientist) independent of (i.e., not an employee of) the applicant. Monitoring shall be conducted quarterly during construction, and for three (3) years following construction. Each report shall be certified by qualified personnel, and submitted to the Commission within 30 days of inspection. The cost for said independent professionals shall be borne by applicant.
12. A water quality monitoring program shall be conducted according to the Water Quality Monitoring Program detailed in the October 10, 2007 document prepared by Milone and MacBroom, Inc. Such monitoring shall be performed by qualified personnel (i.e., a water-quality professional) independent of (i.e., not an employee of) the applicant.
13. The applicant will employ 'Best Management Practices' to ensure water quality before, during and after all construction activities.
14. The applicant shall abide by the Proposed Landscape Maintenance for The Shoppes at Cheshire detailed in the October 10, 2007 document

prepared by Milone and MacBroom, Inc.

15. All plantings within 50-feet of a wetland or watercourse shall be monitored semi-annually for five years following the establishment of the cover. Each report shall be certified by a qualified party, and submitted to the Commission within 30 days of inspection. Dead or damaged plants are to be replaced within four (4) months of documentation and the cost of the inspection, planting and monitoring shall be borne by the applicant.
16. No disturbance of any kind, including clearing, shall be allowed beyond the established non-encroachment line, other than activities as proposed on the above-referenced plans, maintenance of proposed stormwater management facilities, and passive recreational activities. The wetlands non-encroachment line and associated restrictions shall be recorded on the Cheshire Land Records.
17. All recommendations from the Connecticut Department of Environmental Protection regarding protective measures for Natural Diversity Database species shall be stringently adhered to.
18. Prior to application to the Building Department for a Certificate of Occupancy, and per Section 11.12 of the Cheshire Inland Wetlands and Watercourses Regulations, the applicant shall provide the Commission with the following:
 - a) an as-built map (A2 survey) by a licensed land surveyor, at a suitable scale, showing, at least, all buildings and setbacks from the property lines, wetland boundaries and acreage, wetland non-encroachment lines and markers, limits of clearing, utility locations, and all paved driving surfaces.
 - b) written verification from the owner/applicant/agent that all conditions and stipulations of this permit grant have been met, that all yard areas are properly stabilized, and that all non-encroachment lines and associated restrictions are recorded on the Cheshire Land Records and will be recorded in the deed of the lot upon transfer of property.
19. This permit shall expire on January 2, 2013.

LEGAL NOTICE

At the regular meeting of the Cheshire Inland Wetlands and Watercourses Commission, held on Wednesday, January 2, 2008, the following decision was rendered: The permit application of Cheshire Route 10 LLC, c/o Anthony J. Fazzzone, Esquire, Fazzzone & Ryan, LLC, One Town Center, Cheshire, CT 06410, for a Site Plan—Interchange Special Development Project, property located at 1953 and 2037 Highland Avenue, I-691 and Dickerman Road, Cheshire, CT 06410, as generally shown of Assessor's Map No. 3, Lot No. 51, Map No. 4, Lot No. 6, and Map No. 4, Lot No. 13, in an I-C zone, was approved with stipulations.

Respectfully submitted,
Robert G. Berner, Secretary
CHESHIRE INLAND WETLANDS
AND WATERCOURSES
COMMISSION