

**TOWN OF YORKTOWN – ENGINEERING – PLANNING BOARD – TOWN BOARD
MS4 STORMWATER MANAGEMENT / EXCAVATION PERMIT APPLICATION
WETLAND PERMIT APPLICATION and/or TREE PERMIT APPLICATION**

SECTION: 6.14

BLOCK: 1

LOT#: 2

Job Site Address: 3000 Navajo St

City/State/Zip: Yorktown Heights
NY 10598

Approval Authority: TE ☒ | PB ☐ | TB ☒
Application #: WP-FSWPPP-028-26
Date Received: 09-16-26
Date Issued: _____
Date Expires: _____
Fee Paid: \$ 3,300

NOTE: Application fees are doubled with
issuance of a Stop Work Order /
Notice of Violation as per Town Code.

APPLICANT:

NAME: Charles Diven

COMPANY: Creative Liv Dev In

ADDRESS: 3000 Navajo St
Yorktown Hghts ZIP: 10598

PHONE: 9144035517

EMAIL: cjdiven@aol.com

OWNER:

NAME: _____

COMPANY: Creative Liv Dev In

ADDRESS: 3000 Navajo St
Yorktown Hght ZIP: _____

PHONE: 9144035517

EMAIL: cjdiven@aol.com

APPROVED PLANS AND PERMIT SHALL BE ON-SITE AT ALL TIMES

#	✓	Type	Approval Authority	Cost
1.	☒	MS4 Stormwater Management Permit – Administrative	Town Engineer	\$300.00
	☒	MS4 Stormwater Management Permit – Non-Administrative	Town Board / Planning Board	\$1,500.00 ✓
	☐	Renewal Administrative MS4 Stormwater Management Permit	Town Engineer	\$150.00
2.	☒	Wetland Permit – Administrative	Town Engineer	\$800.00
	☒	Wetland Permit – Non-Administrative	Town Board / Planning Board	\$1,800.00 ✓
	☐	Renewal Administrative Wetland Permit	Town Engineer	\$150.00
3.	☐	Tree Permit	All	\$0.00

Complete the sections for the permits selected on page 1:

1. MS4 STORMWATER MANAGEMENT / EXCAVATION PERMIT (Dirt Disturbance)

Description of proposed activity. Description of proposed activity reflected on plan(s) / map(s):

Installation of artificial turf over an existing natural grass sports field in accord with attached architectural cross section and approved site plan with installed & approved wetland mitigation.

2. WETLAND PERMIT

If project is in a wetland or wetland control area (buffer), description of wetlands:

(check all that apply)

Lake/Pond	_____	Control area of Lake/Pond	_____
Stream/River/Brook	_____	Control area of Stream/River/Brook	_____
Wetlands	_____	Control area of Wetlands	_____✓

Description of proposed activity in the wetland and/or wetland buffer. Description of proposed activity reflected on plan(s) / map(s):

Describe the proposed work including the following: i.e. maintenance, construction of dwelling, addition, driveway, culverts, including size and location.

Installation of artificial turf over an existing natural grass sports field in accord with attached architectural cross section and approved site plan with installed & approved wetland mitigation.

3. TREE PERMIT

Description of Tree Removal:

Number of trees and/or stumps to be removed: NA

Sizes; approximate DBH: _____

Species of trees to be removed if known (i.e. Birch, Spruce): _____

Reason for removal: _____

Tree removal contractor: _____

Attach survey/sketch indicating property boundaries, existing structures, driveways, roadways and location of existing trees. Trees must be marked in the field before inspection.

PROPERTY OWNER CONSENT: If another entity (e.g. contractor, consultant) is applying on the owner's behalf, the PROPERTY OWNER is to complete, sign and date this authorization:

I, _____ hereby authorize _____ to apply for this Stormwater/Wetland Permit/Tree Permit on my behalf.

Signature: _____ Date: _____

Must be original signature. Digital signatures not accepted.
No application will be processed without the above-mentioned, required information.

GENERAL CONDITIONS – PLEASE READ WHAT YOU ARE SIGNING FOR:

1. The permittee is responsible for maintaining an active application. If no activity occurs within a six (6) month period, as measured from the date of application, the application will become null and void. Applications fees are non-refundable.
2. The Town of Yorktown reserves the right to modify, suspend or revoke this permit at any time after due notice when:
 - a. Scope of the project is exceeded or a violation of any condition of the permit or provision of the law pertinent regulations are found; or
 - b. Permit was obtained by misrepresentation or failure to disclose relevant facts; or
 - c. Newly discovered information or significant physical changes are discovered.
3. The permittee is responsible for keeping the permit active by requesting renewal from the Approval Authority. Any supplemental information that may be required by the Approval Authority, including forms and fees, must be submitted 30 days prior to the expiration date. The expiration date is one year from the date the bond is paid to the Engineering Department. In accordance with Chapter 178 of the Town Code, Freshwater Wetlands, Section 178-16 -Expiration of a Permit. Renewal fee for an additional year is \$150.
4. This permit shall not be construed as conveying to the applicant any right to trespass upon private lands or interfere with the riparian rights of others in order to perform the permitted work or as authorizing the impairment of any right, title or interest in real or personal property held or vested in person not party to this permit.
5. The permittee is responsible for obtaining any other permits, approvals, easements and right-of-way, which may be required.
6. Any modification of this permit granted by the Approval Authority must be in writing and attached hereto.
7. Granting of this permit does not relieve the applicant of the responsibility of obtaining any other permission, consent or approval from the U.S. Army Corps of Engineers, N.Y.C. Department of Environmental Protection, N.Y.S. Department of Environmental Conservation or local government, which may be required.

Charles Diven

PRINT NAME

SIGNATURE OF APPLICANT

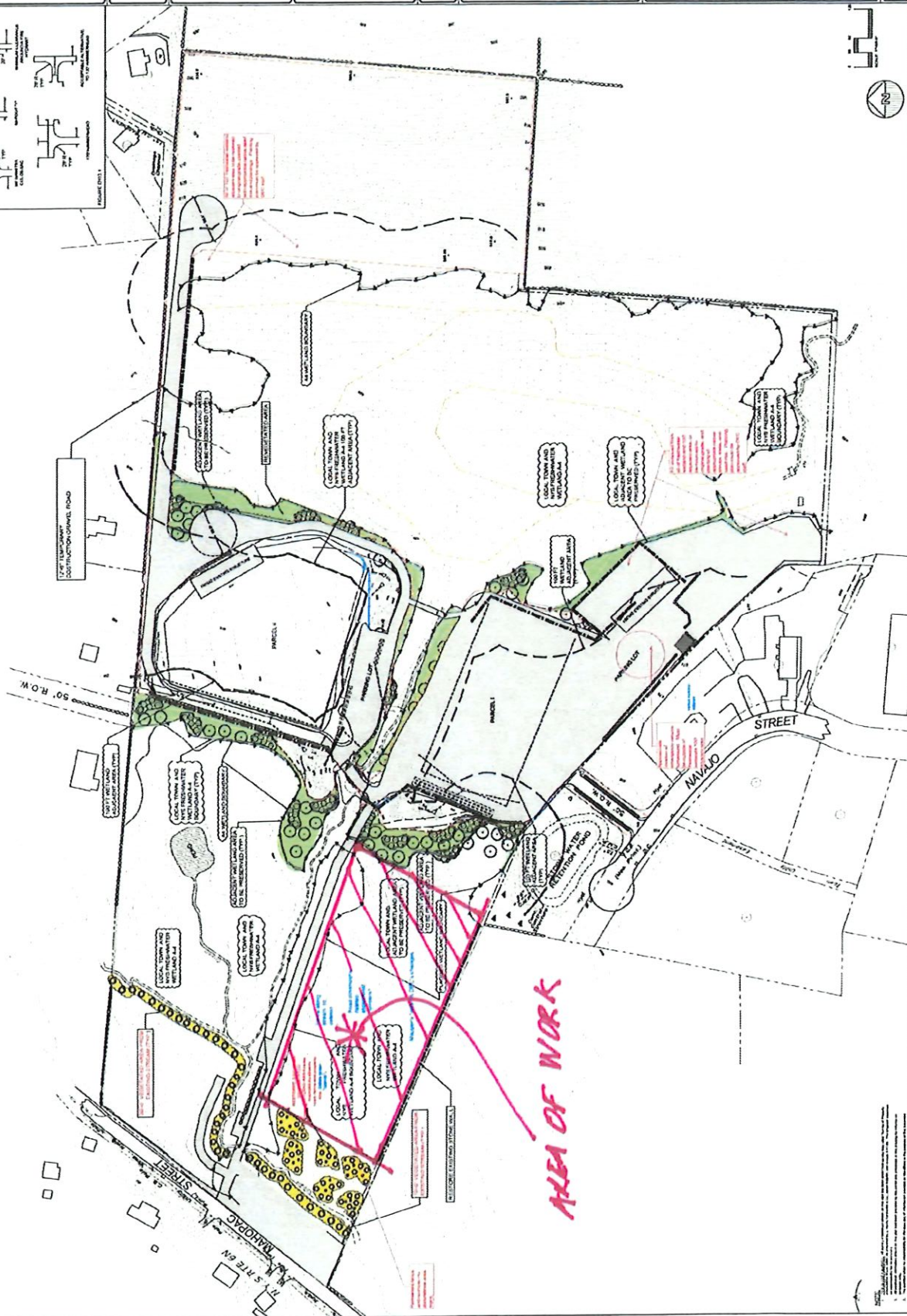
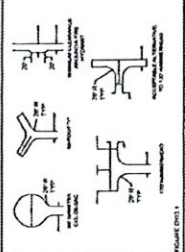
8-27-26

DATE

Must be original signature. Digital signatures not accepted.

BCA

THE FOLLOWING ACCESS POINTS SHALL COMPLY WITH APPROVED D.01 OF THE 2016 NEW STATE FIRE CODE		TERMINATION REQUIREMENTS	
CONDUCTIVITY	WIRE SIZE	WIRE REQUIRED	TERMINATION REQUIREMENTS
0.15	25	25	TERMINATION REQUIREMENTS SHALL BE APPROVED TO ACCEPT 30 AMP
0.15	18 AWG	18 AWG	TERMINATION REQUIREMENTS SHALL BE APPROVED TO ACCEPT 30 AMP
0.15	16 AWG	16 AWG	TERMINATION REQUIREMENTS SHALL BE APPROVED TO ACCEPT 30 AMP
0.15	14 AWG	14 AWG	TERMINATION REQUIREMENTS SHALL BE APPROVED TO ACCEPT 30 AMP
0.15	12 AWG	12 AWG	TERMINATION REQUIREMENTS SHALL BE APPROVED TO ACCEPT 30 AMP
0.15	10 AWG	10 AWG	TERMINATION REQUIREMENTS SHALL BE APPROVED TO ACCEPT 30 AMP
0.15	8 AWG	8 AWG	TERMINATION REQUIREMENTS SHALL BE APPROVED TO ACCEPT 30 AMP
0.15	6 AWG	6 AWG	TERMINATION REQUIREMENTS SHALL BE APPROVED TO ACCEPT 30 AMP
0.15	4 AWG	4 AWG	TERMINATION REQUIREMENTS SHALL BE APPROVED TO ACCEPT 30 AMP
0.15	2 AWG	2 AWG	TERMINATION REQUIREMENTS SHALL BE APPROVED TO ACCEPT 30 AMP
0.15	1 AWG	1 AWG	TERMINATION REQUIREMENTS SHALL BE APPROVED TO ACCEPT 30 AMP
0.15	1/2 AWG	1/2 AWG	TERMINATION REQUIREMENTS SHALL BE APPROVED TO ACCEPT 30 AMP
0.15	3/4 AWG	3/4 AWG	TERMINATION REQUIREMENTS SHALL BE APPROVED TO ACCEPT 30 AMP
0.15	1/4 AWG	1/4 AWG	TERMINATION REQUIREMENTS SHALL BE APPROVED TO ACCEPT 30 AMP
0.15	1/8 AWG	1/8 AWG	TERMINATION REQUIREMENTS SHALL BE APPROVED TO ACCEPT 30 AMP
0.15	1/16 AWG	1/16 AWG	TERMINATION REQUIREMENTS SHALL BE APPROVED TO ACCEPT 30 AMP
0.15	1/32 AWG	1/32 AWG	TERMINATION REQUIREMENTS SHALL BE APPROVED TO ACCEPT 30 AMP
0.15	1/64 AWG	1/64 AWG	TERMINATION REQUIREMENTS SHALL BE APPROVED TO ACCEPT 30 AMP
0.15	1/128 AWG	1/128 AWG	TERMINATION REQUIREMENTS SHALL BE APPROVED TO ACCEPT 30 AMP
0.15	1/256 AWG	1/256 AWG	TERMINATION REQUIREMENTS SHALL BE APPROVED TO ACCEPT 30 AMP
0.15	1/512 AWG	1/512 AWG	TERMINATION REQUIREMENTS SHALL BE APPROVED TO ACCEPT 30 AMP
0.15	1/1024 AWG	1/1024 AWG	TERMINATION REQUIREMENTS SHALL BE APPROVED TO ACCEPT 30 AMP
0.15	1/2048 AWG	1/2048 AWG	TERMINATION REQUIREMENTS SHALL BE APPROVED TO ACCEPT 30 AMP
0.15	1/4096 AWG	1/4096 AWG	TERMINATION REQUIREMENTS SHALL BE APPROVED TO ACCEPT 30 AMP
0.15	1/8192 AWG	1/8192 AWG	TERMINATION REQUIREMENTS SHALL BE APPROVED TO ACCEPT 30 AMP
0.15	1/16384 AWG	1/16384 AWG	TERMINATION REQUIREMENTS SHALL BE APPROVED TO ACCEPT 30 AMP
0.15	1/32768 AWG	1/32768 AWG	TERMINATION REQUIREMENTS SHALL BE APPROVED TO ACCEPT 30 AMP
0.15	1/65536 AWG	1/65536 AWG	TERMINATION REQUIREMENTS SHALL BE APPROVED TO ACCEPT 30 AMP
0.15	1/131072 AWG	1/131072 AWG	TERMINATION REQUIREMENTS SHALL BE APPROVED TO ACCEPT 30 AMP
0.15	1/262144 AWG	1/262144 AWG	TERMINATION REQUIREMENTS SHALL BE APPROVED TO ACCEPT 30 AMP
0.15	1/524288 AWG	1/524288 AWG	TERMINATION REQUIREMENTS SHALL BE APPROVED TO ACCEPT 30 AMP
0.15	1/1048576 AWG	1/1048576 AWG	TERMINATION REQUIREMENTS SHALL BE APPROVED TO ACCEPT 30 AMP
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0.15	1/649037107316853453566312041152512 AWG	1/649037107316853453566312041152512 AWG	TERMINATION REQUIREMENTS SHALL BE APPROVED TO ACCEPT 30 AMP
0.15	1/1298074214633706907132624082305024 AWG	1/1298074214633706907132624082305024 AWG	TERMINATION REQUIREMENTS SHALL BE APPROVED TO ACCEPT 30 AMP
0.15	1/2596148429267413814265248164610048 AWG	1/2596148429267413814265248164610048 AWG	TERMINATION REQUIREMENTS SHALL BE APPROVED TO ACCEPT 30 AMP
0.15	1/5192296858534827628530496329220096 AWG	1/5192296858534827628530496329220096 AWG	TERMINATION REQUIREMENTS SHALL BE APPROVED TO ACCEPT 30 AMP
0.15	1/10384593717069655257060992658440192 AWG	1/10384593717069655257060992658440192 AWG	TERMINATION REQUIREMENTS SHALL BE APPROVED TO ACCEPT 30 AMP
0.15	1/20769187434139310514121985316880384 AWG	1/20769187434139310514121985316880384 AWG	TERMINATION REQUIREMENTS SHALL BE APPROVED TO ACCEPT 30 AMP
0.15	1/41538374868278621028243970633760768 AWG	1/41538374868278621028243970633760768 AWG	TERMINATION REQUIREMENTS SHALL BE APPROVED TO ACCEPT 30 AMP
0.15	1/83076749736557242056487941267521536 AWG	1/83076749736557242056487941267521536 AWG	TERMINATION REQUIREMENTS SHALL BE APPROVED TO ACCEPT 30 AMP
0.15	1/166153499473114484112975882535043072 AWG	1/166153499473114484112975882535043072 AWG	TERMINATION REQUIREMENTS SHALL BE APPROVED TO ACCEPT 30 AMP
0.15	1/332306998946228968225951765070086144 AWG	1/332306998946228968225951765070086144 AWG	TERMINATION REQUIREMENTS SHALL BE APPROVED TO ACCEPT 30 AMP
0.15	1/664613997892457936451903530140172288 AWG	1/664613997892457936451903530140172288 AWG	TERMINATION REQUIREMENTS SHALL BE APPROVED TO ACCEPT 30 AMP
0.15	1/1329227995784915872903807060280344576 AWG	1/1329227995784915872903807060280344576 AWG	TERMINATION REQUIREMENTS SHALL BE APPROVED TO ACCEPT 30 AMP
0.15	1/2658455991569831745807614120560689152 AWG	1/2658455991569831745807614120560689152 AWG	TERMINATION REQUIREMENTS SHALL BE APPROVED TO ACCEPT 30 AMP
0.15	1/5316911983139663491615228241121378304 AWG	1/5316911983139663491615228241121378304 AWG	TERMINATION REQUIREMENTS SHALL BE APPROVED TO ACCEPT 30 AMP
0.15	1/10633823966279326983230456482242756608 AWG	1/10633823966279326983230456482242756608 AWG	TERMINATION REQUIREMENTS SHALL BE APPROVED TO ACCEPT 30 AMP
0.15	1/21267647932558653966460912964485513216 AWG	1/21267647932558653966460912964485513216 AWG	TERMINATION REQUIREMENTS SHALL BE APPROVED TO ACCEPT 30 AMP
0.15	1/42535295865117307932921825928971026432 AWG	1/42535295865117307932921825928971026432 AWG	TERMINATION REQUIREMENTS SHALL BE APPROVED TO ACCEPT 30 AMP
0.15	1/85070591730234615865843651857942052864 AWG	1/85070591730234615865843651857942052864 AWG	TERMINATION REQUIREMENTS SHALL BE APPROVED TO ACCEPT 30 AMP
0.15	1/170141183460469231731687303715884105728 AWG	1/170141183460469231731687303715884105728 AWG	TERMINATION REQUIREMENTS SHALL BE APPROVED TO ACCEPT 30 AMP
0.15	1/340282366920938463463374607431768211456 AWG	1/340282366920938463463374607431768211456 AWG	TERMINATION REQUIREMENTS SHALL BE APPROVED TO ACCEPT 30 AMP
0.15	1/680564733841876926926749214863536422912 AWG	1/6	



FIELD OF WORK

Typical Cross Section - Rubber Turf Surfacing (N.T.S.), Build-Up Bottom to ~~Top~~

1

Subgrade

Existing or compacted native soil, sloped minimum 2% for positive drainage away from surface.

2

Aggregate Base Course

Crushed stone aggregate, compacted in place, 1-1/2" to 2" thick.

3

Rubber Turf Surface

Rubber turf / poured-in-place rubber surfacing, 1" thick, finished flush to adjacent grade.



Yorktown Town Hall
363 Underhill Avenue, P.O. Box 703
Yorktown Heights, NY 10598

(914) 962-6722
www.yorktownny.org

November 1, 2016

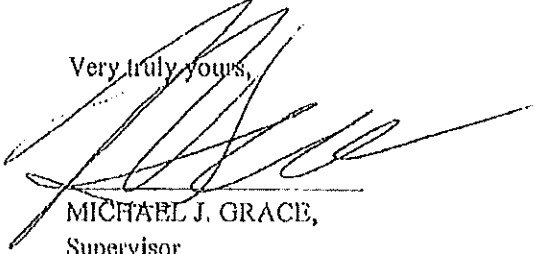
Creative Living Development Inc.
3000 Navajo Street
Yorktown Heights, NY 10598

Re: Creative Living Development, Inc. (Facility Use and Maintenance)

The purpose of this letter is to advise that the Town conducted a staff meeting in which maintenance issues arose regarding the detention basin, the farm road and the western fields formerly horse pastures now being maintained as open grass recreational fields.

After discussions were had from engineering, environmental, building and planning department representatives, it was determined that uses and maintenance were in compliance with applicable regulations.

Very truly yours,


MICHAEL J. GRACE,
Supervisor

/mlc

Fwd: DEC Consent Order

From: Charles Diven <cjdiven@aol.com>

To: dciarcia@yorktowny.gov

Date: Aug 26, 2026, 1:10 PM

Sent from my iPhone

Begin forwarded message:

From: cjdiven@aol.com

Date: July 14, 2025 at 1:52:07 PM EDT

To: Joe Eriole <jeriole@abramslaw.com>

Subject: DEC Consent Order

Joe,

below is the 10/2024 email confirming mitigation compliance .. attached to this email is the consent order on which compliance was confirmed.

----- Forwarded Message -----

From: Pawliczak, Sarah A (DEC) <sarah.pawliczak@dec.ny.gov>

To: cjdiven@aol.com <cjdiven@aol.com>; James Bates <jbates@4ecological.com>

Sent: Friday, October 20, 2023 at 10:08:10 AM EDT

Subject: Navajo Fields - Creative Living Development, 3000 Navajo Street, Yorktown Heights

Good morning CJ,

Department staff met with you and your consultant, Jim Bates, on October 5, 2023, to review the restoration and mitigation plan for Navajo Fields aka Creative Living Development, Inc. I am attaching the Order on Consent (NYSDEC File No. R3-20180820-151) for your reference. The restoration and mitigation plan can be found on the last page. It appears that the mitigation has been implemented in accordance with the approved restoration and mitigation plan. There was one small area that we discussed not mowing to add a little more of a buffer to the stream/wetland. I'm including a screenshot of the area I'm referencing below.

For any future disturbances to the wetland or 100-foot adjacent area, including repairing or replacing any stream crossings, you must obtain an Article 24 Freshwater Wetlands permit. You can find application materials here: <https://www.dec.ny.gov/permits/6277.html>. Please submit application materials to the Division of Environmental Permits at dep.r3@dec.ny.gov. I am also attaching our stream crossing guidance for your reference.

If you have any questions, please let me know.

Thank you,

Sarah Pawliczak (she/her/hers)

Biologist, Bureau of Ecosystem Health

New York State Department of Environmental Conservation

21 South Putt Corners Road, New Paltz, NY 12561

P: (845) 256-3050 | sarah.pawliczak@dec.ny.gov

www.dec.ny.gov |

<image001.png>

<image002.png>



image002.png

537 KB

Department
of Environmental
Conservation

image001.png

111 KB



Order.R3-20180820-151_Creative_Living_Development_Inc.20220329.pdf

5.1 MB



streamcrossing brochure.pdf

243 KB

STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

-----X
In the Matter of the Violations of Article 24 of the New
York State Environmental Conservation Law and Title
6, Part 663 of the Official Compilation of Codes, Rules
and Regulations of the State of New York,

ORDER ON CONSENT

-by-

NYSDEC File No.
R3-20180820-151

CREATIVE LIVING DEVELOPMENT INC.,

Respondent.

-----X
WHEREAS:

1. The New York State Department of Environmental Conservation (NYSDEC or the Department) is an agency of the State of New York with jurisdiction over the environmental laws of the state pursuant to New York State Environmental Conservation Law (ECL) section 3-0301, and has administrative jurisdiction over the management of freshwater wetlands and adjacent areas of the state and thus regulates, among other activities, the excavation, construction and/or placement of fill and other materials therein by requiring permits for such activities pursuant to Article 24 of the ECL (the Freshwater Wetlands Act), and Title 6, Part 663 of the Official Compilation of Codes, Rules and Regulations of the State of New York (NYCRR);

2. It is the Department's responsibility to conserve, improve and protect New York State's natural resources and environment, and control pollution to enhance the health, safety, welfare and overall economic and social well-being of the people of the state;

3. The Respondent, Creative Living Development Inc., is listed with the New York State Department of State as an inactive domestic business corporation, having

been dissolved by proclamation/annulment of authority on June 29, 2016. The Respondent is engaged in the development of the property at 3000 Navajo Street, Yorktown Heights, New York (the Site); and

4. The Site includes New York State-regulated wetland A-4 (Wetland A-4) and the associated 100-foot adjacent area.

5. The violations remain unresolved for over a year as of November 19, 2019 despite three meetings with the Department including a mediation session on May 1, 2019, five site visits with Department staff, three Notices of Violation and three proposed Orders on Consent, and many phone calls and emails.

6. Four new violations have occurred as of November 5, 2019 despite the above communications and attempts to reach a settlement.

APPLICABLE LAW

7. ECL § 24-0701 and 6 NYCRR 663.4 prohibit unpermitted regulated activities within a freshwater wetland, including any form of excavation, clear-cutting vegetation other than trees, dumping, altering water levels, filling or deposition of any soil, stones, sand, gravel, mud, rubbish or fill of any kind, and "any other activity which substantially impairs any of the several functions or benefits of wetlands which are set forth in section 24-0105 of the [Freshwater Wetlands] Act." ECL § 24-0701.

8. Pursuant to ECL § 71-2303, violations of ECL § 24-0701 and 6 NYCRR 663.4 are punishable by civil penalties of up to \$11,000 per violation, as well as restoration of the affected area to its condition prior to the illegal activity.

VIOLATIONS

9. By clearing, placing fill material, and grading east of the northern baseball

field within Wetland A-4 and the associated 100-foot adjacent area without a permit, the Respondent violated ECL § 24-0701 and 6 NYCRR 663.4 on three counts.

10. By clearing, placing fill material, and grading west of the baseball fields within Wetland A-4 and the associated 100-foot adjacent area without a permit, the Respondent violated ECL § 24-0701 and 6 NYCRR 663.4 on three counts.

11. By clearing within Wetland A-4 without a permit at the northwestern portion of the property where a paintball field currently exists, the Respondent violated ECL § 24-0701 and 6 NYCRR 663.4.

12. By depositing gravel within Wetland A-4 without a permit and constructing a gravel road at the northwestern portion of the property where a paintball field currently exists, the Respondent violated ECL § 24-0701 and 6 NYCRR 663.4.

13. By clearing and filling within the adjacent area of Wetland A-4 without a permit at the southeast portion of the property adjacent to the greenhouse, the Respondent violated ECL § 24-0701 and 6 NYCRR 663.4 on two counts.

14. By clearing, grading placing filling material to create a dirtbike/go-cart area within the adjacent area of Wetland A-4 without a permit, the Respondent violated ECL §24-0701 and 6 NYCRR 663.4 on three counts.

CONSENT

15. The Respondent admits the violations set forth above, waives the right to a public hearing in this matter, consents to the issuing and entering of this Order, and agrees to be bound by the terms, provisions and conditions of this Order including the attached Schedule of Compliance.

NOW, having considered this matter and being duly advised, it is

ORDERED that:

I. Civil Penalty

A. The Respondent is hereby assessed a civil penalty in the amount of SIXTY THOUSAND dollars (\$60,000). Of that amount, THIRTY THOUSAND dollars (\$30,000) is payable to the Department upon the Respondent's execution of this Order. The remaining penalty amount, THIRTY THOUSAND dollars (\$30,000) is suspended provided the Respondent complies strictly with the terms of this Order. If the Respondent violates any term of this Order, the entire suspended penalty shall be due within 10 days of receiving a notice of noncompliance from the Department.

B. Payment shall be either by electronic transfer at the following web address: <http://www.dec.ny.gov/about/61016.html> or by check or money order payable to the "New York State Department of Environmental Conservation" with the NYSDEC case number of this Order written in the memo section of the check, and sent to NYSDEC, Division of Management and Budget, 625 Broadway, 10th Floor, Albany, NY 12233-4900 along with the enclosed invoice.

C. The executed original of this Order and completed Tax Information Form shall be forwarded to the Regional Attorney, NYSDEC Region 3, 21 South Putt Corners Road, New Paltz, NY 12561.

II. Full Settlement

Compliance with this Order shall be in full settlement of all claims for civil penalties that could be asserted by the Department against the Respondent, its trustees, officers, employees, successors and assigns, for the above-referenced

violations. Any failure to comply with this Order shall be determined by the Department. This Order shall not be construed as being in settlement of events regarding which the Department lacks knowledge, or which occur after the effective date of this Order.

III. Schedule of Compliance

The Respondent shall strictly comply with the terms of this Order and any Schedule of Compliance attached to this Order. The Schedule of Compliance and any submissions made pursuant thereto are hereby deemed incorporated into this Order, upon approval by the Department if such approval is required, and shall be fully enforceable as part of this Order.

IV. Review of Submitted Remedial Plans and Proposals

If the Department approves any submission required under this Order, the Respondent shall implement it in accordance with its schedule and terms. If the Department disapproves the submission, the Department shall specify the grounds for disapproval. Within 15 days after receiving notice of disapproval, the Respondent shall submit a revision that fully responds to each of the Department's grounds for disapproval. If the Department approves the revised submission, the Respondent shall implement it in accordance with its schedule and terms as approved. If the revised submission is not approvable, the Department may approve it on condition that the Respondent accept such modifications as may be specified by the Department. If the Respondent does not accept such modifications, and the Department disapproves the revised submission, the Respondent shall be in violation of this Order. The Respondent shall be in violation of this Order if any submission is of such poor quality that it does not constitute a good faith effort to comply with the provisions of this Order.

V. Inspections

Department representatives shall be permitted access to the subject site and facility and to relevant records during regular hours to inspect and/or perform such tests and other activities to ensure compliance with this Order and applicable law.

VI. Other Approvals

This Order is not a permit, or a modification of a permit, under any federal, state or local laws or regulations. Unless otherwise allowed by law or regulation, the Respondent must comply with all applicable federal, state and local laws, regulations and permits. The Respondent shall obtain whatever permits, easements, rights of entry, approvals or authorizations necessary to comply with this Order.

VII. Other Remedies; Natural Resource Damages

A. Nothing in this Order shall be construed as barring, diminishing, adjudicating or in any way affecting (1) any rights or claims, actions, suits, causes of action or demands that the Department may have against anyone other than the Respondent; (2) the Department's right to enforce the terms of this Order against the Respondent, its directors, officers, employees, servants, agents, successors and assigns in the event that the Respondent shall be in breach of its provisions; (3) the Department's right to bring any action against the Respondent, its directors, officers, employees, servants, agents, successors and assigns that the Department could otherwise maintain with respect to areas or resources that may have been affected or contaminated as a result of the release or migration of wastes from the site or its vicinity, or to require that the Respondent take such additional measures as may be necessary for the protection of public health or the environment, including interim

remedial measures; (4) the Department's right to commence any action or proceeding relating to any disposal of hazardous wastes at or from the site, as those wastes are defined by applicable regulation; or (5) the Respondent's right to challenge any such action by the Department, whether by administrative hearing or otherwise, to the extent otherwise permitted by law.

B. Nothing in this Order shall be construed as barring, diminishing, adjudicating or in any way affecting the Department's rights or authorities, including the right to recover natural resource damages against any party including the Respondent and the right to seek reimbursement of any expenditures from the New York State Environmental Protection and Spill Compensation Fund.

C. This Order shall not be construed to prohibit the Commissioner or the Commissioner's authorized representative from exercising any summary abatement powers, either at common law or as granted pursuant to statute or regulation.

VIII. Indemnification

The Respondent or any successors, assigns or transferees, shall indemnify and hold harmless the Department, the State of New York, and their representatives and employees, for all claims, suits, actions, damages and costs of every description arising out of or resulting from the fulfillment or attempted fulfillment of this Order by the Respondent, its directors, officers, employees, servants, agents, successors or assigns.

IX. Force Majeure

If the Respondent cannot comply with this Order because of a natural disaster, war, terrorist attack, strike, riot, judicial injunction, federal- or state-ordered state of emergency related to an epidemic or pandemic, or other, similar unforeseeable event

which was not caused by the negligence or willful misconduct of the Respondent and which could not have been avoided through the exercise of due care, the Respondent shall apply in writing within 21 days of obtaining knowledge of such fact to request a modification of the deadline or requirement. Such application shall include the measures taken to prevent and/or minimize any delays. Failure to give such notice constitutes a waiver of any claim that a delay is not subject to penalties. The Respondent shall have the burden of proving that an event is a defense to a claim of non-compliance with this Order pursuant to this subparagraph.

X. Default of Payment

The penalty assessed in the Order is a debt owed to the State of New York. Failure to pay the penalty, or any part thereof, in accordance with the requirements of this Order, may result in referral to the New York State Attorney General for collection of the entire amount owed (including the assessment of interest, and a charge to cover the cost of collecting the debt), and/or referral to the New York State Department of Taxation and Finance, which may offset any tax refund or other monies that may be owed to the Respondent by the State of New York. Any suspended and/or stipulated penalty provided for in this Order will constitute a debt owed to the State of New York when and if such penalty becomes due.

XI. Failure, Default and Violation of Order

The failure of the Respondent to comply with any provision of this Order shall constitute a default, a violation of this Order and the ECL, and ground for revocation of

any Department-issued permit, license, certification or approval.

XII. Entire Agreement

The provisions hereof constitute the complete and entire Order between the Respondent and the Department concerning the violations set forth above. No change or modification shall be effective except as may be specifically set forth in writing by the Department. No informal advice, guidance, suggestion or comment by the Department shall be construed as relieving the Respondent of its obligations to obtain such formal approvals required by this Order.

XIII. Binding Effect

This Order shall bind the Respondent, its officers, directors, agents, employees, contractors, successors and assigns, and all persons, firms and corporations acting under or for the Respondent including any subsequent operator of the facility, and any successor in title to the facility or any interest therein.

XIV. Effective Date and Termination

This Order shall become effective when signed by the Regional Director on behalf of the Commissioner, and shall terminate when its requirements are completed to the Department's satisfaction.

Dated: New Paltz, New York
3/29, 2022

BASIL SEGGOS
Commissioner, NYSDEC

By: 

KELLY R. TURTURRO
Regional Director
NYSDEC Region 3

NYSDEC Case No. R3-20180820-151

CONSENT BY RESPONDENT

The Respondent, CREATIVE LIVING DEVELOPMENT INC., hereby consents to the issuance and entry of this Order without further notice, agrees to be bound by its terms and conditions, and waives the right to a hearing in this matter. The undersigned represents and affirms that he/she has the legal authority to bind the Respondent to the terms and conditions of this Order.

CREATIVE LIVING DEVELOPMENT INC.

By: Bruce H. Adler

Print name: BRUCE H. ADLER

Title: PRESIDENT

Date: 3.24.22

ACKNOWLEDGMENT

On this 24th day of March, in the year 2022, before me, the undersigned, personally appeared Bruce H. Adler, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity as shown in the instrument, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

[Signature]
Notary Public

MICHAEL J GRACE
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 02GR632635
Qualified in Westchester County
My Commission Expires: 4/16/23

Schedule of Compliance

NYSDEC Case No. R3-20180820-151

Respondent: CREATIVE LIVING DEVELOPMENT INC.
Facility: 300 Navajo Street, Yorktown Heights, New York

1.	Immediately	The Respondent shall cease all disturbance to Wetland A-4 and its 100-foot Adjacent Area (Adjacent Area). The Respondent shall submit an application for a Freshwater Wetlands Permit for any new disturbance within the wetland or its adjacent area (for example, any disturbance related to changes to the existing emergency turnaround area located in the adjacent area).
2.	Within 30 days of the effective date of this Order	In accordance with the Restoration and Mitigation Map, Exhibit A (attached, and PDF file via email), the Respondent shall submit a Draft Restoration & Mitigation Plan which includes a proposed schedule of implementation. This Plan must include: a. a 15-foot buffer area along the stream by Mahopac Street (southern portion), b. a 30-foot buffer area along the stream by Mahopac Street (northern portion), c. decrease the size of the soccer field such that the restored area plus the buffer areas in a. and b. above result in an area of not less than 1.25 acres as a no-mow area with permanent fencing and "no disturbance" signage, d. mitigation and restoration of 2,000 square feet near Navajo Street on property owned by the Respondent. Mitigation shall be in the form of wetland creation and must be in areas that are not already wetland or which are connected to Wetland A-4, and, e. the northeastern portion of the map: return the regulated area to original grade and plant with native vegetation. The existing temporary road shall remain at 12.5 feet wide. Any new disturbance other than shown on the Map shall require a Freshwater Wetland Permit.
3.	By August 15, 2022	All work in the approved final Restoration and Mitigation Plan shall be completed. Upon completion, the Respondent shall notify Department staff of such completion in writing.

All submissions pursuant to this Schedule of Compliance shall be

made to Department staff:

Brian Drumm

NYSDEC Region 3, 21 South Putt Corners Road, New Paltz, NY, 12561

brian.drumm@dec.ny.gov

Exhibit A - Restoration and Mitigation Plan NYSDC Case No. R3-20180820-151

Information on this map valid for purposes of this Consent Order only. Any regulated future activities require coordination with NYSDEC.



THE APPLICANT'S ACCESS ROAD SHALL COMPLY WITH APPENDIX D OF THE 2014 NEW YORK STATE FIRE CODE, A TYPICAL OF TOWN-ORDER 150A

TABLE D101A REQUIREMENTS FOR ACCESS ROADS	TABLE D101B REQUIREMENTS FOR ACCESS ROADS
LENGTH (FEET)	WIDTH (FEET)
0-150	10
151-300	12
301-450	14
451-750	16
OVER 750	20

ADDITIONAL REQUIREMENTS

- NONE REQUIRED
- 10-FOOT LAMENHEAD, 48-FOOT 11\"/>

