



ROSA Inc.
Ramapo Organized for Sustainability and a Safe Aquifer
PO Box 712
Pomona, NY 10970

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January 7, 2013

**BOARD OF
DIRECTORS**

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By Hand in Person at DEC Public Hearing

Scott Ballard
NYSDEC Region 3 Headquarters
21 South Putt Corners Rd
New Paltz, NY 12561
(845) 256-3054
r3dep@gw.dec.state.ny.us

RE: Comments regarding Patrick Farm NYS DEC Applications

This supplements and supports the testimony submitted today to the DEC on behalf of ROSA by Daniel Richmond of Zarin & Steinmetz. This letter highlights various examples of concern that have come about from our ongoing review of the Patrick Farm development plans.

The examples provided at this time are not meant to be comprehensive but rather as a demonstration of our concern to support our request that the DEC will consider the application before it as incomplete and request that the DEC causes this development process to take a pause to get the jurisdictional boundaries, and then holistically consider the entirety of the project.

The applicant has segmented the project into three separate sets of plans for the purposes of reviews and approvals and in doing so has made it very difficult for the public and the agencies to review the project in its entirety.

They have submitted portions of the plans to different agencies at different times and have frequently submitted limited approvals or comments on the plan and represented these comments as representing entire reviews. With respect to a large number of environmental concerns and in particular water quality concerns we look to the Department to review the project in its entirety before issuing permits for even a portion of the project.

At this time our review has been stymied and limited. An entire set of plans (other than dam improvement plans) was submitted for final approval to the town in November of 2011. Since that time various updates have been provided to the DEC but have not been available via FOIL and were held back because they were associated with the Dam plans and security issues were quoted. As we discovered recently the applicant made redacted portions of the plans available at a local library but there was no ability to make copies of the large scale plans and copying of the regular pages was hampered by broken copiers and thick binding. At the Town of Ramapo they refused to make copies under FOIL requests of any of these materials. It is my belief that the following comments and examples still exist under current plans but due to lack of adequate access to current plans this review has been hampered.

At this time it is my understanding that the Town of Ramapo – the Lead Agency as well as MS-4 - have not seen or reviewed the latest set of plans. It is our contention that the latest set of plans that were posted for review are not in their final form as there are still obvious changes made last December 2011 – for instance to parking configurations - that haven't been reflected and more importantly the impact of the dam being raised creates a new pond Ordinary High Water Mark – that is not reflected in any of the Subdivision or Condo plans and has direct bearing on the examples provided herein.

The SWPPP has changed multiple times since the Town of Ramapo, as MS-4 accepted the SWPPP. As per the DEC letter of 06/19/2009, “When other DEC permits are required, the Stormwater Pollution Prevention Plan (SWPPP) required by the SPEDES General Permit must be submitted along with the permit application for concurrent review.” Due to the extensive reworking of the SWPPP plans coupled with the role the Dam will play in the SWPPP, the DEC must ensure that the SWPPP is reevaluated. The Town of Ramapo has not reviewed the SWPPP since 2011 and since then many changes have been made to the SWPPP in relation to the drainage agency requirements that have fundamentally changed the plan.

We have done our best to present examples to you from the latest scanned plans in our possession and request that you check these against your own records for confirmation or to request better plans from the applicant. This is not meant to be a professional and exhaustive review; the intent is to illustrate our concern over the lack of a comprehensive review of the environmental impacts to the property, which we were led to expect from the Department at this time of final applications.

This project on a <200 acre parcel of land involves the substantial disturbance of over 145 acres (as per the SPDES Notice of Intent), including the development of a large portion of impervious surfaces – 43+ acres. This land has been identified as environmentally sensitive in the Town of Ramapo 2004 Comprehensive Plan at which time it was the specific recommendation of the Town Planners and Town Board to protect it by designating it as a low density residential zone and to recommend the clustering of homes to protect the environmentally sensitive portions of the property¹. There was no independent analysis of the Town Board's Lead Agency Findings under the State Environmental Quality Review Act (SEQRA), and there are outstanding cases before the Supreme Court, challenging the SEQRA findings. On the whole, this project involves a tremendous amount of redirection of water on the property into numerous basins with the outflows and overflows from the various basins into the waters of the United States and adjacent wetlands. The overwhelming manipulation of the waters combined with the large-scale development can have devastating impacts on the wetland system centered on the pond in the middle of the property.

While the applicant has only highlighted a couple of examples of disturbances on the property, we very much expect that any approval given will be used as the basis to proceed with every aspect of development planned for the property. Accordingly, we ask the DEC to please take note of the concern of the citizens of Rockland County with respect to this application and to be as thorough as possible in your review and exercise of your authority.

Thank you for your consideration of these comments.

¹ See Town of Ramapo Comprehensive Plan -

http://www.ramapo.org/uploads/ramapo_comprehensive_plan_2004/1293807638_TOR5NaturalResourcesandOpenSpace.pdf - page A-9 and

http://www.ramapo.org/uploads/ramapo_comprehensive_plan_2004/1293807662_TOR90LandUse.pdf - page D-5 + D-10

A handwritten signature in black ink, appearing to read "Deborah Munitz". The signature is fluid and cursive, with a long horizontal stroke extending from the end of the name.

Deborah Munitz
ROSA 4 Rockland Inc.

Exhibit A

Jurisdiction

The New York State Department of Environmental Conservation (DEC) has jurisdiction over the wetland in the east of the property and its 100' buffer plus the beds and banks of two class B streams. DEC has stated that they regulate the in-stream pond but not its tributaries. The boundaries of connection between the tributaries and the pond are not documented and these are the areas where there are unmarked wetlands.

In order for the DEC to make a reasonable determination for permits:

1. Applicant should be required to properly identify the ordinary high water mark (OHWM) of all waters of the United States (WOUS) on the property in order for the DEC to be able to evaluate the application, which should be accomplished through an Army Corps of Engineers (ACOE) Jurisdictional Determination (JD). The OHWM of the pond is proposed to be changed with the increase in height of the Dam. This should be reviewed and permitted by the ACOE.
2. Applicant must properly identify all DEC and ACOE wetlands on the property in order for the DEC to be able to evaluate the application which should be accomplished through an ACOE JD. This is a condition of the SEQR scoping and no further evaluation should occur until this fundamental underlying step has been accomplished.
3. Applicant should be required to properly identify all 50' buffers of DEC class B stream and pond in order for the DEC to be able to evaluate the application. Such boundary lines can't be applied until the underlying jurisdictional determinations are completed.
4. Application must identify all planned disturbances near or within the boundaries. If disturbances are within the boundaries, then a permit is needed. Disturbances should include all aspects of development including tree clearing, cut and fill plans, building, walkways, utilities, drainage outlets, etc. Even if outside the jurisdictional boundary, if the DEC recognizes a sufficient significant impact that could affect the waters and wetlands, or water quality then it should refuse a permit. The level of development and the routing of all the waters that naturally fed the streams and ponds to basins may significantly impact the wetland system around the pond.

Need proper identification on map of the top of the banks of the two streams and the pond. Only on 02/03/2010 map.

On the map that was submitted to the DEC on 02/03/2010 there are 50' boundaries shown, but these boundaries are not incorporated into any of the site plans that show the actual planned work.

Adam Peterson confirmed that the NYS DEC has not received any more recent map of the project as a whole with these boundaries highlighted. We believe that this is a necessary component of a proper review.

Need proper identification of OHWM of the two class B streams and pond – beds of streams (WOUS).

The proposed new dam height will create a new OHWM for the pond. The OHWM provided by Brooker Engineering is based on current predevelopment grading. It shows that the OHWM for the pond increases substantially into the area identified as having wetland characteristics. Once these wetlands are confirmed by ACOE the amount of fill and grading in these areas can be resolved and only then can the new OHWM be finalized.

Need proper identification of wetlands adjacent to WOUS. This is subject of ACOE letter that DEC was copied on.

The DEC has walked the property. Field Agents Drumm and Gaugler should be sufficiently familiar with the property to be able to confirm that there are wetlands in areas that are not represented on the map and their confirmation alone should be sufficient to question the current lack of an ACOE JD.

Need Up to Date Plans

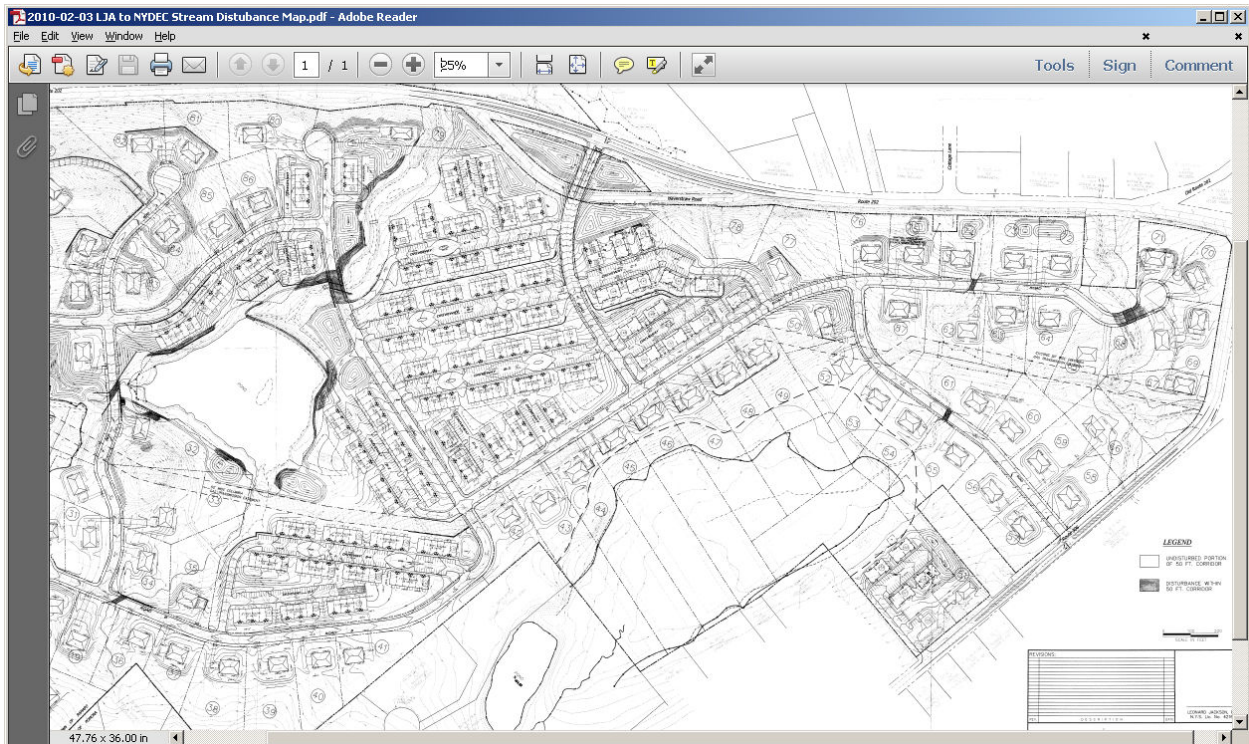
No plans have been resubmitted to the Town since the initial Nov 9th 2011 plans. Changes were made to drainage to conform with 2008 SWPPP guidelines (rather than 2010) where roof top drainage for subdivision was to be routed to individual leeching fields. Current plans can't be relied on for final approvals. Need a final set of plans. All examples here are taken from plans submitted in November of 2011.

Include Totality of Project in Review

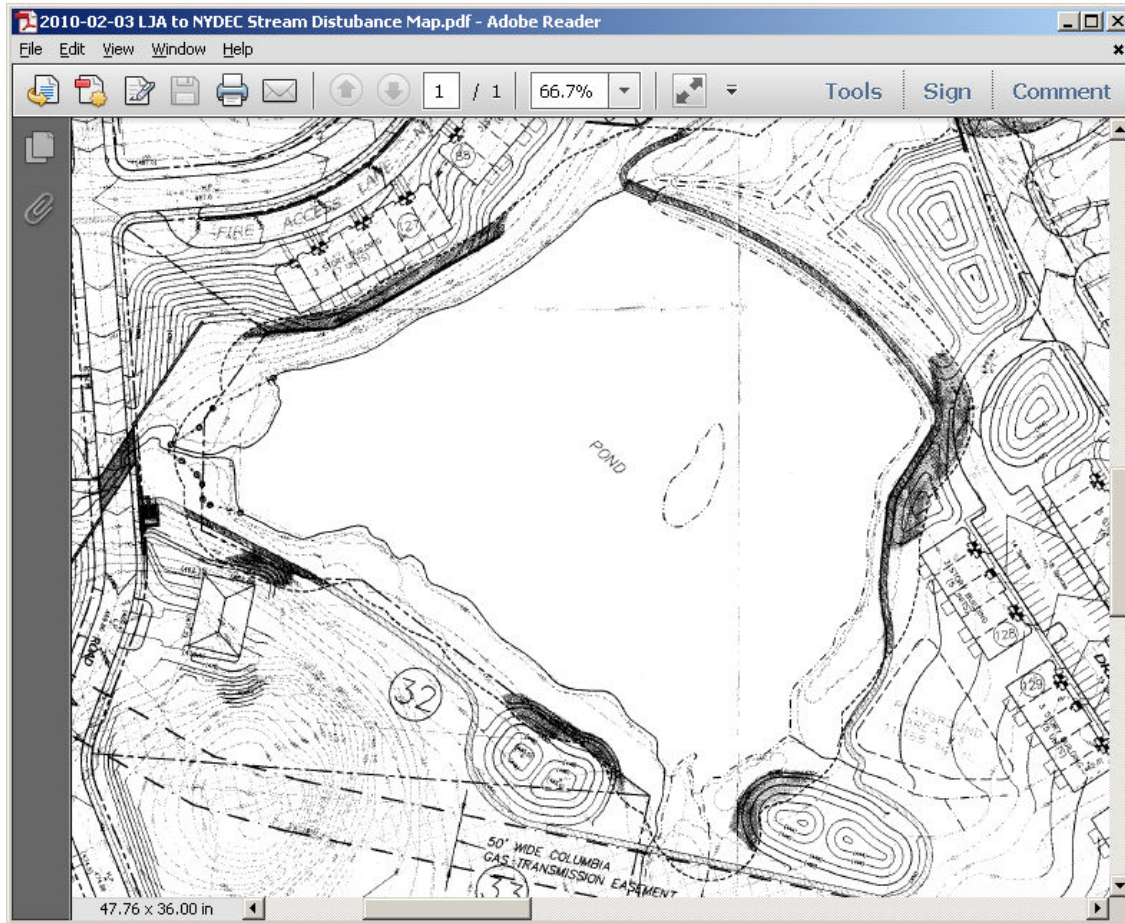
Work under DEC jurisdiction should include not only subdivision, but also condos and volunteer housing. Applicant should be covering all parts of the project with all layers of development showing all utilities, drainage plans, cut and fill plans, etc. In the cover letter by Leonard Jackson dated April 2012, it was stated that the only areas of impact are as per the subdivision application.

The last map of the entirety of the Project was submitted to the DEC dates 02/03/2010 and included many shaded areas indicating disturbances. Of these shaded areas only one was included in the current application and yet the project has not changed substantially.

This map was sent to the DEC, and was produced after the applicant made changes to minimize impacts pointed out by the DEC. It still shows, however, eleven areas of potential disturbances – i.e., more than the two currently shown in the application. This map also understates the number disturbances because the wetlands adjacent to the WOUS tributaries to the Pond south and north of the pond are not documented and details of the construction are not complete. Three of the stream crossings are related to WOUS that are not regulated by the DEC but three are related to DEC regulated waters.



The balances of the disturbances shown are related to the in-stream pond and the stream from the pond to the Mahwah River.



Below we have pulled out all the examples of potential streambed disturbances caused by stream crossings or development within wetland 100' boundaries or within 50' of beds and banks. Also note that the applicant did not consistently implement the 50' boundary in this map in the areas where the tributaries join the pond, which are the areas where there are wetlands.

Volunteer Housing

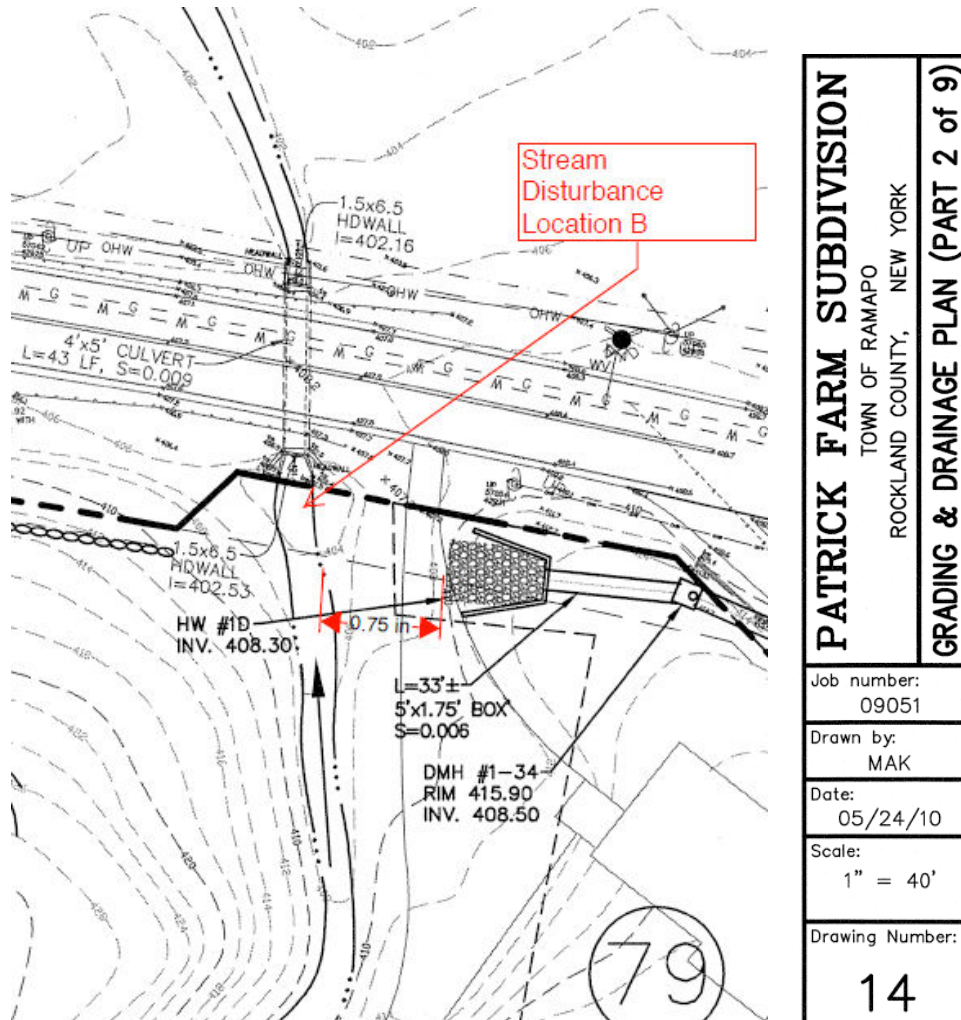
ROSA had previously identified Water and Sanitation lines in the 100' boundary; this appears to have been addressed. We have identified the water hookups but are still investigating the details of the sanitary hookups.

SUBDIVISION

Culvert Rte. 202

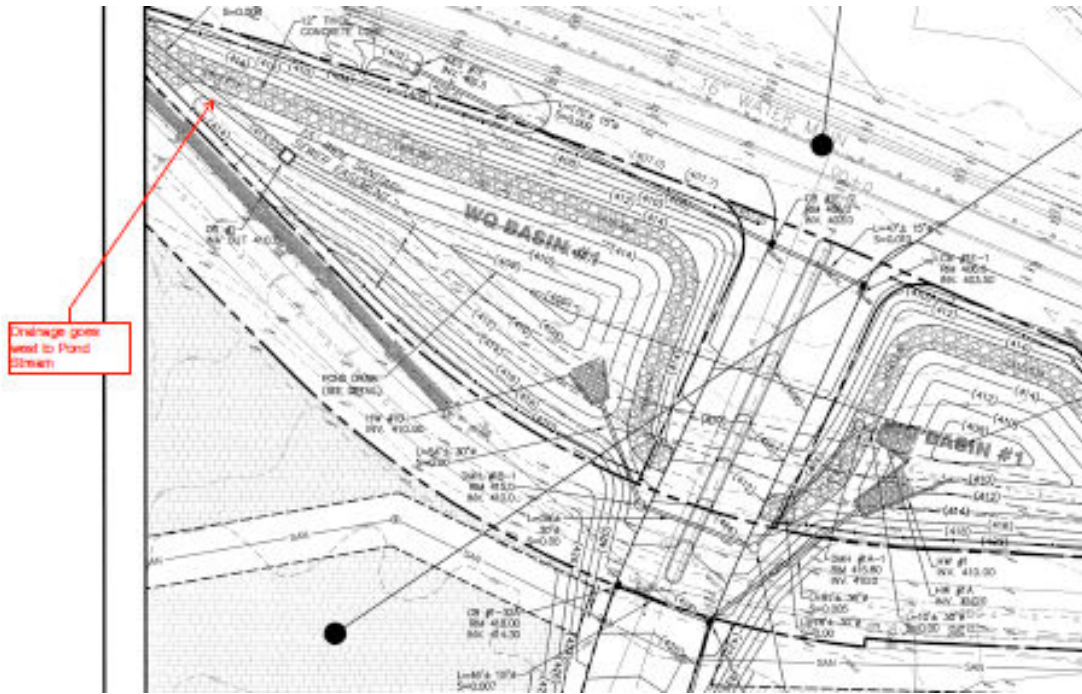
In detailed diagram of Location B in the application why is the limit of the banks on north side of stream so much closer than south side? There is a drainage outflow very nearby. Are those banks confirmed?

On drawing 14 of subdivision the distance from drainage outflow from Basin #1 to stream as shown is ~30' (.75in on 1:40').



PATRICK FARM SUBDIVISION	TOWN OF RAMAPO
	ROCKLAND COUNTY, NEW YORK
GRADING & DRAINAGE PLAN (PART 2 of 9)	
Job number:	09051
Drawn by:	MAK
Date:	05/24/10
Scale:	1" = 40'
Drawing Number:	14

The drainage is coming from the large WQ Basin #1 which shown on drawing #15 (see next image).



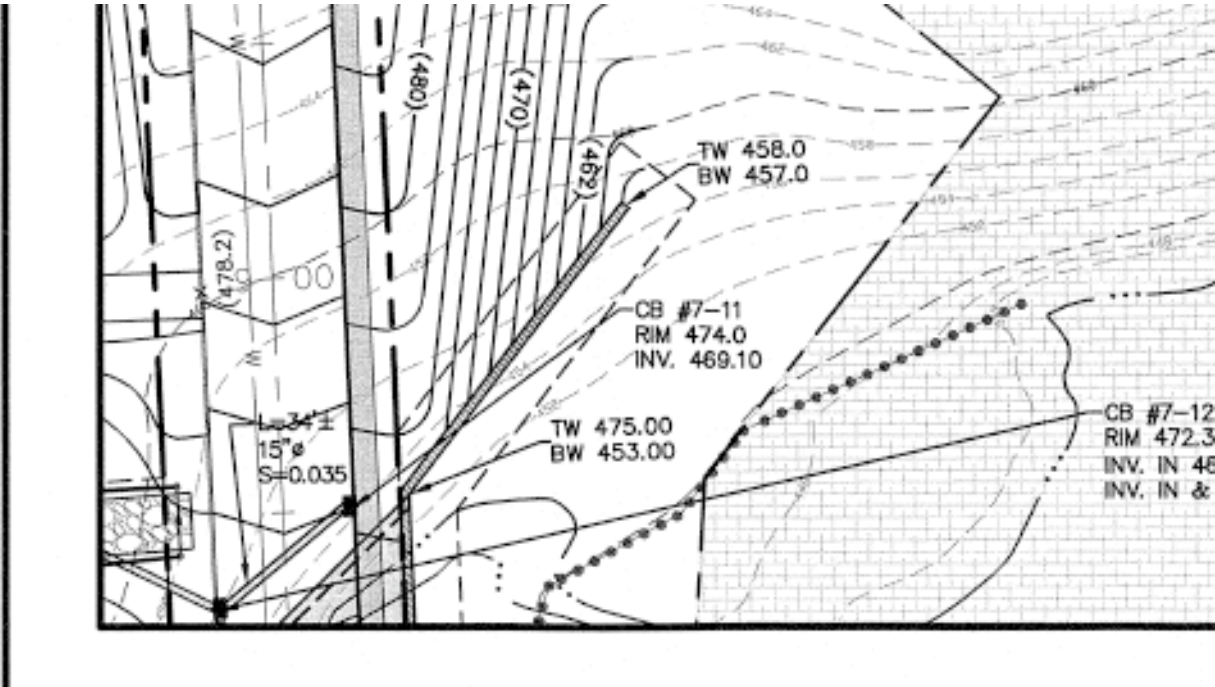
PATRICK FARM SUBDIVISION TOWN OF RAMAPO ROCKLAND COUNTY, NEW YORK GRADING & DRAINAGE PLAN (PART 2 of 9)
Job number: 09051
Drawn by: MAK
Date: 05/24/10
Scale: 1" = 40'
Drawing Number: 14

Culvert #2 Road A Stream Crossing Over ACOE A

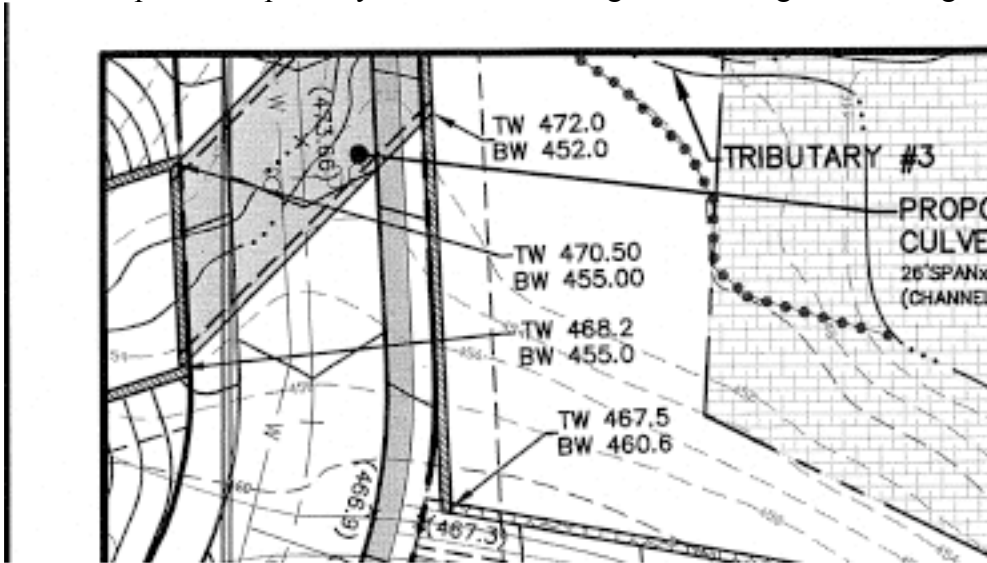
This Road is west of the pond and crosses over the stream connecting the documented ACOE Wetland A to ACOE Wetland B; however along the banks of the streams are small wetland areas that would also be considered ACOE wetlands and should be protected. On the DEIS Figure 3.1-7 below you can see a large amount of fill is planned for this area. Without an ACOE JD, the DEC cannot determine the extent of the disturbance of protected resources.



This culvert adjacent to the west corner of the pond is only partially shown without 50' boundary indicators on the Subdivision Plans Drawing #14 Grading and Drainage Part 2 of 9.



The other portion is partially shown on Drawing #18 Grading and Drainage Part 6 of 9.



Culvert #8 Road D Stream Crossing over DEC Class B Stream – Brian Brook

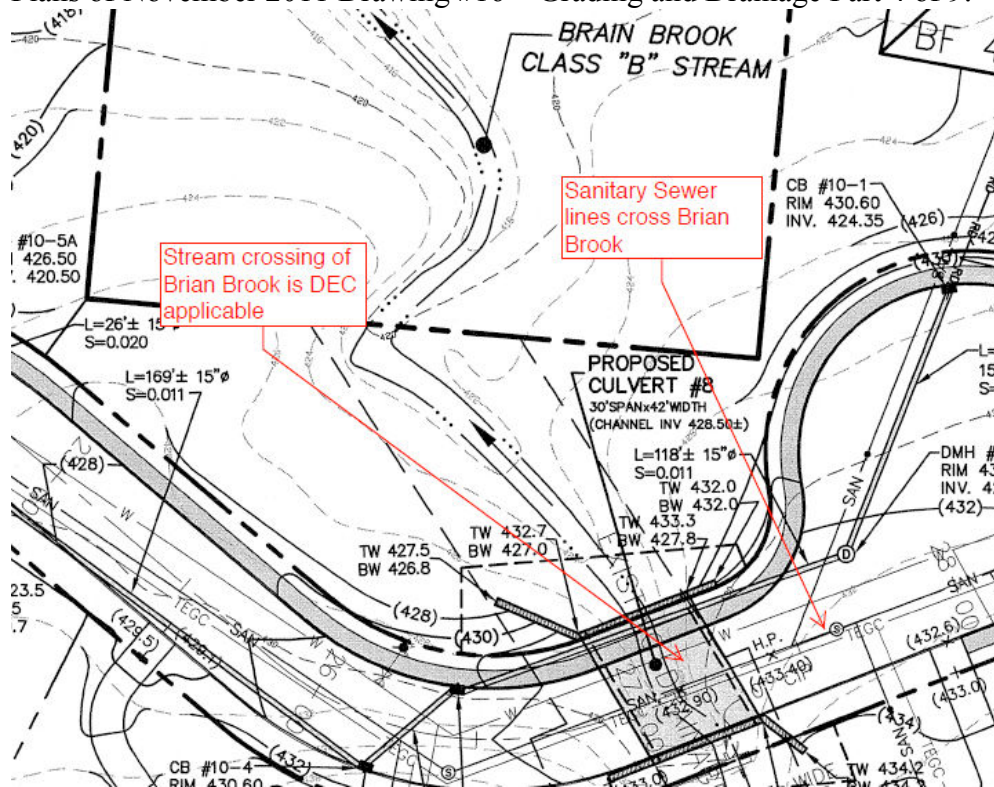
Screen Capture of cut and fill map from DEIS showing planned stream crossing of Brian Brook. Part of subdivision plan. Teal green denotes fill. Lime green denotes cuts. A statement of need should accompany all disturbances. Why do these 5 homes (67, 68, 69, 70 and 71) need to be connected to the subdivision? Why not use a common road onto Rte. 306 instead of crossing the stream?

Even if DEC agrees that this crossing is necessary, there should still be a confirmation of the beds and banks of the stream and a requirement for the developer to confirm the related cut and fill plans and the stream crossing plans. This stream crossing was not indicated in the stream disturbance application. There were construction plans for the stream crossings but not specific to each location.

In addition to the stream crossing, there are sanitary sewer lines crossing the Brian Brook.

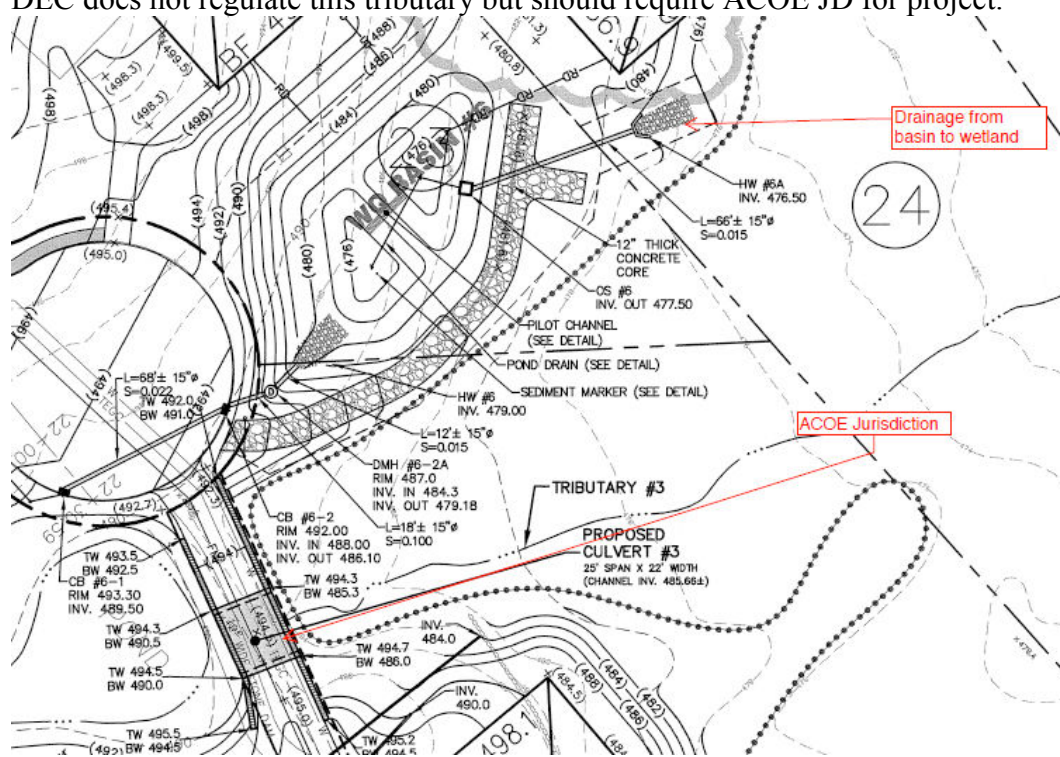


This stream crossing is still on the final subdivision plans along with sewer lines also crossing the Brian Brook and should be part of the application. This was taken from the Final Subdivision Plans of November 2011 Drawing #16 – Grading and Drainage Part 4 of 9.



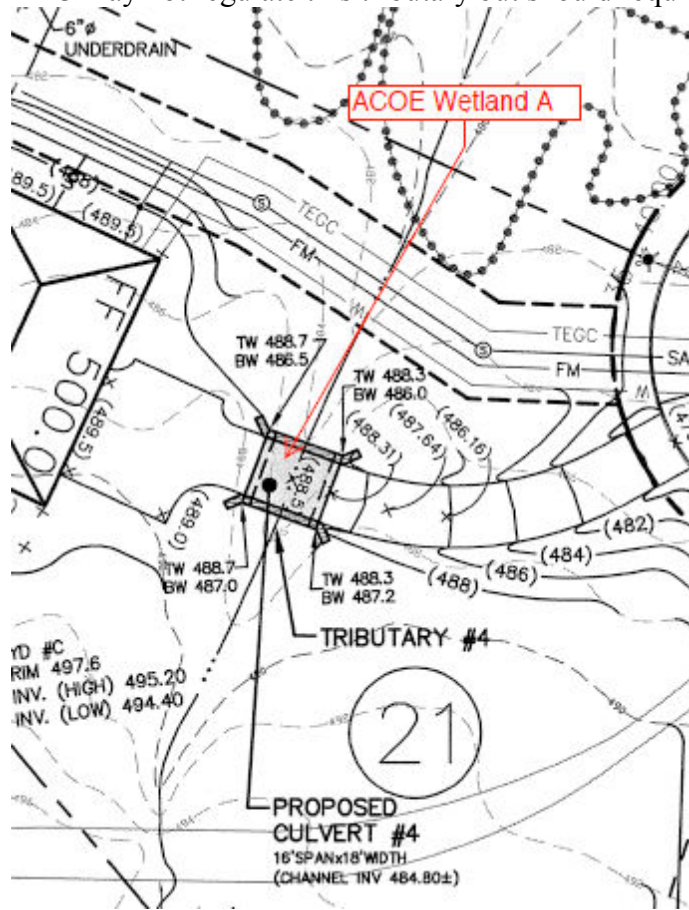
Culvert #3 for WOUS tributary #3 to ACOE A

DEC does not regulate this tributary but should require ACOE JD for project.



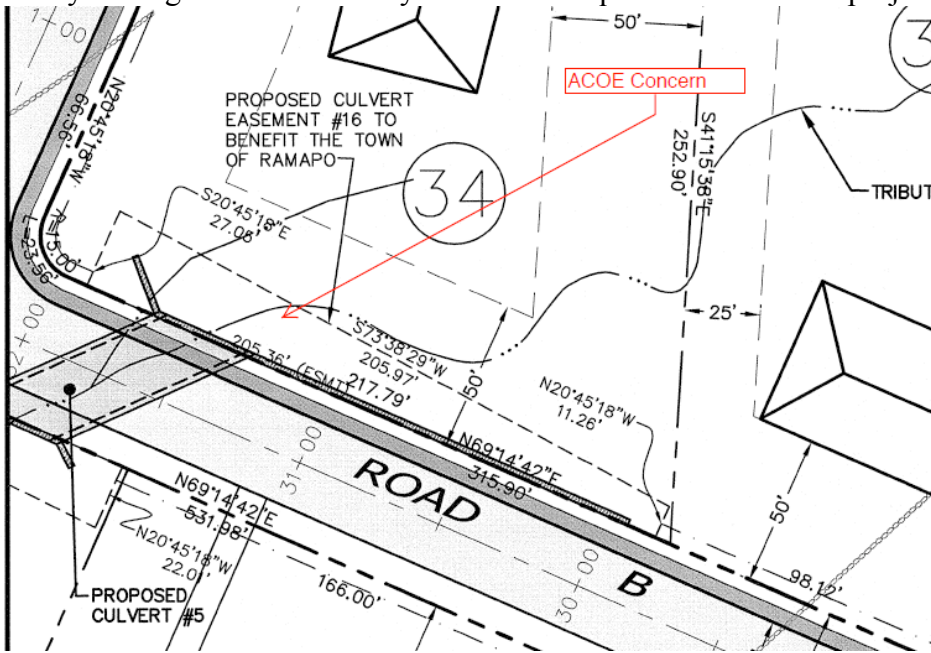
Culvert #4 for WOUS tributary #4 to ACOE A

DEC may not regulate this tributary but should require ACOE JD for project.



Culvert #5 for WOUS Tributary #2 to Pond

DEC may not regulate this tributary but should require ACOE JD for project.



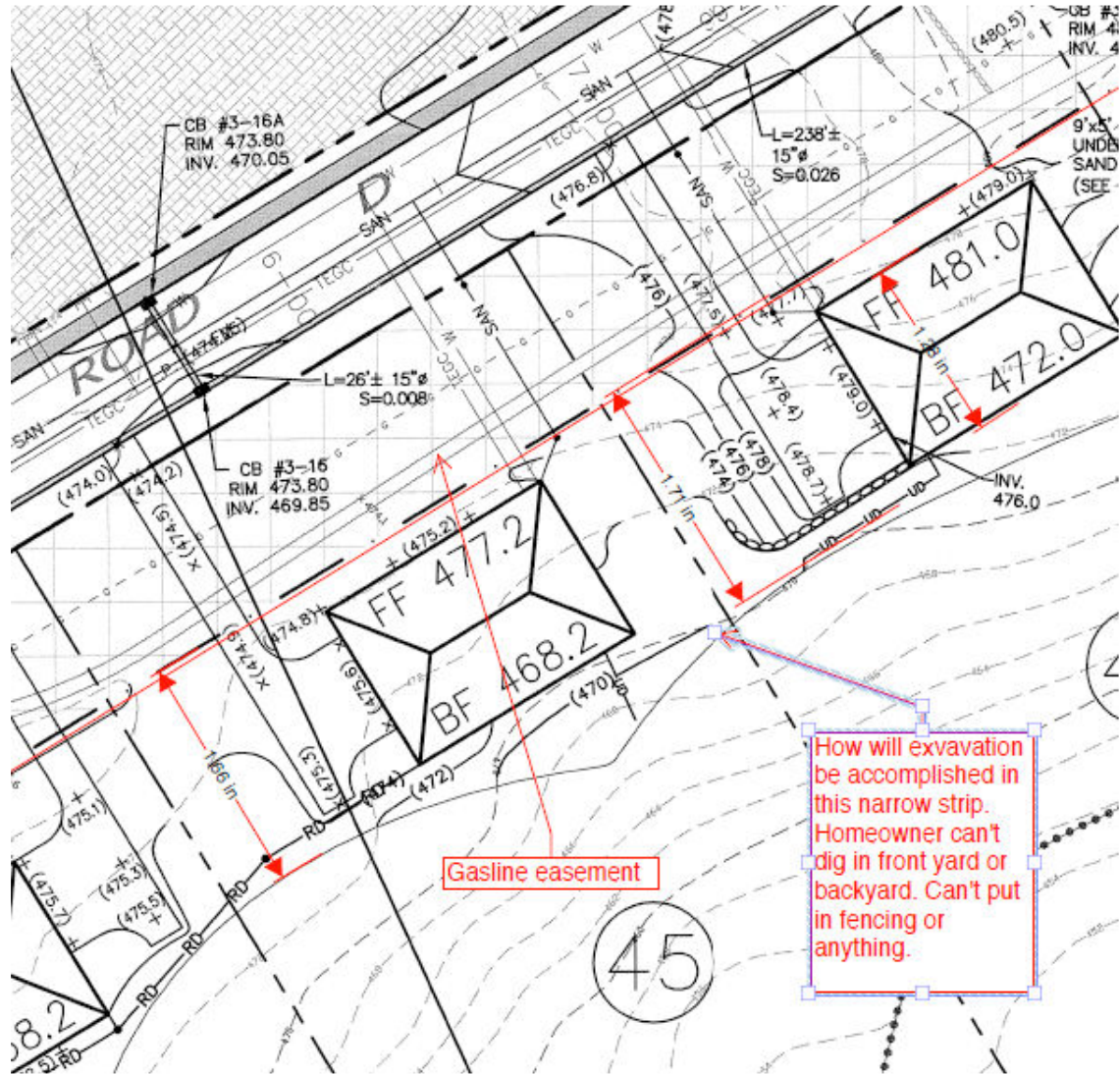
Culvert #6 under Road D +Culvert #7 under Road F - Crossing over ACOE WOUS unnamed tributary of Mahwah as shown in Cut and Fill DEIS Figure

These two streams might not be under DEC jurisdiction but they were highlighted on the 02/03/2010 map and these two stream crossings still exist on the current plans. This is still a SEQRA issue.



Homes Sandwiched between Columbia Gas Easement and DEC Wetland

Homes 44, 45, 46 and 47 are sandwiched between a high-pressure gas pipeline and DEC wetland. For lots 45 and 46 the distance between the two easements is 70-80'. All excavation for homes 50' deep need to take place within this narrow strip leading to possible infringements that should be noted and considered.



Drainage Basin Outputs

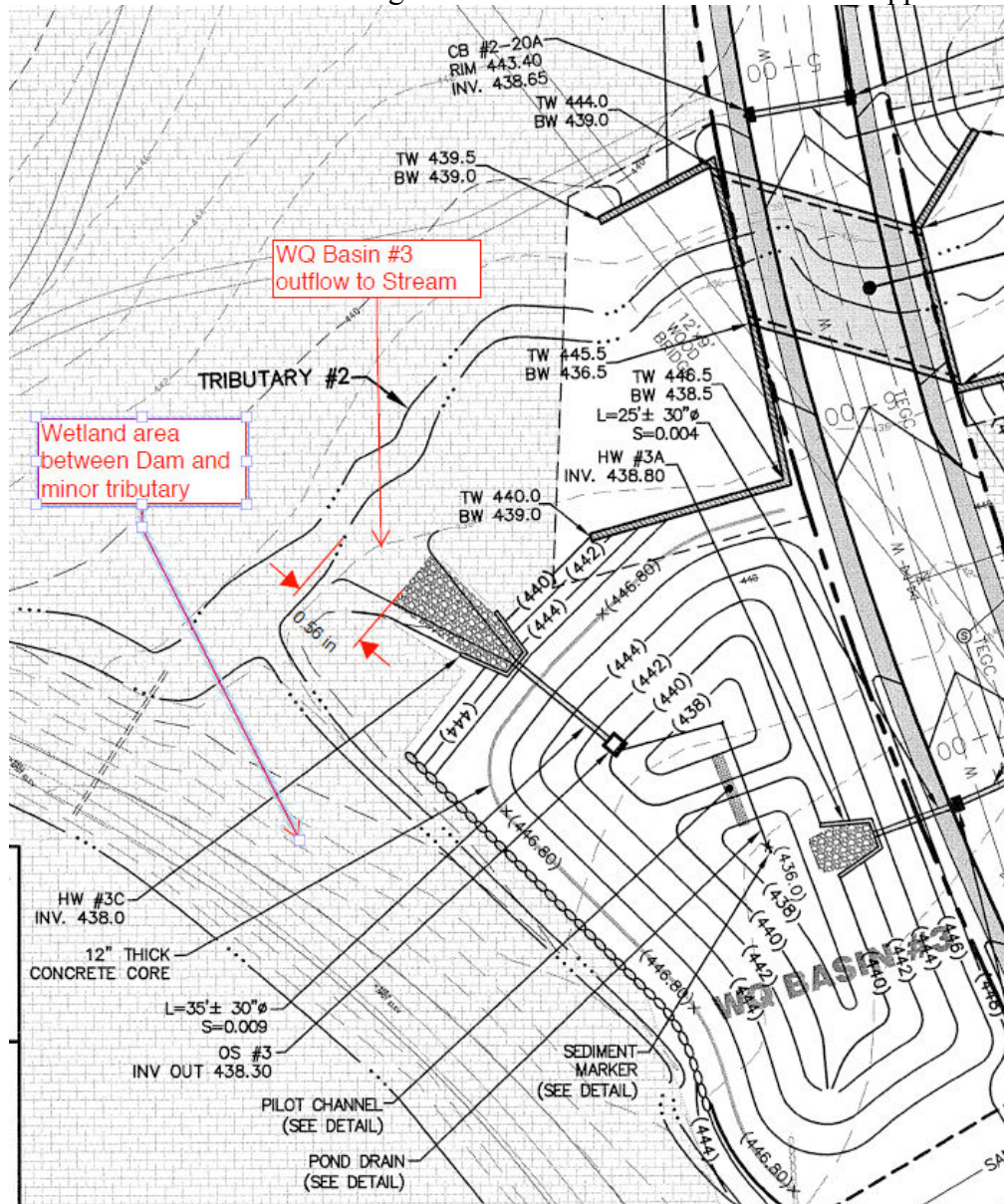
Water Quality Basin #1 shown on p15 drains to class B Stream shown on Subdivision p14 within approximately 30' (See above Rte. 202 Culvert)

Water Quality Basin #2 Drains to Class B Stream

Shown on drawing #14 and included in the application as see location A.

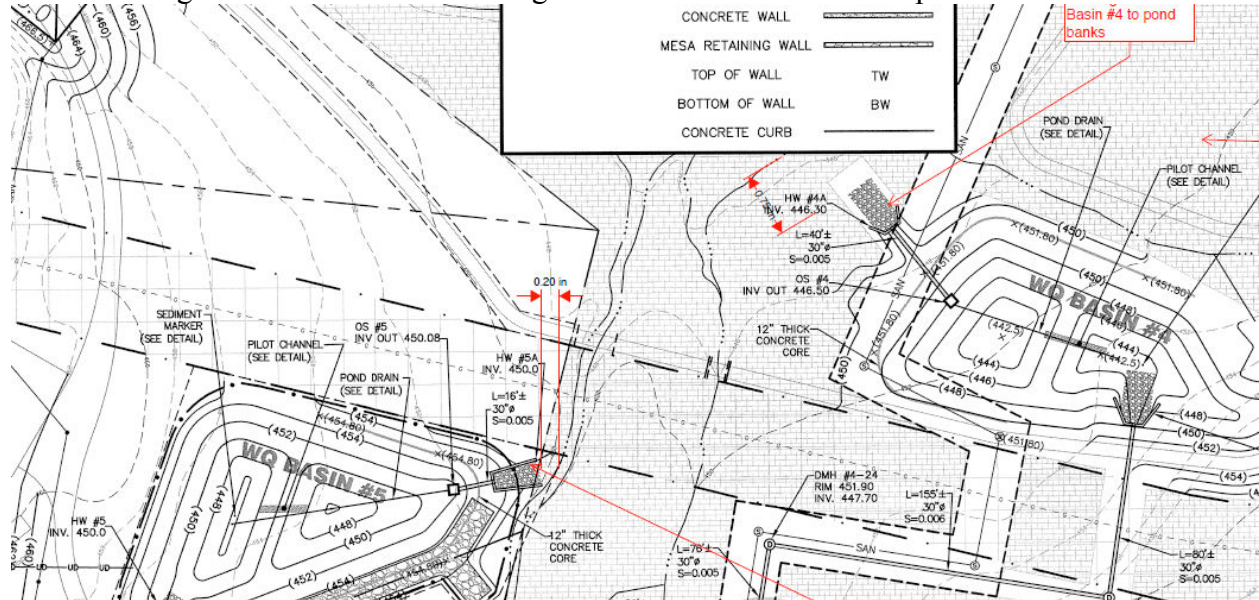
Water Quality Basin #3

Shown on subdivision drawing #14 drains to class B Stream within approximately 25' of stream.

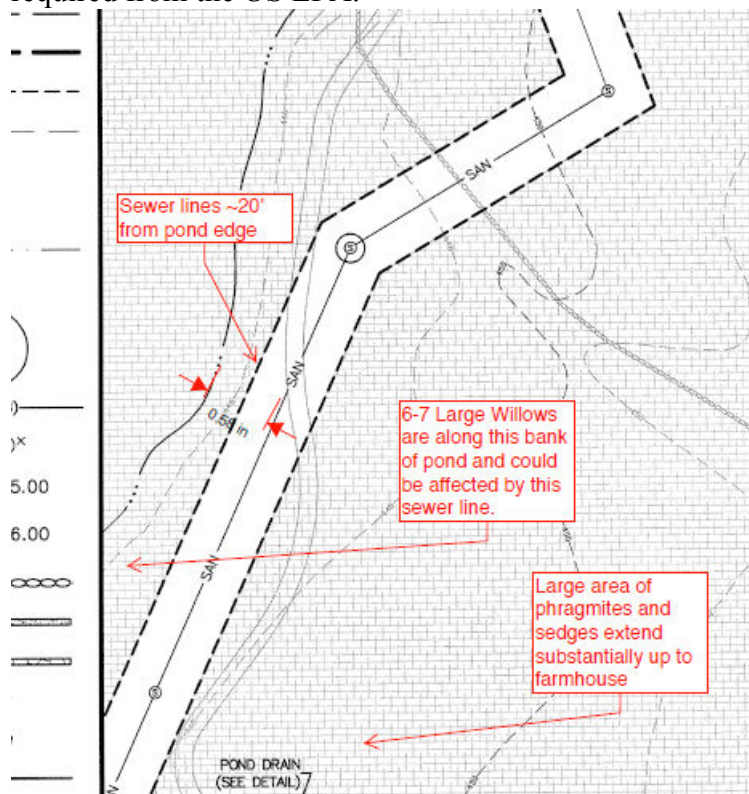


Water Quality Basin #4 drains to wetland around pond <50' from pond edge; note obscured by legend on drawing and Water Quality Basin #5 drains to tributary <10

The following the extract is from drawing #18 of the final subdivision plan.



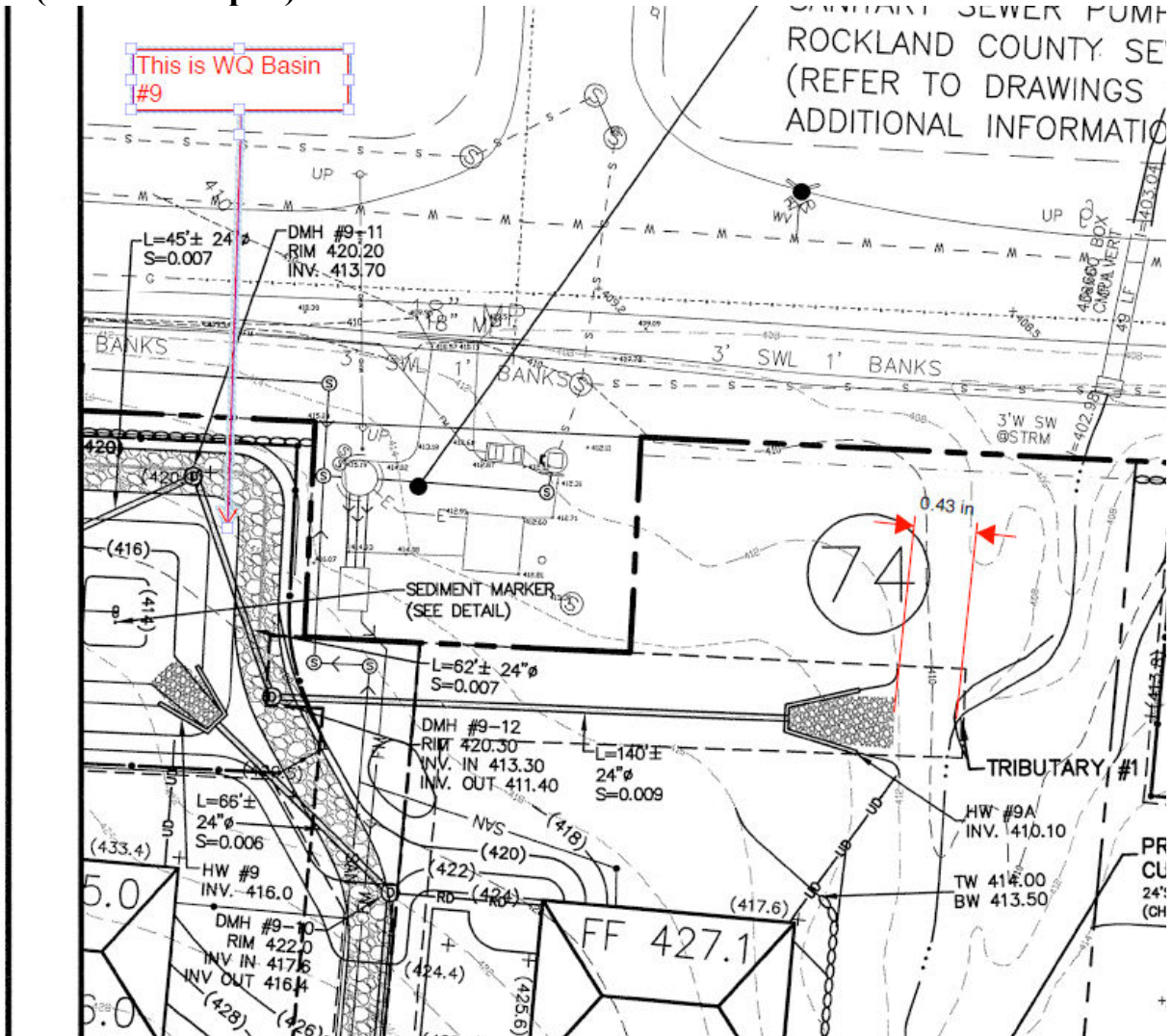
Directly above this area shown on drawing #18 you can see the sewer line crossing through the banks of the pond within 20' of the pond edge where there are willow trees and phragmites growing. **NOTE: If ACOE confirms this as a Wetland area then a new ESA Waiver will be required from the US EPA.



Water Quality Basin #6 and #7 Drains into ACOE A (Drawing #13 of subdivision)

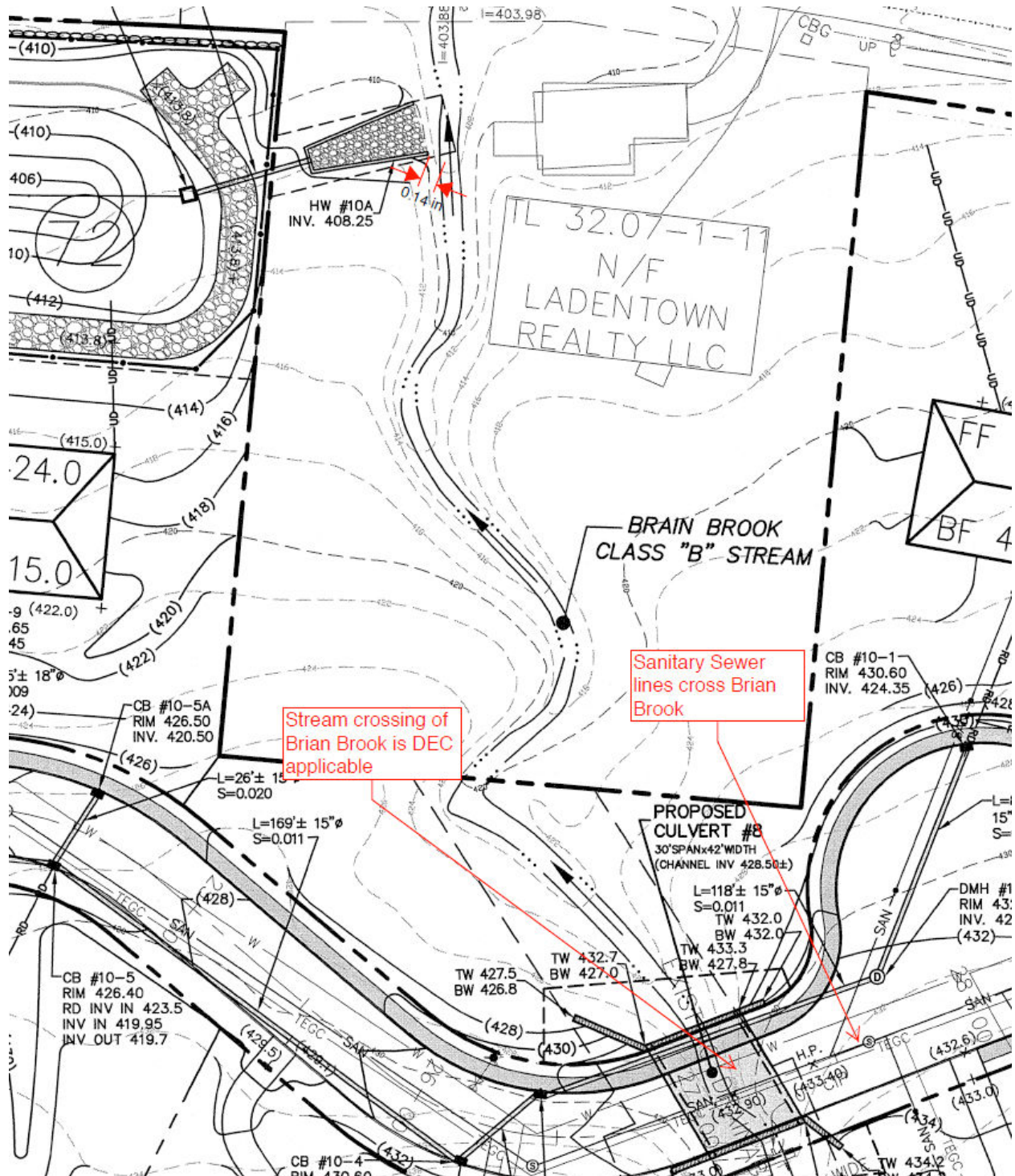
Taking roof drainage and routing it away from wetlands will starve wetlands.

Water Quality Basin #9 drain to unnamed tributary #1 to Mahwah River <20' (subdivision p16)



Water Quality Basin #10 shown on subdivision p16 drains to class B Brian Brook off site. ~10' (subdivision p16)

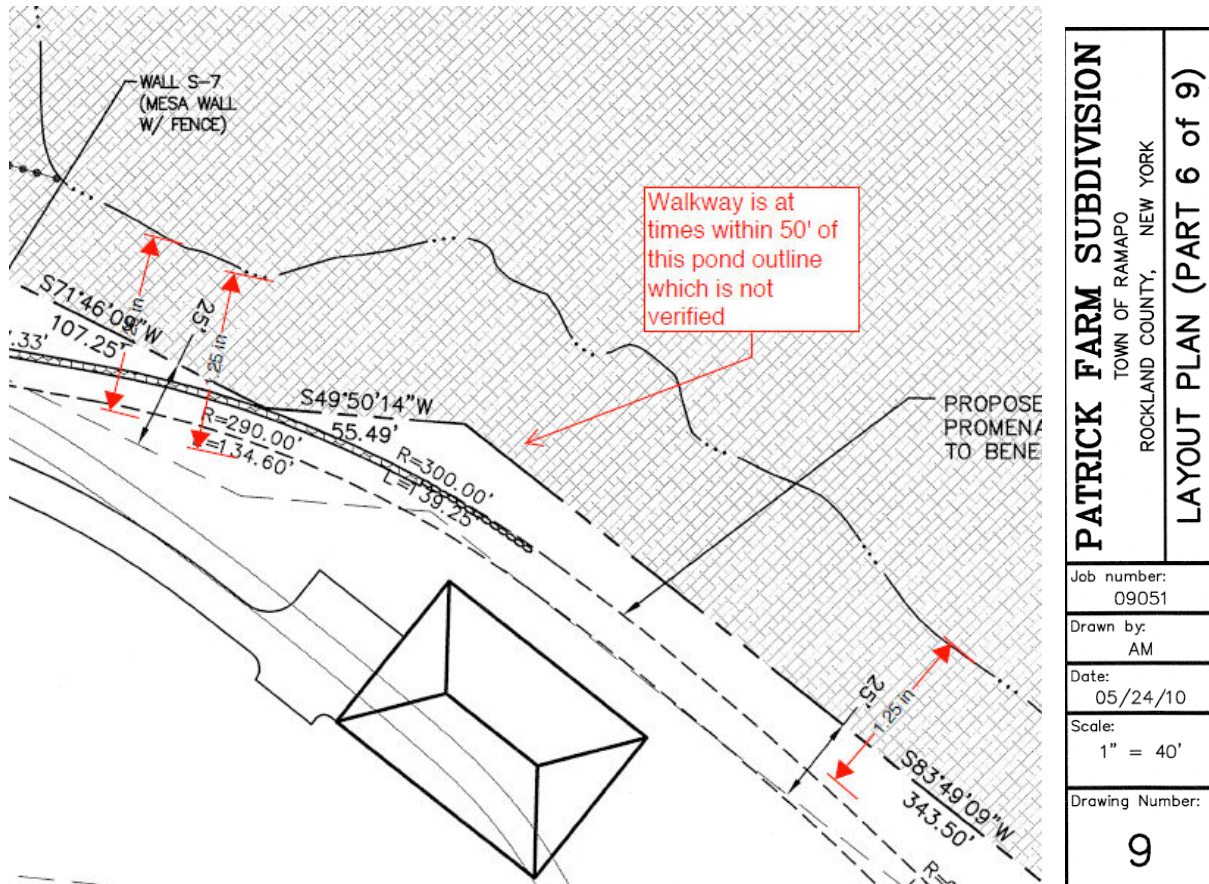
The following extract from final subdivision drawing #16 shows the culvert over the Class B Stream Brian Brook, a sanitary line crossing the stream and the outflow from WQ Basin #10



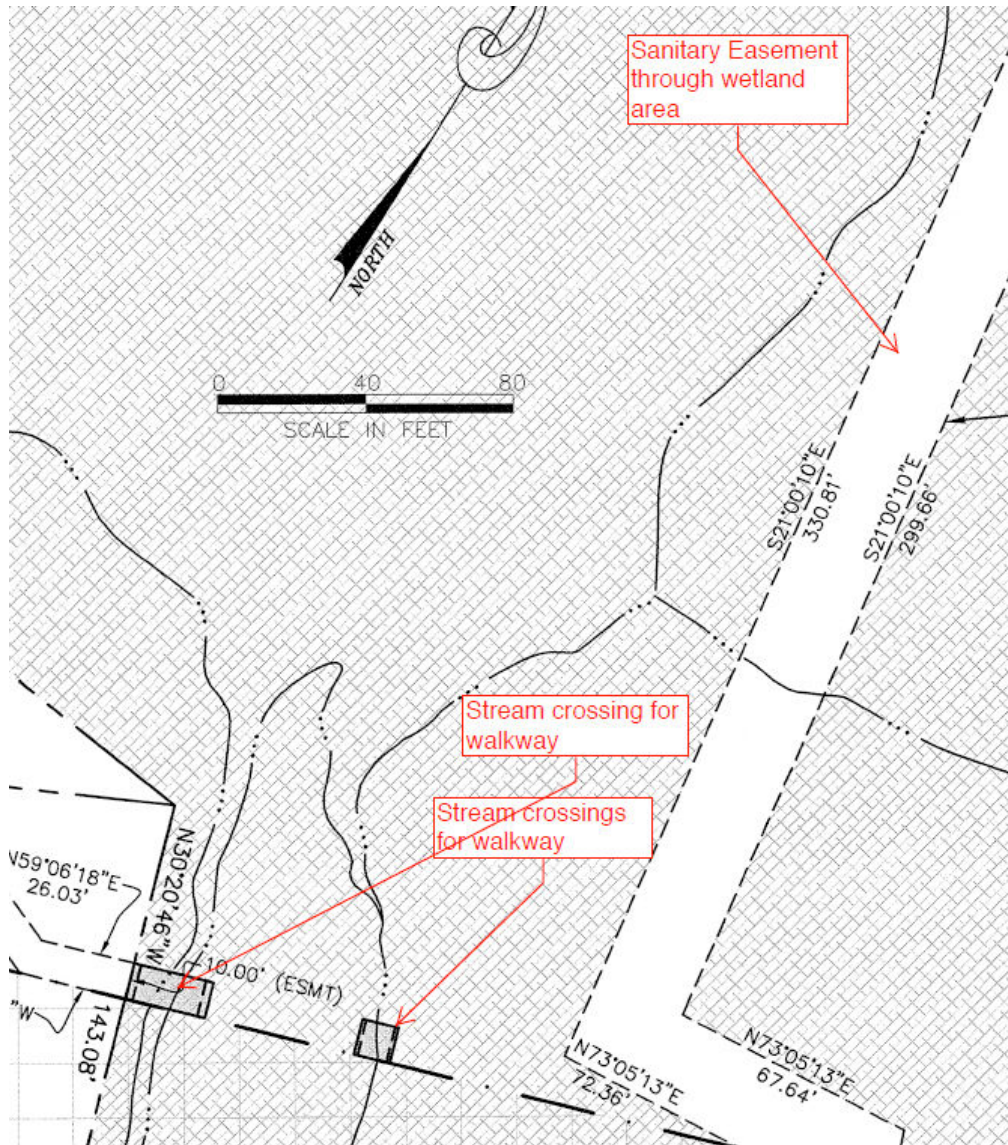
Condominiums

Walkway South and South East of Pond

The area where the applicant proposes a walkway is a key area of dispute regarding wetlands and boundaries. It was noted by DEC in its letter of 2009-12-30, which discusses potential streambed disturbances. The applicant was supposed to justify its necessity. It appears that this walkway and the stream crossing might be under water caused by raising the dam. Certainly it will require fill in the wetland area adjacent to the WOUS.

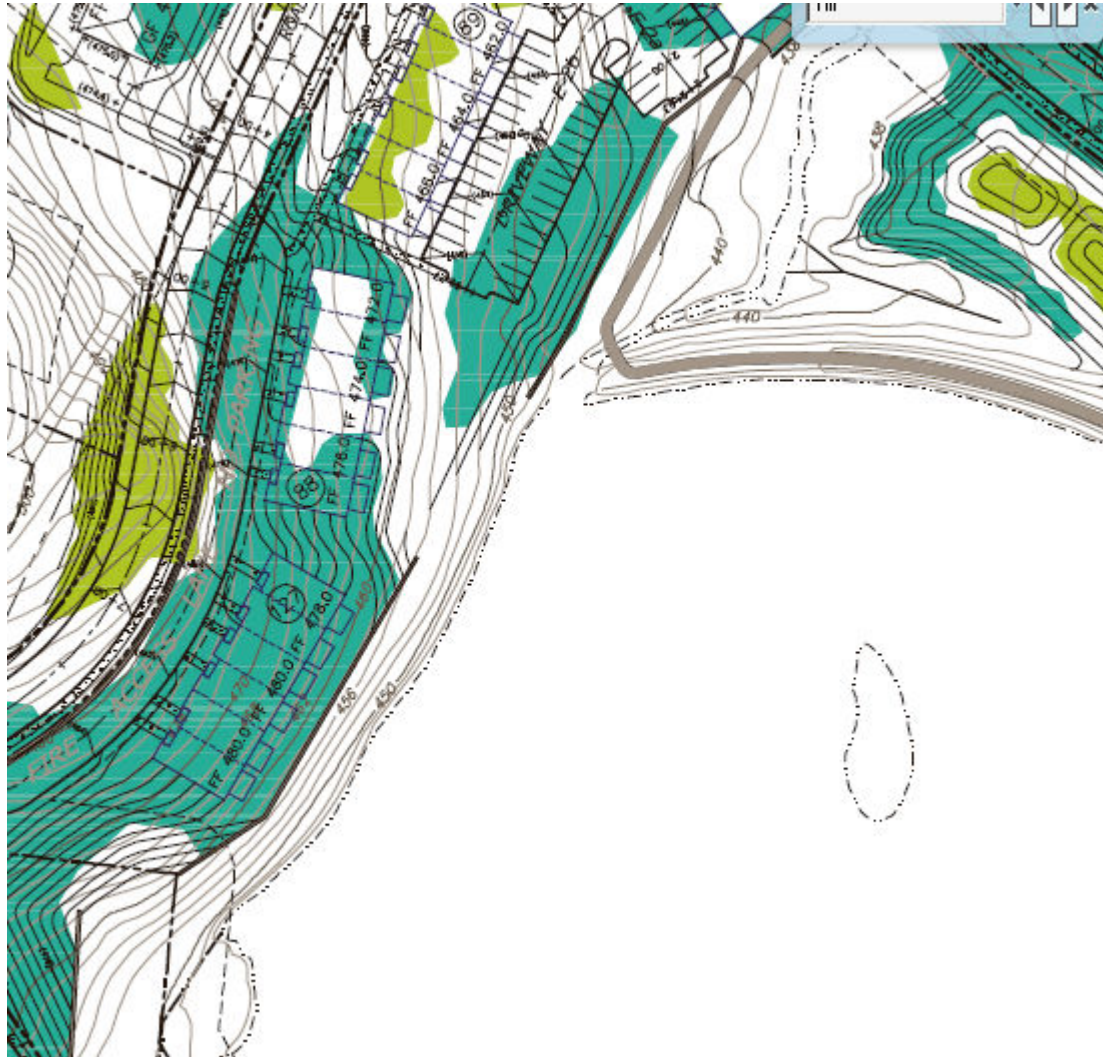


Also from subdivision drawing #9 you can see that the walkway crosses over two tributaries to the stream in a sensitive wetland area. These crossings are not highlighted. And you can also see the sanitary easement for the sewer lines that are crossing directly through the path of the willows trees that border the east/southeast section of the pond.

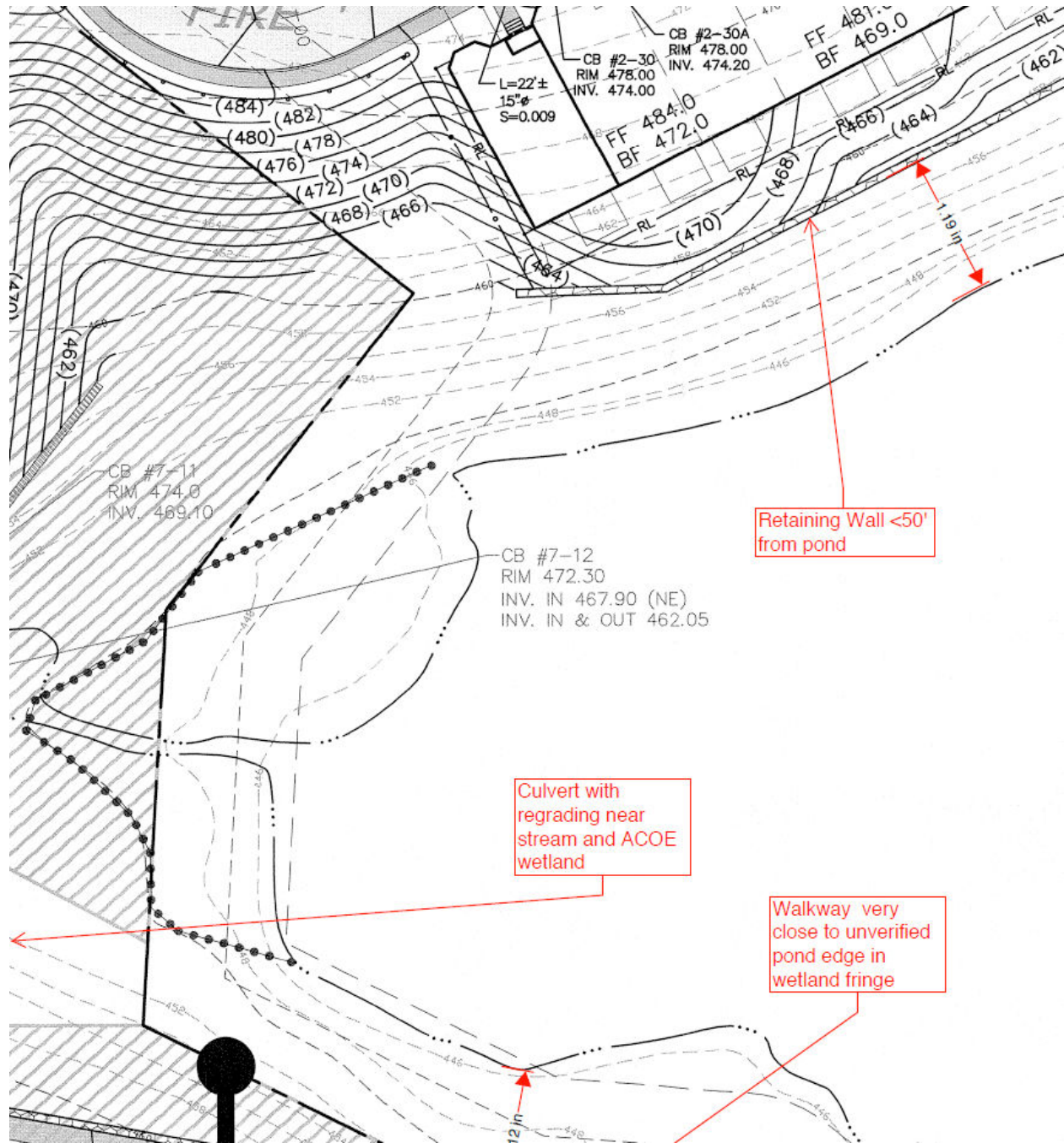


Fill Northwest of Pond for buildings 127 + 88 on extremely steep slope

The following excerpt from the cut and fill Figure 3.1-7 of the DEIS shows plans to fill the steep slope north of the pond and build a retaining wall. With the new Dam Ordinary High Water Mark this distance will be even closer.



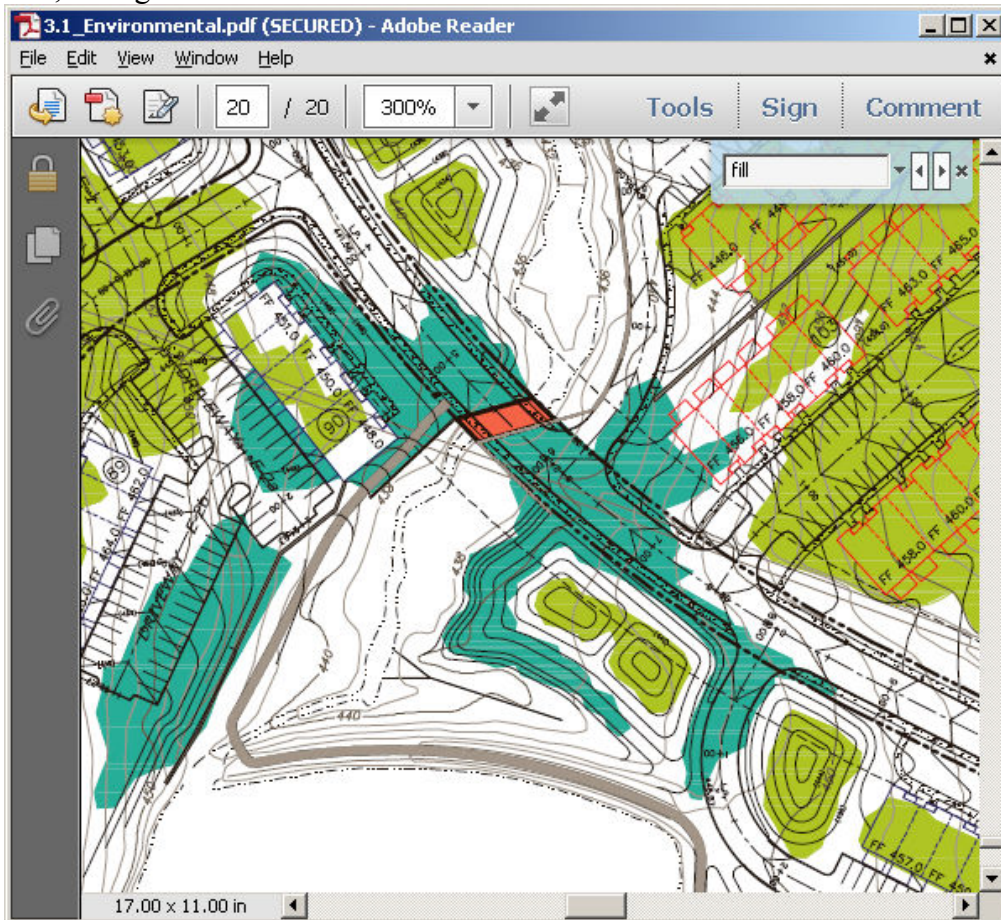
The following is from Figure 7 of the Final Site Plan for the Condominiums and shows that this retaining wall is <50' from the pond edge. With the new Dam OWHM this distance will be even closer.



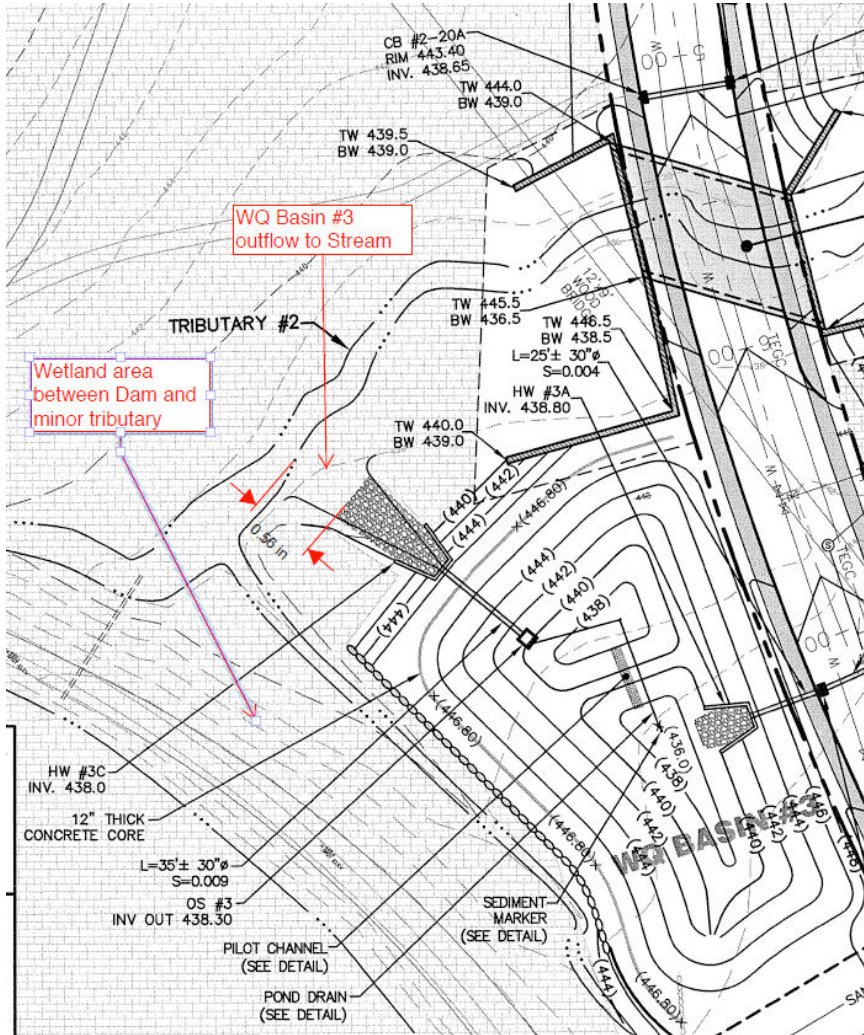
Culvert #1 - Road B Stream Crossing North of Pond Dam

Current application does not show cut and fill plans but show that this culvert is still planned in the same location. Area on north side of dam has wetland properties and should be evaluated prior to approval.

The following screen shot shows a planned stream cross across Class B Stream from Pond. It was taken from section 3.1 of the DEIS Figure 3.1-7 Cut and Fill Analysis Map; dark green = fills, lime green = cuts.



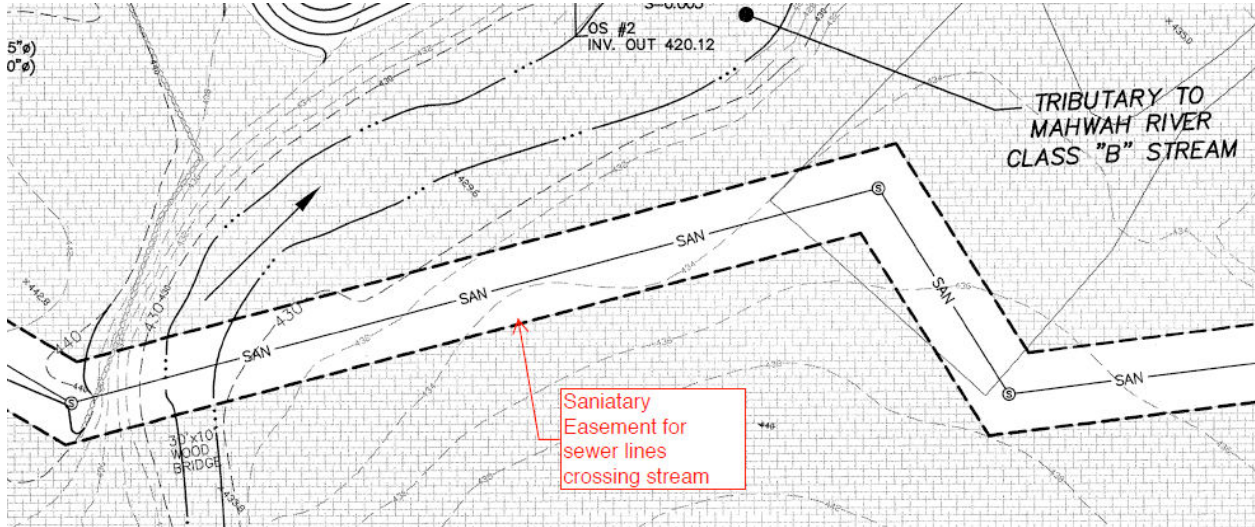
Following is an extract from the final Subdivision Plan Drawing #14 showing that this culvert is still planned for the project. This cu



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Along Stream North of Pond

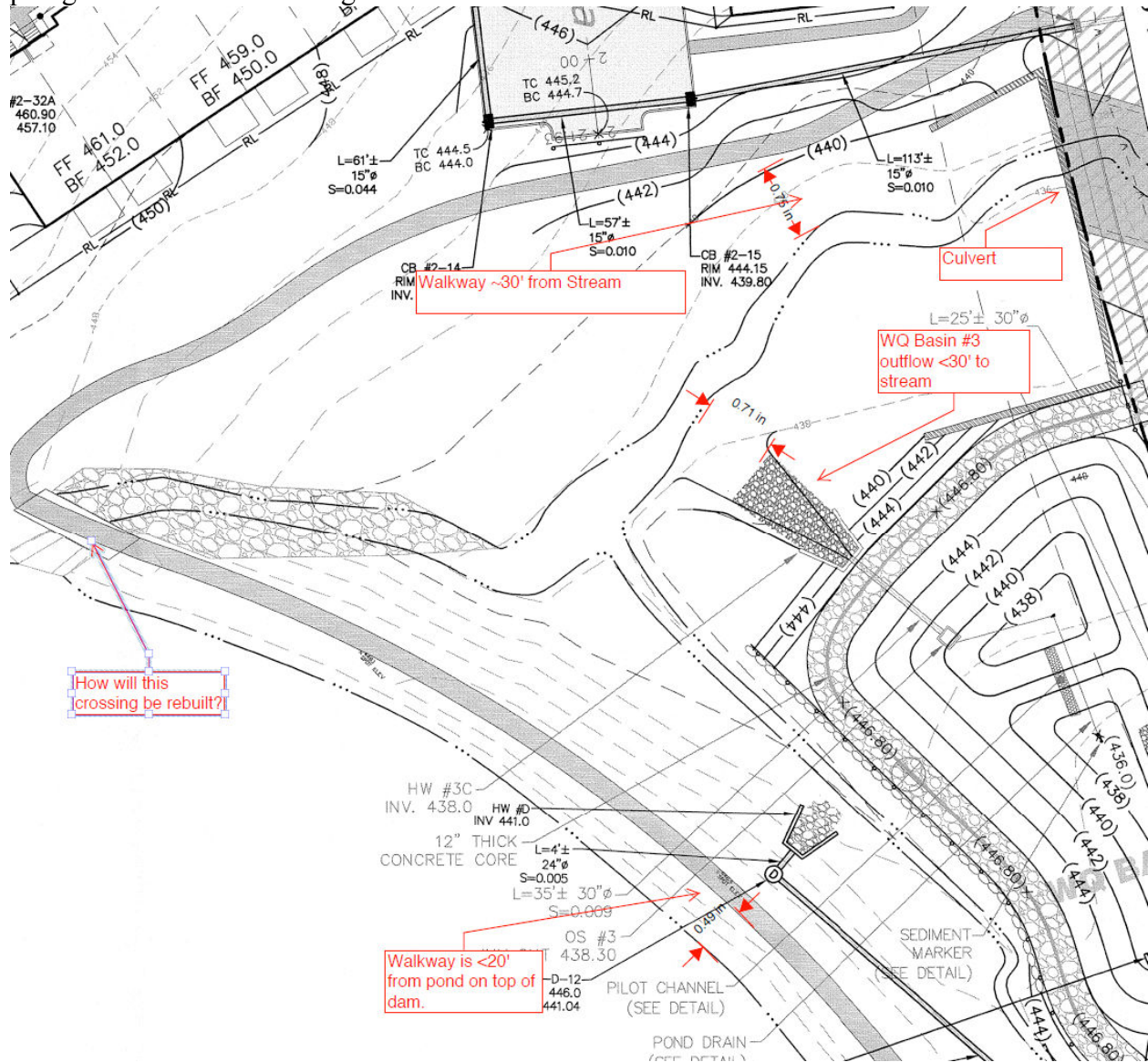
North of the pond dam but south of Location B there is a sewer line crossing the stream near building #54. This is taken from final subdivision plan drawing #14



Immediately north of dam is a minor tributary to the class B stream and this flat area is a potential wetland area. Water Quality Basin #3 is located here with an outflow located ~25' from the main stream. (See above section on WQ Basin #3)

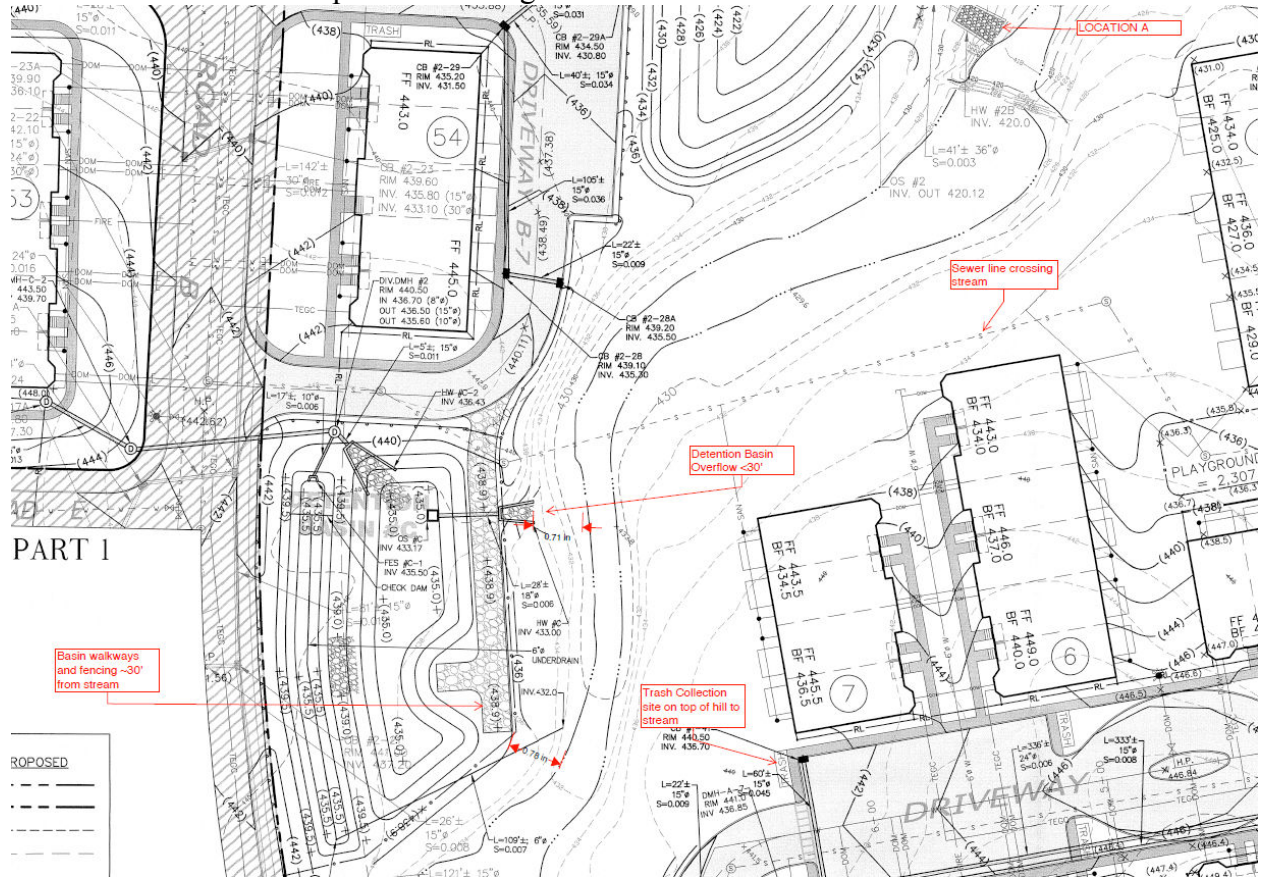
Dam Area Details from Drawing 7 of Condominium Site Plan – Grading and Drainage 1 of 5

DEC should ask for plans that include 50' boundaries to evaluate the walkway being planned approximately 30' from the stream and <20' from the stream edge, the culvert over the stream, and the drainage from WQ Basin #3. All of this is in an area where there are patches of phragmites and skunk cabbages.



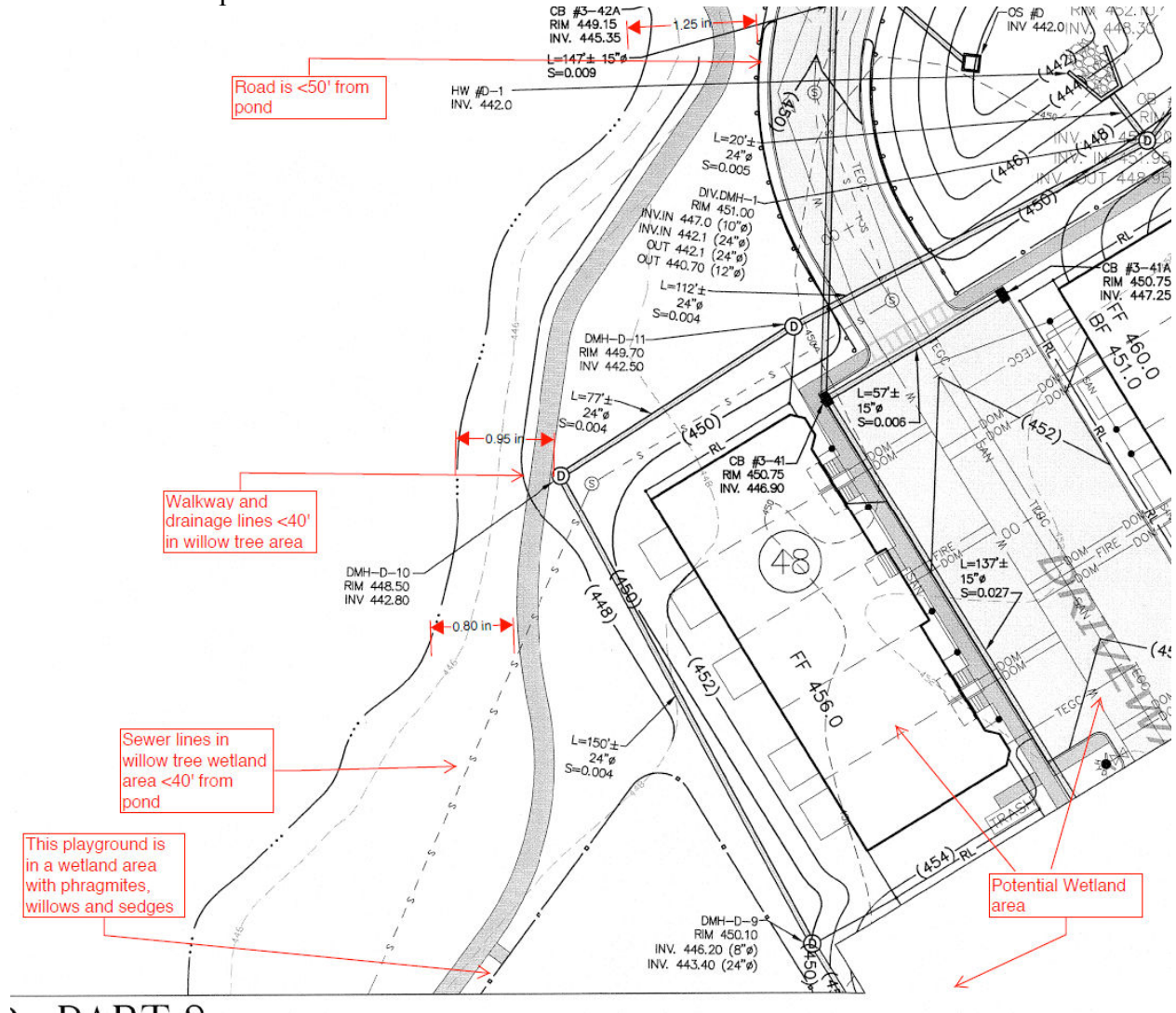
North of Dam Area with Details from Drawing #9 – Grading and Drainage 1 of 5

The details below show basin and walkways <30' from stream, sewer line crossing stream and trash collection area at top of hill leading down to stream.



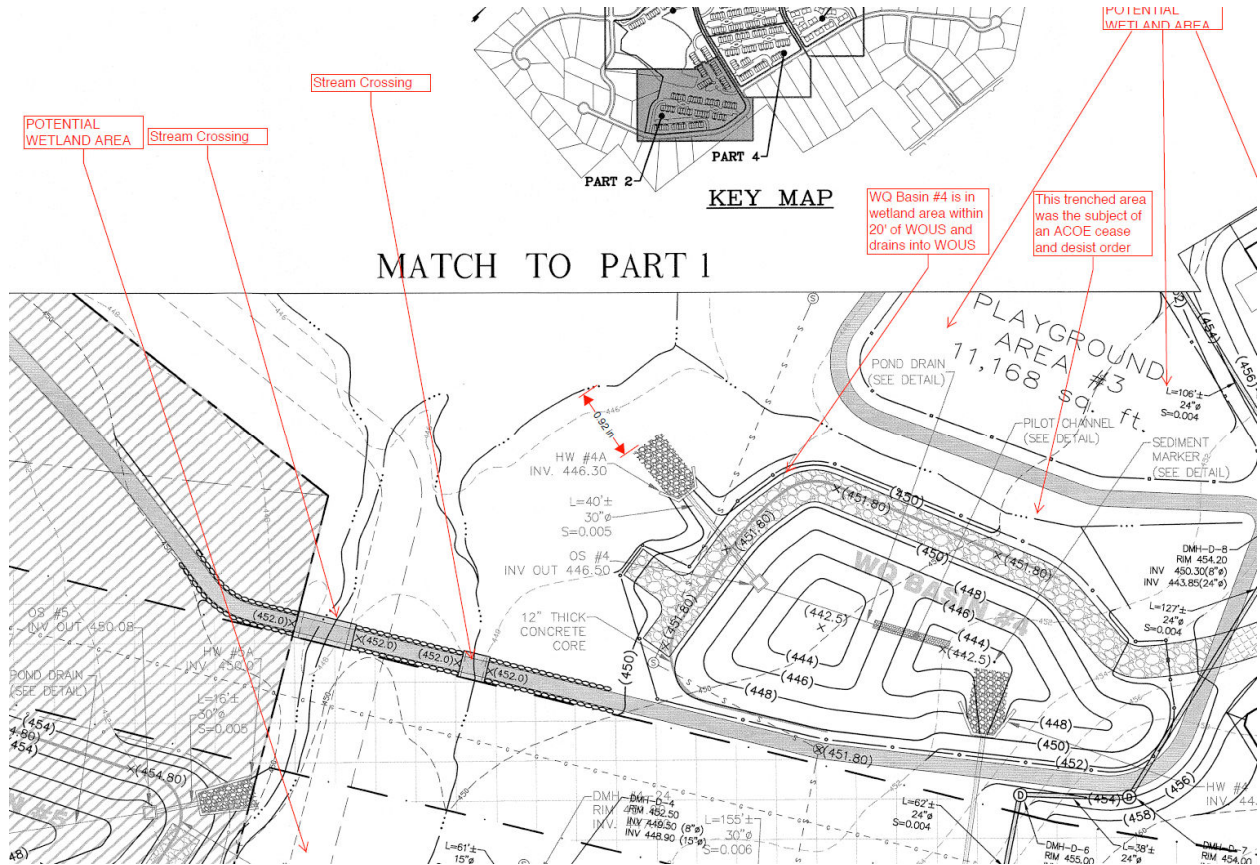
Playground, Buildings, Road, Utilities to the east of Pond in Willows Wetland Area - Details from Drawing 7 of Condominium Site Plan – Grading and Drainage 1 of 5

The following shows a road still <50' from pond edge, walkway and sewer lines <40' from pond edge and in area of large willow trees, and playgrounds, buildings and a driveway in an area where there is dispute over the existence of wetlands.

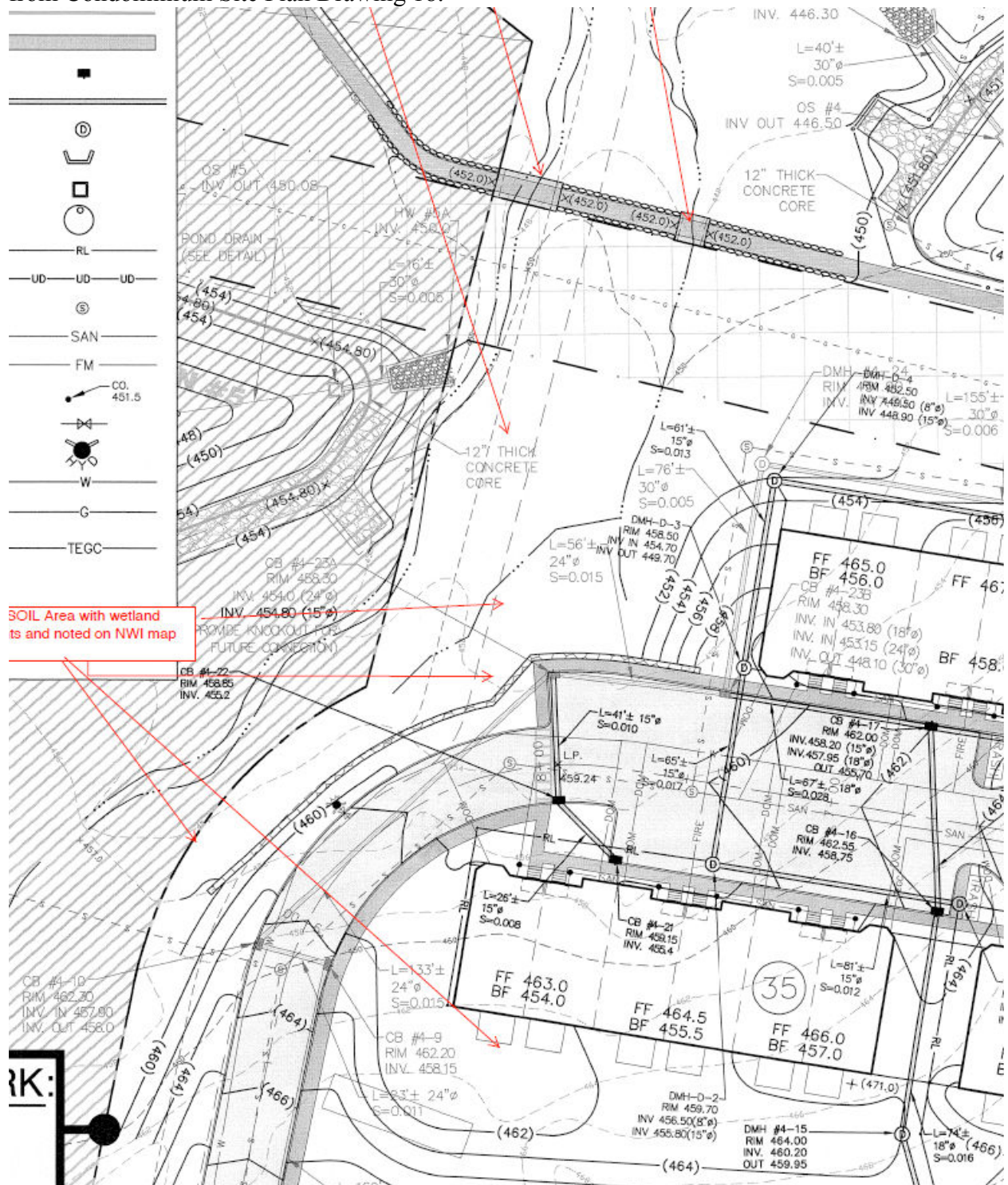


Areas south and south east of the pond from Condominium Site Plan Drawing #8

The following shows the detail of the planned development for the area to the south/southeast of the pond where two tributaries converge into the pond in a wetland area. WQ Basin #4 outflows <40' from the pond edge as drawn and is being built adjacent to area subject to ACOE cease and desist order in 2004.



South of this section in areas of Alden soil and where there is a wetland noted on the NWI maps and where wetland plants have been observed there are buildings and road planned. This is also from Condominium Site Plan Drawing 18.



Aerial photos

Aerial photos show that pond extends up to the trees and that all flattened area to south of pond should be in the beds of the pond. There is a fundamental question as to whether the pond maps are accurate. If there planned development wasn't so very close it might not matter, but since the development is up to and in the 50' drawn edges of the pond and streams, confirming the boundaries is extremely important.

Note: The willow photos of 1996 show that the wetland area was healthier before the applicant dug trenches through those wetlands.

<https://www.dropbox.com/s/nrfkjb965n1t7du/PatrickFarm-1996-16.jpg>

<https://www.dropbox.com/s/h48zwlhfk8fvc4c/PatrickFarm-1996-17.jpg>

<https://www.dropbox.com/s/1xwndh1kw65yz66/PatrickFarm-1996-19.jpg>

Winter Hi-res:

<https://www.dropbox.com/s/9bepj2y0i9as87m/LeeRoss%20PF-hires-4474.jpg>

Winter Hi-res:

<https://www.dropbox.com/s/po7s0tl7goas9fh/LeeRoss%20PF-hires-4479.jpg>

Wetlands along stream south of pond:

<https://www.dropbox.com/s/7a6t5qc6m5ynzhm/Lee%20Ross%20PatrickFarm-4899.jpg>

August Pond Shot – Phragmites along gas easement can be seen

<https://www.dropbox.com/s/n843whyhv7bj98w/patrickFarm-6384.jpg>

Good winter shot showing all streams – illustrates the impact of time of year on outline along south/southeast of pond

<https://www.dropbox.com/s/mbta45p6gg7u1lq/LRossAerial2005WinterPond%20toWetlandClassBStream.jpg>

South of pond –

<https://www.dropbox.com/s/ati8jnz0wiwnesx/2011-04-14%20LRossAerialSpring%20SouthOfPond.jpg>

April Shot, pond is full, Willows Blooming and wetland grasses look different than other mowed grasses

<https://www.dropbox.com/s/fn107mrkpp0mgbd/2011-04-05%20LRossAerialSpring%20NorthOfPondToStreamAcross202.jpg>

The following list of people signed an online petition posted last Monday 11/19/2012 that states:

We respectfully request that the Department of Environmental Conservation hold a Legislative Public Hearing on the Patrick Farm Application (for Permits/Determinations to undertake activities affecting streams, waterways, waterbodies, wetlands, coastal areas and source of water supply) (“the Application”).

This Public Hearing should be followed by an Adjudicatory Hearing to examine the critical issues raised by the Application. There exists a “significant degree of public interest ” concerning this Application, meriting a Legislative Hearing. See 6 N.Y.C.R.R. § 621.8(c).

Each of the undersigned has concerns about the Application and its impact on the environment, human and community resources and deserves the opportunity to be heard. See E.C.L § 8-0103. Moreover, the Application raises “substantive and significant” environmental issues.

The Application has the potential to adversely impact matters of public concern, including, stormwater management, water quality (including, potentially, drinking water quality) and wetlands. Thus, there is a reasonable likelihood that the Application must be denied or granted only with major modifications, requiring an Adjudicatory Public Hearing. See 6 N.Y.C.C.R. § 621.8(b). These specific issues will be further developed during the Legislative Hearing and comment period.

In order to prohibit Internet robots from participating we turned on a double opt-in method that forced the user to click on a link in a confirmation email before it generated an email to the attention of the DEC at email address: r3dep@gw.dec.state.ny.us

We have included all signors below as of 2:00 pm on 11/26/2012 and hope that the NYS DEC recognizes the intent of all signors to participate in this process and will accept all names.

