

A. Roll Call

Present: Brendan Magnan, Daniel Bedeker, Jim Connors, Dave DeFlumeri, Heather Donaldson-Gladue, Steve Munson, Lisa Tryon and Julie Valvo.

Absent: Ranjit Bhawe and Matthew Connors.

Also Present: Joe Griffith, MaryRose Palumbo and Lisa Streit.

Magnan called the meeting to order at 7:30 p.m. and deemed there was a quorum.

Magnan reviewed: As we continue to host remote meetings, she wanted to take the opportunity to highlight a few guidelines to ensure business runs efficiently and that all statutory and administrative rules are followed:

1. In accordance with the Freedom of Information Act and Governor Lamont's executive orders, this meeting is being recorded and will be made available on the City of Milford website.
2. During this meeting, if members of the Inland Wetlands Commission would like to speak, please utilize the "raise your hand" feature via Zoom. All participants will be muted during the meeting unless recognized by the Chair.
3. After being recognized to speak, please state your name and address prior to making a statement.

B. Pledge

All stood for the Pledge of Allegiance.

C. Public Comments

None.

D. Old Business

Magnan reviewed the rules of a Public Hearing:

- This is a continuation of the 6/21/23 Public Hearing for 0, 305 and 325 Sub Way. The hearings were kept open for submission and review of the following information:
 - The engineering for the parking and stormwater treatment, in S&E and cross section, lighting plan for Alternative 2
 - How many established trees in the proposed northern parking area would need to be removed.
- Thank you everyone for coming and having an interest in the process.
- Please note that this Formal proceeding, I ask that everyone please be respectful of the process.
- Everyone has been muted on entry and we ask that you stay muted to avoid background noise unless you are recognized by the Chair to speak.
- The applicant and their consultants will give their presentations and then the public will be asked to speak in order of:
 - those for,
 - those against, and
 - those neither for nor against who have questions on the application.
- Reminder that comments are limited to 5 minutes.
- This is not a back and forth discussion. The applicant and their consultants will address the public's questions during rebuttal.

- Reminder that the Inland Wetland Agency is made up of citizen volunteers. Commissioners have taken CT DEEP inland Wetland Commissioner Training and attended training by the CT Association of Conservation and Inland Wetland Commission and the CT Bar Association on the CT Inland Wetlands Statutes.
- Please respect the process.

A motion was made by Connors, seconded by DeFlumeri to hear items IW-23-028, IW-23-0029 and IW-23-0030 together. The motion carried unanimously by roll call vote. It was noted that Commissioner Connors, Munson and Donaldson-Gladue reviewed the information and tapes of the previous meeting.

1. **IW-23-0030: 0 Sub Way, Robert Scinto** – Proposed construction of a 160,000 square foot warehouse and office facility with associated parking, drainage, and grading in and within 150' of a wetland and watercourse in the Beaver Brook Watershed.
2. **IW-23-0029: 305 Sub Way, Robert Scinto** – Proposed construction of a 160,000 square foot warehouse and office facility with associated parking, drainage, and grading in and within 150' of a wetland and watercourse in the Beaver Brook Watershed.
3. **IW-23-0028: 325 Sub Way, Robert Scinto** – Proposed construction of a 160,000 square foot warehouse and office facility with associated parking, drainage, and grading in and within 150' of a wetland and watercourse in the Beaver Brook Watershed.

MaryRose reported that at the last meeting the Agency requested that the following be submitted for review:

- The engineering for the parking and stormwater treatment, in sedimentation and erosion and cross section, lighting plan for Alternative 2.
- How many established trees in the proposed parking area would need to be removed.
- That information along with the City Engineers' review are in the document links.

Magnan called for the Applicant's presentation.

Attorney Kevin Curseaden, Curseaden & Moore, LLC, 3 Lafayette Street, Milford, CT representing R.D. Scinto, introduced the consulting team and stated that they met with MaryRose and the City Engineer and reviewed alternate 2 plans.

Manny Silva, Civil Engineer with Rose-Tiso & Co., LLC, 35 Brentwood Avenue, Fairfield, CT, speaking to SP1 Revised 7/17/23. He reviewed and discussed the parking north of the driveway. They are proposing using a retaining wall instead of grading to the wetlands to preserve trees and move 4 spaces over to the area where the existing building is in order to leave the area wooded. They were asked to put some "no snow push or storage" signs in several areas adjacent to the wetlands. The gravity wall for the parking area and the swale from the detention pond in the rear were reviewed. The cross section on the South (Ice Rink) side of the property where the adjoining property is higher was reviewed as well as the haybale check dams for the discharge points adjacent to the wetland areas. A color version of the updated lighting plan was shared, showing 0.0 light spillage onto the wetland area as well as the cut sheet of the lighting fixtures for D-Series Size 1 LED Area Luminaire. He described the house side shield and how the light can be directed to the front only. The plan has essentially the same stormwater system with an additional catch basin in the northern parking area.

William Kenny, Wetlands Soil Scientist and Landscape Architect of William Kenny Associates, 195 Tunxis Hill Cutoff South, Fairfield, CT, stated that he focused on changing his drawings to the revised plans Mr. Silva just reviewed. He added a Bioretention Planting Plan drawing for the plunge pool and bioretention basin in the rear of building. Speaking to Alternative Wetland Mitigation Plan - proposing 74 trees to be planted in this area. In the proposed parking lot north of the driveway Mr. Silva has removed 4 spaces and put in a retaining wall to pull back the forest disturbance quite a bit. They are proposing an evergreen screen to protect the sunlight from reaching the forest floor. They went back to the property and reviewed the trees 12" and larger and found that nearly half are beech trees. They will be replacing more than twice the trees that they are removing. All or many of them are infected with the beech leaf disease which arrived in CT in 2019. It is a nematode that lives in the bud of the tree and overwinters, severely impacting leaf production and causes significant stress to trees. There have been studies finding the saplings will only last 3-5 years and the mature trees a little longer. This is a significant factor in this area where they are proposing the parking lot. This disease could lead to their mortality in the next couple of years.

Chairman Magnan called for those to speak in **opposition**:

- This is not a back and forth discussion. The Applicant and their consultants will address the public's questions during rebuttal.
- All discussion is through the Chair
- Please keep questions and concerns focused on matters within the Inland Wetland Agency's Jurisdiction: wetlands, brook, river, flooding, and wetland soils. Zoning Issues such as density, and traffic are not under IWA review.
- Reminder that comments are limited to 5 minutes.

Diane Prior, 5 Audubon Close, Milford, CT

Thanked the IWA for all of their work and that it is appreciated. She is looking at the new plans and from her notes she is concerned that the natural watershed area will be changed no matter what. With the removal of the trees, unless full grown trees are planted, she has concern about the loss of the root systems to filter for the wetlands and hold the earth together.

Chairman Magnan called for those to speak in favor / proponents:

None.

Chairman Magnan called for those to speak unclassified (neither for nor against)

None.

Chairman Magnan called for the **Applicant's Rebuttal**.

Kenny showed the Alternative Wetland Mitigation Plan. The green dashed line is the limit of the woodland today. The proposed parking lot, the pavement and retaining wall will protect the soil from erosion. There is no erosion with a paved surface. There is a stormwater management plan with a modern system to collect, clean and hold the water to ensure that there is no flooding downstream and gets filtered down to ground water and slowly to wetlands. It is cleaned and cooled and this is the accepted practice. The stormwater system replaces filtering of trees. Shade trees are being added to the left of the parking lot that will grow large over time. Along the edge will be spruce trees that will help shade the forest. They will provide soil stabilization once established and prevent erosion.

Magnan called for those to speak **against**/opponents:

Diane Prior, 5 Audubon Close, Milford, CT stated that there is an awful lot going on that is compensating for trees and a lot of trouble to redo nature.

Magnan called for those to speak unclassified (neither for nor against)

None.

Magnan called for those to speak in favor / proponents:

None.

Magnan called for the **Applicant's Rebuttal**

Kenny stated that he would like to speak to the context of this agency; through careful consideration and planning with Agency, Public and City Staff. They have gone through the process. Initially they were going to lose the entire wetland south of the proposed parking lot. Now they are proposing to preserve most of it and expand it and he believes this is the best plan of the 3. Nearly half of the trees are severely impacted now.

Chairman Magnan called for Agency members questions:

Tryon stated that there are 3 different plans and asked if there is a 4th option; if the building was altered. Attorney Curseaden stated that they did discuss that with the identified user and with their required space and size, reducing the square footage is not an option. Scinto stated that the tenant wanted a larger building and was told that this is the best we can do, it can't be made any smaller.

Magnan stated that a number of options have been discussed in the first and second public hearings. Bedeker stated that his concern was the number of trees and he can see that with the plans to mitigate loss and have enhancements, his concerns have been alleviated with Alternate Plan 2.

A motion was made by Donaldson-Gladue and seconded by DeFlumeri that the public hearing for IW-23-0030, 0 Sub Way; IW-23-0029, 305 Sub Way; IW-23-0028: 325 Sub Way be closed. The motion carried unanimously by roll call vote.

Connors stated that he likes the new plan and feels it is a plus with the new trees. Magnan agreed and feels it is a net improvement further stating that he had reservations but feels Mr. Kenny's presentation addressed improvements with the design.

Munson stated that the spruce trees on the eastern side of the parking will provide quite a bit of shade and is a great tree to have over time and feels over all it is a good plan. Donaldson-Gladue agreed that the plan looks good and there are a lot of good improvements.

Magnan stated that the IWA started with no predetermination and held 6 hours of Public Hearings plus tonight as well as numerous staff meetings. The applicant responded to the concerns and there has been great input from the public. He commended the Attorney and their team for their expert testimony and

he is in favor of Alternate 2. It is the IWA's mandate to protect wetlands and he feels Alternate 2 is the best plan for that.

The following motion was made by Connors and seconded by Donaldson-Gladue:

After duly considering all relevant factors, moved to approve Alternate 2 for applications IW-23-0030, 0 Sub Way; IW-23-0029, 305 Sub Way; IW-23-0028: 325 Sub Way based the information in the file and presented at the public hearings and the plans entitled: "*Warehouse Facility 305-325 Sub Way prepared for R.D. Scinto*" by Rose Tiso & Co., 9 sheets dated 3/16/23 rev 7/14/23 "*Wetland Mitigation Plan prepared for R.D. Scinto 305-325 Sub Way, Milford, Connecticut*" by William Kenny Associates, 2 sheets dated 6/30/23 rev 7/18/23 for the following reasons:

- The existence of the building does not pose long-term adverse impact to the wetlands and the short-term impacts during the construction phase are adequately addressed by the information submitted in the file and presented at the public hearings.
- The proposed loss of 0.22 Acres of wetland is mitigated by the creation of 0.29 sq. ft. of wetland adjacent to existing wetlands north of the driveway.
- The proposed improvements to the stormwater system will reduce impacts to wetlands on and off of the site from runoff.

The short-term impacts during the construction phase shall be mitigated by the following conditions:

- The Permittee must submit the following information within 90 days of final approval:
 - A construction plan, including "no snow storage or push" signage adjacent to wetlands
 - A spill control and prevention plan
 - A mitigation monitoring plan with goals and criteria to measure success of the plan.
 - Proposed stormwater and water quality system maintenance plan
 - Spill prevention and clean-up plan
 - Proposed mitigation monitoring bond
 - Proposed permit construction bond
- Soil Erosion and Sedimentation controls as outlined on the plans and in the CT DEP "*2002 Erosion and Sedimentation Control Guidelines*" must be installed and maintained on the site until the property is stabilized.
- Copies of sedimentation and erosion control inspection logs signed by the permittee and the qualified inspector must be kept on site and submitted to the MIWA weekly and within 48 hours of a precipitation event.
- Compliance with the City Engineers requirements for stormwater.
- Stormwater treatment must be installed as approved on the plans unless any changes are approved in writing prior to making that change.
- Wetland notification to be placed on the asbuilt and in the property deed to give notification to property owners that permits are required from the MIWA to work on the site. Documentation to be submitted to the MIWA office prior to bond release.
- A construction bond to be calculated must be posted with the MIWA for S&E controls, wetland boundary markers and an asbuilt showing finished 2' contours and locating all site structures. A mitigation monitoring bond to be calculated must be posted with the MIWA prior to site disturbance for mitigation plantings and a minimum of 5 years of mitigation monitoring by a professional wetland scientist with reports to the MIWA twice a year for a minimum of 5 years. Report to include the status of the site and any recommended corrective actions or amendments to the mitigation plan for the best stabilization of the site. If there is recommended corrective action there must be an inspection and a report by the professional wetland scientist within 1 week of the

corrective action being taken. If the site has not met the criteria as outlined in the plan by or at the end of year 5, this bond may be held for an additional 5 years or until such time as the site meets the design criteria, whichever is later, with reports continuing twice a year to confirm status.

- In constructing or maintaining any structure or facility or conducting any activity authorized herein, the permittee shall employ best management practices to control storm water discharges, to prevent erosion and sedimentation, and to otherwise prevent pollution of wetlands and watercourses. Best Management practices including but are not limited to practices identified in the *Connecticut Guidelines for Soil Erosion and Sedimentation Control as revised, 2004 Connecticut Stormwater Quality Manual*.
- The Permittee must submit a certification by the Project Engineer that the completed project meets the design intent of the approval prior to bonds being released.
- The permit is issued 7/19/23 expires 7/19/28 unless otherwise provided by Statute.

That is my motion.

The motion carried 7 to 1 by roll call vote with Tryon against.

A motion was made by Connors, seconded by Donaldson-Gladue to hear item F next on the agenda. The motion carried unanimously by roll call vote.

F. Minutes

A motion was made by Connors, seconded by Donaldson-Gladue to approve the minutes of 6/21/2023 as presented. The motion carried unanimously by roll call vote.

A motion was made by Connors, seconded by Donaldson-Gladue to approve the minutes of 7/05/2023 as presented. The motion carried unanimously by roll call vote.

E. New Business

1. **IWC-23-0005: 1 Avalon Drive; Woodmont Road Owner, LLC** – clearing of trees disturbing the natural and indigenous character of the wetlands and watercourse with work in and within 100' of a wetland and watercourse in the Indian River Watershed.

MaryRose reported that this a violation issued 7/17/23 to Merion Residential for clearing work in and within 100' of a wetland and watercourse in the Indian River Watershed. Based on a complaint the Zoning Officer and MaryRose met Tom Capasso from Capasso Landscaping onsite on 7/17/23 after speaking with the District Manager for Merion, Jim Capra. Pictures were viewed from the site walk of 7/17/2023. This site was developed in 2003-2004 by AvalonBay under IWA permit IW-A-98-084. The vegetation and plantings approved under the 1998 plan between the Recreation Center / pool area and Woodmont Brook have been cleared and the soil is open. A silt fence was installed upgradient of the stream and a portion of the way between the disturbed soil and the remaining vegetated area. The erosion controls are now in the length of the disturbed area to protect the brook.

MaryRose spoke with Mr. Jim Capra from Merion Residential who stated that the area had become overgrown with vines and they had proposed to replant the area with meadow and pollinator plantings. Mr. Capra was unable to attend this evening. Mr. Capasso is here to answer any questions.

Capasso stated that they would like to remove debris, stabilize the ground and reinstall plantings from the original plan. The area has overgrown over the years. Magnan questioned why they did not come to the IWA prior to doing the work. Capasso stated that they just started doing tree work and landscaping and it turned into a bigger project. They would like to use the original plan.

MaryRose stated that significant trees have been lost. She reviewed the area that is overgrown with vines and has been neglected. The grass area is gone and quite dense. Magnan stated that he is ok with removing invasives but that a viable plan is needed. MaryRose noted that the plan is from 1997/1998 and the wetlands may have changed. Connors asked how open it is by the culvert. MaryRose stated that it is more wide than deep and reviewed the pictures of this. Connors stated that it would be advantageous to stabilize the area with rip rap while the area is open. Capasso asked if he could remove the pile of debris and stabilize with grass. MaryRose stated that it would take a while to get plans and the information requested and would like the area stabilized.

This evening the agency can:

- Ask questions.
- Uphold the violation.
- Modify the violation.
- Release the violation.

The following motion was made by Connors and seconded by Donaldson-Gladue:

I move to uphold cease-and-desist order IWC-23-0005 1 Avalon Drive, be upheld and modified to require that the property owner be ordered to:

1. By **8/10/23** Hire a certified soil scientist or professional wetland scientist to determine the current limits of the wetlands and watercourses on the properties and a to submit a report on the status of those wetlands.
2. No later than **9/14/23** Submit an A-2 survey with T-2 accuracy performed, signed, and sealed by a professional licensed land surveyor in the State of CT showing the following information at a minimum for the disturbed area:
 - a. Existing site improvements
 - b. Property boundaries including all easements.
 - c. Wetlands line as delineated by a certified soil scientist or professional wetland scientist.
 - d. Limits of recent wetland disturbance.
 - e. FEMA Flood Zone Line
3. No later **9/14/23** submit a detailed mitigation and planting plan for review and approval by the MIWA to restore and stabilize the wetland and watercourse. Plan to be designed by a professional wetland scientist and engineer and include at a minimum:
 - a. Stabilization of soil.
 - b. Planting native vegetation into the disturbed area.
 - c. Proposed timeline for execution of the mitigation plan to plant and stabilize the disturbed area including three years of twice a year monitoring by a professional wetland scientist.
 - d. Draft planting and mitigation monitoring bond calculation. Bond to be posted to guarantee that the shrubs live for three years, and monitoring reports are completed in a timely manner.
 - e. Outline of responsibilities of property owner for watering and maintenance of plantings to ensure survival.
4. Property owners can remove the stockpile onsite

5. Topsoil straw and seed to stabilize the site while waiting on the requested information
6. Property owners shall obtain all permits, including, but not limited to, Inland/Wetland, Planning & Zoning, and Building, that may be required to resolve and legitimize the site work.

That is my motion.

The motion carried unanimously by roll call vote.

H. Staff Report

MIWA Clerk Taft Clark has created a reference page for you all to access. The link is [HERE](#). The page contains:

- MIWA meeting dates (first and third Wednesday at 7:30 pm)
- MIWA Regulations
- MIWA Bylaws
- Milford Ethics Commission Guide
- Past memos from the City Attorney's office on Inland Wetland legal questions and cases
- Training opportunities with CT DEEP and UConn for land use commissioners.
- MIWA webpage
- Milford YouTube page (MIWA meeting videos are available here)
- MIWA meeting Zoom link

The office has been working on a number of inquiries, complaints, minor reviews, and other reports.

Site Status:

Project Site	Status	Monitoring Reports	
		Last Received	Final Due By
1553 Boston Post Road	Asbuilt received		
30 Bridgeport Ave	Ongoing		
0 Cherry St/Jefferson Park	Ongoing		
67-69 Cooper Ave	Ongoing		
94 Edgewater Place	Ongoing		
201 Kings Highway	Ongoing		
104 Lavery Lane	Plantings in, seeded, not yet established.		
32 Alexander Drive	Ongoing		
16 Marsh Street	Asbuilt received		
114,122,124,128 Merwin Ave	Ongoing		
40 Morehouse Rd	Permit taken out		
690 New Haven Ave	Asbuilt received	6/23	6/26
33 Pearl Street	Asbuilt received		
8 Pepe's Farm Road	Ongoing monitoring.	June 2023	Nov 2023
0 Quarry Road	Ongoing, lot 1 & 2 completed, lot 3 under construction		
0 Terrace Road	Waiting on final review.	Spring 2022	Complete
161 W Rutland Rd	Ongoing-several lots have been sold off and individual owners are coming in with minor	Waiting on reports	

	modifications to the proposed sites. In all cases no work has been proposed in the conservation wetland areas. Issue with stormwater association to be worked out with developer/lot owners before bond release.		
Wheeler Farms Rd	Waiting on final review		
523 Wheeler Farms Rd	Ongoing.		

Please remember to call or email if you are unable to attend a meeting.

H. Chair Report

The next meeting will be a Regular Meeting on August 02, 2023 via Zoom.

Please let the office know if you cannot attend and get any questions you have on the applications to MaryRose so that she can forward them to the applicants.

There being no further business to discuss, a motion was made by Connors seconded by Donaldson-Gladue to adjourn at 8:55 p.m. The motion carried unanimously by roll call vote.

Respectfully submitted,

Lisa Streit

These minutes have not been accepted or approved.