

Minutes of the Public Hearing and Regular Meeting of the Inland Wetlands Agency on May 13, 2015.

A. Roll Call

Present: Cathy Collins, Jim Connors, Ken Cowden, Dave DeFlumeri, Carol Dunn, Brendan Magnan, Justin Margeson, Daniel Schopick and Steve Munson.

Absent: Allan Cegan and Lily Flannigan.

Also Present: DPLU Director Joe Griffith, Dr. Michael Klemens, MaryRose Palumbo and Lisa Streit.

Collins called the meeting to order at 7:30 p.m. and deemed Dunn and Schopick the voting alternates and Schopick Acting Parliamentarian.

B. Pledge

All stood for the Pledge of Allegiance.

C. Public Hearing



Collins reviewed the following:

- This is a public hearing, it is a formal proceeding, please respect the process by only speaking when you are called upon and giving your name and address for the record when you speak, spelling as necessary for the Recording Secretary. If you must talk to each other during the meeting please be courteous and go outside in the hallway so as not to disturb the other members of the public and the Agency who would like to hear the presentation.
 - Explanation of the Rules: (applicants will present their proposal, when they are finished the public may speak for and then against the application. The applicant will then rebut /answer the questions *after* all members of the public that wish to speak have spoken (there is no give and take between the applicant and the consultants). The public that has already spoken may then speak again to the issues that were covered. Then the public portion of the meeting will be over and the Agency will ask their questions of the applicant.
 - Please speak only to items in the jurisdiction of the MIWA - wetlands, watercourses, and wetland habitat. Zoning Issues are not under our review.
1. **IW-A-14-076: 701 North Street, Stone Preserve, LLC** – proposed residential community with construction, parking and grading within 150' of an offsite wetland or watercourse in the Wepawaug River Watershed.

MaryRose reported that this application was withdrawn yesterday afternoon. The applicant has stated that they will be reapplying. She asked board members to hold onto the plans, reports and notes for this item.

2. **IW-A-15-005: 0 Wheelers Farm Road, Wheelers Woods, LLC** – proposed 180 unit apartment complex with work within 100' and 150' of wetlands and watercourses in the Housatonic River and Wepawaug River Watershed.

MaryRose reviewed that this application was received on 2/4/15, was first heard by the IWA on 2/18/15, site walk dates were set and cancelled due to snow covering the site and extensions were received by the applicant past 4/10/15 which was the 65th review day to 5/13/15 to open the public hearing.

The file contents list is in the file and available in the MIWA office. The certificates of mailing were received on 5/5/15.

The IWA walked the site on April 28, 2015, the weather was clear and warm. MaryRose walked the site 5/13/15 with Jim Connors; the weather was warm and clear. They looked at the farm pond, VP2, VP3, the wetland area and the relationship of buildings 1 and 2 to the wetland and the existing sanitary sewer line. They viewed the wetland and VP 4 area by the easement and the relationship of the corner of building 4. They then looked at VP2 from the side adjacent to garage #3. They then went around to the rear of the property and viewed the relationship of VP2 to buildings 8 and 9.

Attorney Tim Hollister reviewed 4 items that were submitted:

The 1/23/15 application

The one page summary of the presentation

The 11 x 17 site plans revised 4/10/15

Supplemental material dated 5/13/15

The supplemental material:

- Letters to the City Planner, City Engineer and Fire Marshall listing revisions.
- Sewer approval.
- Memo and map showing compliance and earth work.
- Specific response to any impact on wetlands from blasting.
- Conservation easement of 11 acres of the 26 acres; proposed declaration subject to City Attorney approval.
- An overlay of the office building approved in 1986 and current conditions.
- Qualifications of Mr. Root and Mr. Davison.

John Gilmore, PE with Milone and McBroom, reviewed and oriented the site plan. This is a 26 acre site with primary access at Wheeler's Farm Road and a second entrance at East Rutland Road where the sewer line is. He proceeded to orient the site location; Crown Corporate Campus is north of the site, 440 Wheeler's Farm Road – office building and private property, Milford Parkway. A CT Light and Power high voltage line crosses the site. He reviewed tab 6 of the report and 2 maps. 440 Wheeler's Farm Road was part of this site at one point totaling 40 acres. 2 buildings were proposed and approved at one point. The approved site plan dated 9/11/87 was reviewed and superimposed on the current plan (LM1) and showed that some areas are closer to the wetlands in the old plan.

A 1990 aerial plan showed building 440 Wheeler's Farm Road and reviewed the excavation site assuming to have been used for 440 Wheeler's Farm Road.

A 2004 aerial photo was viewed and showed the excavation site establishing vegetation. The majority of the site is in the Wepawaug River Watershed and represents 2 tenths of one percent (.002) of flow. The sewer system on site was reviewed as well as the sanitary

sewer easement and pump station. There is ample capacity and this has been approved by the Sewer Commission. There are 9 residential buildings with 180 apartments proposed with 7 detached garages. Buildings 8 and 9 will have parking below the unit. There will be a clubhouse, pool and patio. The project represents 28% of the parcel with 1.5 acres of pavement.

Tab 8 of the report in the application package was reviewed. There is a potential conservation easement dated April 2015; 11.5 acres to be deeded in conservation. The entire project will be sewered. Cognitive of water quality and flooding; the storm water management features and drainage flow was reviewed (Point A) Conservation area 1 is the main stormwater management feature. Approximately 20 acres drain to this area. A smaller stormwater management feature is adjacent to building 1. Approximately 2.5 acres drain to the smaller basin. The third smaller water feature is by building #4, where a small rain garden is proposed. The mitigation area was reviewed on Sheet LA1 and LA2. There are no direct wetland impacts. Upland disturbances were reviewed that are associated with grading. The limit of disturbance was reviewed. A full sized color coded plan of Tab 3 was reviewed showing the earth work proposed. There will be some rock excavation; 17,000 yards of cut is proposed and 35,000 yards of fill needed. With a net imported earth needed is 8,300 cubic yards. 17,000 yards of cut equals about 1" of the entire site.

Bill Root, Soil Scientist and Wetland Ecologist, with Milone and McBroom, Masters Degree from Yale and 20 years experience. He reviewed the overall aerial map as well as the wetland corridor through the site and the access drive that exists.

From Tab 4 of the application, a 1970 aerial was viewed and the site was farm land and an old farm pond. In 1990 Merritt Crossing is in Corporate Woods with a network of roadways and sewer line. The central wetland does not exist; it is newly man made. A 2012 aerial was viewed that showed re-growth with invasive species and some standing water. 6.5 acres of the site are wetlands; this was viewed on the plans. The wetland features were reviewed as well as a photo of the vernal pool by the parking lot. The man made farm pond was viewed. An isolated wet depression was created in 1990; there is variable hydrology now at the central portion of the site. Pictures of debris, concrete and algae encrusted water was viewed. Pictures from Tab 4 were viewed of the central wetland corridor, the power lines and the small wetland area. Sewer line access from East Rutland Road was viewed as well as vernal pool 4. DEP resource mapping was viewed; the site constitutes .002 of the Wepawaug River Watershed flow. A standard function and values analysis was done and reviewed. The central wetland is good for pollutant removal, local wild life habitat and small vernal pool area. There is a small intermittent watercourse. A map showing the location of where the box turtles were found was viewed. One male and one female were found on site. MaryRose questioned the existing conditions map submitted with the red line around it. Bill Root stated that this was the soil extraction area and provides low habitat value. Bill Root reviewed the regulated activities and impacts. Two small watercourses are already piped from the earlier planned development. There are 6.5 acres of wetlands out of a 25 acre site, 3 acres of regulated activity. 1.4 acres focuses on the central wetland. 1.6 acres is in the central wetland corridor. Buildings are 50 – 100' away from wetlands. The reason that their impact is so high is that the Milford Inland Wetland Agency has an abnormally high Upland Review Area. They are using the sewer easement as the limit of disturbance to preserve the mature trees. The area of disturbance is

to be replanted and provide better value than the current conditions. The re-vegetation plan has been submitted and there are no changes to the general hydrology to the site post construction.

In 2013 he began studying the vernal pools; Common wetland species including wood frogs and spotted salamander were found; low numbers of egg masses. Very low use; all are tier III vernal pools which is the lowest value, using Dr. Klemens rating system.

Alternatives – there are no direct wetland impacts so this is not required. Using the site in the north was considered but that would have direct wetland impacts. The plan preserves the mature buffer, is well thought out, protective of resources and mitigation is proposed. In his professional opinion he does not see significant likelihood of negative impacts to the wetlands.

Eric Davison, Wildlife Biologist and wetland Scientist with 16 years experience stated that he was hired to do a peer review of Milone and McBroom's plan. His report from 1/28/15 was submitted. In 2014 he came on board for the vernal pool study. He stated that himself and Dr. Klemens studied the site this year and he has seen a decline in diversity and abundance of vernal pool species from 2013 – 2015. 2014 data is included in his report which on page 8 of Tab 6. 2015 data is not complete they did an egg mass survey and minnow trapping. There were 7 egg masses for wood frogs on the entire site. A box turtle survey was conducted in 2014 and 2 turtles were found on site between vernal pools 3 and 4. This Friday he will continue work on the site. He has spent 8 days in the field; considerable amount of time on the site. He reviewed the site plan and made recommendations that have all been incorporated in the plan; sections 4 and 5 of the report. The turtles will be located and removed during construction with recommendations on lighting to protect the wildlife. Both vernal pool and eastern box turtle use forested habitat that will be removed and that could lead to a decrease in their numbers over time. He feels that there is a decreased number on site and their viability is questionable. He concurs with the findings of Milone and McBroom and does not feel there will be adverse impact.

Attorney Hollister stated that this is a good location for this development; this is an area that has been highly disturbed. This is one of the most thoroughly observed sites in his 30 years; a 3 year study and peer review is unheard of. They have been protective of the wetlands avoiding direct impacts and hope that the IWA appreciates the efforts.

Collins called for those **IN FAVOR:**

None.

Collins called for those **AGAINST:**

Carrie Akin, 579 Orange Avenue, would like clarification of a minimal amount of land affected. ¼ acre was discussed and she feels ¼ acre is substantial; a lot of people have this size yard. There are a lot of deer and wildlife in the area.

Stephen Povroznik, 312 Wheeler's Farm road, asked if all of the drawings and overlays are part of the record. MaryRose stated that they are. He further questioned the mention of

drums on the property and asked what is in them. He asked what would be done with the water from the swimming pool when it is not in use and how big is the pool. There is no protection of the turtles; in previous applications there was a road or bridge. He asked if the disturbance and water went down to Baldwin Swamp. He questioned a 3 year study; 2013-2015 is not 3 years nor is 8 days. He questioned that there would be no negative impacts on the wetlands; no impacts on their site, but what about downstream. He would like time to review all of the material and asked that the Public Hearing remain open.

REBUTTAL

Attorney Hollister stated that there is very limited impact on 2 wildlife species. Regarding the pool; state regulations will be followed to drain it. They do have protection of the box turtles. The storm water plan shows no increase in runoff. Regarding the study length; the study was for two full spring seasons and the 2015 season which equals three years.

John Gilmore stated that the pool is 1600 sq. ft. and back wash would go to the sanitary sewer system. Protection of the box turtles is in the plan in detail. There will be no negative wetland impacts on site or downstream. They have provided for no increase in peak of volume of runoff as required. The drums on site were crushed and rusted along with miscellaneous debris. The drums were crushed beyond examination

Eric Davison stated that the three year study is spring breeding seasons from March – May.

Carrie Akin, asked about the water pressure. MaryRose informed her that this was the wrong application. She was referring to the 701 North Street application.

Stephen Povroznik questioned the runoff and the square footage of impervious surface and if there is no increase in runoff, where will it go. He asked if a stormwater Commission had received a storm water report.

John Gilmore stated that an Engineering report dated 1/9/15 has been submitted. There are 50-60 pages detailing the increase in stormwater runoff. This increase has been mitigated by their water quality treatment and infiltration in the basin. They have designed this to the standards for 0 increase in peak and volume.

Agency member questions:

Magnan asked about the storm water treatment design snow shelf and snow treatment. Gilmore stated that there are designated snow storage areas but that 10 acres are being controlled with storm water management. There are catch basins with sumps, the pipe system to a fore bay area with a maintenance plan to the main detention basin with an outlet control structure. Magnan asked about sand and salt treatment and any impacts. Gilmore stated that the site is disturbed and sandy itself and the plan will be an improvement to the site. Magnan questioned that the plan will improve the water quality of the water flow to the wetlands. Gilmore confirmed that it would and stated that this is a rather aggressive plan.

Munson asked about the snow shelf area locations. Gilmore referenced sheet LM1 and stated that there were 12 or so locations on site. He reviewed this on the larger plan and showed 10 locations. Munson questioned if snow would be hauled away if need be. Gilmore stated that a storage for a 6-8" storm event is planned and beyond that they would have to remove. Munson asked where the snow from the NE would melt to. Gilmore stated that this would go to the detention basin; the NW would go to the fore bay system and proceeded to review all locations and flow.

Collins referenced the LA1 plan that shows trees where the snow storage area is. Gilmore stated that these are ornamental trees and can be looked at if it is a concern. Collins also noted that on the plan it shows a temporary puddle which is wetland area 2. Gilmore apologized and stated that surveyors go out and see a puddle; clearly it is a wetland. Bill Root stated that it is his term – temporary puddle and he is also the one that flagged the wetland that is manmade and feels it is better described as a puddle.

Dr. Klemens asked if Mr. Root was familiar with the term Decoy Vernal Pool. Root stated that he was and that it is a standing body of water that is attractive to amphibians but fails to allow completion of life cycle. He said that they drain population resources from actual vernal pool where they may complete their life cycles. Dr. Klemens questioned that based on that than vernal pool 2 may actually create an adverse impact to vernal pool 3 and 4. Root agreed.

DeFlumeri asked how are box turtles found and contained. Davison stated that it depends on the time of year and that habitat would be cordoned off and put in an exclusion fence (May – June). DeFlumeri asked if the turtles were found in the same area. Davison stated that they were within a few hundred feet north of vernal pool 4. MaryRose stated that tab 6, page 13 of the report shows box turtle observation.

Dunn asked if they have to be moved would they stay at the new spot or go back. Davison stated that they would not be moved to another site, just moved outside of construction to protect them during construction. It would not be a long term move. Dunn referenced page 17 section 4 of the report regarding removal of stumps and probable blasting and asked what effects this would have. Root showed areas on the colored map and that a Hydrologist reviewed the plan and it will unlikely have impact and he feels the same way. Collins asked to clarify the blasting areas. Gilmore stated that there is shallow ledge everywhere. Any earthwork below a few feet may be ripable or they would have to blast.

Dr. Klemens stated that .002 of wetlands flow has been stated and he believes it is .02 and he questioned the intermittent watercourse. Root stated that the central wetland corridor, under the existing access way and showed on the existing conditions map. Dr. Klemens asked if he was stating that this was seasonal and not permanent. Root confirmed this. Dr. Klemens stated that 2 live salamanders were found at this location and they only live in water so he is puzzled by it being intermittent when biologically it is permanent. Root stated that he has seen it dry in the summer. Dr. Klemens addressed the wood frogs and stated that over a 3 year period there have been less egg masses with some approximations and he asked for an explanation of the decline. Root stated that he could not explain this; there have been no changes and the features are the same. Dr. Klemens asked if it is then possible that they could start seeing more egg masses. Dr. Klemens asked for conservation

of the site, for the best part of the site, of the three vernal pools which has the greatest potential. Root stated that vernal pool 1 off site has the largest potential and vernal pool 4 is less diverse. On site vernal pool 3 has the most diversity. Dr. Klemens stated that buildings 1, 2 and 4 are closest to the vernal pool and asked how much is in the vernal pool area. Root stated that he was not sure as it is on the upland disturbed site. Dr. Klemens stated that he was trying to move towards saving the forest and if this area of the plan was shrunk there would be more protection of vernal pool 3. Root stated that the forested area is being preserved. Dr. Klemens stated that the large parking lot is not being used and asked if the buildings could be moved there. Attorney Hollister stated that this is the conservation easement area and asked how an easement can be created on an easement of C L & P. He further stated that this is addressed on the last page of the report and he asked for Dr. Klemens review of the easement. Dr. Klemens stated that he is trying to get more forest around vernal pool 3 which is the primary source and where wood frogs may increase. Dr. Klemens asked about a peer review. Davison stated that it began as a peer review but over time became a more collaborative process. Dr. Klemens would recommend that the wood frogs could continue or increase the habitat even at the expense of wetland puddle #2 and that there is a long history of degradation of the site. Collins clarified that he was asking about moving building 1 and 2 closer to vernal pool 2 and enhance vernal pool 3. Dr. Klemens confirmed this. Attorney Hollister stated that they considered this a year ago but felt they couldn't get past the requirement of a feasible/prudent alternative to fill in a wetland. Dr. Klemens believes that this would be an enhancement and scientifically justifiable. Attorney Hollister asked if this would trigger Army Corps review. Dr. Klemens stated that that was possible and that maybe there is a middle ground to filling in and that certainly with the proposed construction no frogs would be coming in. Magnan questioned protecting the turtles but is it acceptable that they may die off. Davison stated that protection is specific to construction and is short term. The report reviews long term conservation strategy and the small home ranges may have to find a new hibernation area. This is a very isolated area and it depends on how deep they go into the woods. Magnan asked what the mitigation was if the sole concern was the box turtles, moving the buildings would work. Hollister stated that a permanent wall was considered to protect the turtles but this is not feasible. Dr. Klemens stated that wood frogs are a wetland dependent species and has strong ties to water quality verses box turtles that are a facilitative species. If the wood frog disappears the wetland is impacted. Eastern box turtles would also benefit from the protection of vernal pool 3 for the wood frogs as they use similar habitats.

Schopick questioned alternatives considered. Hollister stated that they looked at other alternatives that had more impact to the wetlands and this plan has no impacts. He questioned if they consider the alternative of filling the wetland for the benefit of the other vernal pool how would they prove that there is no feasible or prudent alternative. Dr. Klemens stated that it is all about balance and things to think about.

Magnan stated that some impacts to the wetlands are positive; stormwater management. He asked about the tree canopy changes and the effects of the wetlands. Root stated that the sewer line right of way is cleared and the setback from the wetland line is 110 – 180' and not likely to have any canopy change.

A motion was made by Schopick, seconded by Magnan to continue the Public Hearing until 6/3/15. The motion carried unanimously.

A motion was made by Schopick, seconded by Magnan to adjourn at 10:05 p.m. The motion carried unanimously.

Respectfully submitted,



Lisa Streit

These minutes have not been accepted or approved.