

**WALLINGFORD INLAND WETLANDS & WATERCOURSES COMMISSION**

**Wednesday, Nov. 7, 2018**

**7:00 p.m.**

**Robert F. Parisi Council Chambers, Second Floor, Town Hall**

**45 South Main Street**

**Wallingford, CT**

**MINUTES**

**PRESENT:** Chair James Vitali; Vice-Chair David Parent; Secretary, Nick Kern; Commissioners Michael Caruso; Deborah Phillips; Aili McKeen & Robert Simon, Alternates; Erin O’Hare Environmental Planner

**NOT PRESENT:** Daryll Porto, Alternate

Chair Vitali called the Meeting to order at 7:02 p.m. and the Pledge of Allegiance was recited.

**CONSIDERATION OF MINUTES**

1. **Regular Meeting, Oct. 3, 2018 – 7:00 p.m.**

**MR. PARENT:** MOTION TO APPROVE THE OCTOBER 3, 2018 MEETING MINUTES AS PRESENTED

**MS. PHILLIPS:** SECOND

**VOTE:** MCKEEN – YES; KERN – YES; PARENT – YES; PHILLIPS – YES; CHAIR VITALI – YES

**CONTINUATION OF PUBLIC HEARING**

1. Significant Impact - **#A18-6.2/5 Research Parkway** – 5 Research Parkway Wallingford, LLC – (industrial development). Chair Vitali opened the Public Hearing at 7:08 p.m.

**CONSIDERATION OF PUBLIC HEARING**

1. Significant Impact - **#A18-6.2/5 Research Parkway** – 5 Research Parkway Wallingford, LLC – (industrial development)

Appearing in front of the Commission was Atty. Dennis Ceneviva, Ceneviva Law Firm, representing the Owner/Applicant, 5 Research Parkway Wallingford, LLC and Michelle Carlson, Team Project Engineer, BL Companies.

Atty. Ceneviva noted that since the last meeting, the Applicant has had an opportunity to review the plans and go through the process of timelines, goals and timeframes. He said a lot of effort has gone

into this project over the past several months. Atty. Ceneviva reviewed the plans and the project. He noted the site at 5 Research Parkway is entirely within the MacKenzie Reservoir watershed which comprises 3 ½% of the watershed. He noted the site is 179.8 acres and the total watershed area for the MacKenzie Reservoir is 8.85 sq. miles. Atty. Ceneviva said the plan is to fill 457 sq. ft. of wetlands out of 1.2 million sq. ft. of wetlands on site which he noted was down from the original presentation of approximately 2,500 sq. ft. Atty. Ceneviva said the plan is to do 63,000 sq. ft. of work in the upland review area out of approximately 1.169 million sq. ft. of upland review area. He said this figure was also reduced from the original plan of approximately 90,000 sq. ft. of work in the upland review area. Atty. Ceneviva told the Commission the Applicant's plan proposes to create 5,583,000 sq. ft. of new wetlands on site which would replace the 457 sq. ft. being lost. He said this is a ratio of 12:1 of new sq. footage of wetlands to what would be filled. Atty. Ceneviva said the main task of the engineers assigned to this project was to design the project to have no long or short term adverse impacts either to the wetlands or the watershed. He said the Independent Plan Reviewer, George Cotter, confirmed these plans have met these goals, especially regarding the sediment and erosion control plans.

Atty. Ceneviva also spoke about the memo from Town Engineer Rob Baltramaitis which also confirmed his satisfaction with the developed plan. He noted Mr. Baltramaitis said the S&E plan is based on sound engineering principles and would not be expected to negatively impact downgradient conditions, i.e., the wetlands and watershed. Atty. Ceneviva also noted suggested conditions of approval from Water and Sewer Divisions Engineer Erik Krueger. He said a vast majority of these conditions have been appropriated in a new set of plans given to the Commission on October 29, 2018.

Atty. Ceneviva pointed out that Mr. Cotter recommended a \$296,419 bond as a required condition of approval which the Applicant has agreed to. Atty. Ceneviva noted that based upon additional conversations with Mr. Krueger, the Applicant has agreed to increase this bond to \$318,419. Atty. Ceneviva said the Applicant has agreed to pay all reasonable and necessary expenses towards the services of an independent Erosion and Sedimentation Plan Implementation Monitor during site work and until site stabilization. Atty. Ceneviva said this was a unique proposal and was something sought by Chair Vitali, the Town Planner and the Water and Sewer Division. He said he has been in constant contact with Atty. Janis Small, Corporation Counsel, to ensure this role is clearly and concisely designed and drafted.

Atty. Ceneviva said he believes the Applicant has held to the guidelines and timeframes set up by the Commission last month. He said the Applicant prepared a response to Ms. O'Hare's suggested conditions of approval. Atty. Ceneviva said the Applicant submitted his own conditions of approval after meeting for several hours with Ms. O'Hare to ensure all the concerns expressed by her were understood. He said he believed some of Ms. O'Hare's wording was vague and needed to be clarified to avoid confusion moving forward. Chair Vitali commented that plenty of information has come to the Commission. He asked if the conditions of approval dated Nov. 6, 2018 were being used. Atty. Ceneviva said this has changed from what was submitted back around Oct. 29<sup>th</sup>. He pointed out there were subtle distinctions noting one of them being the role of the monitor. Ms. O'Hare said the Commission received

Atty. Ceneviva's version of the conditions of approval on Tuesday night along with Atty. Ceneviva's scope of work. Ms. O'Hare noted that in her Environmental Planner's Report, her conditions of approval are listed on pages 9, 10, and 11 along with her scope of work. She stressed the Applicant's scope of work and conditions of approval are separate from hers.

Chair Vitali pointed out the conditions of approval were supposed to be completed around the third week of October, not the first week of November. Ms. O'Hare noted both she and the Applicant are close to what is to be agreed upon. Chair Vitali asked Ms. O'Hare why she keeps coming up with new Environmental Planner's Reports and how could the Commission make a decision based upon the Nov. 6 memo. Ms. O'Hare said there are new things, for instance, the hydrogeologist report came on October 24, 2018.

Chair Vitali asked if there was something negative on the report. Ms. O'Hare said there was a potential for bleed out when the eastern side of the site is cut. She said when the material is cut into, the hydrogeologist was asked to look into the material based upon the 100 boring logs that were conducted in August and September and come up with an analysis of whether it would bleed out or not. Ms. O'Hare said the hydrogeologist stated there may be bleed out. Chair Vitali asked if this meant the site couldn't be built upon.

Ms. O'Hare said this meant that when the cut operation occurs, there could be bleed out. She noted Mr. Cotter foresaw this possibility in his report. She explained the bleed out has to be controlled with diversion trenches or stone dikes and wrap in around. She said at some point this groundwater has to go into a wetland or a stream. Chair Vitali asked if this was in the plan. Atty. Ceneviva said this plan has been reviewed by a number of professional engineers which have come to the same conclusion. Ms. O'Hare spoke about the change in the use of flocculents which concerned the Water Division. She said the Applicant went to a soil specialist which deals with flocculents. In answer to Chair Vitali's question, Ms. O'Hare noted the Applicant satisfied the Water Department's concern. Ms. O'Hare pointed out the soil scientist changed what Mr. Cotter had recommended. Chair Vitali said the flocculent is there so the Water Division doesn't get red water in their drinking water supply. He said this was the main concern of the Water Division, to protect their water supply. Ms. Carlson answered yes to Mr. Parent's question if she could assure the Commission that that with the presented plan, the Commission could be reasonably assured there will not be a danger to the wetlands or the watershed during the construction phase or when the project is completed.

Ms. O'Hare went over another change to the plan with the use of the Small Pond and the large Pond. She said the Water Division was driving the idea to have the Large Pond drawn down all throughout the construction phase. She said on Oct. 3, it was represented the pond would be drawn down initially and would fill back up naturally. Ms. O'Hare said the Water Division wants the pond drawn down perpetually continually through the two-year construction phase.

Chair Vitali said in a storm event, the pond will refill and go back down again and will act as a retention pond. He said his understanding was that it would always be this way. Ms. O'Hare said the gate valve

will be open all the time for two years, unless that pond fills up and then the gate valve will be closed. Chair Vitali asked if there was another iteration of conditions of approval. He asked if the Oct. 29 conditions of approval were satisfied. Atty. Ceneviva said the original list provided in early October have all been incorporated in the new set of plans that came out Oct. 29. Atty. Ceneviva said there are meaningful differences between what Ms. O'Hare has drafted as of last night and what she provided to the Commission in the provided time frame. He said he believed there are only three or four differences.

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Atty. Ceneviva said the Applicant agrees with Condition #1; #2, the two bullet points under #2 are fine; #3, the first bullet point is fine; regarding the second bullet point, Atty. Ceneviva noted that if the Commission compares his conditions vs. Ms. O'Hare, he said his conditions relates to his conversations with Atty. Small regarding the erosion control implementation monitor, this will be a process which will take a month. He said he and Atty. Small will decide on a process and there will be someone who will work with the monitor; Atty. Ceneviva pointed out that the second bullet point under condition #3, under Ms. O'Hare's conditions which state the Permittee shall cover expenses of the monitor. Chair Vitali noted this wasn't a wetlands issue but a legal issue.

Atty. Ceneviva noted the next bullet under paragraph #3 is fine; condition #4 of Ms. O'Hare's report, the first bullet point which talks about the use of flocculents and the particular person and company involved, the first bullet point has a lengthy list of Ms. O'Hare's suggested use of flocculents. He said he shortened this to use in accordance with his proposed conditions. Atty. Ceneviva said the second bullet point under condition #4 is fine as well as condition #3, "Contingency and Erosion Control Plan final version"; the storage container condition is fine; signage indicating DEEP emergency spill reportage is fine. He said the only other changes relate to the last bullet point of condition #4 and condition #5. He said this indicates that for any hiatus during site activity, the disturbed areas must be stabilized to the satisfaction of the Implementation Monitor. He said he understood in his discussions with the Town Attorney, that the Monitor will do what the name suggests. He said the role of the Monitor is not to be a Czar, but to be a Monitor and interact with the Town's authorized representative and ensure there is a level of communication with the Contractor and the Owner. He said this language was taken out to read "it will be stabilized in accordance with the approved plans".

Chair Vitali said he believed the job of the Monitor is to follow the approved plan as designed and a Contractor has to be hired to build this from the plan. He said there is more of an issue on being able to build this than a wetlands issue. Ms. O'Hare said Atty. Ceneviva's version doesn't ask anyone to go back during the quiet period to check on the site. Atty. Ceneviva said he expects the Monitor will go to the site. Chair Vitali said this work will be resolved with the Water Dept., the Town Planner, and the Law Dept. Ms. Carlson pointed out that any site left open for more than 30 days must be stabilized according to the plan and noted there will a DEEP General Permit for Construction Activities during storm water events. She said even if the Applicant isn't working on the site and there is a rain and the permit is still

active, we have to go out and inspect the controls after the rain even if no one is working for three months. She said there are avenues in multiple locations where this is covered.

Ms. Carlson said there is language in the approved plan which states in according with local, State and Federal Regulations and is also part of the CT DEEP permit. Ms. O'Hare asked if the plan talks about quiet periods or a change in business plans. Ms. Carlson said anything left bare or vacant for more than 30 days, has to be stabilized and fixed. Ms. O'Hare noted she added the word "monitor" because if the site is stabilized once, it doesn't state in the plan that anyone is monitoring the site afterwards. Atty. Ceneviva reiterated the Applicant is agreeing to everything except for a few items. Chair Vitali pointed out the Commission will not dictate internally the scope of the monitoring without other input. He said he wants the Monitor to follow the plan. Ms. O'Hare said she didn't care who monitored it, but wanted someone to go out to the site. Atty. Ceneviva explained that Ms. O'Hare prepared a Scope of Work early in the process; but the Scope of Work was extremely broad. He said he spoke to Atty. Small who told him to draft a Scope of Work, which was a first draft. Atty. Ceneviva said this first draft was sent to the Engineering Dept., the Water and Sewer Division and the Environmental Planner. Ms. O'Hare said the Scope of Work referenced was dated Nov. 5.

Atty. Ceneviva noted that Atty. Small's memorandum states that the key is to approve as a condition the general terms with the specifics to be determined by Town staff. Chair Vitali said he didn't believe a condition of approval has a draft in it. Ms. O'Hare said the Monitor and his duties will be shaped by other agencies besides the Inland Wetlands Commission. Chair Vitali said the Commission will not dictate the scope because there are other departments. Commissioner Kern said it sounds like Ms. O'Hare did everything the Commission asked her to do; he said both sides did their homework and it is time to move forward.

Chair Vitali entertained Public Comment at 7:46 p.m.

## **PUBLIC COMMENT**

Jim Wolfe, Economic Development Commission, also said it was time to move forward.

Ed Bradley, 2 Hampton Trail, asked about flocculents. Ms. O'Hare said flocculent is a polymer added to the water that interacts on a chemical and physical level to make soil particles fall out so the water gets cleaner. He said he led the opposition to the original Bristol-Myers Squibb and noted at the time there wasn't a Wetlands Commission so he worked closely with staff. He noted this site cannot be controlled in a large storm and pointed out the Applicant tried every method. Mr. Bradley said the area was inundated with red soil all the way down to the MacKenzie Reservoir. He said his concern is the watershed, the wells, the reservoir and Spring Lake which he said was severely damaged from all the silt and sediment that filled the lake. He said to date there is still flooding in this area.

Chair Vitali noted that because this site is so large, the Commission requested another engineer be hired to review the S&E plans. He said the flocculent will prevent the red water from escaping and noted this was successfully done at the Choate School. Chair Vitali, referencing the original development, said the

Commission wanted the Miller Pond saved but DOT blew it out. He said the Commission did everything they possibly could to prevent this.

Brian Freeman, 5 Hampton Trail, noted he has wetlands in his back yard and has the Muddy River runs along the side of his house on the property line. He noted when there is a good rain, the river sounds like a train. He said he is concerned with flooding and well water contamination and blasting. He noted wells could run dry. Chair Vitali said it was determined at a previous meeting that the well issues are a Planning & Zoning issue. He said it is expected there will be very little blasting on the site. Mr. Freeman said he has seen flooding so bad that cars have had to turn around. He said he has been in a flood zone since 2007 and the residents had to pay mandatory flood insurance. Mr. Freeman said all the residents are now not in a flood zone and don't have to pay flood insurance anymore. He wondered if this will change. Chair Vitali said the Commission has worked very hard at trying to prevent this condition from occurring again.

Jack Arrigoni, 18 Martin Trail, elaborated about the well and said he had his checked about a week ago and said the chorides when he had his well checked in 1983 and 1985, it read around 65. He pointed out the last reading was at 120 up over a 30-year span. Chair Vitali said he liked Mr. Arrigoni's comments. Mr. Arrigoni said this came from road salt. He said the runoff is unbelievable the way the river flows now. He asked if this choride level doubled in 30 years, will it double again and put him over the limit.

Ms. O'Hare entered three letters into the record: one letter from Tom and Louise Labutis, 1232 Barnes Road who stated they were concerned about filling the wetlands will set a precedence and the loss of recharge of groundwater; there were also letters from Jack Arrigoni and another letter from Brian Freeman which went into detail about well water contamination, increased truck traffic, noise, and the contamination of Spring Lake

Chair Vitali noted there is almost double the rainfall since September; there is a lot more water coming down and more tarred surfaces. Commissioner Kern said he believes the Commission has done 100% of what they could do; he said he was comfortable with legal and with the wording. He said there is still room for field changes. He said he hopes the design will prevent what the residents were speaking about downstream. He said a professional Contractor will do the right job and is comfortable in moving forward. Vice-Chair Parent said he believed Commissioner Kern put everything together correctly. Commissioner Phillips said the Commission spent four months on this, but would be remiss with our responsibilities as Commissioners if we didn't go over all of the details. She said she believes a complete job was done. Commissioner Simon reiterated what Commissioner Kern stated. Chair Vitali said the Commission would like to know who the Contractor will be.

Chair Vitali entertained a motion to approve or deny the application. He wondered if the motion was going to incorporate the comments or the conditions of approval, how would the Commission designate between the two; would the Commission use the BL conditions of approval noting there are a few of Ms. O'Hare's conditions of approval the Applicant doesn't agree with.

Chair Vitali closed the Public Hearing at 8:14 p.m.

**CONSIDERATION OF PUBLIC HEARING ITEM**

1. Significant Impact - **#A18-6.2/5 Research Parkway** – 5 Research Parkway Wallingford, LLC – (industrial development)

Chair Vitali entertained a motion to approve or deny the application. In answer to Mr. Bradley’s concerns, he stated the Applicant and owner of the property will post the bond and will be responsible for any downstream damage. He said the bond will cover more than one Contractor. He said the Commission worked out the value of the bond at approximately \$290,000 and Engineering added another \$20,000 which the Applicant agreed to.

**MR. PARENT:            MOTION THAT APPLICATION #A18-6.2/5 RESEARCH PARKWAY – 5 RESEARCH PARKWAY WALLINGFORD LLC – (INDUSTRIAL DEVELOPMENT) BE APPROVED WITH THE CONDITIONS OF APPROVAL AS SET FORTH IN AN UNDATED LETTER FROM BL COMPANIES WHICH IS BEFORE US TODAY**

**MS. PHILLIPS:        SECOND**

Ms. O’Hare noted that because this is a Significant Impact Activity, the Commission must comply with Section 10.3 “Considerations for Decision” She distributed copies of this section and section 10.2 to the IWWC at the meeting. She noted the Section states “when there is a Significant Activity, a permit shall not be issued unless the Commission finds on the basis of the record that a feasible and prudent alternative does not exist. In making this finding the Commission shall consider the facts and circumstances set forth in Subsections 10.2 and this finding and the reasons therefore, shall be stated on the record”.

Commissioner Kern wondered that with the Commission accepting this application as it is, have we reviewed the feasible and alternative ways the site has been prepared to be developed. Ms. O’Hare said the Applicant reviewed the alternatives at the second Public Hearing. Commissioner Kern said the Commission already went through these motions at the second hearing.

Ms. O’Hare noted a Significant Impact activity can’t be approved unless the Commission states there is no feasible and prudent alternative. Commissioner Kern said this has already been done. Ms. O’Hare

said the Commission has to reach a consensus on this. Chair Vitali asked if anyone had any comments regarding a feasible and prudent alternative to this application. He said the Applicant presented the first plan, but the feasible alternative was the second plan, which is the improvement part of the plan. He said he couldn't visualize anything that would make a feasible and prudent plan better than what is here. He said the Commission will accept that all feasible and prudent alternatives have been explored.

Ms. O'Hare suggested wording stating: "finding no prudent and feasible alternatives, we therefore approve this with the following conditions of approval." Chair Vitali noted there was already a motion on the floor and wording can't be added. Ms. O'Hare suggested the original motion be removed and another one be made. Ms. O'Hare also suggested if the BL Companies or Applicant version of the scope of work be used, it be one sentence stating "with the Scope of Work to be flushed out with the Law Dept. in collaboration with Planning and Zoning or the Water Division.

Chair Vitali asked Atty. Ceneviva where his Scope of Work regarding the monitor was located. Atty. Ceneviva said this was located in paragraph #3 on the second page, the very last sentence "the terms of the Monitors engagement will be drafted and agreed by and between the Town's Legal Representative Janis Small and the Applicant's Attorney, Dennis Ceneviva may prior to the commencement of any site work". Atty. Ceneviva said this is consistent with Atty. Small's Nov. 7, 2018 memorandum which was distributed to the IWWC at tonight's meeting.

#### **BL Companies Conditions of Approval**

##### **1. Final Revised Site Plan Set and Final Revised Documents to be Submitted Within Two Months of IWWC Approval:**

The above includes the following information: Erosion and Sediment Control Plan (43 sheets) dated revised to October 29, 2018, submitted October 29, 2018.

##### **2. Conditions Regarding Possible Changes Proposed to Plan or To Application Documents After Significant Permit Approval:**

- Regarding changes to the approved site plan set or to any documents associated with this Permit that may need to be made in order to comply with required changes relative to the PZC Special Permit and Site Plan approvals, it is understood that before these changes are incorporated into the IWWC final plan they will be subject to Environmental Planner review to determine if they may need to be reviewed by the IWWC before acceptance as updates to the plan, or, if further IWWC permitting may need to be obtained (see below for permit application categories that may apply).
- With the exception of changes required by the PZC associated with original PZC approvals (see item above), any proposed changes to the Approved site plan set, to any of the approved documents associated with the application on file, or to the terms or conditions of this Permit, will require submittal of an IWWC application under one of these categories:

“Permit Modification (Not Minor Revisions)”, “Minor Plan Revisions Within Scope of Original Permit”, “Modification of Specific Terms or Conditions Imposed As Part of Original Permit”, or “Administrative Approval Request” (as per Section 19, “Application Fees”, IWWC Regulations), with appearance before the IWWC, accordingly.

### **3. Conditions to be Met Before Any Alteration to the Site Occur:**

- Bond is to be posted prior to commencement of any site work activity associated with this Permit on any portion of the property. A bond amount of \$318,419.00 is the revised estimated bond amount, dated Oct. 5, 2018, submitted by BL in response to Environmental Planner review of bond estimate submitted in Peer Review of E&S Plan report, prepared by George Cotter, P.R., CW International, LLP, dated Oct. 3, 2018 (Bond amount to be finalized in discussions with Planning Department and Engineering Department)
- Permittee to cover reasonable and necessary expenses of an Erosion Control Plan Implementation Monitor selected by the Town of Wallingford in consultation with the Applicant for the duration of the permit work to complete site stabilization tasks per the IWWC’s approved Scope of Work. Monitor will forward written reports as agreed to Town (i.e. municipal network comprised of Environmental Planner, Town Planner, Town Engineer, Water Division, Building Official) and Project Site Manager and BL Co. The terms of the Monitor’s engagement will be drafted and agreed by and between Town’s legal representative Janis Small, Esq., and Applicant’s attorney, Dennis Ceneviva, Esq. prior to the commencement of any site work.
- Permit Pre-Construction Meeting to be held with the Town prior to commencement of any work activity associated with this Permit anywhere on the property to review all permit requirements (including DEEP General Storm water Permits obtained for the redevelopment project), the Town’s expectations for performance, and to establish a contact network. Attendees to include Permittee, BL Co., Project Engineer, BL Site Monitor, Permittee’s Site Project Manager, Permittee’s Site Construction Manager, Permittee’s Responsible Party for Erosion Control identified on the DEEP Storm water Permit Issued, Permittee’s Attorney and representatives of the Town of Wallingford (Town Engineer, Town Planner, Environmental Planner, Water Division Senior Engineer, Building Official, and Town Erosion Control Plan Implementation Monitor, IWWC Chairman).

### **4. Conditions to Be Met Before Commencement of Construction/Stabilization Phase:**

- Permittee to use Deborah Seevy, or an authorized member of her Company, D&S Site Management, LLC, to work on the site conducting the tasks, as per Peer Reviewer recommendations.
- Regarding initial drawdown of the Large Pond and Small Pond associated with this permit, Permittee to perform review of condition and functionality of Large Pond’s draw down gate valve and associated 30-inch diameter culvert near the spillway to assure that facilities are free of debris and there are no deficiencies; to inspect vicinity of the outlet to ensure there is proper

armorings in place to avoid scour or erosion, and, if issues are found, they are to be addressed prior to any further site activities, i.e., exclusive of indoor demolition activity.

- Contingency Erosion Control Plan (final version) to be kept onsite by Project Site Construction Manager and Project Site Manager at all times with two copies in the main construction site trailer for reference.
- E&S Control Supply Storage Container – to be installed at onset of site preparation – is to be kept fully stocked at all times with products and re-stocked ASAP upon use of product.
- Signage indicating DEEP Emergency Spill Reporting contact number and “Wallingford Public Drinking Water Supply Watershed” to be displayed prominently on outside of all site trailers and Erosion Control Storage Containers
- Should there be a hiatus in site activity between this Demolition Phase and the Construction Phase – be it regarding weather conditions, change in plans or scheduling – disturbed areas must be stabilized AS REQUIRED BY THE Should there be a hiatus in site activity between this Demolition Phase and the construction phase, be it APPROVED PLANS and monitored periodically throughout any “quiet period”. Changes as agreed to by the Applicant (Atty. Dennis Ceneviva) at the IWWC Public Hearing, Nov. 7, 2018.

#### **5. Conditions To Be Met Before Commencement of Construction/Stabilization Phase:**

- Second E&S Control Supply Storage Container is to be installed at the onset of site clearing. Both storage containers provided onsite are to be kept fully stocked at all times with products and re-stocked ASAP upon use of product
- Should there be a hiatus in site activity at any point in the Construction Phase - be it regarding weather conditions, change in plans or scheduling – disturbed areas must be stabilized AS REQUIRED BY THE APPROVED PLANS throughout any “quiet period”. Changes as agreed to by the Applicant (Atty. Dennis Ceneviva) at the IWWC Public Hearing, Nov. 7, 2018.

**VOTE: MCKEEN – YES; KERN – YES; PARENT – YES; PHILLIPS – YES; CHAIR VITALI –YES**

#### **OLD BUSINESS**

##### **1. #A18-9.1/ 6 Research Parkway – Six Research, LLC (industrial development)**

Appearing was Atty. Dennis Ceneviva, Ceneviva Law Firm representing the Applicant, who requested this application to be continued to the December meeting. He said the Applicant would consent to any required extension. He said there is a question about sand filter use on this project, specifically, the grade of the existing property and is there an alternative to the sand filter. He said two and a half feet of fill into the site would be needed to make the sand filter work. He said he is having ongoing discussions with Erik Krueger, Sr. Engineer, Water and Sewer Divisions.

#### **TABLED**

Chair Vitali took the agenda in the following order:

## **VIOLATIONS**

### **2. Notice of Violation - 988 East Center Street – Benchmark Land Development, LLC & Providence and Worcester Railroad Company – (unpermitted filling & drainage alteration)**

Representing the Applicant was Atty. Dennis Ceneviva, Ceneviva Law Firm, who noted that Ms. O’Hare performed a site visit. He encouraged all the Commissioners to do a site visit noting lines were sprayed. He said this violation centered on unauthorized fill behind the existing building at 988 E. Center Street. He said a Soil Scientist, David Lord, and an Engineering Firm have been retained. He said the portion of the land that has been filled is more modest than appears. He said there is a memorandum from Mr. Baltramaitis regarding having a manhole installed to connect a few pipes. Atty. Ceneviva said he believes by the next IWWC meeting, the Applicant will be prepared to provide a resolution that should be acceptable to the Commission.

Chair Vitali noted the unauthorized activity in filling in the wetland area. He asked what was being done to the upland review area and was it being put back to grass. Atty. Ceneviva said this depends on what the IWWC desires. He said the proposed remediation plan to the wetlands will improve it. Chair Vitali asked if the remediation included a turn-around driveway. Atty. Ceneviva said this driveway may not be needed. He said this was generated by a now defunct PZC application to remove the mound of dirt for a truck turn-around. Chair Vitali said this wasn’t needed in the beginning, it was an after-thought. Atty. Ceneviva said an issue arose when debris was taken out of the wetlands. He said the Applicant believed he was improving an unattractive site and noted there were letters of appreciation from neighbors.

Commissioner Kern asked if anything was done with what was going down into the sewers. Atty. Ceneviva said the piles turned out to be sand not ash. He said this is all on the railroad site. He said a good 1/3 of the land from the track west is railroad property and a lot of the filling was done by the railroad. Atty. Ceneviva said the plan will take wetlands which provided storm water function as its only function and improve it to storm water capacity function and botanical life.

## **TABLED TO THE DECEMBER IWWC MEETING**

### **OLD BUSINESS**

#### **2.#A18.10.1/1175 Barnes Road = Kirit Patel (Shield Hotels) – (hotel/restaurant development)**

Appearing in front of the Commission was John Schmitz, BL Companies, representing Shield Hotels and Scott Stevens, Soil Scientist, Environmental Services, who went over the site plan. He said to the east of this site is the Hilton Garden Inn which would share site access at the driveway. He said the site is approximately 6 ½ undeveloped wooded acres with a few abandoned wooden structures and stone walls. He said there are some clearings and wetlands closer to the intersection.

Mr. Stevens reported his onsite findings of June 22, 2018. He said there are two different wetland systems, one on the western end of the site which was delineated with flags and an intermittent

watercourse which may come from another wetland from across Rt. 68. Mr. Stevens delineated another wetland on the south side of the site. He said this wetland periodically ponds water for short durations. He went over the different soil types and noted there were some disturbed wetland soils on the south side of the site. He said on the northern part of the wetland on the western part of the site, there is a discharge which was possibly excavated out. Mr. Stevens said most of the soils are Cheshire fine sandy loam reddish in color. He said there are some areas along the wetlands that have moderately drained soils. He said there is also a manmade bio retention area wetland down on the far southern area of the site which may be part of the Hilton Garden property.

Commissioner Simon asked where the water was coming from that is filling the pond on the eastern side of the property. Mr. Stevens said he didn't observe any watercourses coming in and out of the pond, but looked like a deep excavated area where water comes out of the hillside. Chair Vitali said he believed that area was being used 20 years ago as a retention/detention area. Ms. O'Hare asked about the uncontrolled water coming from the Hilton Garden Hotel which is spilling water into a non-defined channel on the Applicant's property.

Mr. Stevens said this is a leak off and noted the photos. He said the approval was to leak off the water into a swale, bringing it down to a detention basin and sand filters. He said this swale was constructed on the Applicant's side of the property line and flows onto the Applicant's property. He said at this time, there is no work proposed. He said it doesn't affect the Applicant's development at this time but could be an issue with the Town. Ms. O'Hare said water is not allowed to be spilled onto another property and noted this is not a defined channel and is not acceptable. She said she will pursue this against Hilton Gardens. Ms. O'Hare asked about the old pond filling up and overflowing. Mr. Schmitz said this pond is 6 to 8 ft. deep but said he never saw any evidence of flow out of this pond. Ms. O'Hare asked about the proposal for an outlet.

Chair Vitali asked what was being constructed on this site. Mr. Schmitz said a four-level hotel, 120 rooms attached to a 7,297 sq. ft. restaurant with 218 parking spaces. He said access would be off the main driveway being shared with the Hilton Garden Inn. He said there is approximately 120,300 sq. ft. of impervious area and approximately 18,585 sq. ft. of disturbance in the buffer area. He said there are no streams putting water into this pond but it does receive some sheet flow runoff from the upper part of the site. He said three discharge points are being proposed and each of the discharge points will have a level spreader.

Chair Vitali asked about roof drains. Mr. Schmitz said the system has been split up taking the roof from the proposed restaurant and putting it into its own system for infiltration and discharge and the main roof from the hotel will come out of the east side and tie into the underground infiltration system. He stressed neither of the roofs will go through the sand filter. Mr. Schmitz said an erosion control plan was also created based upon CT guidelines. He said there will also be a stone anti-tracking system and a street sweeping system. He showed the location of silt fencing and two temporary sediment traps. He also noted there will be swales to bring the temporary water into the sediment traps and in sloped areas, erosion control blankets will be put into place.

Mr. Schmitz noted the site was approved in 2008 and showed a comparison plan which called for a three-story office building and a parking lot. He said the pond in that plan was to be used as a detention basin. He said this current plan is a similar type setup. Commissioner Kern asked about a snow shelf. Mr. Schmitz said the snow would be plowed into the perimeter parking lot into the grass areas. Chair Vitali pointed out there wasn't much of a buffer area around the wetlands especially along the driveway in the back. He said he was looking for bio-filters as well as sand filters.

Mr. Schmitz thought that creating some areas where the water is being outletted could serve as a wet pond. Ms. O'Hare asked how much additional flow the pond could handle and would the pond be altered. Mr. Schmitz said the proposal is to leave the pond as is. He said he is matching the peak flows that are going there currently. He said any increase in flow would be detained. Commissioner Kern asked about the capacity of the underground storage in the parking lot. Mr. Schmitz said this system has a proposed volume of 5,500 cu. ft. and the other system is sized approximately 6,700 cu. ft. of volume. He said this system is designed for up to a 100-year storm. Ms. O'Hare asked if the level spreaders were moved back. Mr. Schmitz said the issue is where the spreaders are located are at a certain elevation. He said they can be pulled back 10 ft. or 15 ft. but they still have to discharge at elevation 334 which means the land has to be cleared all the way back 20 ft. because the land is sloping up. Commissioner Kern asked Ms. O'Hare why she wanted the spreaders pulled back. Ms. O'Hare said this would allow the water to filter before it enters the wetlands. Ms. O'Hare said she wasn't sure what work can be conducted in the 60 ft. Right-Of-Way in the Ringrose Property.

Mr. Schmitz said there is a 60 ft. utility and access easement in favor of Thomas Ringrose. He said the easement is on the Applicant's property and the owner granted an easement to Ringrose for access and utilities. He said they have permission to build a driveway and bring in utilities. He said the corner of the parking lot is over the easement line.

## **THIS APPLICATION TABLED TO THE DECEMBER MEETING**

### **OLD BUSINESS**

3. **#A19-9.3/155 East Street** – Ferti Management Corp. – (hazardous materials storage cabinet installation) – approved administratively 10/3/18
4. **#A18-9.4/5 Country Way** – (grading for in-ground pool & installation of pool fence) – approved administratively 10/3/18.

Chair Vitali noted these two applications were approved administratively.

### **NEW BUSINESS – NONE**

### **RECEIPT OF NEW APPLICATIONS**

1. **#A18-11.1/155 John Street** – Town of Wallingford Sewer Division – Water Pollution Control Facility Phosphorus Reduction Project – (construction activities) – Received by Chair Vitali

Ms. O'Hare explained this will be presented in December. She said these are facilities to be constructed so the Town can comply with mandated phosphorus removal.

## **ELECTION OF OFFICERS – TABLED**

## **2019 MEETING SCHEDULE**

Ms. O'Hare said the schedule went out in the first packet. The Commission discussed the meeting schedule for July/August. The Commission agreed to meet on July 17 noting they do not meet the first Wednesday in July because of the July 4 holiday. The Commission also agreed to approve the 2019 Meeting Schedule.

## **REPORTS & COMMUNICATIONS**

- 1. #D18-6.1/15 Windswept Hill Road –Paradise Hills Vineyard and Winery – parking area issue – not discussed**
- 2. CACIWC Annual Environmental Conference, Nov. 17, 2018 Red Lion Hotel, Cromwell, CT – Commissioner McKeen said she would be attending**
- 3. CACIWC: membership renewal**

Ms. O'Hare said the IWWC's share is \$60. She said the total is \$120 but is shared with the Conservation Commission.

- 4. CACIWC newsletter. *The Habitat*, fall 2018**

## **VIOLATIONS**

- 1. Cease & Correct Order – 55 Kondracki Lane (Quinnipiac Valley Center) – 55 Kondracki Lane Property, LLC – (emergency driveway crossing work)**

Ms. O'Hare said they received a Cease & Correct Order but no work was being done. She said when she contacted the owner, he said the work was done last Friday. She said this goes against the Order with the time delay and the fact that a proposed plan wasn't submitted. She said all the material washed out and ended up on the neighbor's property. Ms. O'Hare said she would visit the site with Town Engineer Rob Baltramaitis to see what was constructed.

- 2. Notice of Violation – 988 East Center Street – Benchmark Land Development, LLC & Providence and Worcester Railroad Company – (unpermitted filling & drainage alteration) – discussed above**

## **ADJOURNMENT**

Chair Vitali adjourned the Meeting at 9:09 p.m.

Respectfully submitted,

Cynthia A. Kleist

Recording Secretary