

**Inland Wetlands and Watercourses Commission
Town of Wallingford
Regular Meeting
Wednesday, October 5, 2011**

The Regular Meeting of the Wallingford Inland Wetlands and Watercourses Commission was held on Wednesday, October 5, 2011, in Council Chambers, 2nd Floor, Town Hall, 45 South Main Street, Wallingford, Connecticut.

Seated Commissioners were Jim Vitali – Chairman, Ellen Deutsch – Vice Chairperson, Nick Kern - Secretary, Dennis Murphy, Dave Parent, Jim Heilman – alternate and Environmental Planner Erin O’Hare.

Absent: Deborah Phillips - alternate

Chairman Vitali called the meeting to order at 7:01 p.m.

CONSIDERATION OF MINUTES:

September 7, 2011 - Regular Meeting

MS. DEUTSCH: **MOTION TO APPROVE THE MINUTES OF THE SEPTEMBER 7, 2011 MEETING AS SUBMITTED.**

MR. MURPHY: **SECOND**

VOTE: **UNANIMOUS**

OLD BUSINESS:

#A11-7.5 / 1020 NORTH MAIN STREET EXTENSION – Jan Koster and Robyn Cosenza – (driveway paving)

Presenting the application was Jan Koster, owner.

Ms. O’Hare referred to the Environmental Planner's Report dated September 29, 2011. She reported that she spoke with the Town Attorney who indicated that this application should not go forward until the Applicant has consent from the abutting property owner to pave onto 1014 North Main Street Ext. within the easement area. Ms. O’Hare indicated that she has received letters from both the attorney of Mr. Koster and the attorney of the owner of 1014 North Main Street Ext. She stated that if the Commission decided to table the application it would need consent from the Applicant relative to statutory timeframe allowed. The letter from the Applicant’s attorney grants the Commission that extension. Ms. O’Hare indicated that a copy of the easement deed has never been submitted, although it has been requested.

Mr. Koster indicated that before he purchased the property there was a deeded easement over the property of 1014 North Main Street Extension. He believes the easement was granted because of the location of wetlands in the area.

Mr. Koster asked that he be allowed to pave only the portion of the driveway that is on his property and not onto 1014 North Main Street Extension.

The abutting property owner of 1014 North Main Street Extension, David Blanchette, was present but had no comment.

MOTION: **MS. DEUTSCH MOTION THAT APPLICATION #A11-7.5 / 1020 NORTH MAIN STREET EXTENSION BE DEEMED NOT A SIGNIFICANT IMPACT.**

SECOND: **MR. MURPHY**

VOTE: **UNANIMOUS**

MOTION: **MS. DEUTSCH MOTION TO APPROVE APPLICATION #A11-7.5 / 1020 NORTH MAIN STREET EXTENSION WITH THE FOLLOWING CONDITIONS OF APPROVAL:**

1. **THE DRIVEWAY IS TO BE PITCHED TOWARD THE ADJACENT LAWN AND WETLANDS AREA TO MINIMIZE THE POTENTIAL FOR ADDITIONAL FLOWS TO TRAVEL DOWN THE DRIVEWAY AND ENTER NORTH MAIN STREET EXTENSION.**
2. **IF A LETTER OF AGREEMENT IS SUBMITTED BETWEEN THE OWNERS OF 1020 NORTH MAIN STREET EXTENSION AND 1014 NORTH MAIN STREET EXTENSION THE APPLICANT WOULD BE ALLOWED TO PAVE THE DRIVEWAY AS ORIGINALLY APPLIED FOR.**
3. **THE ENVIRONMENTAL PLANNING OFFICE IS CONTACTED WHEN WORK IS TO COMMENCE.**
4. **SHOULD EROSION OR SEDIMENTATION OCCUR IN THAT AREA UPGRADIENT OF THE WETLANDS ON THE SUBJECT PROPERTY AS A RESULT OF PAVING THE DRIVEWAY, THEN THE PERMITTEE WILL BE OBLIGATED TO UNDERTAKE CORRECTIVE ACTION IN THIS REGARD TO PREVENT DEGRADATION OF THE WETLANDS.**
5. **THE APPLICANT IS TO PAVE ONLY THE PORTION OF THE DRIVEWAY THAT IS ON HIS PROPERTY (1020 NORTH MAIN STREET EXTENSION).**

SECOND: **MR. MURPHY**

VOTE: **UNANIMOUS**

#A11-8.1 / 135 FAWN DRIVE – Fawn Drive Associates, LLC – (residence)

Presenting the application was Attorney John Lambert and Michael Motskowitz, member, Fawn Drive Associates, LLC.

Chairman Vitali indicated that at the last meeting he directed Ms. O'Hare to review the regulations pertaining to significant impact to see how they would pertain to this application. The Environmental Planner's Report dated September 23, 2011 (forwarded on September 23rd to the IWWC) included the findings of Ms. O'Hare. Chairman Vitali stated that the findings of Ms. O'Hare would pertain to this application very well and that would be the basis of his vote on significant impact. Chairman Vitali stated that the Commission just received, this evening, a document from Fawn Drive Associates. He

stated that it should have been submitted earlier to allow the Commission time to review it. Attorney Lambert indicated that he submitted, this evening, a draft of a conservation easement that could be used in this case. He stated that there would have to be some details worked out before a final copy could be submitted to the Town. Attorney Lambert doesn't believe that this Commission has the authority to require the Applicant to supply a conservation easement in this case. Commissioner Kern stressed how sensitive this area is and stated that is the reason for the Commission's interest in a conservation easement.

The Applicant also submitted copies of a letter to Ms. O'Hare, dated October 5, 2011, and copies of the ecologist report on impacts to the box turtle dated September, 20, 2011.

MS. DEUTSCH: **MOTION THAT APPLICATION #A11-8.1 / 135 FAWN DRIVE BE DEEMED A SIGNIFICANT IMPACT FOR THE REASONS MENTIONED IN THE ENVIRONMENTAL PLANNER'S REPORT, DATED SEPTEMBER 23, 2011.**

MR. PARENT: **SECOND**

VOTE: **UNANIMOUS**

Chairman Vitali indicated that to continue the public hearing the Applicant would have to grant the Commission an extension. Attorney Lambert granted the Commission an extension. Chairman Vitali set the public hearing date for November 2, 2011 at 7:00 p.m. He asked - for the second time - that the Applicant put together a comparison between this plan and the original permit plan.

#D11-8.1 / REQUEST FOR DETERMINATION OF EXEMPTION – 347 Highland Avenue – Donald Rainey – (crossing associated with horse boarding/riding facility)
#A11-8.2 / 347 HIGHLAND AVENUE – Donald Rainey – (one driveway crossing & two sewer lateral crossings)
VIOLATION: 347 HIGHLAND AVENUE – Donald Rainey – (clearing, filling, alteration of watercourses)

Presenting the application was Attorney Jim Loughlin, Engineer Chris Juliano, Juliano Assoc., the Owner, Don Rainey, and soil scientist Tom Pietras.

Attorney Loughlin gave some history on this application. He stated that the remediation plan developed by Mr. Pietras is the best alternative for the property. Attorney Loughlin would also like the Commission to determine tonight if this application would qualify under the agriculture/farming exemption under 22a-40.

Mr. Pietras stated that the two areas that have been impacted the most are a southern intermittent watercourse that was diverted to flow in a northerly direction to join the more northerly intermittent watercourse that flows into the pond. The other area was an area formerly mapped as wetland. It was a drainage swale that has been graded smooth and is now a hayfield. Mr. Pietras indicated that he dug holes in the area and was unable to determine where that watercourse once was. He stated he could not locate wetland soils, just substrate soils beneath were wetland soils would be. Another area where there was disturbance was where the pond was excavated. The pond was excavated into a wetland and partially into an upland area. The pond was dug to depths of 6-7 feet.

The mitigation plan includes the planting of native shrubs along the northwestern side of the pond. They are proposing a plunge pool and small sediment basin. Some of the watercourse will be armored before it reaches the pond to prevent any further erosion. Mr. Pietras stated that they want to be sure that no sediment reaches the Meriden watershed. Two watercourses were identified to have some mitigation. The area to the southwest corner of the hayfield has a drainage swale that carries water flow toward the City of Meriden property down a steep slope. There is a second watercourse that merges with that one just before it reaches Meriden property. This flow comes down a steep slope and, at times, it carries considerable volumes of water. Mr. Pietras and Mr. Juliano developed a wetland creation water quality basin area in that area. This basin will slow the velocity of water before it reaches Meriden property. The basin will act to trap sediments. The basin would be approximately 50'x50' and would support wetland species and would be planted with wetland seed mix. To the north of the driveway there was evidence of sedimentation in a watercourse which comes from a culvert under the driveway. The sediment actually comes from the neighbor's gravel driveway. In that area they are proposing a plunge pool sediment basin next to the driveway.

In the area of the northerly stream they propose shrub plantings along both sides of the stream. There is a grove of trees that currently has no undergrowth where they are proposing to plant 75 shrubs.

Commissioner Kern asked about the water quality coming off this site. Mr. Pietras stated that slowing down the velocity will help the flow going into Meriden. The berm proposed would create a trap for any sediment before it reaches the Meriden line. The creation of wetlands will create some biofiltration as well.

Mr. Pietras feels that the pond is in a good location. The pond is currently spring fed, it has no algae, and it doesn't dry up. If it were to be moved up slope there would be a small drainage basin with a perched water table. There would be the possibility that in the dry months the pond would actually dry up.

Chairman Vitali stated that it may make sense to view all activities on site as not agricultural and consider this like a regular application. He stated in regard to the placement of the pond that it cannot just be put anywhere, even if it is found to be essential to the farming operation. The Commission would rather have seen the pond placed in an upland area.

Mr. Pietras stated that he looked at putting the watercourse back where it originally was. He indicated that there would have to be a rock channel because the slope is so steep. Currently that watercourse has been diverted to the north and joins the other watercourse and flows into the pond. If the watercourse were to be put back with that steep slope, there would also have to have a plunge pool sediment basin installed before the flow reaches the pond.

Attorney Loughlin indicated that the Applicant has been in contract with the City of Meriden and was told that Meriden will be directing its concerns to the Planning & Zoning Commission. Mr. Juliano stated that he had a meeting with the City of Meriden today. He indicated that Meriden is concerned with sediment runoff coming through and off of this property. Meriden wants to have a soil scientist or biologist look at their property and the Applicant has agreed to that. Meriden will be issuing a generic letter to Planning & Zoning stating that as long as everything done is in accordance with the State Health Department regulations they don't have any further issues.

Mr. Juliano reviewed the mitigations proposed. There will be water quality wetlands creation in the northwest part of the property. There will be plantings along the pond to create shade. The plunge pool

will be installed to control the flow and trap the sediment before reaching the pond. That area has also been armored with riprap to prevent any erosion on that steep slope. There are shrubs proposed from the plunge pool down to the pond on both sides and that is continued from the inlet of the pipe into the cluster of trees. The secondary plunge pool will be located on the north side of the driveway.

Mr. Juliano pointed out that there is an existing driveway crossing and pipe. It is an existing condition that the Applicant is looking to get approved "after the fact". The crossing is installed in the driveway from the existing house to the proposed barn. There is a second proposed crossing which was the former intermittent watercourse. There would be no pipe at this time because there is no watercourse. Mr. Juliano stated that as far as the barn, paddocks and grading that would potentially fall within the farming exemption and not need approval from this Commission. Mr. Juliano indicated that there would be a temporary crossing of the wetlands for the sanitary sewer and electric line.

Ms. O'Hare stated that on September 28th she conducted a second site investigation and found a number of areas that she feels are additional wetland areas. She presented these areas to Mr. Pietras. Ms. O'Hare stated that the Wallingford Engineering Department is going to be looking at the water quality basin plan. She stated that the City of Meriden would like a chance for its Engineering Department to review and comment back on the plan as well.

Ms. O'Hare pointed out that there are two applications pending. One application is regarding the agricultural exemption and the other application concerns one driveway crossing and two sewer lateral crossings. If the Commission were to approve anything else there would have to be an application filed for those regulated activities.

Ms. O'Hare stated that she has repeatedly asked the Applicant for a figure as to how much and where the filled wetlands are. She would like to see those details on the plans. She feels the IWWC should not approve an activity without knowing where wetlands currently exist.

Mr. Rainey stated that when the field was stumped it was graded and the holes were filled. The material was simply reworked. The material that came out of the pond went further up into the hay field. The material around that watercourse was just moved around after the area was stumped.

Commissioner Kern expressed his concerns about potential impact off site from nitrates from horses on site. Chairman Vitali asked that the Applicant address paddock mud and nitrate issues.

After further discussion about the timeline for approval and the appearance before Planning & Zoning on October 12th, Chairman Vitali stated that the Commission would hold off on taking any action on this application.

Commissioner Heilman asked for some further detail on the intermittent stream course to the south that was eliminated and moved to the north. He would like to know the amount of wetlands that was eliminated and some details about how it was rerouted. Mr. Juliano stated that there was a trench dug along the woods that intercepted that southwesterly watercourse and carried it to the northeasterly one. Commissioner Heilman would like those details placed on the map. Mr. Juliano stated that all of the watercourses found on the site have been placed on the current plans. Commissioner Heilman stated these proposals are not mitigations.

Ms. O'Hare stated that at this morning's meeting with the City of Meriden, the City asked that if there is any future construction activities a silt fence be installed the length of the property during construction.

The City requested the Applicant to be responsible for the completion of an independent review of impacts to Meriden land and water. She stated that when she visited the site last week she found another wetland violation that concerns a turnout that is paved. The turnout was built on the City of Meriden property. Ms. O'Hare believes the paved area was placed in a wetland. The area is approximately 80' x 30' and the City of Meriden has asked that it be removed. Ms. O'Hare stated that the Commission would have to decide if that portion of the paved area on the Applicant's property would have to be removed.

Chairman Vitali directed Ms. O'Hare to get the Applicant a specific list of all of her concerns and what has been discussed at this meeting.

Ms. O'Hare asked that any proposed fencing be included on the plan. She also stated that there is a watercourse in the pasture that she would like mapped and fenced so that the animals cannot get into the water.

Chairman Vitali asked the Applicant to grant the Commission an extension to continue these matters. Attorney Loughlin granted the extension.

NEW BUSINESS:

#A03-12.3 / 59 NORTH PLAINS HIGHWAY – Joseph Richello – (extension of permit)

Ms. O'Hare stated that the current permit expires in December 2011 and this would be the third extension to be granted.

MR. KERN: **MOTION TO EXTEND THE PERMIT FOR #A03-12.3 / 59 NORTH PLAINS HIGHWAY FOR ANOTHER THREE YEARS.**

MS. DEUTSCH: **SECOND**

VOTE: **UNANIMOUS**

RECEIPT OF NEW APPLICATIONS:

#A11-10.1 / 528 SOUTH CHERRY STREET – Cytec Industries Inc. – (remediation project)

#A11-10.2 / 320 BARNES ROAD – Borghesi Building & Engineering Commissioner., Inc. – (commercial expansion)

#A11-10.3 / 155 EAST STREET – Quinnipiac River – Town of Wallingford Water & Sewer Division – (sewer crossing)

Chairman Vitali received the above applications.

REPORTS & COMMUNICATIONS:

1. Staff report, dated 9/30/11
2. DEP Wetlands Training Sessions – re: soils.
3. Southwest Conservation District Newsletter, "Soil & Water", Fall 2011

VIOLATIONS:

1. 7 Old Gate / Mark Fenney – (filling)

Ms. O'Hare reported that no fill has been removed from the site yet although building materials have been removed.

2. 347 Highland Avenue – Donald Rainey – (clearing, filling, alteration of watercourses)

Discussed earlier.

3. 206 Main Street – Albert Dichello – (filling & paving beyond permit)

Ms. O'Hare indicated Mr. Dichello has been away.

4. Broadmeadow Road – Fieldstone Farms Association, Inc. – (clearing, tree removal, mowing in open space)

5. Other

ADJOURNMENT:

Commissioner Deutsch made a motion to adjourn. The motion was seconded by Commissioner Murphy and passed. The meeting adjourned at approximately 9:23 p.m.

Sonja Vining
Recording Secretary
Town of Wallingford
Inland Wetlands and Watercourses Commission