

**Inland Wetlands and Watercourses Commission
Town of Wallingford
Regular Meeting
Wednesday, December 7, 2011**

The Regular Meeting of the Wallingford Inland Wetlands and Watercourses Commission was held on Wednesday, December 7, 2011, in Council Chambers, 2nd Floor, Town Hall, 45 South Main Street, Wallingford, Connecticut.

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

Vice Chairperson Deutsch acting as Chair called the meeting to order at 7:05 p.m.

CONSIDERATION OF MINUTES:

November 2, 2011 - Regular Meeting

MR. PARENT: **MOTION TO APPROVE THE MINUTES OF THE NOVEMBER 2, 2011 MEETING AS SUBMITTED.**

MR. KERN: **SECOND**

VOTE: **UNANIMOUS**

PUBLIC HEARING – Continued

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

CONSIDERATION OF PUBLIC HEARING ITEM:

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

Acting Chairperson Deutsch indicated this would be taken up next month.

Presenting the application was Attorney John Lambert and Michael Motzkowitz, Member, Fawn Drive Assoc., LLC.

Attorney Lambert stated that, since the last meeting, Fawn Drive Associates, LLC submitted a revised site plan along with a letter stating what they are willing to do pertaining to the suggestions made by staff as well as the IWWC.

Attorney Lambert stated that he just saw for the first time this afternoon the Environmental Planner's Report dated 12/2/11. He doesn't agree that the responsibility of finding someone to hold the conservation easement falls upon the Applicant. Attorney Lambert stated that the Town has the power to do that and it is the one requesting the easement to begin with. He indicated that he would be willing to work with the Town Attorney to resolve this issue. He suggested that it might be easier if they were to call it a "Declaration of Restrictions" that the Town would enforce. Attorney Lambert suggested that

another option would be to call it a "Reservation" and reserve it to the grantor so that it is enforced by them until some other person takes it over.

Ms. O'Hare referred to the revised plan dated December 5, 2011. She indicated that the changes that she requested were put on the plans. She would like to see the name of the report by the ecologist referenced on the plans. Ms. O'Hare indicated that she spoke to the Town Attorney recently about the conservation easement and was advised that the Town would not take on the easement. Ms. O'Hare stated that the Regional Water Authority has indicated to her that it would be interested in acquiring the easement or possibly purchasing the property. If that were to be the plan, the process would take several months however.

Ms. O'Hare stated that there are several options in this case. The conservation easement could be held by the Town, it could be held by the Land Trust, or it could be held by the Water Authority. There is also the idea that the back part of the property could be broken off without any easement and be sold or donated to an abutter. Ms. O'Hare pointed out that if the plan is approved this evening with a conservation easement the Applicant doesn't have to file that easement until they are ready to commence the regulated activities. Mr. Motskowitz indicated that they are willing to entertain other options with the parcel but the plan is to develop it. Attorney Lambert stated that the Applicant is willing to give a conservation easement as it has been drafted. He doesn't believe that the Commission can condition an approval on the condition that the Applicant "donate" a portion of this parcel. Attorney Lambert stated that before the Applicant decides to give or sell a piece of this land he would need to look at it again to see where the boundaries would be as far as conforming to the zoning regulations. He believes that, no matter what, a portion of the conservation easement would be located on the Applicant's property. Attorney Lambert indicated that he would be in contact with the Land Trust to see if they would be interested in purchasing the property or controlling the easement over it.

Attorney Lambert stated that the Applicant is willing to restrict the use of major portions of this property. He feels that is where the issue should be left at this time. Attorney Lambert indicated again that he would be willing to meet with the Environmental Planner and the Town Attorney to discuss some minor changes to the conservation easement if necessary.

Acting Chairperson Deutsch stated that she would like to see a conservation easement as opposed to a deed restriction. Attorney Lambert stated that if the Land Trust is not interested, then the Applicant needs to be able to deed it to some new entity that would be controlled by the Applicant.

Attorney Lambert stated that the Commission asked that a conservation easement be provided. The Applicant proposed an easement and now the Town doesn't want it. He stated that the Applicant wants to give the easement away the way it has been negotiated with the Environment Planner and the Town Attorney. If it can be done that way the Applicant would be fine with it.

Commissioner Heilman stated that he was pleased that the Applicant made changes that diminished the impact to the wetlands in the area. He doesn't feel that the Commission has the right to hold back a person's application based upon things that it would like to see happen versus the authority that the Commission has.

Ms. O'Hare stated that the Commission is not required to make a decision at this meeting.

Mr. Kern suggested that the public hearing be closed this evening but no decision be made. He would like to see if this matter could be worked out with the Land Trust before the next meeting.

Ms. O'Hare stated that she had asked the ecologist to comment further on the new information on the box turtles as this is the usual procedure but Mr. Anastasio stated that the ecologist would not be providing any additional information.

Ms. O'Hare stated that the Applicant wanted all files from the 2007 application to be included as part of this record along with all documentation that has come in for this application and the previous application. Acting Chairperson Deutsch acknowledged that all information/plans received for 135 Fawn Drive will be included as part of this record.

Attorney Lambert stated that his Applicant has no issues with the suggested conditions of approval from the Environmental Planner's Report as numbered 1 through 5. Number 6 concerns the conservation easement which he feels has been discussed all it can be. Number 7 was included in the response provided by the Applicant earlier. In regard to Number 8, he doesn't feel that there are any additional comments other than what has been included in the response submitted by the Applicant. Mr. Motskowitz stated that he would be more than willing to meet with the Land Trust to discuss the issue of the easement.

Ms. O'Hare would contact the Applicant next week and arrange a meeting with the Land Trust.

Commissioner Deutsch closed the Public Hearing at 7:50 p.m.

CONSIDERATION OF PUBLIC HEARING ITEM:

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

Acting Chairperson Deutsch indicated this would be taken up next month.

OLD BUSINESS:

#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)

NEW BUSINESS: #D11-12.1 / REQUEST FOR DETERMINATION OF EXEMPTION – 347 HIGHLAND AVENUE – Donald Rainey – (dry hydrant)

RECEIPT OF NEW APPLICATIONS: #A11-12.1 / 347 HIGHLAND AVENUE – Donald Rainey – (after-the-fact regarding several activities)

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 referred to the Environmental Planner's Report dated December 2, 2011. Since last month, they have met with Ms. O'Hare, had a site walk, have met with the Fire Marshal, and had discussions with the City of Meriden. Attorney Loughlin stated that there is the original application, from August which includes two utility crossings. There is a second application, after-the-fact, which catches everything else that has been discussed. There is a second regulation exemption request that was submitted last week which pertains to a dry hydrant. There is a request for a waiver of application

fee for the December application. Attorney Loughlin stated that somewhere along the way the violation letter has to be addressed as well.

Attorney Loughlin commented briefly on the second application that was submitted for permitting regulated activities discussed over the past few months. In this application the farm pond would be left where it is and there would be a newly created wetland heading southwest toward the Meriden reservoir. There would be new plantings proposed. The turnout area along the driveway would be eliminated so it runs straight along the original course of the driveway. The soils in the City of Meriden property would be pulled out and the area would be seeded and allowed to restore itself naturally. The plunge pool at the base of the neighbor's driveway would be installed as mitigation. The first crossing, uphill from the pond, would be addressed along with the water quality at the southwest corner of the property.

Attorney Loughlin stated that the second exemption request came about from the request of the Fire Marshal. His understanding is that both the Environmental Planner and the Fire Marshal are in agreement with this exemption.

Attorney Loughlin indicated that he would like the original application approved. He would like to see that the December application be approved and that the second application fee be waived. Attorney Loughlin asked that the Commission look favorably on the recent exemption request regarding the dry hydrant. He would like to see that the Commission is content with the proposed activity and that the violation would be satisfied. Finally Attorney Loughlin stated that he is hoping to withdraw the first exemption request without prejudice.

Mr. Pietras briefly reviewed the proposed newly created wetland area to the southwest of the pond. The plan is to install a wetland swale that would be 12-foot wide with the deepest spot being 2 feet deep. The swale would be 375 feet long. It would be seeded with a wetland seed mix and graded very gently in a northwesterly direction. Any outlet from the swale would be discharged to the water quality basin which would be constructed at the southwest corner of the hayfield. The swale would be approximately 4,500 sq.ft. which would be approximately the size of the wetlands that were lost from the excavation of the pond area and the relocation of a section of intermittent watercourse. On the northwest side of the paved driveway there will be a plunge pool constructed with a culvert outflow on the northwestern side of the driveway.

Mr. Pietras stated that the water quality basin would not have much sediment flowing into it so there is no proposed maintenance plan. It would be cleaned on an "as needed" basis. Mr. Pietras stated that the swale being created would be planted with a native seed mix that would be mowed either annually or once every two years. The plunge pool along the driveway would also be cleaned "as needed".

Mr. Juliano discussed the turnabout area along the driveway. He stated that originally they were only going to remove what was on Meriden property but after discussing the matter further it was decided that the major part of the turnaround would be coming out and it would now be a clean straight line.

Commissioner Heilman feels that the wetlands that are being proposed are of better quality than those that were lost.

Ms. O'Hare reviewed the Environmental Planner's Report dated December 2, 2011. She briefly discussed the installation of the dry hydrant. She would like to know how deep the pipe is going to be installed in the pond. Mr. Juliano stated that the dry hydrant is a 6-inch PVC pipe that will have a threaded connection for the Fire Department. From ground level, the pipe will go down below frost

level and continue to the pond. Once it is in the pond it will have a screen on it and it would be set one foot off of the bottom of the pond and no closer than two feet from the surface. The pond is to be cleaned out as part of the application so the placement of the pipe depends on the final depth of the pond. The pipe would be installed at the same time the pond is being dredged. The sediment being removed from the pond would be used on site if possible or, if not, it would be removed from the site. The original pond was 6-8 feet deep. They do not know at this time how much silt needs to be removed.

Ms. O'Hare requested the proposed silt fencing be extended to the north behind the pond. Mr. Juliano agreed to this installation prior to dredging of the pond.

Ms. O'Hare stated that the Commission should begin with the Request for Determination #D11-8.1. Attorney Loughlin stated that he is hoping to withdraw that application.

The Commission discussed #A11-8.2 (one driveway crossing & two sewer lateral crossings). Ms. O'Hare suggested that it be approved with the condition that the erosion control measures are in place and meet with the inspection of the Environmental Planner prior to further work on the site.

MR. PARENT: **MOTION THAT APPLICATION #A11-8.2 / 347 HIGHLAND AVENUE BE DEEMED NOT A SIGNIFICANT IMPACT.**

MS. PHILLIPS: **SECOND**

VOTE: **UNANIMOUS**

MR. PARENT: **MOTION THAT APPLICATION #A11-8.2 / 347 HIGHLAND AVENUE BE APPROVED WITH THE CONDITION THAT ALL S&E CONTROL MEASURES BE IN PLACE AND INSPECTED BY THE ENVIRONMENTAL PLANNER PRIOR TO ANY FURTHER ACTIVITY ON SITE.**

MS. PHILLIPS: **SECOND**

VOTE: **UNANIMOUS**

Ms. O'Hare suggested that the Commission address the after-the-fact application next which would be #A11-12.1. She stated that there are three suggested conditions of approval included in the Environmental Planner's Report. The water quality basin and the pond should be checked periodically and dredged if needed. S&E control measures are to be in place and inspected by the Environmental Planner prior to any further activity on site.

Mr. Kern suggested that Attorney Loughlin could draft up a document stating that the Applicant is going to do best management practices relative to pond, basin, and swale as required. Attorney Loughlin agreed to do so.

MR. PARENT: **MOTION THAT APPLICATION #A11-12.1 / 347 HIGHLAND AVENUE BE DEEMED NOT A SIGNIFICANT IMPACT.**

MR. HEILMAN: **SECOND**

VOTE: **UNANIMOUS**

MR. PARENT: **MOTION THAT APPLICATION #A11-12.1 / 347 HIGHLAND AVENUE
BE APPROVED WITH THE FOLLOWING CONDITIONS OF
APPROVAL.**

1. **THE POND AND THE WATER QUALITY BASIN ARE TO BE
CHECKED PERIODICALLY AND DREDGED IF NEEDED.**
2. **ALL S&E CONTROL MEASURES ARE TO BE IN PLACE AND
INSPECTED BY THE ENVIRONMENTAL PLANNER PRIOR TO
ANY FURTHER ACTIVITY ON SITE.**

MS. PHILLIPS: **SECOND**

VOTE: **UNANIMOUS**

Ms. O'Hare suggested that the Commission address the request for determination for the dry hydrant next.

MR. PARENT: **MOTION TO APPROVE #D11-12.1 / REQUEST FOR DETERMINATION
OF EXEMPTION – 347 HIGHLAND AVENUE - (DRY HYDRANT).**

MS. PHILLIPS: **SECOND**

VOTE: **UNANIMOUS**

Ms. O'Hare stated Attorney Loughlin asked for a waiver of the Town fees. Attorney Loughlin stated that the second application that was recently submitted came along with a fee just as the first did. He requested that this second application fee be waived.

MR. HEILMAN: **MOTION TO WAIVE THE IWWC APPLICATION FEE FOR IWWC
#A11-12.1 DUE TO THE FACT THAT THERE HAS BEEN A LOT OF
DUPLICATION IN THESE APPLICATIONS, DUE TO THE FACT THAT
LESSONS HAVE BEEN LEARNED, AND IN FAIRNESS TO THE
APPLICANT.**

MR. KERN: **SECOND**

VOTE: **UNANIMOUS**

Ms. O'Hare stated that the last issue to discuss was the agriculture exemption #D11-8.1. Attorney Loughlin withdrew the application without prejudice.

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

Presenting the application was Gary Capitanio, Borghesi Building & Engineering Co. Inc. and Peter Connorton, Rowland Technologies.

Mr. Capitanio stated that he has been working with Erin O'Hare extensively over the last few months. The proposed addition would be an office of about 6,400 sq.ft. and manufacturing area of approximately 27,000 sq.ft. The wetland area has been flagged and put on the plans. There would be some work within the regulated area. There would be a watercourse that would be filled in the amount of 84 LF. There would be fill of approximately 990 cubic yards and the discharge of the storm flows out of the retention pond into the wetland area would also be a regulated activity.

Ms. O'Hare reviewed the Environmental Planner's Report dated November 30, 2011. She recommends approval of the application.

MR. PARENT: **MOTION THAT APPLICATION #A11-10.2 / 320 BARNES ROAD BE DEEMED NOT A SIGNIFICANT IMPACT.**

MS. PHILLIPS: **SECOND**

VOTE: **UNANIMOUS**

MR. PARENT: **MOTION THAT APPLCIATION #A11-10.2 / 320 BARNES ROAD BE APPROVED WITH THE FOLLOWING CONDITIONS OF APPROVAL.**
1. **S&E CONTROL MEASURES TO BE INSTALLED AND INSPECTED BY THE ENVIRONMENTAL PLANNER PRIOR TO ANY FURTHER ACTIVITY ON SITE.**

MS. PHILLIPS: **SECOND**

VOTE: **UNANIMOUS**

#A11-11.1 / 6 ROSICK ROAD – David Ellis, President, Wallingford Land Trust, Inc., -
(trail, footbridge, and boardwalk)

Presenting the application was Dave Ellis, President, Wallingford Land Trust, and his son Kevin, Eagle Scout.

Mr. Ellis stated that the Land Trust owns approximately 44 acres of the Fresh Meadow Swamp. The proposal is to construct a trail for people to enjoy the area. There would be a slightly raised footbridge done with posts that would span about 30 feet over the stream area. The balance of the trail would be a planking bridge. The planking bridge actually floats on the mud or water. All of the work would be done by hand. There will not be any mechanical equipment used.

Ms. O'Hare reviewed the Environmental Planner's Report dated December 1, 2011. She recommended that the application be approved.

MR. PARENT: **MOTION THAT APPLICATION #A11-11.1 / 6 ROSICK ROAD BE DEEMED NOT A SIGNIFICANT IMPACT.**

MS. PHILLIPS: **SECOND**

VOTE: **UNANIMOUS**

MR. PARENT: **MOTION TO APPROVE APPLICATION #A11-11.1 / 6 ROSICK ROAD WITH THE CONDITION THAT ALL ENVIRONMENTAL CONTROLS BE INSTALLED AND INSPECTED BY THE ENVIRONMENTAL PLANNER.**

MS. PHILLIPS: **SECOND**

Commissioner Kern suggested that wetlands placards could be installed in the area. Mr. Ellis would work with Ms. O'Hare to determine the best locations. Mr. Kern also suggested that the Town of Wallingford waive the application fee in this case because this is a community project that will benefit residents in town. Ms. O'Hare stated that the Commission actually waived the application fee at the last meeting.

VOTE: **UNANIMOUS**

#A11-11.2 / 475 MAIN STREET, YALESVILLE – I 2 S, LLC – (remediation project)

Presenting the application was Steve Daniels, Facility Support Services, LLC, Mr. Dematicone, Facility Support Services, LLC, William Elliot, I2S, Daniel Sandella, Facility Support Services, LLC.

Mr. Daniels stated that the regulated activity is the remediation of an old farm dump that is on the property. There will be approximately 1,500 sq.ft. of dumped debris removed. The material to be removed consists of old car parts, drums, trash, bottles, old tires, appliances, and other miscellaneous debris. ATV's will be used to bring the debris out along with a mini excavator with rubber tires. There will be a temporary aluminum bridge installed over the stream. Some small trees and a small amount of shrubbery would have to be removed. Once the material is pulled out of the woods it would be loaded onto a truck and brought to the landfill.

Ms. O'Hare reviewed the Environmental Planner's Report dated December 1, 2011. She stated that an addendum was received on December 2nd explaining in more detail how they are going to access the site and protect the soils. Ms. O'Hare pointed out that this area is in the floodway of the Quinnipiac River. She recommends that the application be approved. Mr. Daniels indicated that he has a letter from Attorney Holly Winger stating that the work being proposed is not incompatible with the conservation easement. The letter was submitted for the record.

The Applicant indicated that they will be watching the weather to see when the best time to get in there would be. The work would take a couple of days. They would like to get in there before snow fall. The time frame for the work would also depend on approval from the DEEP.

MR. PARENT: **MOTION THAT APPLICATION #A11-11.2 / 475 MAIN STREET BE DEEMED NOT A SIGNIFICANT IMPACT.**

MS. PHILLIPS: **SECOND**

VOTE: **UNANIMOUS**

MR. PARENT: **MOTION TO APPROVE APPLICATION #A11-11.2 / 475 MAIN STREET, YALESVILLE WITH THE CONDITION THAT ALL S&E CONTROL MEASURES BE INSTALLED AND INSPECTED BY THE**

**ENVIRONMENTAL PLANNER PRIOR TO ANY FUTURE ACTIVITY
ON SITE.**

MR. PHILLIPS: **SECOND**

VOTE: **UNANIMOUS**

NEW BUSINESS:

#A05-10.2 / 110 LEIGUS ROAD – Workstage-Connecticut, LLC – (release of bond)

Ms. O'Hare stated that on December 6th she walked the site with Commissioner Heilman, Attorney Joan Molloy and the Owner's Representative, Joe Peters. Ms. O'Hare referred to the Environmental Planner's Report dated December 7, 2011 which recommended a partial bond release of \$20,000 of the \$50,000 held. On the site walk there were a couple of areas that still need to be addressed. There needs to be additional stone placed in the outlet of Basin D. Ms. O'Hare had requested 30 feet of crushed stone to be placed in that area. She would like to see how the site survives the winter before the entire bond is released. Commissioner Heilman described in detail the conditions of Basin D. He would like to get some information about what was done with that outflow pipe. Ms. O'Hare stated that the pipe was supposed to be reset. Commissioner Heilman asked that Ms. O'Hare get confirmation that the pipe was actually reset.

Attorney Molloy, representing the Applicant, stated that the discharge area of Basin D was discussed and the Applicant feels that it would be best to wait until the ground freezes to go in with equipment and do some remediation work. Attorney Molloy stated that the property owner has worked very hard to remedy everything and has been very proactive. They acknowledge that there is still work to be done but they should get credit for all of the progress that has been made with this site.

MR. PARENT: **MOTION TO RELEASE \$20,000 OF THE BOND FOR APPLICATION
#A05-10.2 / 110 LEIGUS ROAD.**

MS. PHILLIPS: **SECOND**

VOTE: **UNANIMOUS**

RECEIPT OF NEW APPLICATIONS:

**#A11-12.2 / 665 NO. COLONY ROAD – Old Colony of Wallingford LLC –
(commercial development)**

Presenting the application was Attorney Joan Molloy and Bob Wiedenmann, Old Colony of Wallingford, LLC.

Attorney Molloy stated that the Applicant would like to make some revisions to the original site plan approved. There is no treatment for storm drainage on this site currently. With the proposed plan there will be storm drainage water treatment that meets the current State guidelines for handling storm water. There will be no net increase in the peak runoffs. The drainage report has been submitted to Ms. O'Hare. Attorney Molloy submitted a letter from Robert Hiltbrand, RR Hiltbrand Engineers & Surveyors, LLC, dated December 7, 2011, which summarizes the drainage report.

Commissioner Deutsch explained that the Commission would be looking to see if enough information has been submitted to make it feel comfortable with allowing the Chairman to consider administrative approval of this application as has been requested by the Applicant.

MR. KERN: **MOTION TO ALLOW THE CHAIRMAN OF THE IWWC TO CONSIDER ADMINISTRATIVE APPROVAL OF APPLICATION #A11-12.2 / 665 NO. COLONY ROAD.**

MR. HEILMAN: **SECOND**

VOTE: **UNANIMOUS**

#A11-12.3 / 216 NORTHFORD ROAD – Jeff & Lynn Andrews – (residential subdivision)

The application was received by Acting Chairperson Deutsch.

REPORTS & COMMUNICATIONS:

1. Staff report, dated 12/2/11

VIOLATIONS:

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

Ms. O'Hare indicated that there was nothing new to report.

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

Discussed earlier.

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

Mr. Kern stated that he would like Mr. Dichello to submit an after-the-fact application as well as a letter from his engineer stating that there would be no harmful impact to the surrounding wetlands and watercourses caused by the unauthorized paving and filling done by Mr. Dichello.

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

Ms. O'Hare indicated that there was nothing new to report.

ADJOURNMENT:

Commissioner Parent made a motion to adjourn. The motion was seconded by Commissioner Phillips and passed. The meeting adjourned at approximately 10:00 p.m.

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