

**Inland Wetlands and Watercourses Commission
Town of Wallingford**

**REGULAR MEETING
Wednesday, July 7, 2010**

The Regular Meeting of the Wallingford Inland Wetlands and Watercourses Commission was held on Wednesday, July 7, 2010, in Council Chambers, the Municipal Building, Wallingford, Connecticut.

Seated Commissioners were Jim Vitali – Chairman, Ellen Deutsch – Vice Chairperson, Nick Kern – Secretary, David Parent, Jim Heilman – alternate, and Environmental Planner Erin O’Hare.
Absent was: James Kovach

Chairman Vitali called the meeting to order at 7:03 p.m.

CONSIDERATION OF MINUTES:

June 2, 2010 - Regular Meeting

MR. KERN: MOTION TO APPROVE THE JUNE 2, 2010 – REGULAR MEETING MINUTES AS SUBMITTED.

MR. PARENT: SECOND

VOTE: UNANIMOUS

OLD BUSINESS:

#A02 – 6.12 / 63 GRIEB ROAD – Fieldstone Farm – Baker Residential LLC
– (release of bond)

Ms. O’Hare reviewed the Environmental Planner's Report dated June 30, 2010. She recommends that Baker Residential be directed to remove the 4-5 downed trees from the watercourse. Once that work is completed she indicated that the IWWC should release the remaining bond money to Baker Residential.

Jeff Meinke, Baker Residential, LLC, indicated that the trees would be removed either Monday or Tuesday of next week.

The Commission decided that Ms. O’Hare should be present during the tree removal to be sure that it is done to her satisfaction. Once the trees are removed the bond could be released.

MS. DEUTSCH: MOTION TO RELEASE THE BOND SUBJECT TO THE FINAL APPROVAL OF THE TREE REMOVAL BY THE ENVIRONMENTAL PLANNER.

MR. PARENT: SECOND

VOTE: **UNANIMOUS**

182 MALTBY LANE – Todd and Kerry Williams – Request for agricultural exemption under Section 4.1.a – (several)

182 MALTBY LANE – Todd and Kerry Williams – (clear-cutting)

Mr. Todd Williams was present.

Ms. O'Hare reviewed the Environmental Planner's Report dated June 29, 2010 and the plan from the Southwest Conservation District dated June 10, 2010 as submitted July 6. Ms. O'Hare pointed out that this is a very dry time of year and if the Commission waits until August to vote on this item it would give Mr. Williams less time to complete the work.

Commissioner Deutsch stated that since they just received the plan from the Southwest Conservation District she would feel uncomfortable voting on it this evening. Commissioner Kern stated that he didn't see anything in the plan regarding water quality in the proposed pond. He is concerned about algae control. He would not feel comfortable moving forward until more information could be provided on a maintenance plan and water quality.

Mr. Williams stated that he could install a pump to aerate the pond and also use a filter.

Chairman Vitali stated that the general feeling of the Commission is that it would like to have the plan reviewed by the Environmental Planner before it makes a decision.

Ms. O'Hare pointed out to the Commission that it would need to ask for an extension from Mr. Williams. Mr. Williams granted the Commission an extension for the agricultural exemption request.

#A03-11.2 / 950 NORTH MAIN STREET EXTENSION – Maplewood Construction Co. – (bond release)

Ms. O'Hare indicated that the bond is not ready to be released.

#A03-12.5 / 346 EAST MAIN STREET – Vincent Perretta – (bond release)

Ms. O'Hare indicated that the bond is not ready to be released.

#A10-4.9 / FIREWORKS ISLAND, QUINNIPIAC RIVER, AND COMMUNITY LAKE PARK, HALL AVENUE – Town of Wallingford – Park & Recreation Dept. – (two river access trails)

Ms. O'Hare indicated that there was no one available to present this application this evening. She reviewed the Environmental Planner's Report dated July 1, 2010.

Commissioner Kern wants to see an engineer's plan for what is proposed for these two access trails.

Ms. O'Hare stated that she was told that there is not enough money in the grant to do the interlocking blocks for the Fireworks Island ramp.

Ms. O'Hare stated that, on the Hall Avenue ramp, there is ledge under the water that drops off. The proposal is to bring stone down gradually to create a ramp rather than a drop-off. Mr. Cummings, NRCS, had indicated to Ms. O'Hare that the grant would allow for 5 feet of interlocking blocks to be placed in that area.

Commissioner Parent agreed with Commissioner Kern that the Commission needs a plan to review before it can make a decision.

Ms. O'Hare indicated that she has received a letter from the Applicant granting an extension to the Commission to the August meeting when the representatives would be present.

Commissioner Kern would like the Applicant to do his homework and develop a plan that would be acceptable to the Commission.

Chairman Vitali formally asked for an extension for this application.

MR. KERN: **MOTION TO TABLE APPLICATION #A10-4.9 TO THE AUGUST MEETING.**

MS. DEUTSCH: **SECOND**

VOTE: **UNANIMOUS**

#A10-5.3 / 803 NORTH FARMS ROAD – Toll Brothers, Inc. – (open space subdivision – 29 lots) – presentation

Presenting the application was Attorney Timothy Lee and Engineer David Carson, OCC Group.

Attorney Lee submitted to the Commission and briefly reviewed, a Wetland Assessment dated July 3, 2010 completed by Jodie Chase, Ecologist, which indicates there are no protected or endangered species on the site. He indicated that Soil Scientist Tom Pietras, Soil Science and Environmental Services, Inc., had flagged the wetlands on the site. Attorney Lee submitted to the Commission and briefly reviewed a supplemental report from Tom Pietras dated July 6, 2010.

Attorney Lee stated that this parcel is approximately 27.5 acres and what is being proposed is a 29-lot open space subdivision. Of the 27.5 acres there is approximately 7 acres of wetlands. The wetlands would be included in the open space. Approximately 15 acres of land would be preserved as open space in this subdivision.

Chairman Vitali clarified that he is not a direct abutting property owner but he is one property away. He asked Attorney Lee if his client would like him to sit for this application or recuse himself. Attorney Lee stated that his client does not have an issue with Chairman Vitali sitting for this application.

Attorney Lee passed out to the Commission a Development Statement that he would review during his presentation. Mr. Lee reviewed the design process from the beginning. There were numerous alternate site development plans for this site. OCC Group did a prudent and feasible alternative analysis. There were three principal elements that drove the design of the subdivision. The three factors were the need to connect the roadway system to The Willows development, the need to

maintain the integrity of the vegetated embankment along the Padens Brook watercourse, and to maintain the viability of the upland wetland meadow. Several of the lots have a 20-foot conservation easement along the rear of the lots. Even with this 20-foot conservation easement, those lots maintain a minimum of 25 feet of rear lawn area.

The site presently drains in a general east to west direction. The developed area is divided up into three basic subcatchments. The area along the northern property line drains overland through the wetland meadow to Padens Brook. The area in the center drains partially into the wetland meadow to Padens Brook and partially through the hay field to the same point. The southerly side of the property drains overland directly to Padens Brook with a majority of the flow reaching the southwesterly corner of the property. The southwest corner of the property is the natural low point of the site. Mr. Carson explained in detail how the three stormwater basin locations were determined. Each basin has been designed for water quality. They each have a bay separator unit prior to discharge into the basin. From the bay separator, the discharge goes to a 4 foot by 4 foot galley system. The bay separators are extremely easy to maintain. There is a full maintenance schedule on the plans. The responsibility of maintaining the basins would fall on the homeowners' association.

When complete, these would be town roadways and town drainage systems. Each detention basin has an easement in case the town needs to get in and maintain it.

There is no proposed disturbance of the wetlands. Mr. Carson pointed out on the plan where the 50-foot buffer line is. The disturbance within the buffer area is the discharge point of one basin, the grading for the berm and the level spreader of two basins. The only proposed grading within the 50-foot buffer is an area on the rear of Lot 23, which is why they are proposing a planted area to protect that wetland. The planting that is shown within the buffer area was proposed by Jodie Chase, Ecologist, and is included in her report dated July 3, 2010. Commissioner Heilman noted you do not want to dewater a brook that goes dry two months a year.

Mr. Carson stated that the 50-foot buffer runs along the 20-foot conservation easement along the rear of several lots. Outside of the conservation easement, there is a minimum of 25 feet of rear yard if the largest house were to be placed on those lots.

Mr. Chris Bennett, Toll Brothers, stated that a large house would be approximately 3,000 sq.ft. and the smallest would be approximately 2,200 sq.ft. He stated that deed restrictions would be placed on each lot that would restrict any activity in the conservation easement if it were on that lot. Mr. Carson stated that the 20-foot conservation easement in the area of those homes is totally vegetated at this time. Along that conservation easement line, they are proposing a split rail fence with placards. At the end of the conservation easement, at the drainage easement, it will be fenced by a chain link fence on three sides with split rail fence back up to the property line. The planting that is proposed is either immediately behind the split rail fence or between the split rail fence and the actual wetland limits. On every lot that is adjacent to the 50-foot buffer, the line will be physically demarcated with fence.

There was some brief discussion about the maintenance plan for the open space area. Mr. Carson indicated that the maintenance plan was included in the report submitted by Jodie Chase, which indicates mowing once a year in the fall. Mr. Carson stated that he could provide further details on the open space management if the Commission wished. Chairman Vitali would like to see language put into the homeowners' association documents that states that the IWWC would be the body to

determine when the open space needs to be mowed. Attorney Lee feels that it would be reasonable to have the Environmental Planner or the IWWC make that determination.

Commissioner Heilman would like to do a site visit before making a decision on the application.

Attorney Lee indicated that the Applicant would have no issue with the Commission doing a site walk. He stated that one of the reasons there was a conservation easement proposed was to preserve some of the existing vegetation along the stream corridor.

Commissioner Deutsch asked exactly what the conservation easement entails. Attorney Lee indicated that there would be formal language submitted to be approved by the Town Attorney. He stated that the purpose of the easement would be to prohibit development of the property. The goal would be to preserve the existing vegetation on the site.

Ms. O'Hare indicated that there are still outstanding documents that she has requested that have not been submitted. She questioned why the chain link fence around the basins is only on three sides and not four sides. Mr. Carson stated that the intent of the fence is to prevent accidental intrusion into the stormwater basin area by children in the neighborhood.

Ms. O'Hare suggested that an Open Space Management Plan be submitted for the Commission to review. Attorney Lee indicated that if that is what the Commission wants it could be done. He could submit a draft to be reviewed at the next meeting.

Ms. O'Hare stated that, since some material was just submitted this evening, she is not sure if everything she asked for has been provided. Mr. Carson indicated that he would be happy to meet with Ms. O'Hare and review the information that was presented tonight.

Commissioner Kern doesn't feel that the back up for the catch basin system is necessary. He asked Mr. Carson to review that part of the plan. Mr. Carson stated that it is a guideline requirement of the State Water Quality Manual for removal of 80% of suspended solids. The only way that could be done is with a physical structure. Mr. Carson believes that, in the instance where the discharge is flowing over the ground to the brook, it may not be necessary. He will review the plan for the next meeting.

The Chairman set a Special Meeting site investigation for Friday, July 16, 2010 at 4:00 p.m.

Ms. O'Hare stated that the thing she is most concerned about at this point, is that there would be no dewatering of the wetland and the riparian corridor.

At this time, Chairman Vitali indicated New Business would be addressed.

NEW BUSINESS:

#D10-6.1 / EAST CENTER STREET – Mackenzie Reservoir – Town of Wallingford Dept. of Public Utilities – Request for determination of exemption under Section 4.1.e. – (dike maintenance) - presentation

Presenting the application was Roger Dann, General Manager, Water & Sewer Divisions.

Mr. Dann explained that this concerns a dike that was left from the former pump station on the site. It backs water up approximately two feet deep back up to the main spillway. They need to retain use of this to control seepage through the main spillway. This project is making an improvement to the valve that controls water elevation. There would be a very minor amount of excavation necessary in the stream channel to get alignment for a new pipe to be connected to the existing sleeve. It is a one-time only request.

Ms. O'Hare stated that this falls within Section 4.1.e. of the regulations concerning water companies. Ms. O'Hare pointed out that her office has a new system for handling requests for determinations - the requests are assigned a #D and regular applications are assigned a #A. Ms. O'Hare made it clear that an exemption (#D) does not make them exempt from oversight, it just makes them exempt from having to get a permit and paying the application fee.

MR. KERN: **MOTION THAT #D10-6.1 / EAST CENTER STREET – TOWN OF WALLINGFORD WATER DIVISION BE DETERMINED TO BE EXEMPT UNDER SECTION 4.1.e.**

MS. DEUTSCH: **SECOND**

VOTE: **UNANIMOUS**

OLD BUSINESS: (Cont.)

**#A09-12.4 / 2A RESEARCH PARKWAY – Practical Energy Solutions LLC
- modification to permit – wet basin)**

Presenting the application was Engineer Bill Walters, General Contractor Herman Sachie and Site Landscaper Lou Criscatelli.

Mr. Walters explained that this application is to modify the plan that was approved in February 2010. They are proposing the addition of a permanent pool into the detention basin. The Applicant wishes to enhance the appearance of the site.

Mr. Walters stated that the top of the pool would be at the bottom of where the old bottom of the basin was. What is added is below the bottom of the basin. The basin will still function as originally approved. The permanent pool elevation would be 355 and the bottom of the basin is 352. The water quality would not change. There is an overflow basin at the end of the pond. The water will be filtered similar to a pool.

Ms. O'Hare pointed out that with a modification such as this, the original approval date would hold, so the permit would begin February 3, 2010. If the Commission wishes the commencement date could be changed to today.

MR. KERN: **MOTION THAT MODIFICATION TO APPLICATION #A09-12.4 / 2A RESEARCH PARKWAY BE APPROVED AS SUBMITTED (WITH THE STARTING DATE BEING FEBRUARY 3, 2010).**

MS. DEUTSCH: **SECOND**

VOTE: **UNANIMOUS**

#A10-5.4 / 1070 NORTH FARMS ROAD – John Orsini – (commercial development)

Presenting the application was Emile Pierides, BL Companies.

Mr. Pierides stated that this application is for a 50,000 sq.ft. building on a 5.5-acre lot. Back in 2003 the Commission approved a 9-lot industrial subdivision. This application is for Lot 1D, which is the fourth lot developed so far. The lot has 0.43 acres of wetlands. There will be no disturbance within the wetland limits. There is an existing detention pond designed to handle five lots of this subdivision. There will be no modifications to this pond since it has been designed to handle the runoff from this site.

Mr. Pierides reviewed the stormwater design. There will be on site catch basins with two-foot sumps and hooded outlets. There are two water quality structures on either side of the site to treat the stormwater runoff prior to exiting the site. The northern part of the site goes through the water quality structure to a riprap pad into the existing swale that conveys the water to the existing detention pond. On the south side of the building, the stormwater runoff is picked up with catch basins to a water quality structure that connects to the existing storm system that was installed back in 2003 for this purpose. The roof runoff will be put into a 24" perforated pipe to recharge. The erosion control measures will meet the 2002 CT Soil and Erosion Sediment Control Guidelines. The only work proposed in the 50-foot upland review area is for the connection to a stormwater manhole.

Ms. O'Hare reviewed the Environmental Planner's Report dated July 1, 2010. Mr. Pierides indicated that the revised plan would include hay bales as suggest by Ms. O'Hare.

MS. DEUTSCH: **MOTION THAT APPLICATION #A10-5.4 / 1070 NORTH FARMS ROAD BE DEEMED NOT A SIGNIFICANT ACTIVITY.**

MR. PARENT: **SECOND**

VOTE: **UNANIMOUS**

MS. DEUTSCH: **MOTION THAT APPLICATION #A10-5.4 / 1070 NORTH FARMS ROAD BE APPROVED WITH THE FOLLOWING CONDITIONS OF APPROVAL:**

- 1. NOTICE OF DECISION LETTER TO BE SCANNED ONTO THE REVISED PLAN, WHICH IS TO BE SUBMITTED PRIOR TO COMMENCEMENT OF WORK.**
- 2. REVISED PLAN, TO BE SUBMITTED AS SOON AS POSSIBLE, TO BE SIGNED BY IWWC CHAIRMAN PRIOR TO COMMENCEMENT OF APPROVED ACTIVITIES.**
- 3. EROSION CONTROLS TO BE INSTALLED AND INSPECTED BY THE ENVIRONMENTAL PLANNER PRIOR TO ANY FURTHER ACTIVITIES ON SITE.**
- 4. HAYBALE PROTECTION TO BE INSTALLED AT STORMWATER OUTLET DISCHARGING TO LARGE BASIN DURING CONSTRUCTION PHASE.**

5. S&E CONTROLS ARE TO BE INSTALLED PRIOR TO ANY ACTIVITY ON SITE AND MEET THE APPROVAL OF THE ENVIRONMENTAL PLANNER.

MR. KERN: **SECOND**

VOTE: **UNANIMOUS**

VIOLATIONS:

- 1. 475 Williams Road – Patricia Schlosser, owner, Art and Rita Pires, tenant – (cease & desist)**

Ms. O'Hare reviewed the Environmental Planner's Report dated July 2, 2010, which included a map prepared by her. She has not heard any comments from Attorney Brooks since the Environmental Planner's Report was sent out. Ms. O'Hare indicated that as far as she understands, Attorney Brooks and Mr. and Mrs. Pires are on board and agree with the map that was sent out. Chairman Vitali asked for correspondence stating that Attorney Brooks and Mr. and Mrs. Pires agree with the dotted lines on the map showing where fill was placed. Ms. O'Hare stated that it has been represented to her by Soil Scientist Tom Pietras and Attorney Brooks that all parties agree with the map. She expected them to be present at this meeting. No one stepped forward to represent Patricia Schlosser or Art and Rita Pires at this meeting.

Chairman Vitali discussed Trench #1. Commissioner Heilman indicated that Trench #1 did have fresh filling over old filling. Ms. O'Hare pointed out that on Page 2 of the Environmental Planner's Report it clearly spells out what was found in each trench that was dug on the site. Chairman Vitali asked why Trench #1 wasn't dug out closer to the fill line. Ms. O'Hare stated that she did not pick where the trenches were dug. Mr. Pietras directed Mr. Pires where to dig the trenches. Ms. O'Hare trusted Mr. Pietras to place the trenches in an area that she would be able to prove that fill was brought in. Ms. O'Hare feels it is clear where the filling was placed. Chairman Vitali would like a letter from Attorney Brooks indicating that they will remove all of the fill that is marked in the dotted area on the map dated 7/2/10, drawn by Erin O'Hare, Environmental Planner.

Chairman Vitali asked about the fill placed down by the driveway. Ms. O'Hare is recommending that the fill in that area be removed. Attorney Brooks and the Pires would like the fill to stay in that area. Ms. O'Hare pointed out that the fill in that area is in the Floodway of the Muddy River. She made it clear that the dotted area on the map indicates filled wetland but there is also fresh fill that has been placed on old fill in the upland review area. After some discussion about the fill placed in the upland review area, Chairman Vitali indicated that the main concern for the Commission at this time would be to remove the fill placed in the wetland.

MR. KERN: **MOTION THAT ALL THREE AREAS MARKED WITH DOTS ON THE MAP CREATED BY ERIN O'HARE DATED 7/2/10 SHALL BE THE BOUNDARIES OF REMOVAL OF THE FILLING OF THE WETLANDS AT 475 WILLIAMS ROAD.**

MS. DEUTSCH: **SECOND**

Commissioner Deutsch asked for clarification on the areas of fill that must be removed. Chairman Vitali indicated that there are three areas of fill to be removed. There is one area by the house, the second area is in the turn around, and the third one is on the edge of Williams Road. Commissioner Kern stated that the fill is to be removed from the site. Commissioner Deutsch stated that the site is to be restored to its original condition.

VOTE: **UNANIMOUS**

Ms. O'Hare pointed out to the Commission that a letter from Soil Scientist Tom Pietras lists several species of wetland plants to be planted along the wetland line. She stated that Mr. & Mrs. Pires are willing to install those plantings.

MS. DEUTSCH: **MOTION THAT WETLAND PLANTINGS ARE TO BE INSTALLED ALONG RESTORED WETLAND LINE AS IN THE LETTER FROM SOIL SCIENTIST TOM PIETRAS THAT RECOMMENDS WETLAND PLANTINGS TO BE INSTALLED BY MR. & MRS. PIRES.**

MR. KERN: **SECOND**

VOTE: **UNANIMOUS**

2. 182 Maltby Lane – Todd and Kerry Williams – (clear-cutting)

Discussed earlier.

RECEIPT OF NEW APPLICATIONS:

#A10-7.1 / 12 RAVINE LANE – Stan Drauss – (pond restoration)

Commissioner Kern indicated that he wants to be sure that the person who is going to be doing the work is present for the presentation in August because there have been issues in the past. He stated that the soil types in the area are very erosive and there needs to be a definite plan.

Chairman Vitali received the application.

**#A09-10.1 / 103 NORTH TURNPIKE ROAD – Yalesville Properties, LLC
– (modification to permit)**

Ms. O'Hare has not had an opportunity to review the plan since it just came in yesterday afternoon. She has been told that the plan needs to be modified to satisfy DEP. They will be removing fill from the floodplain and also removing the water quality basin.

Chairman Vitali received the application.

REPORTS & COMMUNICATIONS:

- 1. DEP – Request for Authorization Form for General Permits Administered by the Inland Water Resources Division.**

2. **DEP – Approval of Authorization for minor grading for beach maintenance at various inland state parks.**
3. **86 So. Branford Road – Appellate Court decision – Alan Vine v. Planning and Zoning Commission of the Town of Wallingford**

Ms. O'Hare indicated that the Commission received correspondence from Attorney Vincent McManus, dated June 14, 2010, regarding Vine v. Wallingford. Chairman Vitali briefly discussed the case.

4. **Regulations revisions – Request for Determination of Exemption form**

Ms. O'Hare indicated that the Commission received a "Request for Determination of Exemption" form to be reviewed and approved by the Commission.

Chairman Vitali questioned why in the past few months there have been so many requests for agricultural exemption when in the past 22 years there have been none. Ms. O'Hare believes that the sudden interest in agricultural exemptions began with the Andrews case. In the case of Mr. Williams, Ms. O'Hare told him that his activity could fall within the category of agricultural exemption. Chairman Vitali doesn't believe that the Environmental Planner should be suggesting an agricultural exemption as a solution to a violation. Ms. O'Hare feels that in the case of Mr. Williams the fishing aspect would make it agricultural. Chairman Vitali doesn't believe it is appropriate to direct people toward an agricultural exemption when there are violations on the property.

MS. DEUTSCH: MOTION TO ACCEPT THE REQUEST FOR DETERMINATION OF EXEMPTION FORM AS SUBMITTED.

MR. PARENT: SECOND

VOTE: UNANIMOUS

5. **Report – open permits**

Ms. O'Hare briefly reviewed the Environmental Planner's Report, dated July 1, 2010, regarding Permits Under Construction.

Chairman Vitali directed Ms. O'Hare to look into an area upstream from the Choate watercourse at the foot of Farm Hill. The detention pond in that area seems to be an active pond. Ms. O'Hare has visited the site over the past few years and has had the Engineering Department look at it. The Town chose not to pursue it. Chairman Vitali pointed out that the detention pond is not functioning as it was designed.

RECEIPT OF NEW APPLICATIONS:

#A10-7.2 / 206 MAIN STREET – Albert DiChello – (paving)

Chairman Vitali gave some history on the site and the previously approved application. Chairman Vitali received the application.

Commissioner Heilman indicated that at 22 Grove Street, Yalesville, there is a stream that has filling going on around it. Ms. O'Hare will look into it.

Commissioner Kern asked Ms. O'Hare to look into the approval for 206 Main Street. He believes that there is more pavement on the site than what was approved.

ADJOURNMENT:

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

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