

Wallingford Inland Wetlands & Watercourses Commission

Wednesday, January 4, 2017

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

45 South Main Street, Wallingford, CT

MINUTES

PRESENT: The Regular Meeting of the Wallingford Inland Wetlands & Watercourses Commission was held on Wednesday, January 4, 2017 at 7:00 p.m. in the Robert F. Parisi Council Chambers, Town Hall, 45 South Main Street, Wallingford, CT.

Seated Commissioners were: Chairman Jim Vitali; Vice-Chair David Parent; Nick Kern, Secretary; Deborah Phillips; Alternates Jim Heilman; Daryll Porto, Michael Caruso; Erin O'Hare, Environmental and Natural Resources Planner.

Chairman Vitali called the Meeting to order at 7:04 p.m. and the Pledge of Allegiance was recited.

Voting members were: Kern, Phillips, Parent, Caruso, and Vitali.

CONSIDERATION OF MINUTES

1. Regular Meeting, December 7, 2016

MR. PARENT: MOTION THAT THE MINUTES OF THE REGULAR MEETING OF DECEMBER 7, 2016 BE APPROVED

MS. PHILLIPS: SECOND

VOTE: HEILMAN-YES; KERN-YES; PARENT-YES; PHILLIPS-YES; VITALI-YES

OLD BUSINESS

1. **#A16-9.2/1460 Tuttle Avenue**/David & Christine White – (two driveway extensions for emergency vehicles, new horse area with fencing on south side, paving of gravel driveway, retaining wall, deck stairway, walkway, paddock, and after-the-face-driveway gate and fencing installation)

Appearing in front of the Commission was David White, 1460 Tuttle Avenue. He said regarding the wetlands project, all the remaining trees have been removed. Ms. O'Hare referenced her Environmental Planner's Report of Dec. 29, 2016, and noted she combined the report for both the Cease & Desist order and the application. She said she visited the site and affirmed the

entire log piles have been removed from the swamp. She noted there are a few piles of rubble near the house, but this can be handled if the IWWC approves the terracing. Chairman Vitali asked about the engineered plan. Ms. O'Hare said there are eight different improvements to this application, one of them being the driveway improvement. Ms. O'Hare said Milone & MacBroom was hired and the plan was presented to the owners about a week ago. Mr. White said the plan still needs fine tuning and is not where it should be for consideration. He said restoration trees have been planted. Ms. O'Hare said there is still fill remaining for the driveway. She said there is also fill in the paddock vicinity because the applicant is waiting for approval.

Ms. O'Hare said the IWWC can approve some of the elements, or wait until the driveway plan is presented and approve the entire project. Ms. O'Hare noted the Applicant is out of time and has to withdraw the application and re-apply. Ms. O'Hare said under the violation, she would like the Cease & Desist order to remain because Mr. White hasn't satisfied all the requirement, i.e., the fill hasn't been removed, understandably, from the driveway and paddock areas. Ms. O'Hare said she will need to check the small planted trees to ensure they survive the winter.

Chairman Vitali entertained a motion to leave the Cease & Desist in effect until the application plan is ready to review.

MR. PARENT: **MOTION THAT THE CEASE & DESIST ORDER FOR #A16-9.2**
1460 TUTTLE AVENUE – DAVID & CHRISTINE WHITE -
REMAIN IN EFFECT UNTIL THE NEW APPLICATION IS
SUBMITTED

MS. PHILLIPS: **SECOND**

VOTE: **KERN-YES; PARENT-YES; PHILLIPS-YES; CARUSO-YES**
VITALI-YES

Mr. White agreed to withdraw his application until a full plan can be presented. Ms. O'Hare requested Mr. White submit withdrawal request in writing to her.

Chairman Vitali took the agenda in the following order:

VIOLATIONS

3. Cease & Desist – 8 & 10 Atwater Place – Howard, Sr. and Gail Lohmann

Appearing in front of the IWWC was Atty. Dennis Ceneviva, Ceneviva Law Firm, representing the Owner/Applicant and Rosalind Page, Licensed Land Surveyor, Winterbourne Land Services; Howard and Erik Lohmann, part of the ownership group, of this property and of Logan Steel.

Atty. Ceneviva updated the Commission on actions that have been taken since the Cease & Desist in November. He said there has been a Cease & Desist Order from Ms. O'Hare. He said since the first meeting, there has been fill going into the site from 2002, and was done without the understanding there was approval needed from the IWWC and Planning & Zoning which also issued a Cease & Desist. Atty. Ceneviva said he gathered information and learned the source of the fill. Atty. Ceneviva said over the past month and a half, Ms. Page has been able to shoot all the grades for the two lots, and attempt to ascertain the amount of fill that has occurred over the past decade. He said he has a good handle on what is there now and are trying to get a base level on where the fill has gone. Atty. Ceneviva said there is some fill which has occurred in the upland review area. He said the total acreage on the two lots amounts to approximately 2.75 acres and a small portion which falls within the upland review area.

Ms. Page went over the property site plan. She said she performed a topographic survey of existing conditions of the two lots. She showed the spot shots on the map to the Commission. She also showed the location of the wetland flags which were done as part of the original subdivision application in 1990. Ms. Page said there are no new flags on the site. Ms. Page pointed out the 100 ft. greenbelt on the map which she said must be maintained from the Quinnipiac River. She said the topography suggests filling has occurred within the upland review area.

Ms. O'Hare said she visited the site today, but couldn't discern any noticeable changes in soil conditions. Ms. O'Hare asked about the numbers on the map. Ms. Page said these were elevation numbers. Ms. O'Hare said she sees large and small numbers. Ms. Page said the small digits are the places where a shot was taken, and the contour lines are the bigger numbers which was developed as a result of taking these shots. Chairman Vitali asked if the fill was going to be removed or would be staying. Ms. O'Hare said the owner may want to come in with an application to allow the fill to remain. She said it is in the upland review area but didn't see any fill in the wetlands on this map. Chairman Vitali asked how the fill affected the 100 ft. greenbelt. Ms. O'Hare said that is a Planning & Zoning issue.

Atty. Ceneviva said the plan is to meet with the owners to decide what the next step will be. He said he contemplates the owners will submit an application to allow the fill to remain. He said he needed to establish the fill didn't impact negatively on the quality of the wetlands. He said his clients are actively pursuing action and noted no work is being done under the Cease & Desist order. Atty. Ceneviva said there is a very small area of upland review area which has been filled and noted the majority of the 2.75 acres is out of the jurisdiction of the IWWC. He said there are two options: remove it or submit an application. He said his clients have not made a decision.

Chairman Vitali said he didn't hear where the fill was on-site for a decade, but were just taking elevations from a decade ago. Atty. Ceneviva said the fill started around 2002-2003 and came from a sub-division in Meriden. He said there were five truckloads of millings which were put on-site for the outside storage. Commissioner Heilman said the only concern should be what would be the effects of the filling that has been done in the upland review area in terms of negative effects to the nearby wetlands. He said if the owners can demonstrate this hasn't changed the nature, this could be left there. He said if it is millings, which could interfere with the natural seepage in the area, this might the owners might think about removing. Commissioner Heilman said the upland review area is in place to protect the wetlands, so the question would be what difference it would make if the land was left the way it is, versus its original condition.

Commissioner Kern said he agreed with Commissioner Heilman and asked about the greenbelt. Ms. Page said each side of the greenbelt is 100 ft. Commissioner Kern said the owners need to address prematurely on what their intentions are to bring this greenbelt back. He said he is comfortable leaving the fill there, and have trees planted. Ms. O'Hare said the former Town Planner used to treat this as no structures or activity within the 100 ft. greenbelt. She said this will be discussed with Planning & Zoning. She noted there are no erosion control measures in place and noted when this is a plan, drainage and pre-treatment will be needed for the oils dripping off the trucks. She said there has to be shaping and pointed out there are a lot of unknowns. Ms. O'Hare said the floodplain (FEMA) line is not shown on this map.

Chairman Vitali noted the Cease & Desist will stay in affect. He asked if there was evidence of erosion problems. Ms. O'Hare said she made a quick visit today and noted there is an 8 ft. dropoff. Chairman Vitali noted an 8 ft. run will only have runoff on 8 ft. He said there are a lot of factors to consider. Chairman Vitali said in this application, there will probably have to be S & E controls to be put out near the wetland line. Atty. Ceneviva said this would be reasonable. Ms. Page pointed out from the toe of the slope heading westward towards the wetlands line, there is undisturbed vegetation.

Regarding erosion control, Ms. O'Hare suggested she go to the site on a drier day and if she finds areas to be addressed, they will be addressed. Atty. Ceneviva agreed to this idea.

Chairman Vitali entertained a motion on the Cease & Desist staying in effect.

**MR. PARENT: MOTION THAT CEASE & DESIST ORDER FOR 8 & 10
ATWATER PLACE REMAIN IN EFFECT UNTIL A REMEDIATION
PLAN IS PRESENTED**

MS. PHILLIPS: SECOND

VOTE: CARUSO-YES; PHILLIPS-YES; PARENT-YES; KERN-YES

VITALI-YES

OLD BUSINESS

2. **#A16-9.6/103 Turnpike Road/**Joseph Richello – (apartment complex & facilities building)

Appearing in front of the IWWC was Atty. Joan Molloy, Loughlin Fitzgerald, representing the Applicant, Joseph Richello, Owner/Applicant and Christopher Juliano, P.E., Licensed Land Surveyor, Juliano Associates.

Atty. Molloy said Mr. Richello needs to get a decision on the application tonight and said it was his hope that she could assist the Applicant and IWWC to reach a mutually acceptable resolution. Atty. Molloy said she reviewed the documents submitted during the processing of this and the prior application, as well as reading the Minutes from various meetings and response comments from Mr. Juliano as well as department comments. She said this is an application for a 36-unit residential apartment building with associated parking, an outbuilding, stormwater management facilities and other improvements on an 8.7 acre parcel of land. Atty. Small said she believed the initial application showed that the total direct impact to wetlands would be 2,002 sq. ft. and the total impervious surface would be 53,433 sq. ft. and the upland review area of disturbance would be 34,176 sq. ft.

Atty. Molloy noted the Quinnipiac River flows through this property which is located in one of the lowland areas adjacent to the river. She said there is a history of flooding in this area and similar lowlands along the River. She noted the history of flooding triggered concerns with at least one member of the IWWC, when the change was proposed to a residential use. She said the site was previously approved for a commercial strip mall. Atty. Molloy said it was her understanding that the building location, the driveway and the parking areas, the coverage and the impact of the apartment buildings are essentially the same as the previously proposed commercial building. Atty. Molloy said the primary concern appears to be with the proposed outbuilding which was to contain storage facilities for the residents and property owner.

Atty. Molloy said the Applicant provided a traffic analysis which showed the residential use will result in 1/4th of the amount of traffic than the previously approved commercial use. Atty. Molloy pointed out the property is located in an Aquifer Protection District, and noted the proposed residential use is neither a prohibited activity or a regulated activity under the Aquifer Protection Regulations, therefore the Applicant's voluntary compliance with these Regulations should be viewed as the Applicant's evidence of commitment to develop the property in an environmentally sensitive manner. Atty. Molloy said from the Applicant's prospective, the change from the previously approved commercial plan to residential use was designed in an environmentally sensitive manner. She noted the direct impacts to the wetlands were associated with a sewer connection and were the same for both applications. She said the remaining direct impact to the wetlands arises from activities associated with wetlands

restorations. Atty. Molloy noted the plan complies with the Regulations. She said the Applicant has tried to be responsive to concerns raised by the IWWC and the Environmental Planner and has provided information in a timely manner and has revised the site plan on more than one occasion, resulting in the size of the outbuilding being reduced, and the total amount of the impervious surface and upland review impacts also being reduced. She said the datum map conflict has been corrected, and the recent review by the Town Engineer confirms that Mr. Juliano's design complies with the Town's floodplain development standards. Atty. Molloy said her readings of the IWWC's primary concerns focuses on stormwater management and proper development within and adjacent to the Quinnipiac River floodplain and the intensity of the development on this property.

Atty. Molloy noted the Environmental Planner's concerns have been varied, and from her review of the records, subject to repeated additions. She pointed out there is clearly frustration on the part of the Applicant, and at times, the IWWC, with the presentation of new issues at each hearing of the application. Atty. Molloy said this process of constantly raising new issues makes it difficult for the Applicant and the IWWC. She said Mr. Juliano has met with the Fire Marshal. Chairman Vitali requested Atty. Molloy skip the Fire Marshal because it was not a wetlands issue.

Atty. Molloy went on to say Water and Sewer Divisions most recent memo dated Dec. 2, 2016, contained recommended conditions of approval which are agreeable to the Applicant, and the Town Engineer's memo dated Dec. 29, 2016 indicates he is satisfied with the proposed design with suggested conditions of approval acceptable to the Applicant. Atty. Molloy said the Town Planner's comments focused on the floodplain regulations, and noted the required Letter of Map Amendment (LOMA), was received by FEMA and a revised version was submitted reflecting the datum correction. She said copies of a new memo dated January 3, 2017 from Ms. O'Hare to the Town Engineer and the Environmental Planner's Report dated Dec. 30, 2016, were received by Mr. Juliano late Tuesday morning. She said this provided the Applicant with 24 hours to respond to a 17-page memo.

Mr. Juliano went over how the Applicant has attempted to address Ms. O'Hare's comments received yesterday and how the Applicant is prepared to further modify his application to address concerns from various IWWC members. Chairman Vitali noted for the record that when Atty. Molloy addressed Mr. Juliano, she called him David, and it is Christopher Juliano.

Mr. Juliano went through the plans and Ms. O'Hare's conditions of approval. He said since the letters were received so late in the process, he had a choice of either addressing these conditions verbally, or in a letter or trying to obtain a set of plans he could present tonight to show the IWWC what we have been saying with respect to agreeing to the conditions and can make them on a drawing, noting many of them were already made.

Mr. Juliano noted that with respect to existing conditions, Ms. O'Hare requested a few minor changes be made to the plans, i.e., call out the soil type in the triangular area of the property which was done; a depiction of elevation data and elevation on Town property which he said technically, he wouldn't do. Mr. Juliano said Ms. O'Hare had a question on the grade. He said he told Ms. O'Hare he had gone out and shot the grades and showed her the data and is on the plan. Mr. Juliano said Ms. O'Hare asked about elevation information on the stream on the other properties which were requested by Chairman Vitali. He said the spot grades are listed and the number he provided, 39 ½ was correct.

Mr. Juliano went over Ms. O'Hare's five comments with respect to the site layout plan which included revised figures for the upland review area activities which are now are updated. He said a stand alone document was provided. Mr. Juliano said Ms. O'Hare asked for the impact figures for the sewer installation of the wetlands; a call-out of no work being proposed within the grading right area; a note regarding work being stopped if a large storm event was forecasted, and the Water Division request regarding uses in the facilities storage building. Mr. Juliano noted the secondary building was removed from the site layout plan. He said this seemed to be one of the major focuses and issues with the IWWC. He said he now hopes the IWWC will look more favorably on this project and pointed out the impervious area is now reduced by 5,175 sq. ft. and removes 51 sq. ft. of buffer disturbance. He said with respect to the prior application, there is less impervious surface with this plan.

Mr. Juliano addressed Ms. O'Hare's comments on the site landscape plan noting that Ms. O'Hare wanted specific notes with respect to restoration plantings which were completed. He said Ms. O'Hare requested the buffer plantings along the stream corridor have certain language which was included, and the same note has been maintained about the grading rights area with the DeMartino property which he said was no longer being used. He noted this has been done.

Addressing the site development plan, Mr. Juliano said with regard to Ms. O'Hare's call out regarding the size of the oil/water separator unit, he said the change came to the front, and there is now a 1,250 gallon chamber in the front and a 1,000 gallon chamber in the rear. Mr. Juliano noted that both chambers have been placed so they are top of frame elevation and the manholes are above elevation 45 so that water cannot backflow into these units and spill out. Mr. Juliano said Ms. O'Hare's note for a compensatory flood storage area be constructed first and stabilized as part of the project was completed and added to the erosion control plan; the note about the two drainage swales to be constructed and stabilized was added; the note about filling activities to the one building and associated drives shall not be conducted until the compensatory storage area is completed and that the note regarding the forecast be watched, so if any rainfall greater than three inches in a 24-hour period is forecast, work be stopped a minimum of 48 hours prior, and all materials removed outside of the floodplain and additional silt fencing be installed if necessary on the slopes, was added.

Mr. Juliano said a number of notes on the erosion control plan, what will be constructed first and how the site will be protected during normal construction activities of rainfall and the possibility of a flood event, has been added. Mr. Juliano said a final as-built will also be provided to Ms. O'Hare, the Planning & Zoning Commission and FEMA.

Commissioner Parent complimented Mr. Juliano and said he had no real problems with the application. Commissioner Kern asked Mr. Juliano what he was going to do with the 5,000 sq. ft. of space from the facilities building. Mr. Juliano said he has squared off the parking lot, and added additional spaces bringing up the total parking spaces to 54 spaces vs. 49 and beyond this, it will remain the same. He said some tree clearing for the incoming sewer line will be done. Commissioner Kern asked if there was a maintenance plan for the oil/water separator. Mr. Juliano said there is a separate stormwater maintenance document which was requested by Ms. O'Hare. He said there will be maintenance in two phases; the construction phase where the oil/water separator will be inspected after each storm and once the project is stabilized, they will be looked at in the spring and fall which is standard practice dictated by the Water and Sewer Department. He said they don't have to be registered with the State.

Commissioner Heilman said this was an amazing application taking incredible scrutiny. He said he has never seen such an intensive Planner's Report, 17 pages. He noted on the Report, page 9 which stated "the impacts to the remaining wetlands is anticipated to be negligible." He said this is what the IWWC is here for, to protect the wetlands.

Commissioner Heilman said he didn't like to see as much of the upland review area used as being used in this application. He said he would be concerned if this was a general application for apartments with children, but this isn't the case here. He said the upland review area is taking an enormous impact for this application, but we have to look at what will be the difference to the wetlands which is the primary purpose for the upland review area, to protect wetlands. He said when he looks at this application, he doesn't see the difference between "pre" and "post". Commissioner Heilman noted that after this is completed and it is stabilized, with the conditions being established, overall, it will be a better situation than what currently exists. He said this has been a very difficult application for the Applicant; a lot of hurdles were placed and a remarkable job was done on refining this application. Commissioner Heilman said what is being done is very important and the IWWC takes protecting the wetlands very seriously. He said this Commission has one of the smallest upland review areas in the State and doesn't want it changed. He said the IWWC has done a good job in protecting the wetlands, and noted this application has drawn everything right to the edge, but the wetlands are being protected.

Ms. O'Hare said she hasn't seen the new plan. Mr. Juliano said he had told Ms. O'Hare he had a choice of answering her questions in writing and not doing the plan or showing on the plan and he chose the plan. He said should the IWWC approve with recommended conditions, this set of plans can be delivered to Ms. O'Hare's office by the end of the week.

Ms. O'Hare said Atty. Molloy in her summary of the impacts, neglected one impact; the impact to the watercourse. She noted the discharge of the stormwater to the stream is a regulated activity and it should be mentioned. She asked Mr. Juliano if there was a reason this wasn't mentioned in the activity list. Atty. Molloy noted that the definition of a regulated activity is "any operation or use of a wetland or a watercourse involving the removal or deposition of material or any obstruction, construction, alteration, or pollution of such wetland or watercourse".

Atty. Molloy said the definition of material is "any substance solid or liquid, organic or inorganic, including but not limited to soil, sediment, aggregate, land, gravel, clay, bog, mud, debris, sand, refuse or waste". She said treated stormwater being released into a stream, doesn't fit the definition of a regulated activity or material that would trigger a regulated activity, thus the reason it wasn't included. Atty. Molloy said if the IWWC determines otherwise, this can be amended.

Ms. O'Hare said she brought this up with the DEEP who told her what to say; the stream is being "used" and "material" is not defined in the act. She said it is a discharge to the stream and will impact the stream and is a regulated activity as far as she is concerned.

Ms. O'Hare referenced her 17-page Environmental Planner's Report dated Dec. 30, 2016. She said the Report was long because at the last meeting, the IWWC voted to have staff prepare a quote for a peer review study and to retain a peer reviewer. She said the budget only contained \$2,500 but noted it had been cut two years ago to \$2,000 which wasn't enough funding to obtain the in-depth review. She said the option was to go to the Town Council for funding, but after consultation with the Town Engineer and the Council Chairman and it was decided to have herself do the report and noted it was 17 pages because staff was then tasked with writing the peer review for the wetlands and watercourses part of the application, and the Town Engineer was tasked with writing the stormwater review of the application.

Ms. O'Hare said she received the Town Engineer's report on December 29, which was overall favorable with the four concerns just mentioned by Mr. Juliano which could be addressed as a condition of approval. In answer to Ms. O'Hare's question, Mr. Juliano noted the grading revisions have been taken care of. Ms. O'Hare asked Mr. Juliano about the LOMA (Letter of Map Amendment) to the corrected topography. Atty. Molloy noted this was submitted to FEMA. Chairman Vitali stated if this application is approved, Ms. O'Hare had a list with conditions and mitigations on page 13 of her report. He asked Atty. Molloy if she agreed with everything on Ms. O'Hare's list. Atty. Molloy said she didn't agree with the mitigation on the bottom of page 13 and the top of page 14.

Atty. Molloy said Ms. O'Hare suggested four possible mitigations, i.e., the Applicant to restore disturbed wetland pockets on Town land. Atty. Molloy said nothing can be done on Town land without their permission. She said she can't guarantee they can get Town permission. Chairman Vitali said he was in agreement with Atty. Molloy regarding the Town, but agrees with Ms.

O'Hare that this activity would enhance the entrance to the property. He said it would be in the Applicant's interest to see if he could do something with the Town in getting this done.

Ms. O'Hare said the approval could state "if the Town grants the permission". Commissioner Kern said this has happened in the past, and noted the Town doesn't the obligation, they want to leave it natural only because the Town is not in the business of allowing trespassing on their property. Chairman Vitali said that mitigation provision would be eliminated.

Atty. Molloy addressed the provision of the restoration of the stream corridor, and noted there is only about 160 ft. of the corridor on our property. She said the Applicant will do the requested restoration of the stream on his property, but can't go on someone else's adjacent property. Commissioner Kern said he was more concerned with maintenance, than with the neighbors. He said the channel is open and that is what is important. Atty. Molloy addressed the third provision which states the Applicant agreeing to remove some materials and restore some of the areas of historic dumping throughout the forested floodplain site. Atty. Molloy said this is fine as long as it is understood this is part of this permit and don't have to come back and get another permit for mitigation. Chairman Vitali said this goes along with not getting in there and trashing the place. He said he didn't know if clean fill was necessary as long as the cinder blocks and tires, etc., are taken out.

Atty. Molloy addressed the mitigation of restoring offsite wetlands or streams which she said raises the issue of how work can be done on someone else's property. She said she didn't believe this was an appropriate recommended mitigation. Chairman Vitali agreed to eliminate this condition. Atty. Molloy addressed, on page 14, the Conditions of Approval – "Revised Proposed Regulated Activity List". Atty. Molloy said she explained why she didn't believe the discharge of the treated stormwater into the stream was a regulated activity. She said if the IWWC determines this should be done, it will be. Commissioner Kern said Water and Sewer addressed this issue. Chairman Vitali said this is just listing it as a regulated activity and didn't know if this was a big deal in this issue. He said this could be modified. Atty. Molloy said this has been done.

Atty. Molloy noted the "revisions to plans" on page 14. She said she believed all the changes have been made, and will make additional changes if needed. Atty. Molloy addressed Condition #3, the bottom of page 16, which states Ms. O'Hare requests a copy of the FEMA Letter of Map Amendment (LOMA) approval letter relative to the revised 100-year floodplain boundary location after all the map revision changes. She said Ms. O'Hare wants this response from FEMA before any work is conducted on the property. Atty. Molloy said she doesn't mind providing it, but noted they can't control how long it will take FEMA to respond. She said she would want to commence construction in an appropriate time frame, after getting approval from IWWC and Planning & Zoning. Commissioner Kern said the IWWC can waive this because this Commission doesn't have to get involved. Mr. Juliano said FEMA looks at fill material as any fill material placed after the date they issued the official floodplain mapping. He said the first date FEMA

provided is 1973, noting that the Engineering Dept. believes it was 1978. He said he will go with the 1973 date. He said anything placed before 1973 is considered existing ground.

Mr. Juliano said he believes from various sources, that the fill was placed in the 1960's. Chairman Vitali said he will verify when the fill was put in.

Atty. Molloy spoke about the bond. She said Mr. Richello was hoping that in light of the fact he has reduced the impacts, the IWWC would consider reducing the bond to a smaller amount. She noted that all the rest of the conditions are acceptable to the Applicant. Chairman Vitali said in this case, the bond would remain the same. Chairman Vitali asked Ms. O'Hare what the bond was for. Ms. O'Hare said it was for S&E. Chairman Vitali said the bond has to have a description. Commissioner Kern said this bond would be \$300 to secure. Ms. O'Hare said she asked the Town Engineer to comment if the ground was frozen. She said he gave a verbal answer that he wasn't concerned because the water will end up in the wetlands and then in the Quinnipiac River.

Chairman Vitali said this has been an extremely interesting application; it's been lengthy, involved, changed, and maybe changed some of us. He said this may be the application that creates some changes he is not happy about. Chairman Vitali said he spent a lot of time thinking about this application and the effect on the wetlands. He said he believes this project was intense and involved. He said he could visualize a one-story low-profile open air strip mall on this site and now there is a three-story building. He said he was never comfortable with the site and when the 5,000 sq. ft. building was in there, the impervious surface was increased but comments were made and changes were made. He said he got involved in the previous application and how this affected this application associated with the previous one and how it made the two different.

Chairman Vitali said he wondered if this had to go further down the line, how this would fit, and said he was comfortable with Ms. O'Hare's 17-page document. He said he never would have believed there was an upland area at all, and thought it was a total wetland. He said there was always standing water on this land. Chairman Vitali said until the elimination of the 5,000 sq. ft. building, he was not in favor of this application, thinking it was too intense for this property. He said with the building gone, he has a different view of this application at this time. Chairman Vitali spoke about significant Activity. Commissioner Heilman said if it is significant, the IWWC determines this, and it makes a difference; if it is not a Significant Activity, than it doesn't make a difference anyway. He said based on previous practices, the IWWC should continue what it has been doing, but it makes sense we don't have to. Ms. O'Hare said when the Regulations were revised in May, it states this should be determined at the meeting after the receipt, the meeting it was presented at, the second meeting. She said maybe the IWWC should try to hold tight to this moving forward.

Atty. Molloy noted that if the IWWC determines Significant Activity, this requires a public hearing.

Chairman Vitali entertained a motion at this time.

**MR. PARENT: MOTION THAT APPLICATION #A16-9.6/103 NORTH
TURNPIKE ROAD – JOSEPH RICHELLO – (APARTMENT
COMPLEX & FACILITIES BUILDING) BE DEEMED NOT A
SIGNIFICANT ACTIVITY**

MS. PHILLIPS: SECOND

**VOTE: CARUSO-YES; PHILLIPS-YES; PARENT-YES; KERN-YES;
VITALI-YES**

Chairman Vitali entertained a motion for approval or denial. He said if this is approved, it includes most of Ms. O'Hare's comments with the exception of what was just discussed. Ms. O'Hare inquired if the two mitigations were included, to which the Chairman responded yes.

**MR. PARENT: MOTION THAT APPLICATION #A16-9.6/103 NORTH
TURNPIKE ROAD –JOSEPH RICHELLO – (APARTMENT
COMPLEX AND FACILITIES BUILDING) BE APPROVED
WITH ALL CONDITIONS AS MODIFIED AT THIS MEETING AND
AS SHOWN ON THE MAP PROVIDED BY MR. JULIANO AND THE
COMMENTS MADE BY THE TOWN ENGINEER WITH THE
ELIMINATION OF THE 5,000 SQ. FT. ACCESSORY BUILDING
AND WITH THE ADDITIONAL SIX PARKING SPACES**

MS. PHILLIPS: SECOND

**VOTE: CARUSO-YES; PHILLIPS-YES; PARENT-YES; KERN-YES;
VITALI-YES**

NEW BUSINESS

1. **#A14-7.2/195 Chimney Hill Road** – Sunwood Development – (request for bond reduction)

Ms. O'Hare said they requested a partial bond release. She said she went to the site and noticed there were erosion problems which were worked on and put under control two weeks ago. She said when she went out to the site the first time, there were cutting of trees, and she noted their location in the drawing she distributed to the IWWC. Ms. O'Hare said she told the site manager that he put the wetland plaques on the conservation easement line in error. She said he cut the trees in front of them; one cut 15 ft. from a wetland and one tree cut 30 ft. from the wetlands. She said the trees shouldn't have been cut without a permit.

Ms. O'Hare said there is the conservation easement line, the wetland line and the upland review line, which is confusing. She said the trees were 48 inches and noted all the big trees were surveyed. She said three big trees are gone, but the one in the middle was dead and it fell over. Ms. O'Hare said this is two separate issues, the bond, as the erosion control performance bond, and the mistaken cutting. She said she doesn't have trouble with a half reduction of the bond. Ms. O'Hare said she thought of preventative actions: writing a letter to the eight homeowners, the as-built plan of the property colored in, i.e., the upland review area, wetland area, and conservation easement line, and to not do anything behind these lines without a permit.

Ms. O'Hare said two trees were healthy, 48 inches across. Chairman Vitali recommended holding up on the bond. Commissioner Kern asked about the big tree which was buried and will die. He asked if part of the bond could be released by requiring Sunwood to put a well around it. Ms. O'Hare said she was told there was a dead gap around the tree and it is rotten. Chairman Vitali suggested Ms. O'Hare consult with the tree warden. Commissioner Heilman suggested the bond money be used to plant a few significant trees which would cause the people who did this to think twice about it. Commissioner Kern said this would be a good way to show them the IWWC is serious. He said they made a mistake, but they should know this because they are professionals. Chairman Vitali said more than two or three are needed. He suggested Ms. O'Hare work with Sunwood Development regarding the tree number and placement.

NO ACTION TAKEN

RECEIPT OF NEW APPLICATIONS

1. **#A16-12.1/61 Barnes Industrial Park North** – Woodard & Curran, Inc. – (relocate fencing) – administrative approval request – administrative approval granted 12-9-16 by Chairman Vitali

2. **#A16-12.2/108 Hanover Street, Wallingford – 213 Evansville Avenue, Meriden** – City of Meriden Aviation Commission – (tree removal in “protected airspace”)

Chairman Vitali said the wetlands created on this property were the remains of a gravel pit operation, so it wasn't a pristine area. Ms. O'Hare said the trees would be cut and treated with herbicides.

REPORTS & COMMUNICATIONS

1. U.S. Department of Transportation Federal Railroad Administration NEC Future Program, letter to Mayor Dickinson re: NEC Future Tier 1 Final Environmental Impact Statement regarding the Northeast Corridor rail line from Washington, D.C. to Boston, dated Dec. 16, 2016; received by Mayor's Office, Dec. 22, 2016; IWWC copy received from Planning Dept. Jan. 3, 2017.

VIOLATIONS

1. **252 Main Street, Yalesville** – Brother's Pool, L& J Partnership, LLC – violation – Ms. O'Hare said there is nothing new to report
2. Cease & Desist – **1460 Tuttle Avenue** – David & Christine White – (clear cutting, filling) – discussed above
3. Cease & Desist – **8 & 10 Atwater Place** – Howard, Sr. and Gail Lohmann – discussed above

ADJOURNMENT

Mr. Parent made a motion to adjourn the meeting at 8:40 p.m. Ms. Phillips seconded the motion which passed unanimously.

Respectfully submitted,

Cynthia A. Kleist

Recording Secretary

