

MINUTES: THE INLAND WETLANDS COMMISSION, Town of Hamden, held a Public Hearing and a Regular Meeting on Wednesday November 5, 2008 at 7:00 p.m. in the Legislative Council Chambers, 2372 Whitney Avenue, Hamden, CT and the following was reviewed:

Commissioners in attendance:

Nancy Rosenbaum, Chairperson
Mike Montgomery
William Tito
Andrew Brand
Kirk Shadle
Paul Murray, alternate for Michael Milazzo
Michael Stone, alternate for vacancy (arrived late)
Robert Gnida (left at 10:45 p.m.)
Joan Lakin
Robert Anastasio

Staff in attendance:

Dan Kops, Assistant Town Planner
Tom Vocelli, IW Enforcement Officer
Tim Lee, Assistant Town Attorney
Stacy Shellard, Commission Clerk
Lisa Raccio – Stenographer

Ms. Rosenbaum called the meeting to order at 7:01 p.m. and reviewed the meeting procedures.

I. New Applications (not yet site-inspected):

- a.* Request to amend Permit #06-1106 – 305 Sherman – building footprint changes – Quinnipiac University

Attorney Bernard Pellegrino Jr. addressed the Commission and reviewed the application. He advised the members that the request to amend Permit #06-1106 calls for changes to the building footprints, parking areas, and sidewalks. Also added to the plans are a wind turbine court yard and the use of solar panels. He advised the members there would be an increase of parking in the amount of 48 spaces. Sidewalk locations and elevations for retaining walls have also been changed from the original plans.

Civil engineer Howard Pfrommer addressed the Commission. He advised the members the plan would eliminate some dormitories, add a floor to the crescent shaped dormitory, and extend the building as well. There will be a .028 percent increase in impervious surface and there will be minimal impact to the stormwater management system. He reviewed the wetland areas and advised the members that in some respects the proposed amendment pushes building activity further from wetlands.

Mr. Tito moved that the proposed amendment to IWC # 06-1106 be tabled until the 12/3/08 meeting pending a site inspection to be conducted during the month of November. Ms. Lakin seconded the motion. The motion passed unanimously.

II. Public Hearing

Ms. Rosenbaum opened the Public Hearing portion of the meeting at 7:10 p.m. and reviewed process and procedures for the applicant and for the public.

A. **08-1141** 64 Rocky Top – Construction of a single-family home & estate – Carlie Capital LLC

The Public Hearing for this application opened at 7:12 p.m.

Engineer Jon Harriman reviewed the application and advised the Commission that changes have been made to the plan. He advised the Commission that clarification of the Existing Conditions plan has been submitted. He advised the members that he would like the A2-T2 Survey and the Class D Boundary Survey (if required) to be handled as conditions of approval. The boundary markers and topography have been noted on the plans. The site layout and soil type overlays determined by a soils scientist have been noted on the plans. He advised the members that the metes and bounds for the non-disturbance area and the placement of wetland markers have been added to the plans. The grading plan distances have also been noted. He advised the Commission that water bars along the driveway have been left in the plans. They would not be using a swale for stormwater management during construction. The water bars are being installed per Department of Environmental Protection Guidelines. Mr. Harriman advised the members if they would prefer swales it could be done, but he does not recommend it. Driveway detail has been added with erosion control using silt fencing. They are proposing to create a 24 foot wide access road using crushed stone. The shoulders of the driveway would be 6 feet on each side. Mr. Harriman does not anticipate a large stock pile of soil. Once excavation is completed they anticipate a need for 2 feet in depth of fill and this will come from the site. Mr. Harriman advised the Commission that they would remove overburden material two weeks at a time. As the material is removed restoration would proceed as allowed by construction. There is a note that a half-acre of material would be left as un-restored. The delineation of off-site wetlands that lie on Town property and the submission of a geological study are requirements that he would like to be handled as conditions of approval.

Ms. Rosenbaum asked for comments from the Commission.

Mr. Gnida advised the members that he had done an individual site walk and had found wetland areas off site to the east of the ridge and within the 200 feet upland review area; they are located at the end of Rainbow Court and Greene's Ridge Road. He distributed his report to the members and to the applicant. Mr. Gnida advised that he would like to see an Existing Conditions survey and he asked what the consequences of changing the drainage pattern would be to the surrounding off-site wetlands. Mr. Gnida and other Commission members also discussed the off-site watercourse that flows under Rocky Top Road and questioned if the applicant has done a delineation of the abutting wetlands. Mr. Harriman did not survey or evaluate off-site properties. The Commission discussed the planting plans. The members asked if there was a current drainage report. Mr. Harriman advised that one has been submitted. The Commission members discussed with Mr. Harriman their concerns of what the impact of removing the ridge would be on off-site wetlands and surface flows. Mr. Harriman reviewed the grading plans and stated that the peak runoff on the site will be reduced.

The Commission members discussed with Attorney Pinciario and Engineer Harriman the letter dated 10/24/08 regarding the plan to remove a net cut of 600,000 cubic yards of material from the site and the length of time this would take. They advised the members that it is a long process but they were unable to give a definitive time line.

The Commission asked if the applicant had looked at an alternative on-site location for the proposed single-family estate --- an alternative that would afford the owner the desired amenities without the massive soil disturbance and earthwork associated with the current proposal. Mr. Pinciario advised the members that the proposed plan as submitted would not affect the wetland area on the property or any watercourse. Any changes in the location would detract from his client's use of the property as he sees fit. Mr. Montgomery noted that Mr. Pinciario had said the client has the right to use the property as he sees fit to do so. Mr. Pinciario clarified that the use would be within the existing guidelines, requirements and regulations of the Town. He advised the members that what has been submitted is a use of the property that would not threaten regulated areas.

The Commission members asked what type of soil would be used for the fill when construction is completed and they noted a concern about the use of red rock. Mr. Harriman responded that they would use a soil type which is not 100 percent red rock. Mr. Harriman also advised the members that a portion of the property would be maintained as a meadow.

The Commission discussed with Mr. Harriman the guidelines for the temporary sediment basins or sediment traps. Sediment trap guidelines are only for a 2 year duration. Mr. Montgomery asked if the project would cease 2 years from the start of the excavation or would the use of sediment basins work. Mr. Harriman advised the members that the plans could be changed to use basins instead of traps. The Commission discussed if there would be a need for wing walls or silt fences for sediment and erosion control. They also discussed the need for more details on protection of property and regulated areas east of the ridge. Mr. Harriman advised the members that these concerns could be reviewed or addressed as a condition of approval if the Commission deemed it appropriate.

Ms. Rosenbaum asked if any one from the public would like to speak in favor of the application. There was nobody to speak in favor. Ms. Rosenbaum asked if any one would like to speak against the application:

Mr. David Howell, 86 Ash Drive, addressed the Commission. He asked for a public show of hands of those opposed to the project. The majority of the public in attendance raised their hands. Mr. Howell advised the members that he has hired a professional engineer, Mr. Richard Couch, to review the revised plan that has been submitted and he asked that the Public Hearing be continued if this proves advisable for a more in-depth review. Mr. Howell with the assistance of the Yale Law School Environmental Protection Clinic also submitted a report (Exhibit #6) that references inland wetland information with regards to 64 Rocky Top Road.

Mr. Richard Couch, Professional Engineer, submitted, reviewed, and discussed a report (Exhibit #7) on the proposed activities at 64 Rocky Top Road. He focused on what he believes to be engineering and design deficiencies in the proposal.

Mr. Steve Sosensky, 72 Hideaway Lane, addressed the Commission. He advised the members that he does not believe the applicant intends to build an estate with house, stables, a paddock and the like. He feels the applicant's intent is to quarry the property. He advised the Commission that the applicant did not investigate or present a prudent and feasible alternative that would allow for construction of an estate without all of the soil disturbance entailed in this proposal. He feels that the current proposal represents a substantial risk to the watercourse and inland wetland areas.

Mr. Mike Guaglianone, Environmental Analyst from the RWA, addressed the Commission and referred to the RWA letter dated 10/6/08. He reiterated RWA concerns about possible threats to storm water quality if there is a rock quarry operation at this site. He advised the Commission that the drainage report calculations are hard to understand. He questioned if the swales for the septic system will remain after the house is completed, because it was not showing on the plans. He feels there are better alternatives for a single family dwelling. He questioned the net figure of 600,000 cubic yards of material that would be taken off the site and what is being brought in. He does not feel the applicant has the right to pass silt and sediment problems to residents down stream or to affect watercourses that drain into the public water supply.

Mr. Tim Mack, 24 Rainbow Court, played a video (Exhibit #8) and reviewed existing conditions on the ridge as well as wetland areas near Rainbow Court and Greene's Ridge Road. He showed measurements being taken within wetland areas. Mr. Mack reviewed with the members the proposed plans and the amount of trips that would be needed to remove earth and rock. He advised the members the trucks would pass within 90 feet of wetlands. He submitted exhibits # 9, 10, 11, and 13 of maps of the 64 Rocky Top Road area. He reviewed remarks on how to control dust (Exhibit #12). Exhibit #15 showed the Town-owned wetlands that were not noted on the applicant's plans; the exhibit contained measurements to the effect that trucks would pass within 90 feet of those wetlands.

Mr. Jonathan Richardson, a Yale School of Forestry student who has studied vernal pools for much of his academic career, reviewed a 2 page statement (Exhibit #14) that he was asked to prepare by Mr. Howell. He explained to the Commission that this was an independent review and that he was not speaking on behalf of Yale University.

Mr. Martin Midzensky, 111 Nutmeg Hill Road, addressed the Commission and expressed concern about any ongoing blasting and the effects it would have on his property.

Ms. Rosenbaum asked for further comments and there were none from the public.

Mr. Pinciario addressed the Commission and stated that his client stands by the application as presented and revised. He believes that concerns of the Commission members and the public have been addressed.

Ms. Rosenbaum again asked for further comments and there were none.

Ms. Rosenbaum declared the Public Hearing closed at 9:52 pm.

III. Pending Applications:

A. Public Hearing Item 08-1141 - 64 Rocky Top – Construction of a single-family home & estate

Mr. Gnida feels the application is incomplete and that there needs to be a geological study. He is concerned that the information given for nearby off-site wetlands is incorrect or incomplete. He questioned the feasibility of the project and the massive earthwork

that would be involved. Ms. Lakin is concerned that the application is incomplete and that not all of the issues raised at the October meeting were addressed. Mr. Montgomery also expressed concern that previously-requested information has not been supplied; he believes the application should be denied as incomplete and without prejudice. He feels if it were to be approved there would have to be at least 25 conditions. Mr. Shadle feels the drainage calculations are incorrect, and that the information that was requested regarding a detailed operation sequence was not provided to a level that would be sufficient for an informed decision. The Commission members discussed the need to itemize their concerns for the next meeting in order to clarify what information is lacking. Mr. Tim Lee, Assistant Town Attorney, noted that the Commission would indeed have to state the specific reasons why it considered the application to be incomplete. If the Commission were also to conclude that the application is deficient on its merits because of adverse impacts and threats to wetlands and because there are prudent and feasible alternatives that could have been pursued, it would also be appropriate to include those concerns as additional factors in its decision-making.

Mr. Shadle made the motion to to table Application # 08-1141 until the December 3, 2008 meeting. Mr. Anastasio seconded the motion. Mr. Shadle, Mr. Anastasio, Mr. Murray, Ms. Lakin, Mr. Montgomery, Mr. Brand, and Mr. Stone voted in favor of the motion. Mr. Tito and Mr. Gnida voted against the motion. The motion passed.

B. 08-1142 2798 Whitney Ave- Whitney Manor Parking expansion – Amkraut Vuolo Realty Assoc LLC

Attorney Gayle Sims addressed the Commission and reviewed the application. Civil engineer Victor Benni reviewed the comments received from the RWA, QVHD and the Town Engineer. He also reviewed with the members the changes he made to the plans based on the comments he received at the site inspection. He also reviewed the comments received from the CT Department of Public Health. He advised the members that the debris dumped at the north end of the parking lot would be removed by hand and no heavy equipment would be used. Mr. Benni advised the members that he had received updated comments from the RWA today. He reviewed their comments and advised the members that a one- hundred foot buffer boundary would extend to the existing building and parking area.

Mr. David Lord, Soil Scientist, advised the Commission that his on site findings depicted on the plan show the regulated area to be a contiguous confined wetland system. He reviewed his findings with the members.

The Commission discussed with Mr. Benni their concern about runoff and the proposed stormwater management plan. The members discussed the use of concrete curbing to redirect any runoff. Mr. Benni advised the members that he could add this to the plan, but he is concerned with freezing in the winter and materials building up behind the concrete. The Commission asked if a rain garden had been considered to compensate for the wetland pocket that would be filled and to address the increase in impervious surface. Mr. Benni advised that a rain garden or water garden would require additional maintenance in order to function effectively. The Commission members discussed with Mr. Lord the planting plan and indicated that they would like to see more environment- friendly plantings. The members discussed the types of trees that would be preferred. Mr. Lord advised the members he would change the planting plan.

The Commission discussed with Mr. Benni and Ms. Sims possible alternative locations for the additional parking to allow more of a buffer for the wetland area. The members discussed the need for additional plantings and the placement of a fence were it to be included in the plans. Mr. Lord and Mr. Benni reviewed with the Commission the rain garden alternative versus the use of dry wells. A rain garden might not be advisable because of space constraints and maintenance issues. The soil disturbance that would be caused if attempts were made to create a man-made wetland would seem to be prohibitive, so Mr. Lord also discounted that approach as well. Some of the members then suggested the submission of an alternative proactive planting plan that would at least enhance wildlife habitat. Perhaps additional wetland conservation medallions to more effectively delineate all remaining regulated areas would also be in order.

Mr. Brand made the motion to table Application # 08-1142 until the December 3, 2008 meeting. Mr. Anastasio seconded the motion. The motion passed unanimously.

IV. Notices of Violation, Cease & Desist Orders, Notices to Appear:

- a. Cease & Desist & Restore Hearing** 186 Denslow Hill Road and 196 Denslow Hill Road -
dumping or deposition or fill in or near wetlands

Mr. Paul Siciliano, the owner of 196 Denslow Hill Road and the owners' agent for 186 Denslow Hill Road, failed to appear at the meeting despite previous indications that he expected to be in attendance. Surveyor Tony Mello has declined to take on the job of preparing an Existing Conditions Survey. Ms. Rosenbaum suggested a letter might be sent to Mr. Siciliano asking who he intends to hire to prepare that Survey. Mr. Montgomery suggested that the previously-issued Cease and Desist Orders be filed on the land records of the Town of Hamden. The owners would then have to address the Cease and Desist Orders to the satisfaction of the

Commission before they could refinance or sell the property. The Commission also decided that another site inspection should be conducted to evaluate the present condition of the steeply-pitched slope; the members would enter from Paradise Avenue and evaluate conditions at the toe of the slope vis-a-vis the nearby wetlands. **A motion to table this matter to the December 3, 2008 meeting was made and seconded with the following stipulations:**

- **the Cease & Desist & Restore Orders for 186 and 196 Denslow Hill Road shall remain in full force and effect**
- **the Commission shall site inspect conditions on the rear slope and at the toe of the slope during the month of November**
- **the Cease & Desist & Restore Orders for 186 Denslow Hill Road and for 196 Denslow Hill Road shall be filed on the land records of the Town of Hamden**

The motion passed unanimously.

- b. N.O.V.** 64 Rocky Top Road – clearing of trees & removal of vegetation

This matter has been tabled until the December 3, 2008 meeting.

- c. C. & D.** 415 Putnam Avenue – unpermitted activity in a regulated area

Attorney Bernard Pellegrino Jr. advised the Commission that the funding conditions necessary to satisfy the Regional Growth Partnership have been met. The loan should be approved and the funds released for site testing and for constituents-of-concern evaluation. Mr. Greg Gardner, L.E.P., has been awarded the project and the testing should begin within 30 days. Mr. Lee, Assistant Town Attorney, suggested that the Commission table this item for two months to allow time for the testing to be completed.

Mr. Anastasio made a motion that the Cease and Desist Order remain in effect and that this matter be tabled until the January 7, 2009 meeting. Mr. Murray seconded the motion. The motion passed unanimously.

V. Review Inspection Schedule for New Applications & Other Sites

Mr. Vocelli will schedule the Commission site inspections for 305 Sherman Avenue (Quinnipiac/York Hill) and for Denslow Hill Road (enter from Paradise Avenue).

VI. Other Business - 480 Sherman AvenueMr. Vocelli advised the Commission that the debris deposited in the wetland area has been removed. Mr. Landino has also agreed to submit an updated planting plan that depicts actual plantings (trees included). A wetlands planting evaluation letter from Landscape Architect Aris Stalis is included in the monthly meeting packet. The Commission members will presumably want to re-evaluate the annual mowing question prior to the next growing season.

Ms Rosenbaum thanked the Commissioners for their work on *de minimis* reviews. She also gave the members a handout that lists frequently-used motions, stipulations, and conditions-of-approval

The Commission voted to add consideration of the 2009 Meeting Schedule to the agenda and then voted without dissent to adopt the 2009 Meeting Schedule as submitted by the Clerk.

VII. Review minutes of 10/01/2008 Public Hearings and Regular Meeting

The review of minutes was postponed until the December 3, 2008 meeting

VIII. Adjournment

A motion to adjourn was made by Mr. Shadle and seconded by Mr. Tito. It passed with no dissenting votes. The meeting ended at 11:16 p.m.

Submitted by:

Stacy Shellard, Clerk of the Commission