

March 9, 2010, revised 6/14/10 per Commission Review at the April 7, 2010 meeting

MINUTES: THE INLAND WETLANDS COMMISSION, Town of Hamden, held a Regular Meeting on Wednesday, March 3, 2010 at 7:00 p.m. in Thornton Wilder Hall, Miller Memorial Library Complex, 2901 Dixwell Avenue, Hamden, CT and the following items were reviewed:

Commissioners in attendance:

Nancy Rosenbaum, Chairperson
 Mike Montgomery
 Bill Tito
 Andrew Brand
 Bob Anastasio
 Kirk Shadle
 Mike Milazzo, arrived at 7:15 p.m.
 Mike Stone arrived at 8:05 p.m.
 Eric Annes
 Lynne Krynicki
 Joan Lakin

Staff in attendance:

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

Ms. Rosenbaum called the meeting to order at 7:02 p.m. and reviewed the meeting procedures. Mr. Brand called the roll and there was a quorum.

I. Applications

A. New applications & amendments – site inspection TBA

03-1002 Amendment Request-Trailside Village II-20 & 36 Todd Street-Modify the existing 25 foot non-disturbance buffer. Ravenswood Construction LLC, Applicant *R 3-03-10*

Mr. Bernard Pellegrino, Attorney, addressed the Commission and requested that this item be tabled until the revised plans for application 09-1152 are addressed. Mr. Tim Lee, Assistant Town Attorney stated that the request to amend the 25 foot non-disturbance buffer should be considered with the revised plans that have been submitted for Application 09-1152. It is within the discretion of the Commission to decide if the buffer should be lifted. Mr. Dan Kops, Assistant Town Planner, stated that both requests should be heard together. The Commission can vote on the request to amend the buffer, and then the new application. Mr. Montgomery stated that Application 09-1152 should be heard first because it would address the amendment to the buffer.

Mr. Montgomery made the motion to table the request to amend Application 03-1002 until after Application 09-1152 is heard. Mr. Anastasio seconded the motion. The motion passed unanimously.

[Note: The following motion was made and adopted at the conclusion of discussions on Application # 09-1152]

Mr. Montgomery made a motion to deny the amended request to Application 03-1002 because it does not provide sufficient mitigation for the wetland crossing. This denial is without prejudice. The applicant is encouraged to come forward with a revised amendment based on the conversation this evening. Mr. Annes seconded the motion.

Mr. Annes asked what the process is to deny the application and that the applicant would be able to come back for a full mitigation which would be beyond the removal of invasive species. Mr. Montgomery stated that the conversation was for substantial changes from what was being done and the mitigation can be discussed with a clearer presentation.

Mr. Annes asked to amend the motion to add: that there be consideration for a full range of operation for mitigation beyond the invasive removal, creative ideas onsite or off site be considered. Mr. Montgomery and Mr. Annes accept the amendment to the motion.

Mr. Stone asked what offsite mitigation is. Mr. Annes said that there is sediment coming from the construction being done on West Woods Road and it has been asked if there is a possibility of stopping the sediment from coming down instead of retaining it. Mr. Lee stated that the IWC would like an explanation of why the sediment is happening, but the applicant can only control what is happening on their property.

Ms. Rosenbaum asked for a vote on the motion:

Mr. Annes, Mr. Tito, Mr. Anastasio, Mr. Stone, Ms. Krynicki, Ms. Lakin, Mr. Shadle, Mr. Brand and Mr. Montgomery voted in favor of the motion. Mr. Milazzo voted against the application. The motion passes 9-1-0

B. Pending applications

09-1152 20 & 36 Todd Street – construction of a residential building – Trailside Village III
Ravenswood Construction LLC, Owner/Applicant *R 11-04-09*

Mr. Bernard Pellegrino, Attorney, addressed the Commission and stated that this application had been tabled so that revisions could be made to show an above ground detention basin would be used. He explained that he has received a copy of the RWA and the Town Engineer's comments which stated that the changes they had wanted were integrated into the revised plans.

Mr. Tom Daly, Professional Engineer, addressed the Commission and stated that at the previous meeting there were comments that an above ground detention basin. He stated that he had received comments for the Planning office, the Town Engineer and the RWA and there are no objections. He reviewed the revised plans that show an above ground detention basin and a retaining wall that has been added. The eight foot high retaining wall will be placed adjacent to the parking area which will move the detention basin further away from the wetlands. Mr. Daly explained that the revised plans have no area that is less than 40 feet away from the wetlands. Mr. Daly reviewed the revisions that were made to the 25 foot non disturbance buffer. He explained that they are proposing permeable pavers for the visitor parking, a rain garden, and a yard drain with a dry well to promote infiltration. The storm basin has been moved closer to the road and a broad grass swale has been designed to take the water around the building so it will infiltrate and drain off to the wetlands. Mr. Daly reviewed the rain garden planting list and stated that it was based on the UCONN Guidance document. He reviewed the construction sequence on the title sheet that has been revised to clarify what is needed for the water crossing sequence. The erosion control plan has been revised to clarify the first and second phase of construction. Mr. Daly reviewed the previous plan that had been denied in 2003 and stated that the new plan has a broader stormwater basin and the grading was changed to add the retaining wall. He explained that the plans for the watercourse crossing have not been changed.

Mr. Shadle asked about the 625 square foot open space area that would be needed near the head wall. Mr. Daly said that it is a zoning requirement and is a low lying area next to the wetlands. Mr. Shadle asked if wetland flag 31 is located in the middle of the area and if the 625 square foot area encompasses a portion of the wetlands. Mr. Daly stated that the zoning regulations do not allow them to discount the area. Mr. Shadle said that it would leave an area of the wetlands unprotected. Mr. Daly said that the wetlands are protected by the IWC and the 25 foot non-disturbance area can be over the entire wetland area. Mr. Daly reviewed the open space requirement and has no objections to wrapping the 25 foot non-disturbance buffer around the entire area. Mr. Shadle asked for an explanation of the site quality of the existing non-disturbance buffer vs. the functioning quality of the new buffer area. Mr. Daly explained that they are separate, but are consistent. The area that would be amended is a wooded area that carries stormwater through the intermittent water course and has sedimentation that has occurred, and the area that is being proposed is identical in nature. Mr. Shadle asked how the water that falls in the area will flow through the watercourse and if it would flow through the existing non disturbance buffer area to reach the watercourse or if it would pass through the proposed non-disturbance buffer area. Mr. Daly said it would pass through both and reviewed how the stormwater would flow and go through the non-disturbance buffer area.

Mr. Montgomery stated that the 625 square foot open space requirement is being shown in the plans being moved from the Phase III area to the Phase II area and legally that this would be considered one lot and the open space requirement would be for the entire lot. He feels that the open space area could be relocated to the south east corner of the property where there is a steep hill. He explained that the previous approval allowed a more intensive development because the IWC was not anticipating a Phase III. Mr. Daly explained that the area to the south is fully protected to meet the zoning requirement for open space and would be in Phase III.

Mr. Milazzo stated that open space is protected and would stop further development. Mr. Montgomery said that open space protected area and wetlands protected areas are separate, but feels they are contiguous in nature. Mr. Daly stated that the open space requirement required by the zoning regulations has the same goal as the wetlands requirements.

Ms. Lakin stated asked if there will be two different uses on the property. Mr. Daly said the uses will be the same. There is an eight unit building, a 12 unit building, and a house that has been renovated and will be available for use by both buildings. Ms. Lakin asked if the uses can be changed in the future. Mr. Daly explained that the use was approved as one use. Mr. Pellegrino stated that there is a declaration for the project which declares both parcels as one and has the same rules and regulations and zoning requirement.

Ms. Rosenbaum stated that the IWC regulations require a 100 foot non-disturbance buffer and the plans ask for a 25 foot non-disturbance which goes through a corner of the parking lot. Mr. Daly said that he was following what the IWC had wanted with the first application. Ms. Rosenbaum said that the first application was done in 2003 and since then the IWC regulations have been amended. Mr. Daly said that the 100 foot non-disturbance buffer was required with the 2003 application. Ms. Rosenbaum stated that it was not previously required. Mr. Pellegrino stated the deeded non-disturbance buffer was an additional requirement for the 2003 approval and was different than the 100 foot wetland review area. Ms. Rosenbaum stated that there is 100 foot non-disturbance buffer and a 200 foot upland review area. Mr. Pellegrino stated that this was an additional requirement and was required to be deed restricted and is different than the 100 foot review area. Ms. Rosenbaum would like clarification. Mr. Daly stated that they are coming before the IWC to do activities within the 100 foot non-disturbance area and have received prior approvals to do work in this area. Ms. Rosenbaum said she is surprised that the proposal is for a 25 foot non-disturbance area. Mr. Daly stated that if the IWC is so inclined to push the non-disturbance area out to the limit of clearing he would have no objection. The land that is located south on the hill is not restricted by the P&Z Commission and they would have no objection to expanding the non-disturbance area.

Mr. Annes asked if the box culvert being proposed at the watercourse crossing is the best way to protect the water resource. Mr. Daly explained that the box culvert is the best solution and explained that they could not find a precast structure that would work. He stated the watercourse is intermittent and a bridge would not be the best solution. Mr. Annes asked if anything could be done with the water quality that goes to the Mill River that would be over and above what has been proposed. Mr. Daly explained that the stormwater management for Phase II is underground galley systems. When the construction was being done, it was found that the gravel was so good that no water was coming

out. They recalculated and took a minimal credit for the infiltration and that the intent is to take the basin off-line and use it as a sediment trap for the over-all watershed. Mr. Daly reviewed the stormwater management system with the IWC. Mr. Annes asked what the project would have on the water quality going to Mill River. Mr. Daly explained that the system is designed so that the 1st inch of runoff would be held on site and this would give thermal protection, and would have vegetative uptake. Mr. Daly stated that the application meets all the standards for the development and that the sediment chamber will catch all the sediment before it reaches the Mill River. Mr. Daly reviewed the proposed sediment trap with the IWC. Mr. Annes asked Mr. Daly about that deep channelization that comes onto the property. Mr. Daly said that it starts about two properties over and does not know who owns the property.

Mr. Montgomery asked if when installing the dewatering basin on both sides of the stream if it would have to be installed before the pipe is installed. Mr. Daly explained that they would utilize the existing access point and there will be equipment on both sides of the stream and it is noted on the plans. Ms. Rosenbaum advised that it is note "B" on the plans. Mr. Montgomery stated that the plan shows the installation of a 24 inch pipe, but when the sanitary sewer and water main are being installed the pipe would need to be removed. Mr. Daly explained that they can open up the plastic pipe on both ends and it will be done during the dry period. They could also remove a section and then replace it at the end of a day, but an open cut would allow them to get in and out quickly. Mr. Montgomery advised that note "K" would need to be corrected to show that the pipe will need to be removed to install the sanitary sewer system and water main and then replace the pipe at the end of the work day. Mr. Montgomery that it does not indicate that four 24 inch pipes will be permanently installed, but the box culvert will have the 24 inch pipes installed next to it. Mr. Daley note the plans say "other drainage". Mr. Montgomery said it is not clearly stated and should be clarified as "permanently installed 24 inch pipes". Mr. Montgomery said that a note saying "stabilize all slopes immediately after establishment" contradicts a note that is on page ST1 which says "temporarily seed areas that have been exposed for more than 12 months" and should be removed. Mr. Montgomery said that comment "10" needs to be bold letters. Mr. Montgomery reviewed the Erosion Control notes and the note stating "inspection of the site for erosion shall continue for a period of 3 months after completion if rain of 1/10th of inch or more occur" should read "inspection of the site for erosion control shall follow each rainfall of greater than 1/10 of inch and continue for a period of 3 months and also doing inspections during the course of construction". There should be a comment stating "that work will not commence if the watercourse is flowing or a storm event is predicted". Mr. Daly stated he had no objections and will not do any work in the crossing if there is a rain event. Mr. Montgomery stated that the open space comments are confusing. The area between the stream and the boundary that is wetland flags 29 and 32 are part of the open space and some areas are part of the conservation area. Mr. Montgomery reviewed the areas on the map that need to be clarified and show continuity with the open space and the wetlands. Mr. Daly said they can prepare an open space vs. conservation easement map. Mr. Montgomery stated that the conservation deed restriction was offered but has not been filed in the Town records. Mr. Lee stated that a draft has been prepared but not filed because the applicant is seeking an approval to amend. Mr. Pellegrino stated that under the prepared wording the only thing that would change is the description of the area which has been given to Mr. Lee. Mr. Montgomery stated that the trench is a good approach and asked if the spill way will go into the trench for further infiltration. Mr. Daly stated that the trench will be made of free flowing riprap stone. He stated that they design the out of control structure with an emergency overflow and a second emergency outlet. Mr. Montgomery said that the size of the orifice was expanded to retain more water in the galleries. He said that on sheet SE1 the need for a construction entrance was discussed previous and should be at least 150 feet long. Mr. Daly apologized that he had forgotten to include this. Mr. Montgomery stated that the parking lot area should be swept daily. The boundaries between the open space and wetlands need to be reasonable and practical at wetland flag 82 where work is being done especially around the pond. Mr. Daly stated that they have no objections to expanding the tree line. Mr. Montgomery stated that the usage of the stream crossing area needs to show what the mitigation is at the wetland crossing.

Mr. Brand stated that the proposal is to divert the intermittent stream into the detention basin located in Phase II and asked if all the water would be going into the basin or if it is just the overflow. Mr. Daly said that intermittent watercourse has a trough with a berm and the intent is that all flow would go into the basin except during an extreme event. If it is an extreme event water would be able to go both ways. Mr. Daly stated that there is sediment in all storm events and reviewed with the Commission how the water would be diverted. Mr. Brand is concerned that during the last storm event the basin is already full and the water is trickling out with sediment in it. Mr. Daly stated that the best chance is to drop out the core sediment, but if it is a fine sandy material it would not solve the problem of stopping

it completely. Mr. Brand reviewed the planting plan for the rain garden. Mr. Bill Root advised that they will revise the planting plan.

Mr. Montgomery asked Mr. Daly that at a previous meeting it was stated there would be a Civil Engineer overseeing the project and he does not see it noted on the plans. Mr. Daly stated that the Civil Engineer would be pre-paid and a letter would be sent from the Engineer stating that a retainer was received and that he would be doing the inspections. Mr. Daly stated that a response letter from Ron Walters addressed the need for confirmation that the Civil Engineer will complete the inspections. Mr. Montgomery stated that the post construction maintenance plan shows one homeowner association and one contractor. Mr. Daly advised that the condominium document to include the post construction maintenance plan would need to be modified to include all three phases. Mr. Pellegrino advised that the maintenance plan can be included on the plans or separate document, and that there is presently a full time management company that manages the property.

Ms. Rosenbaum asked if there were any further comments regarding this application and there were none.

Mr. Pellegrino stated that the revision to the previous condition for the 25 foot non disturbance buffer would require an amendment to permit activity to cross the intermittent watercourse and allow access to the site for construction of Phase III. The request has been submitted as a separate letter to permit work for Phase III and revise the buffer area to be expanded. He stated that he has no objection to a condition being added that would have the non-disturbance buffer area as a deed restriction put back in after the work has been completed. He also stated that a map showing the old 25 foot deed restricted area was submitted and the buffer area could be expanded to show the conservation area. He said that from a legal standpoint the IWC has the ability and right to amend the previous condition of approval. Mr. Pellegrino has discussed this with Mr. Lee and there is no legal impediment to amend the previous condition. He said that the proposal that has been submitted answers questions about the previous approval and the existing wetlands that would be affected by the proposal.

Mr. Pellegrino stated that this application shows the nature of the wetlands and where the source of water is coming from offsite. The building will be smaller than originally proposed, the parking area is also smaller. He also stated that there is more knowledge of the soils in the area than was previously known. Mr. Pellegrino stated that the unit owners are in favor of this project and many owners previously lived in Hamden. The proposal has been analyzed by three Soil Scientists and the design balances utilizing the land and protecting the wetlands. Mr. Pellegrino is willing to work with the IWC to expand the non-disturbance buffer and will work with Mr. Lee to review the language and the document that would be filed on the land records.

Mr. Annes asked why the 100 foot non-disturbance buffer area is not being considered in the plan and why a 25 foot non-disturbance buffer is being asked for if the IWC regulations require a 100 foot buffer area. Mr. Pellegrino stated that the question should be will the activity in the 100 foot buffer area have a negative impact on the area. He said that activity can be permitted in the 100 foot non disturbance area.

Mr. Montgomery said that the buffer area is to protect the stream and the concern is the direct impact of the crossing on the stream. The IWC is concerned with the mitigation being asked for between the detention basin and the stream which is not in the wetlands, but is important because of the sediment that could collect. Mr. Daly explained that they have changed the size of the orifice and the well and a berm is being built. There would be mitigation at the stream crossing which would have effects on the flow and purity of the water. He feels that the changes being made to the detention basin would be an improvement. Mr. Daly said that the detention basin near the rail to trails would be redesigned to act as a sediment trap to the intermittent watercourse. Mr. Montgomery asked if there would be a need for another application. Mr. Daly said the intent is to provide improvements to the watershed and there are no more conservation easements that can be offered. Mr. Daly advised the Commission that the former pond has invasive species and they will go into the area and hand remove any species that are inappropriate and do not cause damage and replace one for one with native species. He feels this will benefit the watershed.

Ms. Krynicki stated that when the native species are removed the area will have to be monitored for three to five years. Mr. Daly advised that they would agree to a three year program which would have a one to one replacement with native species.

Mr. Annes asked what type of maintenance program would be needed for the sediment trap. Mr. Daly explained that a measuring stick would be placed in the middle of the basin which would help to identify when the basin needs to be cleaned.

Ms. Rosenbaum asked the Commissioners if they would like the applicant to come back with a revised plan that would clarify all the comments made with regard to the 25 foot buffer. Mr. Lee asked if the application would be tabled and that the applicant would need to consent to the application being tabled. Mr. Pellegrino stated that he will submit a letter accepting the application being tabled so that the comments made at this meeting can be addressed and he will submit a revised plan for Phase III. He explained that he will also submit a revised request to amend Phase II to discuss mitigation measures and the comments that were made regarding the size of the buffer.

Mr. Anastasio made the motion to table Application 09-1152 until the April 7, 2010 meeting. Ms. Lakin seconded the motion. Mr. Annes asked if there is any guidance that would help when looking at the extent of the mitigation. Mr. Montgomery stated that it would be the mitigation that the applicant has brought forth and should be explained so that all Commissioners understand what it is that is being voted on.

Ms. Rosenbaum asked for a vote on the motion made:

Mr. Annes, Mr. Tito, Mr. Anastasio, Mr. Stone, Ms. Krynicki, Ms. Lakin, Mr. Shadle, Mr. Brand and Mr. Montgomery voted in favor of the motion. Mr. Milazzo voted against the application. The motion passes 9-1-0.

09-1155 123 Forest Street, 98 Orchard Street, and 106 Orchard Street – construction of three single-family homes - Forestland Homes LLC, Applicant *R 1-06-10*

Ms. Rosenbaum stated that there is an intervener for the application. Mr. Lee explained that the Town received a petition for intervention under Connecticut General Statute 22A-19 from the Mount Carmel Civic Association. He explained that by virtue of the petition for intervention they are granted party status for this application. Once the applicant has made their presentation the Mount Carmel Civic Association will make their presentation regarding this application. The Applicant will have an opportunity to rebut what the Civic Association says and then the Civic Association can rebut what the applicant says. Ms. Rosenbaum clarified that it is called the Mount Carmel Action Committee.

Mr. Pellegrino, Attorney, read statute 22A-19 and stated that he checked the Secretary of State's records and did not find the Mount Carmel Action Committee and did not find it as an organized legal entity and asked if the petition is appropriate. Mr. Lee stated that the Statute is broad enough and a group or partnership does not have to be registered with the state. Mr. Annes said that a group does not have to be a legal incorporated group and can also be an individual.

Mr. Victor Benni, Civil Engineer, addressed the Commission and stated that he has submitted a stormwater management report dated February 24, 2010, revisions to the sediment sheet drawing set date February 24, 2010, and a response letter dated March 3, 2010, to the Commission in response to the comments made in letters from the Mount Carmel Action Committee that were dated February 1, 2010 and February 17, 2010. Mr. Benni reviewed the stormwater management report and the findings of the test done. He stated that the Town Engineer has reviewed the stormwater management report. Mr. Benni reviewed his response letter dated March 3, 2010 that was to the comments received from the Mount Carmel Action Committee. Mr. Benni gave an overview on establishing a three zone system for establishing a buffer and showed a drawing using the assessor records and the Town's topography and submitted the drawing to the clerk.

Mr. Benni stated that he visited the site on February 24, 2010 and February 25, 2010 during the heavy rain storm which produced approximately 4.67 inches of water on February 24, 2010 and 2.36 inches on February 25, 2010. There was significant runoff in the area and the watercourse was flowing, and the pipe leading out of Forest Street had a heavy flow. There was water flowing off the abutting properties onto the subject parcels. During the site walk he did not see any erosion on the subject parcels or problems at the property lines. He did walk the entire buffer area and wetlands line and did not see any sources of runoff that had an intermittent stream or any kind of natural swale where water would congregate and erode out the buffer. He said the buffer is filtering the stormwater and is infiltrating back into the ground. He reviewed the stormwater management systems that already exist in the area. Mr. Benni reviewed the revised planting plan. He stated that the documentation referred to in addition to the expert testimony provided by the applicants' representatives verifies that the design proposed for the subject parcels will not adversely affect the buffer areas, wetlands or off site watercourse. He explained that his last site notation addresses what abutting properties to the west can do to address problems that they are having on site and that the stormwater management and conservation area that is being proposed on the subject parcels will adequately handle the stormwater flows to the abutting parcels. The success of the development proposed on the subject parcels is not dependent on the completion of the recommendations that he has made to the abutting properties to the west. Mr. Benni reviewed the comments made by the Town Engineer's comments dated March 1, 2010 and reviewed the changes that have been made to the plans to address the Town Engineer's comments. Mr. Benni reviewed the comments made by the RWA in a letter dated March 1, 2010.

Mr. Geoffrey Ramsey, Mount Carmel Action Committee, addressed the Commission and stated that he has been a Hamden resident for 21 years, and has been a ZBA Commissioner and served on the Legislative Council for 4 years. He said that there is concern for the erosion, deforestation of the area and the flagging with regard to how it was made and when it was made. He stated that they did not get a petition with 25 signatures, because he thought that it would go to IWC after going to the ZBA. He reviewed the conservation area and less than half the land is being used. He explained that 123 Forest Street will become three lots and there is concern about erosion. He explained that an abutting neighbor has a small shed that comes over the property line. The shed has been on the property for over 60 years and owner was not aware of the boundaries. Mr. Ramsey explained that in August 2009 measurements were taken and the shed needs to be moved. He explained that the abutting neighbors have a deck (submitted picture) which is about 12 feet to 15 feet from the property lines and when the new construction starts there may be a problem with erosion. Mr. Ramsey reviewed with the Commission where the drop on the property could occur and this could create water runoff. He explained that there is concern with deforestation. When the houses and driveways are constructed this could remove the buffer that protects the wetlands. Mr. Ramsey explained that the Davis's, the Fredericks and himself put down Groundout on their property and the ground still washes out. Mr. Ramsey explained that they keep the storm basins clean so that there is no runoff into their yards. The proposed plans do not include storm basins. Mr. Ramsey is concerned that the construction would create flooding into their homes and an enforcement issue is being created. Mr. Ramsey said that there is an issue with the flagging of the wetlands. He explained that Mr. David Cox who had been an IW commissioner went down and took pictures (submitted) and he felt that the flagging may be incorrect. Mr. Ramsey said that the soil samples were taken in August 2009 and it was a very dry month. He feels that if the soil samples were taken during a wet period, the results may have been different. Mr. Ramsey is asking the application be tabled or denied.

Mr. Benni stated that Scott Stevens, Soil Scientist, had done the soil testing and has no data to support that doing the test during a dry month would change the placement of the flags. Mr. Benni reviewed with the Commission how the soils are identified and a soil scientist looks at the mottling layer and feels that the time of year done is not relevant. Mr. Benni stated that the parcels in question do function properly and he reviewed the planting plan that will happen after the deforestation. Mr. Benni note that the portion of the buffer that will main as a portion of the conservation area will be sufficient to handle the water flows that will be coming off site. Mr. Benni stated that there is no proposal of any digging directly on the property line where the Davis's property is the abutting. He submitted pictures of the deck and stated that there may already be an existing problem below the deck and the storm berm that exists along the property line will not be removed. The shed and stone berm does extend past the property line into the subject parcel. Mr. Benni said that the existing conditions plan and that they are going to be asking for lot line revisions. He explained that he reviewed the potential alternative plan and submitted it to the clerk. He explained that the owner Mr. Wilson had acquired the properties as individual parcels and at the time anticipated that the streets would be paved, but

explained that in the past there was an ordinance that allowed driveways located in portions of a paper street. Mr. Benni reviewed the proposed alternatives for the driveways going to the subject parcels driveways. Mr. Benni stated that the alternative plan would come within 25 feet of the existing buffer and would create more of a disturbance with stormwater coming from 106 Orchard Street. Mr. Benni stated that the revised stormwater management plan that they have put before the Commission takes into consideration future homeowners.

Mr. Ramsey asked that this application be tabled so that their expert can look at the revised plans and the information provided at this meeting by the applicant. Mr. Ramsey reviewed and submitted to the Commission a national weather analysis for 2009 and beginning of 2010. Mr. Ramsey reviewed Mr. Ron Walters's comments with regard to who would be responsible for the maintenance of the conservation area. Mr. Ramsey asked how many more projects will be done in Hamden where inspections are required. He feels it does not make sense to say that there will be less water rushing down when it is paved and houses constructed. Mr. Ramsey said that the area has been wetlands for a long time and why disturb it. He feels it will create conservation areas that the owners will not keep up. Mr. Ramsey said that they have tried rain gardens and they do not work.

Mr. Brand asked Mr. Benni that on page three of the stormwater management report it states that a portion of the roof water will go to the rain gardens and he asked where the rest of the water will go. Mr. Benni explained that the rest of the water will go to the yard area, and there is not a need for the entire roof area to go into the rain garden.

Ms. Lakin asked if Mr. Benni would provide additional calculations for paved driveways. Mr. Benni said that they could provide the additional calculations, but does not feel it will change the overall concept of the plan. He explained that they will still install three drywells and possibly a fourth. He anticipates that if they surround the drywells with two feet wide of crushed stone it will create more of a void area. If this does not work then they would add a fourth drywell and could piggyback from one of the other 3 drywells.

Mr. Montgomery said that there was a comment made by the Town Engineer with regard to an 8 inch 200 square foot rain garden and the calculations on sheet 7 shows a 6 inch rain garden. Mr. Benni advised that he will revise the calculations for an 8 inch rain garden and the calculations are correct. Mr. Montgomery asked about the Town Engineer comments that addressed the yard drain grates being set 0.1 feet above the swale elevation. Mr. Benni explained that when stormwater gets to a certain level that a 1/10th of foot will still get the drywells filling up and there will be infiltration. Mr. Benni advised that the plan will be revised as requested by the Town Engineer's comments.

Ms. Krynicki asked why the rain gardens are perpendicular to the contours vs. parallel to the contours. Mr. Benni advised that they can be rotated 90 degrees and have them run parallel to the contours.

Mr. Montgomery asked Mr. Ramsey if his intention is to have the plan reviewed if this matter is tabled. Mr. Ramsey stated that he would like their expert to look at the revised plans. Mr. Annes asked if the Commission was considering the alternate plan. Ms. Rosenbaum stated they were not considering an alternative plan. Mr. Montgomery asked Mr. Tom Vocelli, Wetlands Enforcement Officer, when the plan was received. Mr. Vocelli stated that the plan was revised on February 24, 2010 and received on February 25, 2010. Mr. Montgomery stated that the plan has then been available in the Planning Office for 6 days. Ms. Krynicki reviewed with the Commission how the soils are defined and what a soil scientist would look at to determine wetland areas. Ms. Rosenbaum asked Ms. Krynicki if the soils would be determined by rainfall and Ms. Krynicki said it was not. Mr. Annes explained that the plant types are not determined by wetland soils.

Mr. Pellegrino said that Mr. Wilson, property owner is being represented by Attorney Michael Ajello and he would like to do a rebuttal.

Mr. Michael Ajello, Attorney, addressed the Commission and stated that Mr. Wilson has owned the property for over 50 years and is a taxpayer and that Mr. Wilson has the right to develop the property. He explained that the applicant has spent time and money and resources to have a responsible project with no adverse affects on the abutting properties or wetlands. Mr. Ajello understands that the neighbors have concerns about storm events and the wetlands

areas. Mr. Ajello stated that Mr. Wilson is strongly in favor of this project and as it was presented to the Commission it will have no adverse affects. Mr. Ajello asked that this project be allowed to go forward.

Mr. Annes made the motion to approve Application 09-1155 with the stipulation that the Town Engineer and RWA comments will be addressed and incorporated as said during construction. Mr. Milazzo seconded the motion.

Ms. Lakin would like added to the motion: ***That additional drainage calculations be made to take into consideration the eventual possibility that the roadway will be paved, and once the drainage calculations are determined an additional drywell be or the existing proposed drywell be enlarged to accommodate the additional runoff.***

Mr. Brand would like add: ***That the rain gardens be rotated 90 degrees to run parallel to the contours.***

Mr. Shadle asked if the application is tabled would the applicant need to grant an extension. He stated that his opinion is that the intervener would bring in experts to survey the site and do their own presentation, which he feels is justifiable. The Commission discussed with Mr. Lee the requirement that an applicant must show a feasible and prudent alternative plan if there are impacts to the wetlands. The Commission discussed what was presented at this meeting and if a feasible and prudent alternative plan was needed. Ms. Rosenbaum advised the Commissioners that they must vote on the motion that is before them.

Mr. Montgomery and Mr. Annes stated that they accept the changes that were made to the motion. Mr. Montgomery, Ms. Lakin, Mr. Milazzo, Mr. Anastasio, Mr. Stone, Mr. Brand, Ms. Krynicky, and Mr. Annes voted in favor of the motion. Mr. Tito and Mr. Shadle voted against the motion. The motion passes 8-2-0

10-1157 3139 Whitney Avenue – construction of a 14-unit residential building
Revivance Development Services LLC, Applicant

R 2-03-10

Ms. Rosenbaum advised the Commission that John Gesmonde has intervener status for this application. Ms. Lakin recused herself from this application.

Mr. Bernard Pellegrino, Attorney, addressed the Commission and stated that he had received the statement from the intervener. He thought that the statement needed to be verified, but he had no objections to Mr. Gesmonde's participation. Mr. Pellegrino reviewed the application for a multi-family housing project. The property presently has a single family house located on the site and the new building would be constructed at the rear of property. The wetlands map has no indication of wetlands on the site or within the IWC's jurisdiction. There are wetlands located on the neighboring site which are within 90 feet of activity being proposed for this site.

Mr. Chris Gagnon, Civil Engineer, addressed the Commission and stated that the project site does not contain any wetlands, but the property that is located down gradient has wetlands located on it. Mr. Gagnon reviewed the 100 foot and 200 foot upland review areas based on the location of the wetlands that are offsite. There is a corner of the property located in the parking lot which contains a small area of the stormwater management system that is within the 100 foot upland review area. Mr. Gagnon reviewed the proposed site plan and Mr. Nugent, owner, had expressed his desire to pursue a philosophy of low impact development. Mr. Gagnon explained that the parking area is designed without a curb and has no catch basins. The design is to promote sheet flow off the parking lot into vegetated buffer areas, a vegetated swale and then into infiltration detention basins. He said the proposal is to have 3 infiltration detention basins and one existing area of infiltration were a majority of the pre-wetland site runoff drains too and then is infiltrated on site. There are no point sources releasing runoff from the property and the project will have minimal impact to the surrounding properties. Mr. Gagnon explained that the plan was revised based on comments from the Town Engineer and the Planning Office. A stormwater management report was revised based on the comments from the Town Engineer and the Planning Office. The reports were reviewed by the Town Engineer and a response letter dated March 3, 2010 was submitted. Mr. Gagnon reviewed his response letter and stated that there was concern that behind the building there was runoff and he reviewed the revision made to the grading that will be done in the area. The drywells were revised and overflow pipes will be used to direct the water overflow runoff into the basins. Mr. Gagnon stated that the design was modified to provide freeboard for the ponds located to the rear eastern side of the

property. He said that the corner of pond number one is located in the upland review area. Mr. Gagnon explained that the original drainage plan had the property line as the limits of the watershed area and the Town Engineer and he did a site visit on a rainy day and it was clear where the drainage paths were flowing, and the stormwater management plan has been revised to include the portion of the Quinnipiac University property that drains on to the applicant's property. Mr. Gagnon said that there is concern with regard to the existing infiltration depression rain garden that is located at the southern property line and it was suggested that the pre development and post development situation be reviewed to assure that there will be no runoff flowing off the property. Mr. Gagnon has done the analysis and the pre-development and post development elevation are within an inch and three inches. The highest elevation of 94.6 water surface elevation of a 100 year storm keeps it well off of the neighboring property. He inspected the area during a large rain event and the depression area was still receiving runoff. Mr. Gagnon stated that in predevelopment most water runoff sheet flows off the property and there is a wide area to disperse at the neighboring property. The overflow weirs have been revised from 10 foot wide to 70 foot wide at pond one and a 40 foot wide weir can fit at pond two. The flow rate coming through the weirs are non erodible velocity. Mr. Gagnon advised the Commission that the landscaping plan will be revised and include vegetation that will not have a negative impact.

Ms. Rosenbaum asked if at pond one and two is proposed why it would be proposed to have sediment forbay if there is going to be sheet flow. Mr. Gagnon stated that there still could be sand. Mr. Rosenbaum asked if the sheet flow will be directed to the forbay. Mr. Gagnon stated that the infiltration basins will infiltrate the majority of the water and the ponds serve as forbays in a standard design. He reviewed with the Commission where the sediment forbays will be located and where the grading plan directs a ridge in the parking area. Mr. Gagnon reviewed the stormwater management system.

Ms. Krynicki asked how many bedrooms will be in each of the 14 units. Mr. Gagnon said there will be two bedrooms in each unit. Ms. Krynicki stated that there will be 64 paved parking spaces which equals out to 4 ½ spaces per unit. She asked if this amount of parking spaces is a zoning regulation and if some of the parking spaces be gravel or permeable surface. Mr. Kops stated that the parking spaces are calculated at 1 space per student or 4 spaces per unit and the spaces must be paved. Ms. Krynicki stated that permeable asphalt would be acceptable. Mr. Gagnon stated that the intent of pervious pavement is for less runoff from the site and more runoff infiltrated to recharge the ground water table. He said that the intent of this stormwater management plan is to infiltrate every drop of runoff and achieving the same as pervious surface. Mr. Gagnon stated that it is easier to maintain the basins then it would be to maintain the pervious pavement and the proposal has a greater long term impact.

Mr. Montgomery asked if the slope in the basin will be 3 to 1. Mr. Gagnon said the slope in the basin will be between a 3 to 1 and a 4 to 1 slope. Mr. Montgomery asked for clarification of the overflow weirs. Mr. Gagnon reviewed the two overflow weirs and stated that all storms except the 100 year storm will be infiltrated through the bottom of the pond. He explained that if it is a 100 year storm there will be some overflow from the pond that will go through the weir and down to the abutting property. He stated that he has revised the length of the weirs to ensure that the runoff is flowing at a slower rate and velocity. Mr. Montgomery asked what the last revision date is. Mr. Gagnon explained that the plans were revised on January 28, 2010 and a letter was submitted March 3, 2010 as evidence that the plans will be revised. Mr. Gagnon stated that on pond 2 there is a 10 foot wide weir that was modified based on the comments by the Town Engineer and the weir will be 40 feet wide and at pond one it was modified from 10 feet wide to 70 feet wide. The weir will be vegetated due to the velocity of the overflows.

Mr. Montgomery asked if the construction sequence is noted on the plans. Mr. Gagnon stated that the construction sequence and a detailed construction narrative are on the plans.

Ms. Sigrun Gadwa, Soil Scientist, addressed the Commission and explained that her first visit to the site was to verify that there were no wetlands in the area of the rain gardens. She evaluated the soil and reviewed her findings. She stated that the area is currently vegetated with trees and the trees that are located along the brow of the slope are important because they have deep roots and take out additional nutrients and water as it infiltrates into the ground at the rain gardens. Ms. Gadwa stated that her second site visit was to evaluate the adverse effects of the impact on the off-site wetlands and reviewed with the Commission her report dated February 3, 2010. She stated that she did not receive permission from Quinnipiac University to do additional investigation of the resources on their property. Ms.

Gadwa stated that the proposed grading will be excavated so that the slope faces back northwesterly away from the resource and there is no potential for sediment from the construction and post construction will not direct water to the area of concern. She explained that the buffer gets wider as it goes towards Whitney Avenue and there is a knoll that will not get graded and eliminates any possibility of runoff. She explained that the system is hydrologically isolated from the Mill River. She explained that she looked at potential runoff going to the Whitney Avenue stormwater system and then into Mill River and the existing lawns in that area will be left intact. Ms. Gadwa stated that she reviewed the S&E Control notes and feels they were thorough. She explained that the rain gardens and basins can clog if they are used as temporary sediment traps which will not be done with this project. Ms. Gadwa stated that the combination of the natural topography, the wide wooded buffer, and favorable soils along with the work to be done will not have impact on the wetlands.

Mr. Gagnon reviewed the upland review area and that the plans will be revised to show that there will be no changes in the upland review area.

Mr. John Gesmonde, Intervener, addressed the Commission and stated that in addition to representing himself, he is representing JMG & LCS Whitney Management Company, LLC and Lawrence Sgrignari. Mr. Gesmonde said that he would like this matter tabled because the Applicant is asking for a decision to be made on a revised plan that has not been submitted and cannot be reviewed for variations prior to a decision being made. Mr. Gesmonde said that the revisions to site plan and stormwater management plan revisions, and the wetland impact and evaluation report were received at this meeting and he has not had time to review them. Mr. Gesmonde said that intervener status allows him to have a fair opportunity to address the changes. He had talked with the RWA and they have not received the reports that were submitted today and are not included on his report. Mr. Gesmonde referred to a legal argument by Garden Home Management vs. Oxford IWC and stated that the court was very clear in denying the application and that there were feasible and prudent alternatives. He reviewed C.G.S 22a41b1 with regard to feasible and prudent alternative. Mr. Gesmonde said that this applicant has not presented any feasible and prudent alternative plans. He stated that the soil scientist report is not complete because it does not include the Quinnipiac University property.

Ms. Linda Reed, Land Use Expert for the intervener, addressed the Commission and stated noted reports received at this meeting and her comments that she had prepared was prior to receiving the reports. She said that the applicant has pointed out that a holistic view point should be taken with regard to the whole area. Ms. Reed reviewed the definition of the regulated activity. She said that the plans show that only 29 percent of the trees are to remain intact, and some will be outside the 200 foot review area and will have impact. Ms. Reed would like the changes to the hydrology, ecology and aesthetics and the functionality of regulated areas reviewed. She also would like a feasible and prudent alternative plan presented. Ms. Reed said the footprint of the building could affect the water flow and drainage on the property. There could be stress on the regulated area because more vegetation will be retained on the property and impacts on the adjoining property. The knoll where the rain garden is has the property line going through the top of the knoll. Ms. Reed said that the applicant's engineer had mentioned that every drop of water is going to be contained and pass through the system they have designed, and she stated it is difficult to believe that no water will get to the regulated area. Ms. Reed reviewed the IWC 10.2 regulation criteria and that there will not be zero impact and that there may be an impact to wildlife. She said that the intensity of this project will have an impact on the regulated area and there will be intense site disturbance by alteration of the upland review area. Ms. Reed said that at an earlier presentation Mr. Pellegrino had talked about a better balance to protect the regulated area and that a feasible and prudent alternative plan may give a better balance than what was submitted.

Ms. Rosenbaum asked for a motion to table the application that would allow the IWC to receive the changes that have been discussed and are shown on the revised plans.

Mr. Tito made the motion to table Application 10-1157 until the April 7, 2010 meeting. Mr. Annes seconded the motion. The motion passed unanimously.

II. Notices-of-Violation, Cease & Desist & Restore Orders, Notices-to-Appear

- a. **C.&D.** 186 & 196 Denslow Hill Rd - Dumping & deposition of fill in or near wetlands I 5-01-08

Mr. Milazzo made the motion to table this item until the April 7, 2010 meeting. Mr. Montgomery seconded the motion the motion passed unanimously.

- b. **N.O.V.** 64 Rocky Top Road – clearing of trees & removal of vegetation I 1-24-08

Mr. Lee advised the Commission that he will update the Commission at the next meeting.

Mr. Milazzo made the motion to table this item until the April 7, 2010 meeting. Mr. Montgomery seconded the motion the motion passed unanimously.

III. Review Site Inspection Schedule & Other Business

There was none.

IV. Review February 3, 2010 meeting minutes

Ms. Rosenbaum asked that on page 3, line 3 the word done should be down. Page 10, 4th line from the bottom should read “are deemed to run with the land”. Page 1, 3rd paragraph “amendement” should be “amendment”.

Mr. Anastasio made the motion to approve the minutes of February 3, 2010 as amended. Mr. Annes seconded the motion. The motion passed unanimously.

V. Adjournment

A motion to adjourn was made by Mr. Milazzo and seconded by Mr. Annes. It passed with no dissenting votes. The meeting ended at 10:46 p.m

Submitted by: _____
Stacy Shellard, Clerk of the Commission