

December 10, 2014

**MINUTES: THE INLAND WETLANDS COMMISSION**, Town of Hamden, held a Public Hearing & Regular Meeting on Wednesday, December 3, 2014 at 7:00 p.m. in the Legislative Council Chambers, Memorial Town Hall, 2372 Whitney Avenue, Hamden, CT with the following results:

*Commissioners in attendance:*

Nancy Rosenbaum, Chairperson  
Joan Lakin  
Mike Milazzo  
Kirk Shadle  
Bob Gnida  
Daniel Liston  
Stephanie Wilson

*Staff in attendance:*

Dan Kops, Assistant Town Planner  
Tim Lee, Assistant Town Attorney, left at  
10:00 p.m  
Tom Vocelli, IW Enforcement Officer  
Stacy Shellard, Commission Clerk  
Genevieve Bertolini, Stenographer

Ms. Rosenbaum called the meeting to order at 7:00p.m. Ms. Lakin called the roll and there was a quorum. Ms. Rosenbaum introduced the Commission and Staff.

## **I. Regular Meeting:**

### **A. New Applications:**

- a. 14-1207** 3139 Whitney Avenue-construction of a mixed-use office & multi-family building  
Kiehtan's Realm, LLC, Applicant

Mr. Tim Hollister, Attorney, addressed the Commission and noted that "Kiehtan's Realm" comes from "Kiehtan", is the spirit of good that caused the Sleeping Giant to lie down. Mr. Hollister stated that the site is located on 2.2 acres. He reviewed the abutting properties. Mr. Hollister stated that the proposed site will be mixed use with 3,500 square feet of office space and a 77 unit, multi-family building located behind it.

Mr. James Rotondo, Professional Engineer, addressed the Commission and stated that an onsite soil investigation was done by a soil scientist and it was determined that no watercourses or wetlands are on the site. There is a wetland located off site at the southeast corner of the property. Mr. Rotondo reviewed a previous application that was approved in 2010 for this site. He reviewed the site, stormwater management plan and the sediment & erosion control plan. Mr.

Rotondo stated that a soil scientist and soil research consultants have reviewed the plan and they concluded that the proposed plan had no likelihood for any direct or indirect impacts to the offsite wetlands.

*Ms. Lakin made the motion to table this application for a site inspection. Mr. Liston seconded the motion. The motion passed unanimously.*

### **B. Pending Applications:**

- b. 14-1202** 275 & 475 Mt Carmel Avenue - reconstruction of athletic fields  
Quinnipiac University, Applicant  
(This discussion occurred after the close of the Public Hearing)

Ms. Rosenbaum read the following:

The Consent Decree mentions that “Quinnipiac will build a superior practice and competition facility dedicated to women’s field hockey that meets NCAA Division I standards for the sport” and the rugby pitch be upgraded to the maximum dimensions with access to water & restrooms during all practices and competitions. Women’s varsity sports teams will have comparable facilities to men’s teams in the same tier. There is no mention of lacrosse, soccer, lighting, stadium buildings with field houses for each field and a pavilion.

Re Alternate sites. Field requirements – 250-330 feet with a 5% slope limit. Sheet C1.2 indicates the campus site west of Hogan Road has a 5% slope, the rugby field and athletics & recreation buildings are planned for this location. Part of a parking lot will be removed for the athletics & recreation building. An alternate site not discussed was putting one or more fields in the area now occupied by parking lots and moving these lots to alternate locations.

In Attorney Pellegrino’s summary statement, page 7: “emphasis on buffers adjacent to the wetland areas deemed most viable”. This statement is unclear. If it refers to wetland #2, the applicant has stated this wetland has a higher functional value; approximately 85-90% of the south field has non-disturbance buffer widths of <6-16 feet. This does not meet the 25 foot buffer in the 2004 application.

The adjacent Public Affairs building building/area was not considered as an alternative site as it is “an inappropriate use”. Buildings could be razed or configured for use as the field house (s) for the suggested fields. Alternate locations for Public Affairs are nearby.

Buffers. The proposed construction method involves jersey barriers and haybales. The enclosed picture of the failure of this system during the York Hill campus construction shows the weakness of this system. These barriers are above ground, whereas silt fence construction involves putting the silt fence below ground and preventing silting of surrounding areas. One of the reasons for 100 foot buffers is to infiltrate water so that it has fewer impurities before it enters the water supply. The 2 synthetic turf fields are comprised of 80,000 tires; no data has been given about leaching, cleaning, disinfecting, and the general care of the fields. How much water will be put onto each field daily?

#### **Wildlife Assessment and Impact.**

The applicant’s wetland scientists state that the wetlands have been degraded with many invasive species along the wetland borders. The Quinnipiac University playing fields are the only development that has occurred on this site starting in 1991. If the wetlands are degraded, is it not the applicant who has caused this? What will be the future impacts to this site if the IWC permits light, reduced buffer size, increased activity etc. to such a threatened wetland? Two scientists acknowledge there is a vernal pool on the site.

Conifer planting. It was proposed that a monoculture of 85 white pine be planted along the wetland border and around the scoreboard (8 ft from wetland). How will scoreboard maintenance and lighting affect the wetland? Again, why should the wetland buffer be decreased to accommodate an increase in activities?

Ms. Rosenbaum referred to a picture of how the barriers and silt fences have been washed out.

Mr. Gnida is concerned that 1.1 acres of buffer area is being taken based on the 100 foot buffer area. There are a lot of streams and ponds on the campus that were not proposed to restore the buffer areas. There are lots of opportunities for the buffer areas to be restored, but the University mows right down to the streams and ponds. He noted that Mr. Quinn had described the campus as void of diversity.

Mr. Dan Kops, Assistant Town Planner, stated that the restoration of buffers and wetlands is within the Commission's jurisdiction. The members can ask for compensatory wetland restoration or creation elsewhere. However, buffer areas are there to protect wetlands and Mr. Kops does not feel that general restoration of buffers can be considered.

***Mr. Milazzo made the motion to table this item until the January 7, 2015 meeting. Mr. Liston seconded the motion. The motion passed unanimously.***

## **II. Public Hearing:**

### **a. 14-1202 275 & 475 Mt Carmel Avenue - reconstruction of athletic fields Quinnipiac University, Applicant**

Mr. Bernard Pellegrino, Attorney, addressed the Commission and stated that a memorandum (Statement of Rebuttal and Response to Questions Raised) was submitted to the Planning Office on December 1, 2014. He noted that Quinnipiac University historically has had a good relationship with the Commission. The University has had many successful projects, one of them being the restoration of wetlands located on Sherman Avenue. Mr. Pellegrino stated that the proposal for this application has a team of experts who have put together a proposed project that is sensitive to the wetlands even with the restraints of the location. The design team is prepared to implement the project and put forth resources to make the project successful. The invasive plan as presented will be time consuming and expensive because it must be done by hand, but they are prepared to do it. Another aspect of the application is that the objections raised about the previous plan have been considered and some of the suggestions taken into account to make the proposed plan better.

Mr. Pellegrino stated that the University's intent and desire is to work with the Commission to make this project successful. There is a court order to improve the athletic facilities utilized by the female sports at the University. The proposed application will meet the court order. The applicant has looked at all prudent and feasible alternatives so as to bring forward a plan to improve and construct facilities that will meet the court order and be in accordance with Inland Wetlands jurisdiction. Mr. Pellegrino noted that the existing location of the fields is the most prudent and feasible alternative. He stated that prudent is something that is economically reasonable and feasible is an alternative that can be constructed using sound engineering principles. Mr. Lavy details the individual components that fit within what is both feasible and prudent.

Mr. Pellegrino stated that it is important to note that the best lighting consultant in the country has been hired to design the plan. A White Paper on Athletic Field Lighting and Control of Obtrusive Light Pollution, Fairfax County Port Authority, July 2010 was submitted by Mr. Michael Montgomery and in the paper it points to the third pole as the most effective and in accordance with what the University is looking for. The lighting system constructed at the time was designed by Musco Lighting. Musco Lighting has brought to the proposed design the most up to date technology available. The proposed design is aimed at focusing the light on the field, reducing off field spill and reducing reverse glare. Mr. Dyjack presented at the November 5, 2014 meeting the best sports lighting project that can be used for this project. Mr. Pellegrino stated that his memorandum refers to the question of the impact that the lighting will have on the wetlands. He referred to the case AvalonBay Communities, Inc. v. Inland Wetlands Commission of the Town of Wilton. The question presented during the public hearing was whether the proposed lighting in the wetlands will have an effect on the wildlife dependent species that may be in the wetland. This question will be addressed by Mr. Dennis Quinn and he will also address the limited wildlife in the wetland based on the characteristics of the wetland. In light of the AvalonBay case the question is if there is impact on the wetlands because of the lighting. The case concludes that the act protects the physical characteristics of the wetlands and watercourses and not the wildlife including the

species by diversity, unless it can be shown that the lighting is having a substantial impact on the wetlands itself. Mr. Pellegrino stated that previous minutes reflect that the lighting may impact wetland species, but it was not stated that the lighting is having a substantial impact on the wetlands.

Mr. Pellegrino stated that the proposed plan tries to create a design that stays outside the 25 foot buffer area that was previously approved. There will be temporary impacts, but the permanent impacts will be activities that are meant to protect the wetlands (i.e. retaining wall) even though it will be closer than the south field's 25 foot buffer area. Mr. Pellegrino stated that the removal of the invasive species and the methodology for removing them were addressed in the mitigation plan by adding shrubs and other materials in addition to the wetland seed mix. Herbicide will be painted onto the invasive plants. Different types of tree species will be utilized.

Mr. John Lavy, Centerbrook Architects and Planners, LLC, addressed the Commission and submitted and read the following statement (Exhibit 16):

Centerbrook reviewed all potential sites for the athletic fields on the York Hill and Mount Carmel campuses. This analysis included the placement of three playing fields (Rugby, Soccer/Lacrosse and Field Hockey). The placement of the three fields was based on the following criteria: Location, Size, Topography and Availability. Viable sites also needed to be within reasonable walking distance from existing athletic facilities, parking and undergraduate student populations.

The analysis was limited to the York Hill and Mount Carmel campuses as acquisition of new property was not a viable alternative as was the North Haven Campus based on the above stated criteria.

The initial determination of sites was based on the feasibility of sites of adequate size and topography. Refer C1.1 and C1.2, which indicates sizes of the fields required and the feasible slope which we consider was less than 5%.

As a result of this study, no sites on the York Hill Campus were considered feasible due to the topography. Parking areas were not considered a prudent alternative.

The Mount Carmel Campus had five feasible sites of adequate size and topography for one of the three required playing fields:

The first site was the existing pine grove; however, this is a unique environmental amenity that the University has protected over many years as they made enhancements to the University.

The location of an athletic field would remove this environmental resource of mature growth in its entirety with no viable opportunity for replacement. This was not considered prudent based on the severity of the impact to this environmental commodity.

The second site considered feasible by virtue of the size and topography was the corner of New Road and Mount Carmel Avenue. This site is considered the gateway to the campus. Parking at this location is essential to the operation of adjacent buildings. Additionally, location of an athletic field at the main entry to the campus we believe would severely impact the entire campus community as an athletic function at this location is incompatible with existing adjacent uses. For these reasons, this site was not considered a prudent alternative.

The remaining three sites considered were the three sites proposed in this application. All sites are currently used for the same or similar athletic activities and consistent with current operations and use patterns. Each meets the previously stated criteria of location, size, topography, and availability as well as proximity to existing athletic facilities, parking and the undergraduate student population. For these reasons it was determined that the three proposed sites were in fact the most feasible and prudent alternatives available and would cause the least overall impact.

The re-location of Public Affairs is not considered a prudent alternative nor was locating team rooms within that building. Its location is suited to fulfill its function based on the relative proximity to campus functions but autonomy from core student activities.

This analysis and its subsequent submission to the Town, based on the criteria and definitions established in our professional opinion, we believe has placed the three playing fields (Rugby, Soccer/Lacrosse and Field Hockey) in their most prudent and feasible locations.

Mr. Liston asked Mr. Lavy to expand on the reference to New Road and Mount Carmel Avenue. Mr. Lavy stated that it is a visual construction from the corner to the campus. It is a visual impact and would not be an appropriate location because it would take over the parking associated with the entrance.

Mr. Howard Pfrommer, Civil Engineer, addressed the Commission and stated his responses that are noted in the written "Statement of Rebuttal and Response to Questions Raised-December 1, 2014".

Mr. Andrew Dyjak, Sports Lighting Designer, addressed the Commission and stated his responses that are noted in the written "Statement of Rebuttal and Response to Questions Raised-December 1, 2014". In addition he added that a brochure for the lighting had been previously submitted. The lights can be turned on/off manually and can be done by a key switch, cell phone, cell phone app, email, fax, or use a calendar that is web based. Musco owns and operates the controlling system with staff that is available 24/7 that monitor to help the scheduling. Lights are never left on; if they have an on time scheduled they must have an off time. There is a computer schedule print time that shows the on/off times. A high/low mode report that is a password protected system and shows the lighting that is used. Musco has over 125 facilities in Connecticut that use the system.

Ms. Lakin noted that it was said that the lights to televise games were removed. She asked if this meant that there are no plans to televise games or would they be televised using lower amounts of lighting. Mr. Dyjak replied that the proposed lighting will not be appropriate for regional broadcasting because the cameras would not be able to focus. Ms. Lakin asked if the proposed lighting would allow for local broadcasting. Mr. Dyjak stated that there would be highlights of the games on the news, but the games would not be televised because of the lighting design.

Mr. Gnida asked if it is possible to bring in portable lighting units to allow games to be televised. Mr. Dyjak replied yes, but he has not discussed portable lighting with the University.

Mr. Liston asked if the lighting report that is produced monthly is provided to the client. Mr. Dyjak replied that anyone who has the passcode can run the report via the website.

Ms. Rosenbaum stated that in the minutes a question was raised by Mr. Ross Lanius, with regard to the NCAA Best Lighting Practices and they recommended 50 foot candles for field hockey, but many of the games are suggesting 75 foot candles. Ms. Rosenbaum said that she went on line and found another site that recommends 50 foot candles for field hockey. Another site recommended 30 foot candles be used. Mr. Dyjak stated that the NCAA requires the use of 50 foot candles for regular season play and 75 foot candles for post season play. The vertical lighting for broadcasting is 100 foot candles. Mr. Dyjack noted that the minimum foot candles are 50. Ms. Rosenbaum stated that the guidelines do not note what the minimum is for foot candles. Mr. Dyjak replied that the guidelines show seating capacity for post season play requires higher foot candles. Further discussion ensued with regards to NCAA Division I and II lighting guidelines for regular season vs. post season play.

Mr. Richard Snarski, Soil Scientist, addressed the Commission and stated his responses that are noted in the written "Statement of Rebuttal and Response to Questions Raised-December 1, 2014". He noted that the evergreen known as the "Green Giant" may be used as an alternative to the White Pine. He submitted a brochure describing the Thuja "Green Giant" (Exhibit 17). Mr. Snarski discussed the proposed planting plan with the Commission. He noted that the University is willing to alter the planting plan if the Commission would like.

Mr. Shadle asked if Mr. Snarski agreed with Dr. Chase's assessment that the wetland is degraded. Also if there is anything besides the proposed planting plan and the removal of the invasive species that could enhance the functionality of the wetlands. Mr. Snarski replied that there are things that could be proposed but may not be appropriate for the existing habitat.

Mr. Shadle asked what the distance is from the edge of the disturbance in the south field to the edge of wetlands. Mr. Pfrommer reviewed sheet C12.1. Mr. Shadle asked how much of the recommended buffer is being taken up with the fields or proposed barrier. Mr. Pfrommer replied that within the 100 foot buffer the south field is 1.1 acres. He reviewed the non-disturbance area. Mr. Shadle asked how many acres of wetlands are there. Mr. Pfrommer reviewed Sheet C11.0.

Mr. Liston asked if the invasive species plan were to be successful would the impact on the wetland functions allow for a more feasible place for amphibians and mammals. Mr. Snarski replied that it would create more diversity of the species. He does not know how much it would benefit specific species but it would create a better wildlife habitat.

Ms. Lakin asked if there were an area where a wetland can be created to make up for the portion that will be lost within the 100 foot buffer were the proposed building will encroach. Mr. Snarski replied no and reviewed the wetland and proposed area of building.

Mr. Shadle is about water that collects on the field discharging into the wetlands. He asked if the concentrated discharge lead to an enhancement of the area or will the existing conditions be maintained. Mr. Snarski reviewed the discharge point. Mr. Pfrommer explained the post development peak discharge. He referred to the Town Engineer's comments addressing 50 and 100 year storm events and that there would not be enough detention coming out of the pipe. He noted that it can be resolved by inverting the elevation of the outward structure of the detention pond. The intent is not to increase the post development discharge from the outlet. Mr. Pfrommer further discussed the post development discharge and reviewed "Quinnipiac University-Playing Field and Stadia, Water Shed Analysis Data-dated 8/6/2014"(Exhibit 18) and the proposed irrigation with the Commission.

Mr. Dennis Quinn, CT Herp Consultant, LLC, addressed the Commission and stated his responses that are noted in the written "Statement of Rebuttal and Response to Questions Raised-December 1, 2014".

Mr. Gnida asked if there is any opportunity on the University's campus to restore the amphibian population. Mr. Quinn replied that once the habitat degrades it is almost degraded for good. Once you change the composition of the habitat it is difficult to get species back to it, because this is how the nature eco system functions.

Mr. Pellegrino stated that the sports lighting will not be used half of the school year. The season begins in late August through Thanksgiving and then again from late January through early May. He noted that in the early fall and in May the lights will not be used for practices because there is still a significant amount of daylight. Mr. Pellegrino stated that during the MAAC schedule for the 2014/2015 year the fields for all five sports will be lit for 20-30 games. He noted that the 75 foot candle lighting level will be limited to 30 games. Each game lasts about three hours. Mr. Pellegrino reviewed the current and proposed uses for the fields. He noted that the proposed plan is the best alternative to increase the separation from wetlands. The NCAA requires that there be superior athletic facilities. Mr. Pellegrino noted that meeting the court order requires the capability to meet the 75 foot candle lighting.

Mr. Michael Klein, Soil Scientist, addressed the Commission and stated that several concerns were addressed in the "Statement of Rebuttal and Response to Questions Raised-December 1, 2014". He reviewed his response letter dated December 3, 2014 (Exhibit 19).

Mr. Gnida asked if there is any opportunity on the University's campus to restore the amphibian population, retention basins and ponds. Mr. Klein stated that he has not done an analysis. He noted that he will not go onto properties that require him to trespass and therefore did not have access to all the areas. There are measures that can be taken to improve the water quality treatment.

Mr. Milazzo stated that Mr. Quinn said it is the degradation of the wetlands rather than the activities that are affecting the wildlife and the lack of amphibians and he asked Mr. Klein to comment. Also, Mr. Quinn had stated that once a wetland is degraded as much as this wetland has been, it is difficult if not impossible to restore. Mr. Milazzo asked Mr. Klein to comment. Mr. Klein responded that there are additional measures that can be taken to improve the wildlife and plant diversity, along with the function of the wetland system. If the degradation is the result of the activity, it is not a justification for not caring what the wetland impacts are. The wetland is somewhat degraded and impaired which is a result of development in the area. Mr. Milazzo stated that Mr. Klein indicated that what the university did created the degradation. He asked what activity led to the degradation or is it a natural event with the amount of invasive species in the wetland. Mr. Klein stated that any activity has an effect on wildlife degradation and it is the Commission's job to decide whether the impacts are acceptable.

Mr. Liston asked what the cost and multipliers are to build a soccer field. Mr. Klein replied he did not know.

Ms. Marjorie Shansky, Attorney, addressed the Commission and reviewed & submitted comments from Joel Baker, Van Zelm Engineering, dated December 3, 2014 (Exhibit 20).

Ms. Shansky stated that the application is burdened by self-determination and single mindedness that is oblivious to the functions and values of what the Commission is assembled to evaluate. The feasible and prudent alternative analysis is predicated on the assumption that there will be three stadiums, how big they will be and where they will be. She asked why an alternative was not presented to use a location at 3159 Whitney Avenue that is 10.4 acres owned by the University. The property is paved, accessible from Whitney Avenue, has access to New Road and accessible to the student population. Ms. Shansky said the proposed activity is significant and will cause adverse impact on the wetland. Ms. Shansky referred to her letter of November 5, 2014 that referred to the IW regulations. She asked that the Commission review the letter. Ms. Shansky stated her objections to the application and asked that it be denied. Ms. Shansky noted that the Legislature amended the wetland statute after the 2003 case, AvalonBay Communities, Inc. v. Inland Wetlands Commission of the Town of Wilton. Ms. Shansky reviewed the amended wetland statute (Public Act 04-209). She asked if the Commission were inclined to approve the application the conditions should include: No lights to be in the half of the year that was stated they would not be used because they may host other activities. No temporary lighting for television production. Reconcile the proposed lighting pole. Ms. Shansky again asked that the application be denied.

Mr. Pellegrino stated that he is willing to provide additional information if the Commission would like to be able to further consider the application. Mr. Pellegrino stated his reasons that the application is worthy of an approval with reasonable conditions.

Ms. Rosenbaum closed the Public Hearing.

### **III. Other Business**

#### **1. Notices-of-Violation, Cease & Desist & Restore Orders, Notices-to-Appear**

- a. N.O.V.** 64 Rocky Top Road – clearing of trees & removal of vegetation
- b. N.O.V.** 251 Welton Street – oil spill or discharge
- c. N.O.V.** Lot 10-Benham Hill Estates (aka 0 Benham Hill Place)  
Failure to repair & maintain stormwater detention basin

All Notices-of-Violation remain tabled.

#### **2. Review Site Inspection Schedule**

Ms. Rosenbaum reviewed site inspection dates with the Commission and Mr. Vocelli. The site inspection for 3139 Whitney Avenue will take place on Saturday, December 13, 2014 at 9:30 a.m.

### 3. Review of October 1, 2014 Meeting Minutes

Ms. Rosenbaum asked that the minutes be amended as follows: Page 7, 6<sup>th</sup> paragraph, 7<sup>th</sup> line “.01” should read “0.1”. Page 7, 6<sup>th</sup> paragraph, 8<sup>th</sup> line, replace “moon” with “light of the full moon”.

*Mr. Liston made the motion to approve the October 1, 2014 Meeting Minutes as amended. Mr. Shadle seconded the motion. Ms. Rosenbaum, Ms. Lakin, Mr. Liston, Mr. Shadle, Ms. Wilson and Mr. Gnida voted in favor of the motion. Mr. Milazzo abstained. Therefore, the motion passed 6-0-1.*

### Review of November 5, 2014 Meeting Minutes

Ms. Rosenbaum asked that the minutes be amended as follows: Page 4, 1<sup>st</sup> paragraph, 7<sup>th</sup> line, remove “the property abutters noting that Sleeping Giant isn’t where Ms. Rosenbaum thought it was on the map” and add “several properties across Mt. Carmel Avenue that belonged to Quinnipiac University. Sleeping Giant State Park property to the west did receive light spill from the playing fields”. Page 4, 2<sup>nd</sup> paragraph, 4<sup>th</sup> sentence, should read: Ms. Rosenbaum asked why they are proposing plantings of 85 White Pine trees in the wetlands.

*Mr. Liston made the motion to approve the November 5, 2014 Meeting Minutes as amended. Ms. Wilson seconded the motion. Ms. Rosenbaum, Ms. Lakin, Mr. Liston, Mr. Shadle, Ms. Wilson and Mr. Gnida voted in favor of the motion. Mr. Milazzo abstained. Therefore, the motion passed 6-0-1.*

### 4. Other Business

2015 Meeting Calendar

*Ms. Lakin made the motion to approve the 2015 Meeting calendar as presented. Mr. Liston seconded the motion. The motion passed unanimously.*

### 5. Adjournment

*A motion to adjourn was made by Ms. Lakin and seconded by Mr. Shadle. It passed with no dissenting votes.*

The meeting adjourned at 10:36 p.m.

Submitted by: \_\_\_\_\_  
Stacy Shellard-Clerk of the Commission