January 9, 2015

MINUTES: THE INLAND WETLANDS COMMISSION, Town of Hamden, held a Regular Meeting on Wednesday, January 7, 2015 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
Mike Stone arrived at 7:18 p.m.
Stephanie Wilson
Kirsten Jensen

Staff in attendance:

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

Ms. Rosenbaum called the meeting to order at 7:06 p.m. Ms. Lakin called the roll and there was a quorum. Ms. Rosenbaum introduced the Commission and Staff.

I. Regular Meeting:

A. Pending Applications:

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

Ms. Wilson made the motion to approve Application 14-1202, 275 & 475 Mt. Carmel Avenue subject to the following conditions:

1. In light of the applicant's previously-demonstrated failure to fully respect an existing protective wetlands buffer and in light of previous Commission decisions regarding the desirability and necessity of a wetlands buffer, the applicant shall restore and maintain a minimum 25-foot buffer in a manner consistent with the applications approved in 1992 and 2004. The applicant shall submit revised plans to implement this

condition-of-approval, subject to the approval of the Commission. The revised plans shall depict a split rail fence at the boundary of 25 foot buffer, adorned with the inland wetland medallions every 30 feet.

2. Given the likelihood of adverse wetland impacts entered into the record by parties such as Environment and Human Health, Inc., the applicant shall forego the use of crumb rubber when reconstructing the athletic fields. The applicant shall submit revised plans replacing the crumb rubber field with a field to be approved by the Commission.
3. Given the likelihood of adverse wetland impacts entered into the record by parties such as Wetlands Soil Scientist, Michael Klein, Entomologist, Michael Montgomery and Van Zelm Engineers, Inc., the applicant shall submit a revised photometric plan showing 0 foot candles of light at the beginning edge of the 25 foot buffer.
4. The applicant shall not be permitted to install or utilize any temporary lighting of the athletic fields unless it has been approved by the Commission.
5. Based on prior applications that have been approved and the amount and intensity of disturbance that is currently proposed, the plant palette depicted in the planting plan is very limited and relies solely on mass, mono-cultural plantings. With the exception of a mono-culture of Inkberry adjacent to the stadia at the north field and the seed mix in the basin, there are no proposed shrubs or perennials within the buffer. The applicant proposes to disturb two areas which would provide opportunity for additional and more substantial buffer enhancement, but with such a small palette there is very little added benefit to the wetland buffer. The first area is the 100' buffer area between the north field stadia and south field surrounding the pavilion (Sheet L.1.1). The plans show this area as primarily lawn with a double row of Pinus strobus adjacent to the wetland edge. The second area is the wetland and adjacent buffer area to the west of the north field (Sheet L.1.2), where only 29 Pinus strobus are indicated.

   The applicant shall therefore submit a revised, substantially expanded planting plan subject to the approval of the Commission, with a plant palette that includes a variety of native shrubs and perennials that will provide food and habitat for a variety of species, including small mammals, birds and insects.
6. The applicant has failed to submit a plan that shows the planting to be done in the areas of invasive species removal. This is an important aspect of the approval for two reasons. First, this is the primary mitigation

activity proposed by the applicant. Second, the removal is taking place in the wetland and has the most potential to enhance the wetland function if it is done successfully. Accordingly, it is essential that a diverse plant palette be utilized and the quantities, spacing and species be clearly shown on the plan. The applicant shall therefore submit a revised planting mitigation plan subject to the approval of the Commission.

7. The applicant shall construct, vegetate and make fully operational, the drainage swale on the east side of the north field prior to the commencement of other construction authorized by this approval.
8. The applicant shall submit a revised set of plans incorporating all of the required changes on all relevant sheets and listing all conditions-of-approval, for approval by the Commission.
9. By approving this application, neither the Hamden Inland Wetlands Commission nor the Town of Hamden is endorsing the erection of light poles which exceed the requirements in the zoning regulations, and this approval shall not be used as evidence of such support in any further application to either the Hamden Planning & Zoning Commission or the Hamden Zoning Board of Appeals.

Mr. Gnida seconded the motion. The motion passed unanimously.

b. 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.

Mr. Tim Lee, Assistant Town Attorney, advised Mr. Hollister that the Commission received an environmental petition from Mr. John Gesmonde, Attorney pursuant to CGS 22a-19 (Exhibit 1). Mr. Hollister replied that he was also in receipt of the petition.

Mr. Hollister stated that a site walk was done on December 13, 2014 and summarized in a memo dated December 13, 2014. Comments dated December 22, 2014 were received from Mr. Bob Brinton, Town Engineer. Based on the comments the proposed plan was revised to include revisions based on the Town Engineer's comments. Mr. Hollister submitted responses (Exhibit 2) to the Town Engineer's comments. He reviewed the site and the abutting properties.

Mr. Jim Rotondo, Professional Engineer, addressed the Commission and submitted revised plans, with a revision date of January 7, 2015 (Exhibit 3). He stated that a report from the soil scientist was included with the application and he reviewed the findings. There are no wetlands located on the site and they are located on the adjacent property 55 feet from the southeast property line. Mr. Rotondo reviewed the site, parking and stormwater management plan. He reviewed the response memorandum dated December 7, 2014 to the Town Engineer's comments dated December 2, 2014.

Mr. Hollister stated that there is no direct impact to the wetland and no fillng of a watercourse or wetland. The work will be done in the upland review area and will be limited to grading and installing stormwater management. The work to be done will improve the water quality of the offsite wetlands. There are no direct or indirect impacts so a feasible and prudent alternative is not needed.

Mr. Lee stated that the intervener submitted under the CGS 22a.19 that allows him to raise environmental issues.

Mr. Larry Sgrignari, JMG & LCS Whitney Management, LLC, addressed the Commission and stated that he owns the property at 3127-3129 Whitney Avenue, which is located adjacent to 3139 Whitney Avenue. His concerns are with the drainage issues offsite because of the proposed site work.

Mr. James Galligan, Professional Engineer, addressed the Commission and read his report dated January 7, 2015(attached to the intervention petition). The report addresses the elements of the project that are of major concern. Mr. Galligan noted in relation to item 2(Drainage Analysis Results) of his report, that the drainage analysis submitted with the application indicates there is discharge with an outlet at the bottom of the infiltration system.

Ms. Jensen asked Mr. Galligan where the eastern portion of the property is in relation to the abutting property. Mr. Galligan reviewed the location of the eastern portion of the property and the stormwater discharge. He noted that the depression area is within 2 feet of the property line and it can fill up in approximately 6 ½ minutes depending on the storm intensity. Up to 13 hours after a storm event the area will be subject to a discharge and saturation. In the winter time the ground will be frozen and within 6 ½ minutes the discharge will run into the adjacent property. Mr. Galligan stated that in his professional opinion the icing condition that will be created from the runoff will create health and safety issues.

Mr. Hollister stated that he had just received the intervener's petition and engineering report this evening. He asked that the application be tabled to allow him time to respond to Mr. Galligan's claims that the data calculations are incomplete or incorrect. Mr. Hollister stated for the record that he objects to the intervention based on the following: 1) the petition states that there will be excess discharge of water runoff on the property of the intervener. Mr. Hollister stated that this is not true because the Town Engineer had pointed out that the regulations do not allow an increase in runoff from the property. This was called out on a calculation for a 2 year storm. Mr. Rotondo had addressed this in his comments and it was addressed by the applicant based on the Town Engineer's comments, so the claim is negated. 2) The report from Mr. Galligan does not match up with what it says in the intervention petition about the basis for intervening. Mr. Hollister stated that the petition says "the clearing and cutting of trees and excess discharge of stormwater". Mr. Galligan's memo claims that the reports done by Mr. Rotondo and Mr. Lord are incomplete and incorrect. To intervene environmentally you must state that there is an unreasonable impact on the waters of the State of Connecticut and not just criticize a report as incomplete; you need to state the facts. Mr. Galligan's report does not include the facts. The intervention's claim does not reference Mr. Galligan's report. 3) Mr. Bob Brinton, Town Engineer, did not have the concerns that Mr. Galligan did. 4) Mr. Galligan reviewed the plans on file as of January 6, 2015 and did not have the benefit of the revisions made to the plans in response to Mr. Brinton's comments. Mr. Hollister said that for the reasons he stated he will need to come back before the Commission to respond to the substance of Mr. Galligan's claims. Mr. Hollister feels that the intervention petition should not be approved because of the reasons stated.

Mr. Lee said the Commission can accept the petition for intervention tonight and table the application to allow the petitioner and applicant time to review the information submitted at this meeting.

Ms. Lakin made the motion to accept the intervention petition. Mr. Gnida seconded the motion. The motion passed unanimously.

Mr. Galligan stated he will address the issues raised at this meeting.

Mr. Milazzo made the motion to table this item until the February 4, 2015 meeting. Mr. Shadle seconded the motion. The motion passed unanimously.

II. 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

Remains tabled.

b. N.O.V. 251 Welton Street – oil spill or discharge

Ms. Rosenbaum asked Mr. Vocelli what the status of this item is. Mr. Vocelli replied that the DEEP is still superintending the environmental and wetland issues. He will ask for an updated written report and for information on when the work is expected to be completed.

c. N.O.V. Lot 10-Benham Hill Estates (aka 0 Benham Hill Place)
Failure to repair & maintain stormwater detention basin

Ms. Rosenbaum asked if the easement to allow the Town to have access to lot 10 has been signed. Mr. Lee discussed with the Commission the reason for the easement and that Mr. Trofa as of yet has not signed it. Mr. Kops explained that the detention basin was repaired and is functioning properly, which was the reason for issuing the N.O.V. Mr. Lee stated that as a condition the Commission required that access be allowed over Mr. Trofa's property if it became necessary for the Town to access the detention basin. Ms. Rosenbaum asked Mr. Lee to send another letter. Mr. Lee replied that he will continue to send correspondence to Mr. Trofa.

2. Review Site Inspection Schedule

There was none

3. Review of December 3, 2014 Meeting Minutes

Mr. Shadle asked that the minutes to be amended on page 6, paragraph 5, first sentence, read: Mr. Shadle asked about the water that collects on the field discharging into the wetlands.

Mr. Milazzo made the motion to approve the minutes as amended. Mr. Shadle seconded the motion. The motion passed unanimously.

4. Other Business

Ms. Rosenbaum extended her gratitude to Mr. Liston for the thorough job he did writing the site visit report for 3139 Whitney Avenue.

Ms. Rosenbaum stated that she would like to amend the IW regulations to include the following: 0 foot candles of light at the wetland boundary or the edge of the non-disturbance buffer. She feels that by amending the regulation it would prevent future problems.

Mr. Milazzo feels that this would require that the Commission have a qualified lighting expert to review lighting plans as to avoid being challenged. Mr. Lee agrees with Mr. Milazzo. He is not sure there is a need to amend the regulations in order to have a requirement that there be no light going into the wetlands. Instead the Commission can base lighting on the impact to the wetlands when making a decision. Ms. Rosenbaum stated that lighting into the wetlands is a new area of research. There are contradictions because sometimes some things are affected and can be based on the different spectrum of light (i.e.: infra-red or UV). Ms. Rosenbaum stated that in the case of Quinnipiac, much of their

athletic activities will take place when the leaves are off the trees, and the animals are in migration and mating, so the lighting into the wetlands will have a tremendous affect. Mr. Milazzo replied that he is unsure of setting an amendment in stone because it is the applicant's burden to provide an expert opinion that lighting into the wetlands will not have an effect on the wetland. Mr. Lee stated that the Commission can consider the lighting effects on an individual basis with each applicant and that there is not a need to amend the regulations.

5. Adjournment

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

The meeting adjourned at 7:54 p.m.

Submitted by: _____
Stacy Shellard-Clerk of the Commission